

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.

CWPOA No.1003 of 2019
Decided on: 12thMarch, 2026

Romesh Chand DhimanPetitioner

Versus

State of H.P and another ...Respondents

Coram

Hon'ble Mr.Justice Jiya Lal Bhardwaj, Judge.

Whether approved for reporting?¹

For the petitioner: Mr.Vijay K. Verma, Advocate.

**For the respondents: Mr.Anup Rattan, Advocate
General with Mr.Amit Kumar
Chaudhary, Deputy Advocate
General for respondent No.1.**

**Mr.Vikrant Thakur, Advocate
for respondent No.2.**

Jiya Lal Bhardwaj, Judge(Oral)

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

- “i) *That a writ in the nature of mandamus may kindly be issued and the petitioner be treated as OBC (NCL) candidate as per the OBC certificate produced by the petitioner and the name of the petitioner be recommended for appointment as Headmaster in the Department of Education.*
- ia) *That a writ in the nature of mandamus may kindly be issued and the petitioner be treated as OBC (NCL) candidate as per the OBC certificate produced by the petitioner and the name of the petitioner be recommended for appointment as Headmaster in the Department of Education and annexure P-13 may be quashed and set aside.*

¹ *Whether the reporters of Local Papers may be allowed to see the judgment? Yes.*

In the alternative the petitioner prays that if no such vacancy presently exists and the selection process is over then against the vacancy of post of headmasters (school cadre) next arising in Education Department keeping in view the examination process already undertaken, the petitioner may be considered next time to determine his entitlement for the post of Headmaster on the basis of merit position in the selection process already undertaken by the petitioner.

- ii) *That a writ of mandamus may kindly be issued directing the respondents to issue clear guidelines to the revenue authorities concerned at the field level.”*

2. As per pleadings in the petition, the petitioner was appointed as TGT (Non-medical) and joined his duties on 9.10.2001 in Government Middle School, Nangal Chowk, under complex Government Senior Secondary School Dada Siba in Tehsil Jaswan, District Kangra, H.P. The petitioner is post graduate in three streams i.e. Mathematics, Sociology and Economics.

3. Respondent No.2-Commission advertised 212 posts of Headmasters (School Cadre) Class-II Non-Gazetted vide advertisement dated 23.09.2011 (Annexure P-1). As per this advertisement, the last date for receipt of the application was fixed as 22.10.2011 (08.11.2011 for remote areas). The petitioner being eligible also applied for the same through proper channel as in-service candidate, but under general category. As per condition in the advertisement, incomplete, defectively filled up, old, unsigned and zeroxed application

forms will be rejected straightway and no subsequent correspondence will be entertained. As per condition No.2, the candidates claiming reservation must submit valid certificates of concerned category in support of the claim; in case of invalid certificates, the applications will be rejected; the category once claimed shall not be changed. Further, if the candidate belongs to OBC category, he/she is required to produce OBC certificate, which should not be more than two years old at the time of last date fixed for receipt of applications, screening test and viva-voce, along-with latest affidavit duly attested by the authority authorized under the Indian Oath Act stating that his status as OBC has not changed and he/she is not excluded from the category of OBC on account of being covered under the creamy layer.

4. Admittedly, in the present case, as per averments in the petition, the petitioner belongs to OBC category, but for want of OBC category certificate, he had applied under the general category. It has been averred in the petition that the petitioner had applied for the said certificate, but it could not be issued to him. The screening test was scheduled on 07.02.2012 and the petitioner was allowed to appear in the said examination under the general category. After

declaration of the screening test conducted by respondent No.2-Commission, the Commission made final recommendations of the selected candidates and the communication regarding the said fact was given to the State Government on 18.08.2012.

5. The petitioner had pleaded that though admittedly he is an OBC candidate, but since he had no certificate of the said category, at the relevant time, had applied under the general category and since there is no fault on his part, he may be offered appointment against the vacant post of Headmaster (School Cadre) as OBC candidate.

6. Respondent No.1-State filed reply to the petition and averred that respondent No.2 being the recruiting agency, had conducted the entire process and replying respondent on the basis of recommendations of the recruiting agency had offered the appointment.

7. Respondent No.2-Commission filed its separate reply and averred that the last date of receipt of the application was 22.10.2011. It was specifically mentioned in the advertisement that the category once claimed shall not be changed. In order to short list the number of candidates, a screening test was held on 07.02.2012 and 634 candidates

were declared qualified in the screening test and were called for interview on different dates. The petitioner had applied under the general category and subsequently, the category cannot be changed. The final recommendation was sent to the Government on 18.08.2012 and the OBC certificate was procured by the petitioner from the competent authority on 16th November, 2012.

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

9. It is not in dispute that the petitioner at time of applying for the post had applied under the general category. It is also not in dispute that the last date for receipt of the application was fixed as 22.10.2011. It is also not in dispute that the petitioner obtained OBC certificate on 16.11.2012. Before obtaining the OBC certificate, the petitioner had neither apprised respondent No.2-Commission that he belongs to reserve category nor form filled in was of from the said category.

10. Learned counsel for the petitioner has relied upon the judgment passed by a Co-ordinate Bench of this Court in CWP No.3023 of 2020, titled, **Ritu vs. State of Himachal Pradesh and others**, decided on 29.11.2021. However, the

ratio laid down in this judgment is not attracted in the present case, for the simple reason that the petitioner therein had applied under OBC category for the post. However, in the present case, the petitioner had applied for the post advertised by respondent No.2-Commission being a general category candidate and thus the ratio laid down in *Ritu's* case (supra) is not at all applicable to the facts of the present case.

11. Learned counsel for the respondent-Commission on the other hand argued that as per law laid down in ***Thahira P. vs. Administrator, Union Territory of Lakshadweep and others, (2018) 6 SCC 446***, once the Commission had prescribed the time limit to receive the application and the candidates were intimated about the said date and furthermore, the petitioner having applied before the cut-off date under the general category, he cannot be permitted to change the category and in case, it is permitted to do so, the process of selection will never come to an end. The relevant para 16 of judgment is reproduced as under:-

“16. There also must be some adherence to the timelines held out to all candidates. In the present case, all the candidates were informed that if they had any objection to the check-list, they should file an objection before 1 p.m. on 26th May, 2011. Kadeeja did not file her objection within the prescribed time. As such, the Administration was fully justified in not considering her objection or rejecting it as being beyond the prescribed time. Adherence to such time limits, if not strictly

followed, can again lead to uncertainties particularly if other candidates also start raising objections after the cut off date and providing some justification for the delay. In such circumstances, the process of selection would get bogged down and unduly prolonged which would neither serve the interest of the concerned institution nor the management of affairs of the institution.”

12. Learned counsel for the respondent-Commission has also placed reliance upon the judgment in **Bedanga Talukdar vs. Saifudaullah Khan and others, (2011) 12 SCC 85**, and contended that once there is no power vested with the Commission to relax any conditions stipulated in the advertisement, the petitioner cannot get any relief from this Court. The relevant para 30 of the judgment is reproduced as under:-

“30. A perusal of the advertisement in this case will clearly show that there was no power of relaxation. In our opinion, the High Court committed an error in directing that the condition with regard to the submission of the disability certificate either along with the application form or before appearing in the preliminary examination could be relaxed in the case of respondent No.1. Such a course would not be permissible as it would violate the mandate of Articles 14 and 16 of the Constitution of India.”

13. Learned counsel for the respondent-Commission has also placed reliance upon the judgment of this Court in CWPOA No.1968 of 2019, titled, **Baljinder Kaur vs. State of Himachal Pradesh and others**, decided on 17.11.2025 to contend that right of a reserved candidate for consideration against reserved post accrues and crystallizes only in case, a

reserved candidate opts and applied for reserved post and not otherwise. Since the petitioner had not applied as a OBC candidate, he cannot turn around and say to consider his candidature under that category, when he remained unsuccessful under the general category.

14. The another relief claimed that a writ of mandamus be issued directing the respondents to issue clear guidelines, remains only academic, since the writ petition filed by the petitioner is not having any merit.

15. In view of the aforesaid discussion and the dicta of the Hon'ble Supreme Court as well as of this Court, I find no merit in the petition and the same is accordingly dismissed. However, no orders as to cost.

16. Pending applications, if any, also stand disposed of.

March 12, 2026
(naveen)

(**Jiya Lal Bhardwaj**)
Judge