

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWPIL No. 49 of 2024

Date of Decision: 30.09.2024

Raj Kumar Sharma

....Petitioner

Versus

State of H.P. & Others

....Respondents

Coram

Hon'ble Mr Justice Rajiv Shakdher, Chief Justice.

Hon'ble Mr Justice Satyen Vaidya, Judge.

Whether approved for reporting?¹

For the Petitioner : A.K. Sharma, Advocate.

**For the Respondents : Mr. Anup Rattan, Advocate General with
Mr. Rakesh Dhaulta, Additional
Advocate General**

Rajiv Shakdher, Chief Justice (oral)

1. With the consent of learned counsel for the parties, the present writ petition is taken up for hearing based on the written instructions received by the respondents. The written instructions are in the form of a hard copy. The written instructions will form part of the record.

2. Learned counsel for the respondents has returned with instructions. According to them, when the impugned Notification

dated 17.08.2024 was issued, information available with them indicated that only five (5) students were enrolled at GPS Barwara. As per instructions received by the learned counsel for the respondents, the information concerning the enrollment of students was updated only till 05.08.2024.

3. Thus, taking into account the position obtaining as of 05.08.2024, GPS Barwara was sought to be merged with GPS Badhal Thore.

4. It is also submitted by the learned Advocate General, who appears on behalf of the respondents, that the increase in student strength in GPS Barwara has taken place after 05.08.2024.

5. On the other hand, learned counsel for the petitioner submits that before 26.02.2024, no teacher had been appointed to GPS Barwara either on a regular or contractual basis. The enrollment of students to GPS Barwara escalated only after a teacher was appointed on 26.02.2024.

6. Learned counsel for the petitioner says that at present eighteen (18) students stand enrolled in GPS Barwara, of which fifteen (15) students are aged approximately six (6) years, while the remaining students are less than six (6) years old.

7. Thus, the position as of today eighteen (18) students are enrolled with GPS Barwara.

8. The learned Advocate General sought to defend the Notification based on enrollment position to GPS Barwara which obtained as on 05.08.2024.

9. However, the fact remains that there are eighteen (18) students on the rolls of GPS Barwara who require education.

9.1 According to the counsel for the petitioner, a strong affinity has developed between the students and the teacher. According to him, local residents find it to be in the interest of the children that they continue their education in GPS Barwara.

10. We may note that the learned counsel for the respondents submits that the majority of the children admitted to GPS Barwara belong to migrants and therefore, they may not be interested in having their wards continue in GPS Barwara once they shift from that area.

11. First of all, we may emphasize that as long as the children require education, it is the responsibility of the State to ensure that the school is kept open. Second, if and when there is a decrease in the number of students, in this case, assuming migration

of the local residents along with their wards occurs, the government would cross that bridge as and when such eventuality materializes.

12. Thus, we are inclined to allow the writ petition.

13. GPS Barwara, i.e., indicated at Sr. no. 91 of the impugned Notification dated 17.8.2024, shall stand excluded from the Notification.

14. The writ petition is disposed of in the aforesaid terms.

15. At this stage, we are informed by learned counsel for the petitioner that because of the issuance of the impugned Notification dated 17.08.2024, the teacher has moved away.

15.1 The respondents will ensure that a teacher is employed at GPS Barwara.

16. The appointment will take place within two (2) weeks from today.

(Rajiv Shakdher)
Chief Justice

(Satyen Vaidya)
Judge

30th September, 2024
(veena).