

IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

ON THE 31st DAY OF OCTOBER, 2022

BEFORE

HON'BLE MS. JUSTICE SABINA
&
HON'BLE MR. JUSTICE SUSHIL KUKREJA

CIVIL WRIT PETITION No.7571 of 2022

Between:-

BIRBAL SON OF LATE SHRI SANTOSH,
RESIDENT OF VILLAGE KANDAL &
POST OFFICE TIKKRI, TEHSIL NERWA
DISTRICT SHIMLA, HIMACHAL
PRADESH.

.....PETITIONER

(BY MR. ANIL KUMAR MANGET,
ADVOCATE)

AND

1. STATE OF HIMACHAL PRADESH
THROUGH ITS PRINCIPAL
SECRETARY (EDUCATION) TO THE
GOVERNMENT OF HIMACHAL
PRADESH.
2. DIRECTOR ELEMENTARY
EDUCATION HIMACHAL PRADESH,
LALPANI, SHIMLA, H.P.
3. DEPUTY DIRECTOR ELEMENTARY
EDUCATION AT SHIMLA, DISTRICT
SHIMLA, HIMACHAL PRADESH.
4. SUB-DIVISIONAL OFFICER (CIVIL)
CHOPAL, DISTRICT SHIMLA, HI-
MACHAL PRADESH.
5. BLOCK ELEMENTARY EDUCATION
OFFICER NERWA DISTRICT SHIMLA,
HIMACHAL PRADESH.
6. VEENA KUMARI, W/O SHRI MANISH
KUMAR, POST OFFICE TIKKRI,
TEHSIL NERWA, DISTRICT SHIMLA,
H.P.

7. MEERA DEVI, W/O SURESH KUMAR,
POST OFFICE TIKKRI TEHSIL NERWA
DISTRICT SHIMLA, HIMACHAL
PRADESH.

.....RESPONDENTS

(MR. ASHWANI SHARMA, ADDITIONAL
ADVOCATE GENERAL, FOR R-1 TO 5)

*This petition coming on for orders 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 substantive reliefs:-

- "i) That petitioner may kindly be awarded 8 marks for orphan certificate/indigent circumstances in favour of the petitioner as per the provision made in the notification issued by Govt. of Himachal Pradesh;*
- ii) That no person may be given appointment until awarded (8) marks for orphan/indigent condition is awarded to petitioner, for which he is legally entitled in accordance with notification concerned;*
- iii) Direct to respondent No.5 to conduct impartial inquiry regarding false income/other certificate obtained by respondent No.6 in the interest of justice;*
- iv) Direct to the respondent quash and set aside to the Annexure- P/5, new clarification issued by the respondent"*

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 on 16.06.2022. 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, Shimla, 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, provide 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, Shimla, 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 applications, if any, also stand disposed of.

**(Sabina)
Judge**

**(Sushil Kukreja)
Judge**

October 31, 2022
(reena)