

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No.15445 of 2026

Decided on: 9th September, 2026

Kumari Sudesh

.....Petitioner

Versus

State of H.P. and others

.....Respondents

Coram

Ms. Justice Jyotsna Rewal Dua

Whether approved for reporting?¹ Yes.

For the Petitioner: Mr. Karan Singh Kanwar, Senior
Advocate with Mr. Ashok Kumar,
Advocate.

For the Respondents: Mr. Rajat Choudhry, Assistant
Advocate General, for respondents
No.1 to 5.

Jyotsna Rewal Dua, Judge

On a complaint moved by respondent No.6,
income certificate issued to the petitioner on 29.10.2025 by
the Naib Tehsildar, Nirmand, District Kullu to the effect
that income of petitioner's family from all sources does not
exceed Rs.39000/- per annum, was quashed by respondent
No.2-the Sub-Divisional Officer (Civil) Nirmand, District
Kullu vide order dated 16.07.2026. Petitioner feels

¹Whether reporters of print and electronic media may be allowed to see the order? Yes.

aggrieved against the aforesaid order and hence, instituted this writ petition.

2. Heard and considered the case file.

2(i). Procedure for issuing various certificates including the income certificate has been delineated in Chapter 28 of the Himachal Pradesh Land Records Manual. In terms of para 28.1 thereof, as amended vide notification dated 20.12.2010, the Tehsildar/Naib Tehsildar is the competent authority to issue the income certificate. The para reads as under:-

“28.1- The Tehsildar/Naib Tehsildar Mohal shall be the competent authority to issue SC/ST, income, backward class and bonafide/domicile Himachali Certificates within their respective jurisdiction.”

Paras 28.7 to 28.11 give the procedure for issuing income certificate as under:-

“Procedure 28.7. The applicant who wants to obtain the income for issuing certificate shall apply to the competent Revenue Officer income in Form ‘C’ appended to the chapter alongwith certificate certificates mentioned in para 28.3 supra. The Revenue Officer shall forward the application to the concerned patwari for inquiry and report.

Report of the patwari 28.8. The patwari shall make a report regarding income of the applicant from agriculture, horticulture and all other sources. He shall record the details of the land owned and possessed by the applicant's family in his patwar circle as an owner or tenant and shall mention cultivated and uncultivated lands separately. Income from uncultivated lands like private forest, ghasni etc. shall be assessed by the patwari by local inquiry from the reliable and respectable residents of the estate.

The patwari shall also report the number and

kind of bearing, and non-bearing fruit trees with age owned and possessed by the family. The age of the fruit trees shall be ascertained after local inquiry from the applicant and other reliable residents of the village. If an applicant or members of his family is in Govt. or Semi-Govt. or autonomous bodies or private service, the patwari shall report the facts in his report. He shall report income of the family from all other sources.

If the applicant owns/possesses land in other patwar circle, the patwari shall make a mention of this fact in his report after local inquiry.

Duty of the Revenue Officer 28.9. The report submitted by the patwari shall be examined by the competent Revenue Officer. He will calculate the income of the cultivated, uncultivated lands and fruit bearing trees. The calculation of income of the uncultivated lands shall be based on the inquiry conducted by the patwari. The income of cultivated lands shall be assessed by him on the basis of farm prices multiplied by product figures of different crops. This will give an estimate of the income of the producer agricultural commodities.

When the income of the family of a land-owner, whose lands are under tenants is to be calculated only $1/4^{\text{th}}$ share of the produce of the land held under tenancy shall be taken into consideration for calculating the income of such land. When the income of the family of the tenant is to be calculated, only tenant's share to the extent of $3/4^{\text{th}}$ shall be taken into consideration for the purpose of calculating the income of such tenancy land.

The competent Revenue Officer shall assess the income from non-agricultural sources i.e. business and income from property etc. on the basis of the reports of the Sale tax/Income tax/Municipal authorities to be submitted by the applicant with his application.

In case the applicant has income from house property, out-side the town, the Revenue Officer shall base his estimates on the certificate issued by the concerned Pradhan Gram Panchayat, which shall be produced by the applicant at the time of presenting the application.

The competent Revenue Officer shall assess the income from horticulture on the basis of the age and kind of the fruit bearing plants according to formula evolved and approved by the Govt. of Himachal Pradesh as per Appendix 'C' of this chapter.

In case the applicant or any member of his family is in Govt. or Semi-Govt., or autonomous bodies or private service, he shall obtain the income certificate from the applicant of Drawing and Disbursing Officer of the concerned organisation. He shall assess the income of salary on the basis of these certificates.

If the applicant owns/possesses land in more than one patwar circle, he shall obtain the reports of the concerned patwaris.

Issue of certificate 28.10. The competent Revenue Officer shall issue income certificate in Form-D based upon all sources after taking into consideration, the report of patwari and other certificate mentioned above. For issuing the certificate he shall maintain, a register in Form R-I. He shall obtain the signature of the applicant in token of receipt of the certificate in relevant column of the register.

Validity of Income Certificate 28.11. The income certificate shall be valid for a period of one year from the date of issue."

Para 28.3, as finds mention in para 28.7, reads

as under:-

"Verification of application/declaration 28.3. The applicant shall submit the application Form duly filled-in and verified. He shall state true facts in the application. For obtaining Income certificate he shall attach certificates of income from Municipal authorities if the family has any income from house property in a town. Similarly he shall obtain income certificate from concerned Pradhan Gram Panchayat in case the family derives income from house property, in panchayat area. In case the applicant runs business in the town or in a village, he shall obtain income certificate from Sales Tax and Income Tax authorities and shall attach the certificates with the application. The employee of an organisation shall attach salary certificate from the Drawing and Disbursing Officer."

Cancellation of certificate is provided in paras

28.19 to 28.21 as under:-

"Prosecution of applicant 28.19. If it is found during inquiry or otherwise, that any information given by the applicant is wrong, the certificate

*for giving issuing authority shall initiate prosecution proceedings
wrong against the delinquent under the law.
information*

28.20.- Cancellation of Certificate Issued.- In case the issuing authority, either on a complaint or on receipt of information from any source, has reason to believe that any certificate has been issued wrongly, he shall after making such enquiries and hearing such persons as considered necessary and after affording a reasonable opportunity of being heard to the person to whom the certificate had been issued, cancel such certificate.

28.21. Appeal.- A person aggrieved by such order may within a period of 30 days file an appeal before the Sub-Divisional Officer (C) to whom the Tehsildar/Naib Tehsildar is subordinate and the Sub-Divisional Officer (C) after giving the parties an opportunity of being heard, reverse or confirm the cancellation order and such reversal or confirmation shall be final.

Provided that in case of certificates issued earlier by authorities higher than Tehsildars, the appellate authority shall be the authority to whom such issuing authority to whom such issuing authority is subordinate."

2(ii). In terms of the procedure prescribed for issuance of income certificate, petitioner furnished an affidavit in form of declaration, which is available at Annexure P-9 of the paper book. As per the declaration, Smt. Pingla Devi-mother-in-law of the petitioner, was a member of her family. The petitioner had sworn in the affidavit that her annual family income from other sources was Rs.15000/- and total family income of the petitioner from all sources was to Rs.45,000/- per annum. This affidavit was furnished by the petitioner herself on 16.10.2025. Income certificate was issued to the petitioner

by the concerned Naib Tehsildar on 29.10.2025 to the effect that petitioner's family income from all sources does not exceed Rs.39000/- per annum.

2(iii). It appears that based upon the aforesaid income certificate, petitioner participated in the selection process for the post of Anganwari Worker at Anganwari Centre Badi Lanj, Tehsil Nirmand, District Kullu. One of the eligibility conditions for participating in the selection process was that the applicant should be having family income not exceeding Rs.50,000/-. Petitioner was selected against the post of Anganwari Worker at the aforesaid centre.

2(iii). Respondent No.6-Rumila Devi filed a complaint on 16.12.2025 before the Additional Deputy Commissioner, Kullu with the grievance that income certificate issued by the Naib Tehsildar, Nirmand on 29.10.2025 in petitioner's favour was not correct; That petitioner's income had not been assessed properly; The petitioner had concealed material information for obtaining the income certificate. The said complaint was disposed of on 13.01.2026 in presence of counsel for the petitioner, reserving liberty to respondent No.6 to file appeal before the Sub-Divisional Officer (Civil), Nirmand within two weeks with direction to the concerned Sub-Divisional Officer (Civil) to decide the

appeal within one month from the date of filing of the appeal and to report compliance. The order dated 13.01.2026, as made available by the learned Assistant Advocate General, reads as under:-

"In the matter of :-

Rumila D/O Sh. Niti Ram R/O Village Gaigai, P.O. Urtoo Tehsil Nirmand, Distt. Kullu H.P.

Versus

- 1. The Child Development Project Officer, Banjar, Distt. Kullu H.P.*
- 2. Kumari Sudesh W/O Sh. Pratap Singh R/o Village Badilanj P.O. Urtoo Tehsil Nirmand, Distt. Kullu H.P.*

Order

13-01-2026

Present

- 1. Sh. Dharamveer Ld. Counsel for appellant*
- 2. Ms. Hira Choudhari Ld. Counsel for R-2*

The Ld. Counsel for the appellant stated that the main contention in this petition is the income certificate issued by the Naib Tehsildar Nirmand on dated 29-10-2025 of the respondent No.2 and petitioner wants an enquiry in this matter as he has alleged that the income of the respondent No.2 is not assessed properly and respondent No.2 has concealed some material information to get this income certificate. It was apprised to Id. Counsel as well as both the parties that, there is separate guidelines & procedures for challenging the income certificate.

Accordingly liberty is granted to the petitioner to file proper appeal before SDO(C) Nirmand within a period of two weeks. The SDO (C) Nirmand shall decide the appeal within a period of one month from the date of filing appeal and send report to the undersigned.

Sd/-

*Additional Deputy Commissioner
Kullu, District Kullu"*

2(iv). Respondent No.6's complaint was processed by the Sub-Divisional Officer (Civil), Nirmand. Present

petitioner participated in the proceedings conducted before the concerned Sub-Divisional Officer (Civil). During the course of proceedings, parties were afforded adequate opportunity to adduce oral as also the documentary evidence. Petitioner also appeared before the authority and her statement was recorded. During the course of inquiry, the concerned Sub-Divisional Officer (Civil) also called for an income verification report from the Tehsildar, Nirmand. The Tehsildar Nirmand inquired into the matter through the concerned field revenue agencies and reported inconsistencies in the declaration furnished by the petitioner and the actual position. The report furnished by the concerned Tehsildar on 03.07.2026 regarding verification of petitioner's income certificate is as under:-

“With reference to the subject cited above, it is submitted that the matter has been got enquired into through the concerned field revenue agency.

During the course of enquiry, it has been noticed that the allegation made in the complaint is that the husband of Kumari Sudesh, namely Sh. Partap Singh, is serving as a Vocational Teacher in the H.P. Tourism Department and that the family is also receiving pensionary benefits.

However, the self-declaration/affidavit submitted by Kumari Sudesh at the time of issuance of the income certificate reflects the occupation of Sh. Partap Singh and Smt. Pingla Devi as Agriculture and further declares that none of the family members is in Government/Semi Government service.

Copies of the self-declaration, income certificate, relevant revenue records and the report of the field

revenue agency are enclosed herewith for ready reference.

The report is submitted for favour of information and further necessary action.”

2(v). The Sub-Divisional Officer (Civil) also called for verification report from the H.P. State Electricity Board regarding pension allegedly received by Smt. Pingla Devi- the mother-in-law of the petitioner. This was in view of allegation leveled by respondent No.6 that petitioner's mother-in-law was a retired employee of H.P. State Electricity Board Limited and was in receipt of pension. The report so received confirmed that Smt. Pingla Devi was receiving monthly pension of Rs.15399/- and total pension received by her during the relevant financial year was Rs.1,84,788/-. The concerned Sub-Divisional Officer (Civil) considered the 'parivar register nakal' placed on record before him, wherein Smt. Pingla Devi was recorded as member of petitioner's family. Taking into consideration the evidence before him, the Sub-Divisional Officer (Civil), Nirmand held that Smt. Pingla Devi is the member of petitioner's family and is in receipt of pension amounting to Rs.1,84,788/- during the concerned financial year. The income verification report furnished by the Tehsildar Nirmand was also kept in view, which pointed out

discrepancies in the declaration given by the petitioner while obtaining the income certificate. Holding that the petitioner could not prove her plea that her mother-in-law was living separately in order to rebut the official record of parivar register, the income certificate issued to the petitioner on 29.10.2025 by the Naib Tehsildar, Nirmand was held to have been issued on false and incorrect information, which does not reflect the real & actual family income of the petitioner. Accordingly, the aforesaid income certificate was quashed.

3. Learned Senior Counsel for the petitioner, placing reliance upon ***Ashok Thakur and another Versus M.C. Shimla and others***², submits that it was beyond the domain of the Sub-Divisional Officer (Civil) to have decided the complaint preferred by respondent No.6. That in terms of para 28.20 of H.P. Land Records Manual, it is only the issuing authority, i.e. concerned Tehsildar/Naib Tehsildar, who can cancel such certificate. Appeal against such cancellation though can be preferred before the Sub-Divisional Officer (Civil) under para 28.21. That an action to be taken in a particular manner as provided by the Statute must be taken, done or performed in the manner prescribed

² CMPMO No.79 of 2017, decided on 17.03.2017

or not at all. Relevant paras from the judgment are as under:-

- “43. As already observed above, an action to be taken in a particular manner as provided by the statute, must be taken, done or performed in the prescribed manner or not at all. Likewise, when a particular act has to be performed by particular authority (ies), then it is those authority (ies) alone, who can perform the said Act and nobody else.
44. It is more than settled that an action to be taken in a particular manner as provided by a statute, must be taken, done or performed in the manner prescribed or not at all. More than eighty years back, the Hon’ble Privy Council in *Nazir Ahmad vs. King Emperor* (AIR 1936, PC 253) held that where a power is given to do a certain thing in a certain way, the things must be done in that way or not at all and this has been approved and further expanded by the Hon’ble Supreme court in catena of judgments (Refer: *Rao Shiv Bahadur Singh and anr. vs. State of Vindh-P*, AIR 1954, SC 322; *Deep Chand vs. State of Rajasthan*, AIR 1961 SC 1527; *State of Uttar Pradesh vs. Singhara Singh and Ors*, AIR 1964, SC 358; *Chandra Kishore Jha vs. Mahavir Prasad*, 1999 (8) SCC 266 ; *Dhananjaya Reddy vs. State of Karnataka*, 2001 (4) SCC 9; *State of Jharkhand & Ors vs. Ambay Cements and anr.* (2005) 1 SCC 368 ; *Gujarat Urja Vikas Nigam Limited vs. Essar Power Limited*, 2008 (4) SCC 755 ; *Zuari Cement Ltd vs. Regional Director, ESIC, Hyderabad & Ors.*, AIR 2015, SC 2764 ; and *Uddar Gagan Properties Ltd. vs. Sant Singh and Ors.* 2016 (5) JT 389.).
45. The aforesaid settled legal proposition is based on a legal maxim “*Expressio unius est exclusion alterius*” meaning thereby that if a statute provides for a thing to be done in a particular manner, then it has to be done in that manner and in no other manner and following some other course is not permissible.
47. It is evidently clear from the aforesaid provisions that the same in fact does not and cannot confer the powers of Commissioner upon any authority for the simple reason that the Commissioner, Municipal Corporation of his own cannot confer his own powers upon someone else as these powers are only vested with the State who may in exercise of powers conferred under Section 46 vest upon any person like Joint/Assistant

Commissioner etc., the powers and duties as conferred and imposed upon the Commissioner under this Act.

48. *However, Mr. Hamender Singh Chandel, would argue that no objection regarding jurisdiction was ever raised by the petitioners before the authorities below, therefore, this question cannot be gone into by this Court in these proceedings.*

49. *Even this contention is without merit as the Court cannot be conferred jurisdiction by consent of parties and in case there is inherent lack of jurisdiction, then the order passed by such court is void ab initio, nullity and therefore, is coram-non-judice and the decision amounts to nothing. Reference in this regard can conveniently be made to the judgment of the Hon'ble Supreme Court in Harshad Chiman Lal Modi Vs. DLF Universal Ltd. and another (2005) 7 SCC 791, which reads as follows:*

"29. Ms. Malhotra, then contended that Section 21 of the Code, requires that the objection to the jurisdiction must be taken by the party at the earliest possible opportunity and in any case where the issues are settled at or before settlement of such issues. In the instant case, the suit was filed by the plaintiff in 1988 and written statement was filed by the defendants in 1989 wherein jurisdiction of the court was 'admitted'. On the basis of the pleadings of the parties, issues were framed by the court in February, 1997. In view of the admission of jurisdiction of court, no issue as to jurisdiction of the court was framed. It was only in 1998 that an application for amendment of written statement was filed raising a plea as to absence of jurisdiction of the court. Both the courts were wholly wrong in allowing the amendment and in ignoring Section 21 of the Code. Our attention in this connection was invited by the learned counsel to Hira Lal v. Kali Nath, (1962) 2 SCR 747 and Bahrein Petroleum Co. v. Pappu, 1966 (1) SCR 461.

30. *We are unable to uphold the contention. The jurisdiction of a court may be classified into several categories. The important categories are (i) Territorial or local jurisdiction; ii) Pecuniary jurisdiction; and (iii) Jurisdiction over the subject matter. So far as territorial and pecuniary jurisdictions are concerned, objection to such jurisdiction has to be taken at the earliest possible opportunity and in any case at or before settlement of issues. The law is well settled on the point that if such objection is not taken at the earliest, it cannot be allowed to be taken at a subsequent stage. Jurisdiction as to subject matter, however, is totally distinct and stands on a different footing. Where a court has no*

jurisdiction over the subject matter of the suit by reason of any limitation imposed by statute, charter or commission, it cannot take up the cause or matter. An order passed by a court having no jurisdiction is nullity.

31. *In Halsbury's Laws of England, (4th edn.), Reissue, Vol. 10; para 317; it is stated;*

317. Consent and waiver. -Where, by reason of any limitation imposed by statute, charter or commission, a court is without jurisdiction to entertain any particular claim or matter, neither the acquiescence nor the express consent of the parties can confer jurisdiction upon the court, nor can consent give a court jurisdiction if a condition which goes to the jurisdiction has not been performed or fulfilled. Where the court has jurisdiction over the particular subject matter of the claim or the particular parties and the only objection is whether, in the circumstances of the case, the court ought to exercise jurisdiction, the parties may agree to give jurisdiction in their particular case; or a defendant by entering an appearance without protest, or by taking steps in the proceedings, may waive his right to object to the court taking cognizance of the proceedings. No appearance or answer, however, can give jurisdiction to a limited court, nor can a private individual impose on a judge the jurisdiction or duty to adjudicate on a matter. A statute limiting the jurisdiction of a court may contain provisions enabling the parties to extend the jurisdiction by consent."

- 32.1 *In Bahrein Petroleum Co., this Court also held that neither consent nor waiver nor acquiescence can confer jurisdiction upon a court, otherwise incompetent to try the suit. It is well-settled and needs no authority that 'where a court takes upon itself to exercise a jurisdiction it does not possess, its decision amounts to nothing.' A decree passed by a court having no jurisdiction is non - est and its validity can be set up whenever it is sought to be enforced as a foundation for a right, even at the stage of execution or in collateral proceedings. A decree passed by a court without jurisdiction is a coram non judice.*

33. *In Kiran Singh v. Chaman Paswan, (1955) 1 SCR 117 : AIR 1954 SC 340, this Court declared;*

"It is a fundamental principle well established that a decree passed by a court without jurisdiction is a nullity and that its invalidity could be set up whenever and it is sought to be enforced or relied upon, even at the stage of execution and even in collateral proceedings. A defect of jurisdiction strikes at the very authority of the court to pass any

decree, and such a defect cannot be cured even by consent of parties."

(emphasis supplied)

37. *In the instant case, Delhi Court has no jurisdiction since the property is not situate within the jurisdiction of that court. The trial court was, therefore, right in passing an order returning the plaint to the plaintiff for presentation to the proper court. Hence, even though the plaintiff is right in submitting that the defendants had agreed to the jurisdiction of Delhi Court and in the original written statement, they had admitted that Delhi Court had jurisdiction and even after the amendment in the written statement, the paragraph relating to jurisdiction had remained as it was, i.e. Delhi Court had jurisdiction, it cannot take away the right of the defendants to challenge the jurisdiction of the court nor it can confer jurisdiction on Delhi Court, which it did not possess. Since the suit was for specific performance of agreement and possession of immovable property situated outside the jurisdiction of Delhi Court, the trial court was right in holding that it had no jurisdiction."*

50. *Thus, it is evidently clear that respondent No.2 has illegally usurped the power, authority and jurisdiction that was not even vested in him and proceeded to pass an order which is without jurisdiction and is coram non judice. Unfortunately, the Appellate Authority failed to notice this aspect of the matter and illegally affirmed the order passed by respondent No.2."*

Another ground urged by learned Senior Counsel was that petitioner's mother-in-law Smt. Pingla Devi was not member of petitioner's family; Petitioner's family had separated from her mother-in-law; Petitioner had stated so before the Sub-Divisional Officer (Civil). Therefore, also, income of petitioner's mother-in-law could not be computed towards family income of petitioner's family.

4. Consideration:-

4(i). In the instant case, it has to be born in mind that though para 28.20 gives out the procedure for cancellation of income certificate and in terms thereof, “In case the issuing authority, either on a complaint or on receipt of information from any source, has reason to believe that any certificate has been issued wrongly, he shall after such inquiry and hearing such person as considered necessary and after affording a reasonable opportunity of being heard to the person to whom the certificate had been issued, cancel such certificate”, but the aforesaid is only a procedural mandate given under Chapter 20 of the H.P. Land Records Manual. It is not that subject is governed by any enactment/statute, which compulsorily mandates that in no case, the income certificate issued by the Tehsildar can be cancelled by the Sub-Divisional Officer (Civil).

In ***Ashok Kumar Thakur²***, fact situation was different. Petitioners (therein) had challenged an order issued by the Senior Architect Planner, Municipal Corporation, Shimla, directing them to stop construction work and carry out demarcation in association with their immediate neighbours. The Impugned notice was quashed,

inter alia, on the grounds that the notice was not in consonance with the mandatory requirements of Section 254(1) of the H.P. Municipal Corporation Act, 1994; Notice and order was violative of the principles of natural justice as no reasons were assigned; The Senior Architect Planner was not competent to issue notice and order under Section 254(1).

It was held that as per the statutory scheme, the competent authority to issue such notice is the Commissioner and not the Senior Architect Planner. Municipal Corporation's objection that no plea regarding jurisdiction was raised at the first instance and therefore, could not be raised subsequently in writ proceedings was rejected, holding that inherent lack of jurisdiction can be raised at any stage, including in writ proceedings, as it goes to the root of the authority's power to act.

In the instant case, it is not the case of the petitioner that she was not represented by her Advocate before the Additional Deputy Commissioner, Kullu, who vide order dated 13.01.2026 passed in presence of petitioner's counsel, directed the Sub-Divisional Officer (Civil), Nirmand to decide the appeal to be preferred by respondent No.6 against the income certificate issued to the

petitioner and report compliance. Petitioner accepted this order. She participated in the proceedings conducted by the Sub-Divisional Officer (Civil), Nirmand in the appeal (sic complaint) preferred by respondent No.6. A detailed reply was filed by her through a learned Advocate to the complaint preferred by respondent No.6. No objection was taken in the reply that the complaint in the first instance was required to be adjudicated by the concerned Tehsildar/ Naib Tehsildar, who had issued the income certificate. Furthermore, during the process of deciding the appeal (sic complaint) preferred by respondent No.6, the concerned Sub-Divisional Officer (Civil) called for the income verification report from the concerned Tehsildar. The concerned Tehsildar conducted his own inquiry into the matter and found substance in the allegations leveled by respondent No.6. It was found that petitioner's self declaration/affidavit submitted at the time of issuance of income certificate was not correct.

Objection to the jurisdiction of the Court ought to have been taken by the petitioner at the first available instance. Petitioner did not do so and willingly participated in the proceedings conducted by the Sub-Divisional Officer (Civil) without raising any question as to jurisdiction of the

Court. This objection has been taken by the petitioner only after remaining unsuccessful before the Sub-Divisional Officer (Civil). Petitioner cannot be permitted to approbate and reprobate.

In the given facts and circumstances, the ratio of decision in *Ashok Kumar Thakur*² would not be applicable. The instant cannot be said to be a case of illegality on account of any statutory violation. At best, it is a case of procedural irregularity, that too, of the procedure given in the Land Records Manual. Such irregularity has also not caused any prejudice to the petitioner as during the course of adjudication by the concerned Sub-Divisional Officer (Civil), the Tehsildar Nirmand had also furnished his own report while verifying the income certificate issued to the petitioner. Principles of natural justice were duly complied with giving full opportunity to the petitioner to plead and present her case/defence. Point is answered accordingly.

There is yet another reason to hold that the income certificate issued to the petitioner on 29.10.2025 was *de hors* the facts. In her affidavit dated 16.10.2025, petitioner has declared her income from all sources to be around Rs.45000/-. Despite this, income certificate issued

to the petitioner on 29.10.2025 certifies her family income not exceeding Rs.39000/-.

4(ii). The second argument raised by learned Senior Counsel for the petitioner is that the pension being received by petitioner's mother-in-law Smt. Pingla Devi cannot be added to petitioner's family income. The reason assigned for making this submission is that Smt. Pingla Devi is not a member of petitioner's family. That the petitioner has separated from Smt. Pingla Devi. This argument is also devoid of any force. Petitioner had herself furnished a declaration on 16.10.2025 for obtaining the income certificate, wherein, she had reflected Smt. Pingla Devi to be member of her family. Furthermore, the copy of parivar register of the petitioner made available at Annexure P-11 also records Smt. Pingla Devi to be the member of petitioner's family.

Petitioner's assertion that she had separated from her mother-in-law cannot be countenanced. Rule 21(2) of the Himachal Pradesh Panchayati Raj (General) Rules, 1997 pertains to maintenance of parivar register and registration of birth, death and marriages. It also provides for the procedure to be followed in respect of separation of families. The Rule reads as under:-

“21. Pariwar Register and registration of births, deaths and marriages –

(2) The entries in the Online Pariwar Register, required to be prepared under sub-rule (1) shall be revised and all entries pertaining to births, deaths, marriages and transfer from other Panchayat/area shall be made in the register. No other addition or alternation may be made without any authenticated evidence. In the event of division of the family, separation of family may only be entered in the Online Pariwar Register on the decision of the Gram Sabha by passing a resolution by majority in its general or social meeting on an application made by the head of family concerned. However, the Gram Sabha shall take into consideration the definition of the family as defined under clause (13-A) of section 2 of the Act while deciding the matter regarding division of family. It shall be the duty of the Panchayat Inspector to verify these entries after satisfying himself about the reasons recorded by the Panchayat Secretary. He shall also put his initials on the goshwara prepared by Panchayat Secretary on Form 19-A:

Provided that no entry with regard to separation of family shall be made in the Online Pariwar Register unless the family so separated is having access to a toilet.”

A reading of above-extracted Rule makes it evident that in the event of division of family, the entry with regard to separation of the family is to be made in the parivar register in accordance with the procedure prescribed therein. It is not the case of the petitioner that the procedure prescribed in the Himachal Pradesh Panchayati Raj (General) Rules, 1997 with regard to division of family was followed in the instant case. In fact, as noticed above, it is the projected case of the petitioner in

her affidavit furnished on 16.10.2025 that her mother-in-law is the member of her family. That being the position, the Sub-Divisional Officer (Civil), Nirmand did not commit any error in computing the pension being received by Smt. Pingla Devi-mother-in-law of the petitioner, towards her family income.

In ***P.U. Sidhique & Ors. Versus Zakariya***³, Apex Court cautioned that laws are to be interpreted with empathy & pragmatism and as a force of justice, not absurdity. There should not be mechanical application of law. Relevant para from the decision is extracted hereinafter:-

“36. This Court is of the view that human beings, and not artificial intelligence or computers, are entrusted with the duties of administration of justice as laws are to be interpreted with empathy and pragmatism and as a force of justice, not absurdity. The danger of mechanical application of law, blind to practical reality, was famously encapsulated by Charles Dickens in the classic ‘Oliver Twist’, where Mr. Bumble lamented, “If the law supposes that ... the law is a ass,” critiquing legal formalism that disregards common sense and fairness. Consequently, Courts must balance textual fidelity with interpretive wisdom, ensuring that laws are not applied mechanically without considering context or equity; but serve as true vehicles for the administration of justice.”

5. For all the aforesaid reasons, I do not find any error in the impugned order passed by the Sub-Divisional

³ Civil Appeal Nos.13901-13902 of 2025, decided on 21.11.2025

Officer (Civil), Nirmand, quashing the income certificate issued in favour of the petitioner on 29.10.2025. This writ petition, therefore, fails and is accordingly dismissed alongwith pending miscellaneous application(s), if any.

September 09, 2026
Mukesh

Jyotsna Rewal Dua
Judge