

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No.4928 of 2013

Decided on: 25.09.2026

Kusum Lata	... Petitioner
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Versus

State of Himachal Pradesh and others	... Respondents
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Hon'ble Mr. Justice Ajay Mohan Goel, Judge.

Whether approved for reporting?¹Yes

For the petitioner:	Mr. Rajiv Rai, Advocate.
For the respondents:	Mr. S.D. Vasudeva, Deputy Advocate General, for respondents No.1 to 3. Mr. Manish Sharma, Advocate, for respondent No.4.

Ajay Mohan Goel, Judge (Oral)

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

- “A. That the Hon'ble Court may kindly be pleased to issue the writ of Certiorari whereby the impugned order dated 26.06.2013 passed by the respondent no. 3 in case no. 11/2012 may kindly be quashed and set-aside.*
- B. That the Hon'ble Court may kindly also be pleased to quash the impugned order dated 19.03.2009 vide Annexure P/8 in case no. 663/2008 titled as leela Devi Versus Rita Devi.*
- C. That the Hon'ble court may kindly further be pleased to direct the respondent no.2 to not take any decision contrary to the interest of the present petitioner in furtherance to the order dated 26.06.2013 passed by respondent no. 3 in case no. 11/2012 titled as Swarn Lata Versus State of Himachal Pradesh.”*

2. Learned Counsel for the petitioner submitted that

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

process was initiated for engagement of Anganwadi worker at Anganwadi Center Kothi-2 in Tehsil Ghumarwin, District Bilaspur, in the year 2007. In the said process, Swarn Lata was selected. Being aggrieved by the selection of Swarn Lata, the petitioner herein preferred appeals both against the appointment of Swarn Lata under the Guidelines relating to appointment of Anganwadi worker, as also under the relevant provisions challenging the Income Certificate of Swarn Lata. In terms of Annexure P-3, i.e. order dated 26.04.2011, Additional District Magistrate, District Bilaspur, in the matter relating to the legality of the Income Certificate of Swarn Lata, passed the following order:-

“Case Called. Sh. D.S. Sandhu Id. Counsel for appellant, respondent Swarnlata alongwith her Ld. Counsel K.K. Bhardwaj and Sr. Asstt. Sh. Kanshi Ram O/O CDPO Ghumarwin are present. Report of Tehsildar Ghumarwin relates to the income of the appellant which is not relevant at present. Therefore copy of income certificate of Smt. Swarnlata issued by the Tehsildar Ghumarwin on 1.8.2007 be sent to the Tehsildar Ghumarwin alongwith copy of letter dated 29.8.2007 of the BDO Ghumarwin addressed to Capt. Bhagat Ram Pathak and copy of office order issued by the Rural Deptt. Of H.P. on 22.9.2007 for verification of the income certificate of the respondent. If found correct the report be sent to this court accordingly and if found incorrect the same may be cancelled after giving opportunity of bearing heard to both the parties. The parties are directed to appear before the Tehsildar Ghumarwin on 10.5.2011 and detailed report regarding

income of the respondent be sent to this office before 31.5.2011, the next date of hearing.”

He submitted that thereafter, Tehsildar Ghumarwin, vide Annexure P-2, i.e. communication dated 30.08.2011, ordered the cancellation of the Certificate of Swarn Lata by observing that the inquiry which was with regard to the Income Certificate of Swarn Lata demonstrated that her father was working as a Mason in Block Ghumarwin and had received nearly Rs.18,000/- during the year 2006-2007 up to 01.08.2007, which was ignored while issuing Income Certificate. He further submitted that the appeal filed by Swarn Lata against the order of Tehsildar was erroneously allowed by the Appellate Authority, i.e. Sub-Divisional Officer (Civil), vide impugned Annexure P-1, i.e. order dated 26.06.2013, and hence this petition.

3. Learned Counsel argued that perusal of the order passed by the Sub-Divisional Officer demonstrates that what weighed with said Authority was that as the family of Swarn Lata was registered as a BPL/IRDP family and in terms of the instructions governing the registration of a family as IRDP/BPL, as the income of a family earned by way of seasonal employment etc. was liable to be ignored, the Appellate Authority applied this analogy for setting aside the order of Tehsildar. Learned Counsel referred to Annexure P-6 appended with the petition, i.e. the instructions dated 07.03.2008, governing the inclusion in BPL/IRDP list and submitted that in terms thereof, a family whose income was in excess of

Rs.2,500/- per month including from labour work were not eligible for being included in the BPL Certificate. However, such families which were engaged on muster roll basis for the work of the Panchayat were not ineligible for registration under the BPL list, as these works were only seasonal. He submitted that said instruction was to be read only for the purpose of determining eligibility for being entered under the BPL list and the same could not have been imported by the Sub-Divisional Officer concerned for the purpose of deciding the appeal. Learned Counsel argued that the issuance of an Income Certificate is not subservient to the source of income and whatever may be the source of income, the same has to be reflected in the Income Certificate. Accordingly, he submitted that as it was a matter of fact that the total income of the family of Swarn Lata was much in excess of the maximum limit prescribed as eligibility, for being considered against the post of Anganwadi Worker, and as this aspect of the matter was completely ignored by the Appellate Authority while allowing the appeal of Swarn Lata (respondent No.4), the impugned order dated 26.06.2013 was liable to be set aside.

4. On the other hand, the learned Advocate General and the learned Counsel for the private respondent submitted that there was no infirmity in the order of the Sub-Divisional Officer (Civil), for the reason that as the father of the private respondent was only engaged in seasonal work and as in terms of Annexure P-6, this was not to be construed as an income, therefore, the order of the

Tehsildar of cancelling the Income Certificate of the private respondent on this account was *per se* bad and therefore, the Appellate Authority rectified said mistake by allowing the appeal of Swarn Lata vide impugned order dated 26.06.2013. They accordingly submitted that as there was no infirmity in the impugned order, the present petition, being devoid of any merit, be dismissed.

5. I have heard learned Counsel for the parties and have also carefully gone through the impugned order as well as other documents appended with the petition.

6. It is not in dispute that in the proceedings initiated by the present petitioner against respondent Swarn Lata qua the correctness of her Income Certificate, Tehsildar Ghumarwin, vide Annexure P-2, cancelled the Certificate of the petitioner on the basis of the inquiry conducted as per the directions of Additional District Magistrate, Bilaspur, in terms of Annexure P-3, on the basis that the father of the petitioner, who was working as a mason in Block Ghumarwin, had received wages of more than Rs.18,000/- per month during the year 2006–2007 up to 01.08.2007.

7. As per the Anganwadi policy, the maximum annual income rendering a candidate eligible for consideration against the post of Anganwadi Worker, at the relevant time, was Rs.12,000/- per annum.

8. A perusal of the impugned order, i.e. the order passed by the Sub-Divisional Officer (Civil) dated 26.06.2013, demonstrates

that the reason why the order of the Tehsildar was set aside by the Appellate Authority was that as the family of Swarn Lata belonged to the BPL category and as the father of the appellant used to work on a muster roll basis and thus was not a regular or contract employee of the Government and was engaged in seasonal employment, therefore, said income should not have been included for assessing the income of the family.

9. This Court is of the considered view that said finding returned by the Appellate Authority is perverse. Instructions Annexure P-6 have to be read only for the purpose of induction of a family under the BPL list. There is no dispute that in terms of these instructions, a family which is earning income from work it performs under the Panchayat on muster roll basis etc. is not ineligible for being enrolled as a BPL category. But then, this exemption ends with this instruction and with its limited intent of determining eligibility for induction into the list of BPL category.

10. Respondents have not placed any material or document on record to demonstrate that either there is any Notification, Regulation or Instruction issued by the State Government to the effect that for the purpose of issuance of an Income Certificate, the income being earned by a family from seasonal work etc. is not to be included while issuing such Certificate.

11. Otherwise also, this Court is of the considered view that prudently no such instruction can be issued. The purpose of

issuance of an Income Certificate is to bring into the public domain the actual income of the family concerned as the time when the Income Certificate is issued. The source of income, in the considered view of this Court, is inconsequential. This is for the reason that issuance of an Income Certificate is not a one-time event and obviously, if a family income increases or decreases with the passage of time, this can always be reflected by issuance of a fresh Income Certificate which can be obtained by such a family in accordance with law.

12. Therefore, as income from all sources has to be taken into consideration while issuing the Income Certificate, the observation in the appellate order that the income from seasonal work could not have been taken into consideration while calculating income is indeed perverse and not sustainable in the eyes of law. If this order of the Appellate Authority is upheld, then consequence thereof would be that a family which has some source of income be it from seasonal work, will steal a march over a family which has no source of income whatsoever and this would amount to discrimination, as it would lead to a situation where unequals would be treated alike.

13. Accordingly, in light of the above observations, this writ petition is allowed. Impugned order passed by the Sub-Divisional Officer (Civil), i.e. dated 26.06.2013 Annexure P-1, is quashed and set aside. Consequences to follow.

14. The petition stands disposed of, so also pending miscellaneous application(s), if any.

(Ajay Mohan Goel)
Judge

September 25, 2026
(Rishi)