2026:HHC:13542

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWPOA No.3589 of 2019
Decided on :24.04.2026

Rajneesh Kumari ...Petitioner

Versus

State of HP and others ...Respondents

Coram
Hon'ble Mr. Justice Jiya Lal Bhardwaj, Judge
Whether approved for reporting? [1]

For the petitioner: Mr. Vikrant Thakur and Ms. Shivani Priya, Advocates.

For the respondents: Mr. Kaushal Mungta, Deputy Advocate General, for respondent Nos. 1 & 2-State.

Ms. Neha Thakur, Advocate, vice. Mr. Onkar Jairath, Advocate, for respondent No.3.

Jiya Lal Bhardwaj, Judge (Oral)

By way of present petition, the petitioner has prayed for the following substantive reliefs:-

> *"(i) That the respondent state may kindly be directed to modify clause (1) part-A of Annexure-PD dated 20.7.2011, so as to include the petitioner in its ambit and to take over her services;*
>
> *(ii) That the respondents No.1 & 2 may kindly be directed to release grant-in-aid to the petitioner from the due date i.e. w.e.f. 3.7.2007 with the arrears of the same;"*

[1] *Whether reporters of Local Papers may be allowed to see the judgment?*

2026:HHC:13542

2. Learned counsel for the petitioner submits that he does not wish to press relief No. (i) at this stage and seeks liberty to agitate the same by filing an appropriate petition on the same cause of action. The prayer is allowed and the petitioner is permitted to file an appropriate petition claiming the said relief on the same cause of action.

3. So far as other relief seeking direction to the respondents to release grant-in-aid to the petitioner, is concerned, the facts, which emerge from the pleadings are that the post of Lecturer (Hindi) was lying vacant with respondent No.3-School since 01.12.2006. Earlier, one Sh. Ramesh Sharma, was working as Lecturer (Hindi) with respondent No.3-School (wrongly mentioned as Lecturer Commerce), who retired on 30.11.2006. He was in receipt of 95% grant-in-aid from respondents-State, as respondent No.3-School was in receipt of the same. After retirement of Sh. Ramesh Sharma, Lecturer (Hindi), respondent No.3-School took up the matter with respondent No.2 to fill up the vacant and sanctioned post of Lecturer (Hindi) in respondent No.3-School through the Principal and management of the school, however, the permission was not granted. Since the studies of the students were being

adversely affected, the Managing Committee of respondent No.3-School took steps to fill up the post of Lecturer (Hindi) and the petitioner being fully eligible and qualified for the post of Lecturer (Hindi) also applied for the same. Pursuant to an interview and in the interview conducted by the duly constituted Selection Committee, the petitioner was recommended for appointment as Lecturer (Hindi). The petitioner, in sequel to her recommendation, joined her duties as Lecturer (Hindi) on 03.07.2007 in respondent No.3-School. However, no grant-in-aid was released in her favour. Later on the respondents-State had taken over the school on 06.09.2012 along with its movable and immovable assets and eligible staff, who were in receipt of 95% grand-in-aid, in pursuance of Notification dated 20.07.2011. Since the petitioner was not receiving 95% grant-in-aid, her services were not taken over.

4. The petitioner has prayed that since she was appointed by a duly constituted Selection Committee after following the due process of law and further possessed the requisite qualifications to hold the post, to impart studies to the students, which was being adversely affected on account of nonavailability of Lecturer (Hindi), the action on

the part of the respondents-State in not releasing 95% grant-in-aid is illegal, arbitrary, discriminatory and violative of Articles 14 and 16 of the Constitution of India.

5. The respondents-State filed reply to the petition and averred that neither any legal or fundamental right of the petitioner has been infringed in any manner nor any cause of action accrued in her favour. The management of respondent No.3-School had appointed the petitioner on 03.07.2007 as Lecturer (Hindi) against the vacant post caused due to retirement of one Sh. Ramesh Sharma, however, her engagement was made by respondent No.3-School on its own, without following the proper procedure prescribed under the Grant-In-Aid Rules, 1997 (for short GIA rules). It has been admitted that respondent No.3-School was taken over on 06.09.2012 along with its movable and immovable assets and eligible staff who were in receipt of 95% grant-in-aid pursuant to the policy dated 20.07.2011 for taking over 95% aided schools. The said policy provides two options; i.e. (a) where both the management and staff along with movable & immovable assets are willing to take over the aided school to Government and; (b) where the management is unwilling to handover movable and

immovable property, but the staff is willing to take over their service. In both the eventualities, the services of staff of aided sector getting 95% aid were taken over by the Government with pay protection, but as a fresh entrants. The obligation of the Government to release the grant-in-aid arises only in case the appointment is made in terms of the rules and since the appointment of the petitioner has not been made in terms of GIA rules, she is neither entitled for any grant-in-aid from Government nor to the taking over her services.

6. Respondent No.3 filed separate reply and admitted that the petitioner was appointed as Lecturer (Hindi) by the School Management Committee, keeping in view the interest of the students, as despite repeated requests to the State authorities, permission for filling up the post of Lecturer (Hindi) was not granted. It is further admitted that one Sh. Ramesh Sharma was working as Lecturer (Hindi), who retired on 30.11.2006 was getting 95% grant-in-aid from respondents-State.

7. I have heard the learned counsel for the parties and also perused the record carefully.

8. It is not disputed by the respondents-State that

respondent No.3-School was in receipt of 95% grant-in-aid from the State Government. It is also not in dispute that one Sh. Ramesh Sharma, who was earlier working on the post of Lecturer (Hindi), was in receipt of 95% grant-in-aid from the State Government. It is further not in dispute that the post against which the petitioner was appointed was a sanctioned and vacant post.

9. The only plea, which has been raised by the respondents-State in their reply, is that the appointment of the petitioner is not as per the GIA Rules and as such the respondents-State was not under obligation to release the grant-in-aid in favour of the petitioner. However, it is a matter of fact that the respondents-State had been releasing grant-in-aid to respondent No.3-School and the said school was subsequently taken over along with the staff, who were in receipt of 95% grant-in-aid. It is not the person, who is entitled to get 95% grant-in-aid, but it is the school/institute to which the State Government was under obligation to release 95% grant-in-aid. Once the post was sanctioned and lying vacant and the management of respondent No.3-School was requesting the respondents-State to grant the approval to engage a Lecturer (Hindi) on

contract basis after the retirement of one Sh. Ramesh Sharma, on 30.11.2006, which was not granted, the management of respondent No.3-School had taken steps to fill up the post by resorting to the procedure being followed by it, to appoint teachers in respondent No.3-School and offered the appointment to the petitioner after lapse of 07 months i.e. on 03.07.2007, that too, on the recommendations of the Selection Committee duly constituted by the Managing Committee of the school. The main purpose of offering the appointment to the petitioner was to impart studies of the students, which was being affected on account of unavailability of Lecturer (Hindi). It is the responsibility of the State Government to impart education and keeping in view the policy decision, the respondents-State had taken over respondent No.3-School and the staff, which were in receipt of grant-in-aid.

10. The plea taken by the respondents-State that since the petitioner was not in receipt of grant-in-aid and thus her services have not been taken over, the said question has been left open to be adjudicated in the appropriate proceedings to be instituted by the petitioner, but so far as release of grant-in-aid to the petitioner is

concerned, since she had served with respondent No.3-School from the date of her engagement till the taking over of the school and the staff, cannot be denied to her.

11. The plea raised by the respondents-State that the petitioner was not appointed as per GIA Rules cannot be countenanced at this stage, more particularly in view of the fact that the petitioner was appointed against a sanctioned and vacant post of Lecturer (Hindi) in respondent No.3-School, which was in receipt of grant-in-aid. The same very issue, where an employee, which was not appointed as per the rules, had come up for consideration before this Court in CWP No. 7851 of 2022, titled, ***Smt. Sangeeta and others vs. State of Himachal Pradesh and others,*** and this Court had held that there is no specific procedure provided for selection of employees under GIA Rules, 1997, and further when it is not the case of the respondents-State that the said school was not in receipt of 95% grant-in-aid and the post on which the employee was appointed was a sanctioned post, the action on the part of the respondents in not releasing 95% grant-in-aid is not justified and it had directed to the respondents-State to release the grant-in-aid.

2026:HHC:13542

12. Learned Deputy Advocate General has vehemently argued that there is no obligation on the State Government to release the grant-in-aid, where an appointment is not made in terms of the rules. However, as held by this Court in the aforementioned judgment, once the petitioner has discharged her duties as Lecturer (Hindi) in respondent No.3-School against a sanctioned and vacant post, she cannot be denied the benefit of 95% grant-in-aid.

13. Another issue which arises for consideration before this Court is that from which date, the petitioner is entitled to the benefit. In the present case the petitioner filed the present petition on 19.07.2012 and thus, as per the law laid down by the Hon'ble Supreme Court in ***Union of India and others vs. Tarsem Singh,*** **(2008) 8 SCC 648,** she is held entitled to the arrears only for a period of three years prior to the date of institution of the present petition. The aforesaid view taken by the Hon'ble Supreme Court was again reiterated in ***Rushibhai Jagdishbhai Pathak vs. Bhavnagar Municipal Corporation,*** **(2022) 18 SCC 144,** after considering the earlier judgments and thus, the petitioner is held entitled to grant-in-aid only for a period of three years prior to filing the present petition.

2026:HHC:13542

14. Consequently, the present petition is allowed and the respondents are directed to release 95% grant-in-aid in favour of the petitioner, w.e.f. 19.07.2009 till respondent No.3-School was taken over by the respondents-State on 06.09.2012. In case the grant-in-aid is not released in favour of the petitioner within three months from today, the respondents-State shall pay interest on the arrears at the rate of 6% per annum from due date, till its payment.

15. The petition is accordingly disposed of. However, there shall be not order as to costs. Pending application(s), if any, shall also stand disposed of.

24th April, 2026
(Anurag)

(Jiya Lal Bhardwaj)
Judge