

**IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA
ON THE 30th DAY OF SEPTEMBER, 2022
BEFORE**

**HON'BLE MS. JUSTICE SABINA
&
HON'BLE MR. JUSTICE SUSHIL KUKREJA
CIVIL WRIT PETITION No. 4927 of 2022**

Between:-

**SHIV KUMAR
AGE 39 YEARS S/O LATE. SH.
MEHAR CHAND, R/O VILLAGE
MUHAL MACHHOT, P.O. LAGE
MACHHOT, TEHSIL FATEHPUR,
DISTRICT KANGRA, H.P**

....PETITIONER

**(BY MR. KETEN SINGH, ADVOCATE)
AND**

- 1. STATE OF HIMACHAL PRADESH
(THROUGH SECRETARY EDUCATION TO THE
GOVERNMENT OF HIMACHAL PRADESH).**
- 2. DIRECTOR ELEMENTARY EDUCATION
SHIMLA (LALPANI SCHOOL ROAD, NEAR
VIDHAN SABHA, CHAURA MAIDAN, SHIMLA,
HIMACHAL PRADESH 171003)**
- 3. DEPUTY DIRECTOR ELEMENTARY
EDUCATION DISTRICT KANGRA
(DHARMSHALA, KANGRA, HIMACHAL
PRADESH 175001)**
- 4. THE SUB DIVISIONAL OFFICER (CIVIL)
FATEHPUR, DISTRICT KANGRA, HIMACHAL
PRADESH -CUM- CHAIRMAN, PART TIME
MULTI TASK WORKER SELECTION
COMMITTEE**
- 5. BLOCK ELEMENTARY EDUCATION
FATEHPUR AT TEHSIL FATEHPUR, DISTRICT
KANGRA, HIMACHAL PRADESH.**

6. **TEHSILDAR, TEHSIL FATEHPUR, DISTRICT KANGRA, HIMACHAL PRADESH.**
7. **HEADMASTER GOVERNMENT PRIMARY SCHOOL, JAKHBAR, P.O SATHANA, TEHSIL FATEHPUR, DISTRICT KANGRA (HP)**
8. **PRADHAN, HARPAL SINGH, GRAM PANCHYAT MACHHOT, TEHSIL FATEHPUR, DISTRICT KANGRA (HP)**
9. **SHRI. NARESH KUMAR
S/O SH. GAREEB DASS, VILL. MACHHOT, P.O SATHANA, TEHSIL FATEHPUR, DISTRICT KANGRA, (HP)**

...RESPONDENTS

**(MR. ASHWANI SHARMA, ADDITIONAL
ADVOCATE GENERAL FOR R 1 TO 8
MR. NARESH KUMAR ADVOCATE FOR R 9)**

*This petition coming on for admission this day, **Hon'ble Ms. Justice Sabina**, passed the following:*

ORDER

Petitioner has filed the petition under Article 226 of the Constitution of India, seeking following reliefs: -

- "A. That a writ in the nature of Certiorari or any other appropriate writ, order or direction may kindly be issued quashing and setting aside the action of Respondents where Private Respondent has been placed at Serial No.1 in the waiting list and who has been offered the appointment of Part Time Multi Task Worker.*
- B. That a writ in the nature of Mandamus or any other appropriate writ, order or direction may kindly be issued directing the Respondents to place the petitioner at Serial No.1 in the waiting list and subsequently offer her the appointment on the post of Part Time Multi Task Worker in Government Primary School Jakhbar, Fatehpur, District Kangra, H.P. as much as the selected candidate has joined in another school and the person next in the waiting to list is to be offered the appointment."*

2. Learned counsel for the petitioner has submitted that now vide Addendum dated 25th August, 2022, Rule-19 has been added to the policy and as per the said rule, appeal can be filed before the Additional District Magistrate (ADM) of the district within 15 days of the selection/appointment. In the present case, the result was declared in the month July, 2022. Hence, the petitioner would not be able to avail the benefit of newly added Rule-19. Learned counsel has further submitted that the petitioner will approach the Additional District Magistrate (ADM), Kangra at Dharamshala, District Kangra, H.P., by way of an appeal, within 15 days from today and the same should not be rejected by the competent authority on the ground that it is time barred as the Rule-19 has been incorporated on 25th August, 2022.

3. Rule-19, provided vide Addendum dated 25th August, 2022, reads as under: -

“ADDENDUM

In partial modification of this Department's Notification No. EDN-C-B(1)2/2019 dated 16th July, 2020 (as updated upto 11th March, 2022), the Governor, Himachal Pradesh is pleased to add "Rule-19 Appellate Authority" in the Part Time Multi Task Workers Policy, 2020 as under:

19. Appellate Authority:

The appeal in respect of complaints relating to PTMTW selection/appointment etc. should be made to the Additional District Magistrate (ADM) of the district within 15 days of the selection/appointment. The appeal will be considered by the Additional District Magistrate (ADM) of the district and disposed off within 30 days from its receipt with suitable directions. If the complainant is not satisfied with the outcome, then he/she may file an appeal with the Director of Higher/Elementary Education, as the case may be, within

15 days from the decision of the Additional District Magistrate (ADM). The appellate authority may dispose off the appeal within 60 days after hearing the appellant.

By Order

*Devesh Kumar, IAS
Pr. Secretary (Education) to the
Government of Himachal Pradesh."*

4. Keeping in view the submissions made by learned counsel for the petitioner, we deem it appropriate to dispose of the writ petition by permitting the petitioner to approach Additional District Magistrate ADM), Kangra at Dharamshala, District Kangra, H.P., by way of an appeal, within 15 days from today and the said authority will dispose of the appeal in terms of Rule-19, provided vide Addendum dated 25th August, 2022.

5. It is clarified that the appeal filed by the petitioner would not be rejected on the ground of delay, but would be disposed of on merits.

Pending miscellaneous application(s), if any, also stand disposed of.

**(Sabina)
Judge**

**(Sushil Kukreja)
Judge**

September 30, 2022
(ravinder)