

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No. 1588 of 2013

Decided on: 20.06.2026

Surjit Singh Petitioner

Versus

State of H.P. and others ... Respondents

Coram

Hon’ble Mr. Justice Ajay Mohan Goel, Judge.

Whether approved for reporting?¹ Yes

For the petitioner : Mr. Naresh Kaul, Advocate.

For the respondents : Mr. Pushpender Jaswal, Additional Advocate General with Ms. Leena Guleria, Deputy Advocate General for respondents-State.

: Ms. Kiran Thakur, Advocate for respondent No. 3.

: Mr. Pankaj Negi, Advocate for respondents No. 4 and 5.

: Mr. Janesh Mahajan, Advocate for respondent No. 6.

Ajay Mohan Goel, Judge [Oral]

By way of this writ petition, the petitioner has *inter alia* prayed for the following reliefs:-

“a. That a writ in the nature of certiorari may kindly be issued for quashing Annexure P-11 i.e. issued by the Pradhan School Management committee, without considering Annexure P-5 by the members of selection committee after the judgement dated 2.11.2012(Annexure P-4) passed by this Hon'ble Court Further, the 10 marks given

¹ Whether reporters of the local papers may be allowed to see the judgment?

for distance to the respondent No. 6 may kindly be modified to 06 marks in Annexure P-3, dated 23.12.2011(after perusal of Annexure P-7 to P-9) and the petitioner may be given appointment as Part time water carrier at GPS Dhar Education Block Nurpur, Tehsil Jawali Distt. Kangra alongwith seniority from the date of appointment of respondent No.6 (Kamlesh Devi) of CWP 5994/2012 (Annexure P-4).

b. That a writ in the nature of Mandamus may also be issued directing the Respondents No. 2 to 5 to pay the salary (in view of the Judgment rendered in Deepa Shrama's case (LHLJ 2009 volume 1 page 468) to the petitioner from date of joining of the respondent no. 6 of CWP 5994/2012(Annexure P-4) as Part time Water carrier at GPS Dhar Tehsil Jawali Distt. Kangra & the petitioner may kindly be held entitled for litigation cost & compensation from the respondents no. 2 to 5."

2. Brief facts necessary for the adjudication of this petition are that a process was initiated for filling up the post of Part Time Water Carrier at Government Primary School, Dhar, in which, the petitioner and the private respondent had also participated. The process was initiated in the year 2012. In terms of the record, initially one Smt. Kamlesh Devi was offered appointment against the post in issue. Her appointment was assailed by the present petitioner before this Court by way of CWP No. 5994 of 2012, titled as Surjit Singh vs. State of H.P. and others. Vide judgment dated

02.11.2012 (Annexure P-4), Hon'ble Division Bench of this Court set aside the appointment of Kamlesh Devi *inter alia* on the ground that as the intent of the Scheme was to help those, who were not having any job, therefore, a person, who was holding the post of Mid Day Meal Worker and was getting an honorarium of Rs.1000/- per month, could not be said to be an unemployed person and was not entitled to marks under the Head of Unemployed. Hon'ble Division Bench, while setting aside the appointment of Kamlesh Devi, further directed the selection committee to offer appointment to the next candidate in merit.

3. Pursuant to the said judgment by the Court, vide Annexure P-11, the appointment was offered to the private respondent and feeling aggrieved, the petitioner has filed this writ petition praying for the reliefs, which already stand quoted hereinabove.

4. Learned Counsel for the petitioner argued that the offer of appointment in terms of the impugned order to the private respondent is not sustainable in law. He referred to Annexures P-8 and P-9 appended with the petition and submitted that in terms of these certificates issued by the Patwari and Assistant Engineer (Civil) concerned, distance from the residence of the private respondent up to the school in issue was in excess of 1500 metres, meaning thereby that she was not entitled for 10 marks, which have been allotted to her under the Head of 'Distance'. Learned Counsel

further argued that as the distance between the residence of the private respondent and the school concerned was in excess of 1500 metres, she was entitled for grant of less marks than 10. He accordingly submitted that as the Selection Committee erroneously granted more marks to the petitioner under the said Head and the appointment of the private respondent was liable to be set aside. No other point was urged.

5. On the other hand, learned Additional Advocate General referred to the reply filed by respondent No.1 and submitted that in terms of marks awarded by the Selection Committee, both the petitioner as well as the private respondent were granted 10 marks each under the Head 'Distance from home to school' and this was done on the basis of certificates/documents produced by the candidates at the time of interview. Learned Additional Advocate General further submitted that both the petitioner as well as the private respondent secured equal marks but the private respondent, being elder in age, was offered appointment. He further submitted that the contention of the petitioner that the distance from the house of the private respondent to the school was beyond 1500 metres, cannot be accepted for the reason that there is no challenge to the certificates produced by the private respondent before the Selection Committee, on the basis of which marks were allotted to her. He further submitted that certificates upon which the petitioner is relying, are self serving documents, which have been obtained by

him to suit his cause, which is evident from the perusal of the documents itself and as both the documents were apparently obtained just to assail the appointment of the private respondent, they cannot be taken on their face value.

6. He also referred to the reply filed by respondent No. 6, i.e. the private respondent and submitted that it is the specific stand of the private respondent in the preliminary objections that the distance certificate issued by the Patwari, upon which the petitioner was relying, was issued by Patwari of different Patwar Circle, i.e. Kothi Banda, whereas the private respondent's Patwar Circle is Behi Patiar. Learned Additional Advocate General has also referred to the affidavit filed on behalf of respondent No. 4, i.e. the Pradhan of the Gram Panchayat Behi Patiar and submitted that it is specifically mentioned therein that the distance documents being relied upon by the petitioner were firstly issued by the Patwari of different Patwar Circle, i.e. Patwari of Patwar Circle Kothi Banda, which was not having any relevance whereas the certificate of distance produced by the private respondent was jointly issued by the Secretary and respondent No. 4, i.e. the Pradhan of Gram Panchayat concerned. He submitted that in terms of this affidavit, it was categorically mentioned that the distance mentioned in the certificate was the shortest route usually taken to reach the school from the resident of the private respondent. Learned Additional Advocate General submitted that incidentally there is no rebuttal to these replies as no

rejoinder to the replies stood filed by the petitioner despite the fact that the replies are on record for more than a decade.

7. I have heard learned Counsel for the parties and also carefully gone through the pleadings as well as documents appended therewith.

8. The only ground of challenge to the appointment of the private respondent by the petitioner is that she was not entitled for the grant of 10 marks under the Head 'Distance from Home to School. According to the petitioner, distance between the house of the private respondent and the school was in excess of 1.5 kms, i.e. 3.00 kms. In order to substantiate this contention, the petitioner is relying upon Annexures P-8 and P-9. Annexure P-8 is a certificate dated 01.05.2012, issued by the Patwari of Patwar Circle Kothi Banda. Similarly, Annexure P-9 is a communication addressed to the petitioner by Assistant Engineer, Kotla Sub Division HPPWD, Kotla, in terms whereof, in reference to an application of the petitioner dated 22.12.2012, the distance between the house of the private respondent up to the school is reflected. One more fact which is mentioned in this document issued by the Assistant Engineer is that this certificate is not for litigation purpose.

9. In terms of this certificate, the distance mentioned between the house of the private respondent and the school is 8020 metres.

10. Whereas it is the own averment of the petitioner in the

petition that the distance between the house of the private respondent and the school is 3.00 kms, which is evident from the averments made in para-5 of the petition, the distance certificate issued by the Assistant Engineer, upon which the petitioner is relying reveals that the distance from the house of the petitioner to the school is more than 8.00 kms.

11. Not only this, there is another certificate placed on record by the petitioner as Annexure P-8, issued by the Patwari of Patwar Circle Kothi Banda, in terms whereof, the distance between the house of the petitioner and the school is 3.00 kms.

12. This Court fails to understand as to which of these certificates should be believed by the Court. As has been mentioned by learned Additional Advocate General, it is the stand of the respondent-Department that the appointment was offered to the private respondent on the strength of distance certificate, which was produced before the Selection Committee at the time of appointment. This certificate, on the strength whereof the private respondent was allotted marks under the Head 'Distance from Home to School', has not been challenged by the petitioner either before the superior authorities which issued the same or before this Court.

13. I have carefully gone through the relief clause of the petition and there is no prayer made for setting aside the distance certificate which is other on record as Annexure P-6, which according to the petitioner is the certificate on the strength whereof,

marks were allotted to the private respondent.

14. There is also an affidavit on record filed by respondent No. 4, i.e. the Pradhan of the Behi Patiar Gram Panchayat, relevant portion whereof this Court is reproducing herein below:-

“I Dev Raj S/o Tara Chand aged 45 years Pradhan Gram Panchyat Behi Pathiar Tehsil Jawali District Kangra do hereby solemnly affirm and declare on oath as under:-

PRILIMINARY SUBMISSIONS:-

- 1. That since there is allegations made against the replying respondent pertaining to issuance of distance certificate hence at this stage only limited submissions are being made.*
- 2. That the distance document being relied upon by the petitioner are issued by firstly by different patwar circle, .i.e Kothi Banda hence it is of no relevance, beside the certificate issued of distance is jointly issued by Secretary and replying Kay respondent, herein the approximate distance has been mentioned.*
- 3. That the distance mentioned has been that of shortest route usually undertaken to reach the School of appointment, and there are other routes also. That even certificate mentioned of respondent No 3 filed in earlier writ petition is that of School situated at place called Khalar where School is located though school name is GPS Pathiar hence it seems the controversy is being mixed so as to create doubt regarding the distance.”*

15. Now in terms of this affidavit which has been filed by the

Pradhan of Gram Panchayat, Behi Patiar, i.e. the Gram Panchayat of the private respondent, it stands specifically mentioned therein that certificate Annexure P-8 was issued by the Patwari of different Patwar Circle and further the certificate which was issued in favour of the private respondent, was issued by measuring shortest route usually taken to reach the school from the house of the private respondent. As is submitted by learned Additional Advocate General also, there is no rejoinder filed by the petitioner to this affidavit which has been filed by respondent No. 4 as far back as in June, 2013. Thus, it goes un-rebutted on the part of the petitioner that certificate Annexure P-8 was not issued by the Pradhan of the Gram Panchayat concerned. Not only this, as observed hereinabove, this certificate is dated 01.05.2012 and nothing is mentioned in this certificate as to what is the basis of issuance of this certificate.

16. Similarly, as far as Annexure P-9 is concerned, if the same is to be believed, then the distance from the house of the private respondent to the school is not 3.00 kms as is the case of the petitioner, but it is about 8.00 kms. Though, this Court understands that the house of the private respondent, be it at a distance of 8 kms or 3 kms, will not improve the case of the private respondent but this anomaly itself demonstrates that the certificates were being obtained by the petitioner to suit his cause, that is to say that firstly he procured the certificate in terms of Annexure P-8 from the Patwari of different Patwar Circle other than the patwar circle of the

private respondent, in which it is mentioned that the distance between the house of the private respondent and the school is 3.00 kms and then he obtained another certificate from the Assistant Engineer, in terms whereof the distance between the house of the private respondent and the school is 8.00 kms.

17. This Court reiterates that there is no challenge to the certificate on the strength whereof the private respondent was granted marks under the Head concerned by the Selection Committee and above discussion demonstrates that no infirmity can be attributed to the act of the respondents of offering appointment to the private respondent by allotting 10 marks to her under the Head "Distance from home to school".

In light of the above discussion, as this Court finds no merit in this petition, the same is dismissed. Though, the Court is inclined to impose a cost of Rs.10,000/- upon the petitioner but on the request of learned Counsel for the petitioner, the cost is not being imposed. Pending miscellaneous application(s), if any, also stand disposed of accordingly.

(Ajay Mohan Goel)
Judge

June 20, 2026
(narender)