

IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

CWP No.3162 of 2013 and connected matters.

Reserved on: 17.09.2013

Date of decision: 01.10.2013

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**1. CWP No.3162 of 2013-G**

Harish Kumar ..Petitioner.

Versus

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

**2. CWP No.9940 of 2012-D**

Parkash Chand ..Petitioner.

Versus

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

**3. CWP No.1601 of 2013-A**

Hari Chand and another ..Petitioners.

Versus

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

**4. CWP No.2240 of 2013-D**

Dorje Namgial and others. ..Petitioners.

Versus

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

**5. CWP No.2664 of 2013-G**

Kumari Shobha ..Petitioner.

Versus

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

**6. CWP No.3143 of 2013-E**

Sher Singh		..Petitioner.
	Versus	
State of H.P. and others.		.. Respondents.

**7. CWP No.3157 of 2013-F**

Sanjeev Kumar		..Petitioner.
	Versus	
State of H.P. and others.		.. Respondents.

**8. CWP No.3159 of 2013-F**

Mahender Kumar		..Petitioner.
	Versus	
State of H.P. and others.		.. Respondents.

**9. CWP No.3160 of 2013-F**

Banke Lal		..Petitioner.
	Versus	
State of H.P. and others.		.. Respondents.

**10. CWP No.3161 of 2013-G**

Bharat Singh		..Petitioner.
	Versus	
State of H.P. and others.		.. Respondents.

**11. CWP No.3219 of 2013-B**

Ms. Champa Thakur		..Petitioner.
	Versus	
State of H.P. and others.		.. Respondents.

**12. CWP No.3228 of 2013-C**

Anjana and others.		..Petitioners.
	Versus	

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

**13. CWP No.3269 of 2013-G**

Harish Kumar ..Petitioner.  
Versus

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

**14. CWP No.3274 of 2013-H**

Sanjeev Kumar ..Petitioner.  
Versus

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

**15. CWP No.3275 of 2013-H**

Naresh Kumar ..Petitioner.  
Versus

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

**16. CWP No.3276 of 2013-H**

Jagdish Chand ..Petitioner.  
Versus

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

**17. CWP No.3277 of 2013-H**

Yogesh Kumar Sharma ..Petitioner.  
Versus

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

**18. CWP No.3425 of 2013-C**

Jasvir Kaur ..Petitioner.  
Versus

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

**19. CWP No.3426 of 2013-C**

Vijay Kumar	..Petitioner.
Versus	
State of H.P. and others.	.. Respondents.

**20. CWP No.3427 of 2013-C**

Rakesh Kumar	..Petitioner.
Versus	
State of H.P. and others.	.. Respondents.

**21. CWP No.3428 of 2013-C**

Ramesh Kumar	..Petitioner.
Versus	
State of H.P. and others.	.. Respondents.

**22. CWP No.3429 of 2013-C**

Hemant Kumar	..Petitioner.
Versus	
State of H.P. and others.	.. Respondents.

**23. CWP No.3437 of 2013-D**

Devender Singh	..Petitioner.
Versus	
State of H.P. and others.	.. Respondents.

**24. CWP No.4174 of 2013-H**

Manmohan Singh and others.	..Petitioners.
Versus	
State of H.P. and others.	.. Respondents.

**25. CWP No.4177 of 2013-H**

Rekha Kumari & ors.	..Petitioners.
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Versus

State of H.P. and others.

.. Respondents.

**26. CWP No.4214 of 2013-B**

Shiv Kumar.

..Petitioner.

Versus

State of H.P. and others.

.. Respondents.

**27. CWP No.4243 of 2013-E**

Rajesh Kumar & ors.

..Petitioners.

Versus

State of H.P. and others.

.. Respondents.

**28. CWP No. 4258 of 2013-F**

Dinesh Kumar.

..Petitioner.

Versus

State of H.P. and others.

.. Respondents.

**29. CWP No. 4286 of 2013-I**

Smt. Sarika Sharma.

..Petitioner.

Versus

State of H.P. and others.

.. Respondents.

**30. CWP No. 4287 of 2013-I**

Smt.Rama Chaudhary.

..Petitioner.

Versus

State of H.P. and others.

.. Respondents.

**31. CWP No. 4293 of 2013-J**

Sushma Devi

..Petitioner.

Versus

State of H.P. and others.

.. Respondents.

**32. CWP No. 4298 of 2013-J**

Sohan Singh	Versus	..Petitioner.
State of H.P. and others.		.. Respondents.

**33. CWP No. 4302 of 2013-A**

Sandeep Kumar.	Versus	..Petitioner.
State of H.P. and others.		.. Respondents.

**34. CWP No. 4314 of 2013-B**

Sandeep Kumar.	Versus	..Petitioner.
State of H.P. and others.		.. Respondents.

**35. CWP No. 4323 of 2013-C**

Saroj Kumari.	Versus	..Petitioner.
State of H.P. and others.		.. Respondents.

**36. CWP No. 4453 of 2013-F**

Sh. Jatin.	Versus	..Petitioner.
State of H.P. and others.		.. Respondents.

**37. CWP No. 4454 of 2013-F**

Manoj Kumar Sharma.	Versus	..Petitioner.
State of H.P. and others.		.. Respondents.

**38. CWP No. 4526 of 2013-C**

Sunita Devi.	Versus	..Petitioner.
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State of H.P. and others. .. Respondents.

**39. CWP No. 4545 of 2013-E**

Neera Kumari. ..Petitioner.

Versus

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

**40. CWP No. 4546 of 2013-E**

Joginder Singh. ..Petitioner.

Versus

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

**41. CWP No. 4547 of 2013-E**

Ms. Anita. ..Petitioner.

Versus

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

**42. CWP No. 4548 of 2013-E**

Sh. Jagmohan Singh. ..Petitioner.

Versus

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

**43. CWP No. 4585 of 2013-I**

Sh. Bhim Singh ..Petitioner.

Versus

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

**44. CWP No. 4603 of 2013-A**

Anil Dutt. ..Petitioner.

Versus

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

**45. CWP No. 4605 of 2013-A**

Sahi Ram.

..Petitioner.

Versus

State of H.P. and others.

.. Respondents.

**46. CWP No. 4620 of 2013-B**

Anil Kumar Gautam

..Petitioner.

Versus

State of H.P. and others.

.. Respondents.

**47. CWP No. 4633 of 2013-D**

Hem Chand.

..Petitioner.

Versus

State of H.P. and others.

.. Respondents.

**48. CWP No. 4634 of 2013-D**

Prakasha Nand.

..Petitioner.

Versus

State of H.P. and others.

.. Respondents.

**49. CWP No. 4636 of 2013-D**

Nisha Devi.

..Petitioner.

Versus

State of H.P. and others.

.. Respondents.

**50. CWP No. 4661 of 2013-G**

Sujata Kumari.

..Petitioner.

Versus

State of H.P. and others.

.. Respondents.

**51. CWP No. 4682 of 2013-I**

Suresh Kumar.

..Petitioner.

Versus

State of H.P. and others.

.. Respondents.

**52. CWP No. 4744 of 2013-E**

Ram Krishan. ..Petitioner.  
Versus

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

**53. CWP No. 4747 of 2013-E**

Dinesh Chand. ..Petitioner.  
Versus

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

**54. CWP No. 4749 of 2013-E**

Vikas Bhardwaj. ..Petitioner.  
Versus

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

**55. CWP No. 4751 of 2013-F**

Pradeep Sharma. ..Petitioner.  
Versus

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

**56. CWP No. 4773 of 2013-H**

Asha Kumari. ..Petitioner.  
Versus

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

**57. CWP No. 4774 of 2013-H**

Heemi Devi. ..Petitioner.  
Versus

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

**58. CWP No. 4775 of 2013-H**

Naresh Kumar ..Petitioner.  
Versus

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

**59. CWP No. 4776 of 2013-H**

Neeta Ram. ..Petitioner.  
Versus

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

**60. CWP No. 4777 of 2013-H**

Hardyal Singh. ..Petitioner.  
Versus

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

**61. CWP No. 4778 of 2013-H**

Ravi Dutt. ..Petitioner.  
Versus

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

**62. CWP No. 4780 of 2013-H**

Vishal Thakur. ..Petitioner.  
Versus

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

**63. CWP No. 4782 of 2013-I**

Sushil Chauhan. ..Petitioner.  
Versus

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

**64. CWP No. 4784 of 2013-I**

Bittu Ram ....Petitioner.  
Versus

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

**65. CWP No. 4805 of 2013-A**

Pradeep Kumar ..Petitioner.  
Versus

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

**66. CWP No. 4820 of 2013-B**

Duni Chand ..Petitioner.  
Versus

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

**67. CWP No. 4821 of 2013-C**

Renuka ..Petitioner.  
Versus

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

**68. CWP No. 4843 of 2013-E**

Naresh Kumar ..Petitioner.  
Versus

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

**69. CWP No. 4851 of 2013-F**

Vijender Singh ..Petitioner.  
Versus

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

**70. CWP No. 4857 of 2013-F**

Satish Kumar ..Petitioner.  
Versus

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

**71. CWP No. 4858 of 2013-F**

Anuj Sharma ..Petitioner.  
Versus

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

**72. CWP No. 4859 of 2013-F**

Rupender Kumar

..Petitioner.

Versus

State of H.P. and others.

.. Respondents.

**73. CWP No. 4860 of 2013-F**

Yash Pal

....Petitioner

Versus

State of H.P. and others.

.. Respondents.

**74. CWP No. 4865 of 2013-I**

Amit Kumar

..Petitioner.

Versus

State of H.P. and others.

.. Respondents.

**75. CWP No. 4871 of 2013-H**

Veena Kumari

..Petitioner.

Versus

State of H.P. and others.

.. Respondents.

**76. CWP No. 4881 of 2013-I**

Bihari Lal & others

..Petitioners.

Versus

State of H.P. and others.

.. Respondents.

**77. CWP No. 4891 of 2013-J**

Jai Pal Singh

..Petitioner.

Versus

State of H.P. and others.

.. Respondents.

**78. CWP No. 4893 of 2013-J**

Sunder Singh

..Petitioner.

Versus

State of H.P. and others.

.. Respondents.

**79. CWP No. 4903 of 2013-A**

Ratti Ram	..Petitioner.
Versus	
State of H.P. and others.	.. Respondents.

**80. CWP No. 4904 of 2013-A**

Kapil Dev	..Petitioner.
Versus	
State of H.P. and others.	.. Respondents.

**81. CWP No. 4912 of 2013-B**

Ajay Kumar	...Petitioner.
Versus	
State of H.P. and others.	.. Respondents.

**82. CWP No. 4913 of 2013-B**

Ajay Singh	..Petitioner.
Versus	
State of H.P. and others.	.. Respondents.

**83. CWP No. 4924 of 2013-C**

Shammi Sharma	..Petitioner.
Versus	
State of H.P. and others.	.. Respondents.

**84. CWP No. 4941 of 2013-E**

Budhi Parkash	..Petitioner.
Versus	
State of H.P. and others.	.. Respondents.

**85. CWP No. 4946 of 2013-E**

Sunil Sharma	..Petitioner.
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Versus

State of H.P. and others.

.. Respondents.

**86. CWP No. 4951 of 2013-F**

Keshav Ram

..Petitioner.

Versus

State of H.P. and others.

.. Respondents.

**87. CWP No. 4952 of 2013-F**

Subhadra Devi

..Petitioner.

Versus

State of H.P. and others.

.. Respondents.

**88. CWP No. 4958 of 2013-F**

Ranjana Kumari

..Petitioner.

Versus

State of H.P. and others.

.. Respondents.

**89. CWP No. 4959 of 2013-F**

Bhupinder Singh

..Petitioner.

Versus

State of H.P. and others.

.. Respondents.

**90. CWP No. 4960 of 2013-F**

Sanjay Kumar

..Petitioner.

Versus

State of H.P. and others.

.. Respondents.

**91. CWP No. 4961 of 2013-G**

Mahender Lal

..Petitioner.

Versus

State of H.P. and others.

.. Respondents.

**92. CWP No. 4962 of 2013-G**

Jagdev Kumar

..Petitioner.

Versus

State of H.P. and others.

.. Respondents.

**93. CWP No. 4963 of 2013-G**

Reena Kumari

..Petitioner.

Versus

State of H.P. and others.

.. Respondents.

**94. CWP No. 4964 of 2013-G**

Bodh Raj

..Petitioner.

Versus

State of H.P. and others.

.. Respondents.

**95. CWP No. 4966 of 2013-G**

Ramesh Kumar

..Petitioner.

Versus

State of H.P. and others.

.. Respondents.

**96. CWP No. 4967 of 2013-G**

Shukar Deen

..Petitioner.

Versus

State of H.P. and others.

.. Respondents.

**97 CWP No. 4968 of 2013-G**

Uttam Singh

..Petitioner.

Versus

State of H.P. and others.

.. Respondents.

**98. CWP No. 4973 of 2013-H**

Harish Kumar

..Petitioner.

Versus

State of H.P. and others.

.. Respondents.

**99. CWP No. 4974 of 2013-H**

Sanjay Kumar	..Petitioner.
Versus	
State of H.P. and others.	.. Respondents.

**100. CWP No. 4975 of 2013-H**

Chander Parkash	..Petitioner.
Versus	
State of H.P. and others.	.. Respondents.

**101. CWP No. 4980 of 2013-H**

Savita Kumari	..Petitioner.
Versus	
State of H.P. and others.	.. Respondents.

**102. CWP No. 4981 of 2013-I**

Rajiv Singh	..Petitioner.
Versus	
State of H.P. and others.	.. Respondents.

**103. CWP No. 4982 of 2013-I**

Vikram Dutt	..Petitioner.
Versus	
State of H.P. and others.	.. Respondents.

**104. CWP No. 4983 of 2013-I**

Naresh Kumar	..Petitioner.
Versus	
State of H.P. and others.	.. Respondents.

**105. CWP No. 4984 of 2013-I**

Narinder Singh Chauhan	..Petitioner.
Versus	

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

**106. CWP No. 4987 of 2013-I**

Reeta Sharma ..Petitioner.  
Versus

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

**107. CWP No. 4998 of 2013-J**

Chande Ram ..Petitioner.  
Versus

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

**108. CWP No. 4999 of 2013-J**

Rajinder Singh ..Petitioner.  
Versus

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

**109. CWP No. 5006 of 2013-A**

Rekha Devi ..Petitioner.  
Versus

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

**110. CWP No. 5009 of 2013-A**

Puran Chand ..Petitioner.  
Versus

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

**111. CWP No. 5012 of 2013-B**

Baldev Singh ..Petitioner.  
Versus

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

**112. CWP No. 5015 of 2013-B**

Dinesh Kumar

..Petitioner.

Versus

State of H.P. and others.

.. Respondents.

**113. CWP No. 5016 of 2013-B**

Sushil Kalia

..Petitioner.

Versus

State of H.P. and others.

.. Respondents.

**114. CWP No. 5019 of 2013-B**

Hans Raj Thakur

..Petitioner.

Versus

State of H.P. and others.

.. Respondents.

**115. CWP No. 5020 of 2013-B**

Anjana Devi

..Petitioner.

Versus

State of H.P. and others.

.. Respondents.

**116. CWP No. 5022 of 2013-C**

Sunita Devi

..Petitioner.

Versus

State of H.P. and others.

.. Respondents.

**117. CWP No. 5023 of 2013-C**

Veena Kumari

..Petitioner.

Versus

State of H.P. and others.

.. Respondents.

**118. CWP No. 5026 of 2013-D**

Prmod Sharma

..Petitioner.

Versus

State of H.P. and others.

.. Respondents.

**119. CWP No. 5029 of 2013-C**

Varjesh Kumar ..Petitioner.  
Versus

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

**120. CWP No. 5030 of 2013-C**

Chetan Chauhan ..Petitioner.  
Versus

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

**121. CWP No. 5031 of 2013-D**

Maninder Lal ..Petitioner.  
Versus

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

**122. CWP No. 5032 of 2013-D**

Champa Devi ..Petitioner.  
Versus

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

**123. CWP No. 5033 of 2013-D**

Sunita Devi ..Petitioner.  
Versus

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

**124. CWP No. 5040 of 2013-D**

Yoginder Kumar ..Petitioner.  
Versus

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

**125. CWP No. 5042 of 2013-E**

Jeevan Lal ..Petitioner.  
Versus

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

**126. CWP No. 5045 of 2013-E**

Sudesh Kumar	..Petitioner.
Versus	
State of H.P. and others.	.. Respondents.

**127. CWP No. 5046 of 2013-E**

Suman Kumar	..Petitioner.
Versus	
State of H.P. and others.	.. Respondents.

**128. CWP No. 5047 of 2013-E**

Bhumesh	..Petitioner.
Versus	
State of H.P. and others.	.. Respondents.

**129. CWP No. 5063 of 2013-G**

Shyam Lal	..Petitioner.
Versus	
State of H.P. and others.	.. Respondents.

**130. CWP No. 5073 of 2013-H**

Kartik	..Petitioner.
Versus	
State of H.P. and others.	.. Respondents.

**131. CWP No. 5074 of 2013-H**

Promila Devi	..Petitioner.
Versus	
State of H.P. and others.	.. Respondents.

**132. CWP No. 5076 of 2013-H**

Vinod Kumar	..Petitioner.
Versus	
State of H.P. and others.	.. Respondents.

**133. CWP No. 5081 of 2013-I**

Reena Thakur	..Petitioner.
Versus	
State of H.P. and others.	.. Respondents.

**134. CWP No. 5084 of 2013-I**

Balbir Singh	..Petitioner.
Versus	
State of H.P. and others.	.. Respondents.

**135. CWP No. 5085 of 2013-I**

Reena Devi	..Petitioner.
Versus	
State of H.P. and others.	.. Respondents.

**136. CWP No. 5086 of 2013-I**

Pratap Singh	..Petitioner.
Versus	
State of H.P. and others.	.. Respondents.

**137. CWP No. 5087 of 2013-I**

Kamal Dev	..Petitioner.
Versus	
State of H.P. and others.	.. Respondents.

**138. CWP No. 5088 of 2013-H**

Surekha Kumari & anr.	..Petitioners
Versus	
State of H.P. and others.	.. Respondents.

**139. CWP No. 5091 of 2013-J**

Rajeev Kumar	..Petitioner.
Versus	

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

**140. CWP No. 5093 of 2013-J**

Ramesh Kumar ..Petitioner.

Versus

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

**141. CWP No. 5096 of 2013-J**

Sunita Devi ..Petitioner.

Versus

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

**142. CWP No. 5097 of 2013-J**

Mamta Rangta & anr. ..Petitioners.

Versus

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

**143. CWP No. 5098 of 2013-J**

Mohan Lal ..Petitioner.

Versus

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

**144. CWP No. 5100 of 2013-J**

Naveen Chauhan ..Petitioner.

Versus

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

**145. CWP No. 5103 of 2013-A**

Sushma Devi ..Petitioner.

Versus

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

**146. CWP No. 5106 of 2013-A**

Chaman Lal ..Petitioner.

Versus

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

**147. CWP No. 5107 of 2013-A**

Jitender Singh ..Petitioner.  
Versus

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

**148. CWP No. 5108 of 2013-A**

Suman Sharma ..Petitioner.  
Versus

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

**149. CWP No. 5109 of 2013-A**

Ranjit Singh & ors ..Petitioners.  
Versus

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

**150. CWP No. 5110 of 2013-A**

Sarita Kumari ..Petitioner.  
Versus

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

**151. CWP No. 5111 of 2013-A**

Arun Jyoti ..Petitioner.  
Versus

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

**152. CWP No. 5139 of 2013**

Gopal Singh ..Petitioner.  
Versus

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

**153. CWP No. 5140 of 2013-D**

Shishu Pal

..Petitioner.

Versus

State of H.P. and others.

.. Respondents.

**154. CWP No. 5146 of 2013-E**

Surender Singh

..Petitioner.

Versus

State of H.P. and others.

.. Respondents.

**155. CWP No. 5147 of 2013-E**

Jitender

..Petitioner.

Versus

State of H.P. and others.

.. Respondents.

**156. CWP No. 5148 of 2013-E**

Anita Devi

..Petitioner.

Versus

State of H.P. and others.

.. Respondents.

**157. CWP No. 5151 of 2013-F**

Sunil Kumar

..Petitioner.

Versus

State of H.P. and others.

.. Respondents.

**158. CWP No. 5153 of 2013-F**

Partap Chand

..Petitioner.

Versus

State of H.P. and others.

.. Respondents.

**159. CWP No. 5154 of 2013-F**

Dinesh Kumar

..Petitioner.

Versus

State of H.P. and others.

.. Respondents.

**160. CWP No. 5158 of 2013-F**

Badri Ram Bhimta ..Petitioner.  
Versus

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

**161. CWP No. 5161 of 2013-G**

Aprajita ..Petitioner.  
Versus

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

**162. CWP No. 5162 of 2013-G**

Surender Kumar ..Petitioner.  
Versus

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

**163. CWP No. 5171 of 2013-H**

Chatter Singh ..Petitioner.  
Versus

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

**164. CWP No. 5177 of 2013-H**

Pratibha ..Petitioner.  
Versus

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

**165. CWP No. 5178 of 2013-H**

Ram Ratti Devi ..Petitioner.  
Versus

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

**166. CWP No. 5188 of 2013-I**

Kuldeep Kumar ..Petitioner.  
Versus

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

**167. CWP No. 5190 of 2013-I**

Charan Singh ..Petitioner.  
Versus

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

**168. CWP No. 5195 of 2013-J**

Rachna Devi ..Petitioner.  
Versus

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

**169. CWP No. 5216 of 2013-B**

Anil Kumar Bahri ..Petitioner.  
Versus

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

**170. CWP No. 5217 of 2013-B**

Puneet Kumar ..Petitioner.  
Versus

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

**171. CWP No. 5222 of 2013-C**

Yashwant Singh ..Petitioner.  
Versus

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

**172. CWP No. 5225 of 2013-C**

Leela Devi ..Petitioner.  
Versus

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

**173. CWP No. 5226 of 2013-C**

Ram Singh ..Petitioner.  
Versus

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

**174. CWP No. 5235 of 2013-D**

Kapil Dev ..Petitioner.  
Versus

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

**175. CWP No. 5236 of 2013-D**

Pankaj Kumar ..Petitioner.  
Versus

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

**176. CWP No. 5237 of 2013-D**

Arun Kumar ..Petitioner.  
Versus

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

**177. CWP No. 5238 of 2013-D**

Chander Shakhar ..Petitioner.  
Versus

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

**178. CWP No. 5239 of 2013-D**

Neela Devi ..Petitioner.  
Versus

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

**179. CWP No. 5245 of 2013-E**

Hari Chand ..Petitioner.  
Versus

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

**180. CWP No. 5248 of 2013-E**

Neena Kumari	..Petitioner.
Versus	
State of H.P. and others.	.. Respondents.

**181. CWP No. 5249 of 2013-E**

Balbir Singh	..Petitioner.
Versus	
State of H.P. and others.	.. Respondents.

**182. CWP No. 5251 of 2013-F**

Sanjay Kumar	..Petitioner.
Versus	
State of H.P. and others.	.. Respondents.

**183. CWP No. 5341 of 2013-E**

Kaushalya Devi	..Petitioner.
Versus	
State of H.P. and others.	.. Respondents.

**184. CWP No. 5351 of 2013-F**

Vinod Kumar Sharma	..Petitioner.
Versus	
State of H.P. and others.	.. Respondents.

**185. CWP No. 5377 of 2013-H**

Sarita Kumari	..Petitioner.
Versus	
State of H.P. and others.	.. Respondents.

**186. CWP No. 5378 of 2013-H**

Desh Raj	..Petitioner.
Versus	
State of H.P. and others.	.. Respondents.

**187. CWP No.5379 of 2013-H**

Shyam Singh ..Petitioner.  
Versus

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

**188. CWP No. 5380 of 2013-H**

Shama Kumari ..Petitioner.  
Versus

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

**189. CWP No. 5381 of 2013-I**

Duni Chand & ors ..Petitioners.  
Versus

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

**190. CWP No. 5394 of 2013**

Kumari Kalpana ..Petitioner.  
Versus

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

**191. CWP No. 5396 of 2013-I**

Mukesh Kumar & anr. ..Petitioners.  
Versus

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

**192. CWP No. 5397 of 2013-J**

Pankaj Kumar & anr. ..Petitioners.  
Versus

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

**193. CWP No. 5398 of 2013-J**

Rajni Devi ..Petitioner.  
Versus

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

**194. CWP No. 5401 of 2013-A**

Hukam Singh & anr. ..Petitioners.

Versus

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

**195. CWP No. 5402 of 2013-A**

Heera Lal Sharma ..Petitioner.

Versus

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

**196. CWP No. 5403 of 2013-A**

Ramesh Kumar ..Petitioner.

Versus

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

**197. CWP No. 5405 of 2013-A**

Narinder Singh ..Petitioner.

Versus

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

**198. CWP No. 5410 of 2013-A**

Chander Kanta Darni ..Petitioner.

Versus

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

**199. CWP No. 5417 of 2013-B**

Sucheta & anr ..Petitioners.

Versus

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

**200. CWP No. 5419 of 2013-B**

Bhuvnesh ..Petitioner.

Versus

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

**201. CWP No. 5424 of 2013-C**

Harinder Singh & anr. ..Petitioners.

Versus

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

**202. CWP No. 5425 of 2013-C**

Anjana Devi ....Petitioner

Versus

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

**203. CWP No. 5426 of 2013-C**

Pan Chand ..Petitioner.

Versus

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

**204. CWP No. 5427 of 2013-C**

Satwinder Kaur ..Petitioner.

Versus

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

**205. CWP No. 5428 of 2013-C**

Bagga Ram ..Petitioner.

Versus

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

**206. CWP No. 5431 of 2013-D**

Ravi Kumar ..Petitioner.

Versus

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

**207. CWP No. 5432 of 2013-J**

Sanjay Kumar Sharma ..Petitioner.  
Versus

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

**208. CWP No. 5433 of 2013-D**

Sanjay Kumar ..Petitioner.  
Versus

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

**209. CWP No. 5434 of 2013-D**

Rahul Titla ..Petitioner.  
Versus

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

**210. CWP No. 5435 of 2013-D**

Hitesh Sharma ..Petitioner.  
Versus

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

**211. CWP No. 5436 of 2013-D**

Yash Pal ..Petitioner.  
Versus

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

**212. CWP No. 5437 of 2013-D**

Neeta Devi ..Petitioner.  
Versus

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

**213. CWP No. 5438 of 2013-D**

Pitamber Dutt ..Petitioner.  
Versus

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

**214. CWP No. 5441 of 2013-C**

Popinder Singh Pista ..Petitioner.

Versus

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

**215. CWP No. 5443 of 2013-E**

Babu Ram ..Petitioner.

Versus

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

**216. CWP No. 5444 of 2013-E**

Amit Kumar ..Petitioner.

Versus

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

**217. CWP No. 5445 of 2013-E**

Manjit Singh ..Petitioner.

Versus

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

**218. CWP No. 5453 of 2013-F**

Labh Singh ..Petitioner.

Versus

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

**219. CWP No. 5454 of 2013-F**

Gagan Kumar ..Petitioner.

Versus

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

**220. CWP No. 5455 of 2013-F**

Durga Dass ..Petitioner.

Versus

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

**221. CWP No. 5456 of 2013-F**

Inder Singh & others ..Petitioners.  
Versus

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

**222. CWP No. 5457 of 2013-F**

Ajay Bhardwaj ..Petitioner.  
Versus

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

**223. CWP No. 5458 of 2013-F**

Virender Dutt ..Petitioner.  
Versus

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

**224. CWP No. 5460 of 2013-F**

Sangeet Bharti ..Petitioner.  
Versus

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

**225. CWP No. 5461 of 2013-G**

Madan Lal ..Petitioner.  
Versus

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

**226. CWP No. 5462 of 2013-G**

Sewak Ram ..Petitioner.  
Versus

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

**227. CWP No. 5463 of 2013-G**

Anil Kumar

..Petitioner.

Versus

State of H.P. and others.

.. Respondents.

**228. CWP No. 5470 of 2013-G**

Meena Devi

..Petitioner.

Versus

State of H.P. and others.

.. Respondents.

**229. CWP No. 5473 of 2013-H**

Het Ram

..Petitioner.

Versus

State of H.P. and others.

.. Respondents.

**230. CWP No. 5474 of 2013-H**

Mahinder Singh

..Petitioner.

Versus

State of H.P. and others.

.. Respondents.

**231. CWP No. 5475 of 2013-H**

Him Singh

..Petitioner.

Versus

State of H.P. and others.

.. Respondents.

**232. CWP No. 5477 of 2013-H**

Kanti Lal & Another

..Petitioners.

Versus

State of H.P. and others.

.. Respondents.

**233. CWP No. 5478 of 2013-H**

Tej Ram

..Petitioner.

Versus

State of H.P. and others.

.. Respondents

**234. CWP No. 5480 of 2013-H**

Roshan Lal & Another ..Petitioners.  
Versus

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

**235. CWP No. 5493 of 2013-J**

Ait Singh ..Petitioner.  
Versus

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

**236. CWP No. 5496 of 2013-J**

Sunita Devi & Another ..Petitioners.  
Versus

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

**237. CWP No. 5498 of 2013-J**

Nikki Devi ..Petitioner.  
Versus

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

**238. CWP No. 5503 of 2013-A**

Kher Mohd & another ..Petitioners.  
Versus

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

**239. CWP No. 5504 of 2013-A**

Rajan Kumar ..Petitioner.  
Versus

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

**240. CWP No. 5505 of 2013-A**

Sanjay ..Petitioner.  
Versus

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

**241. CWP No. 5506 of 2013-A**

Murat Singh & Another ..Petitioners.  
Versus

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

**242. CWP No. 5507 of 2013-A**

Amresh Rana ..Petitioner.  
Versus

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

**243. CWP No. 5508 of 2013-A**

Rahul Bhandari & Another ..Petitioners.  
Versus

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

**244. CWP No. 5509 of 2013-A**

Kuldeep Kumar ..Petitioner.  
Versus

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

**245. CWP No. 5511 of 2013-B**

Parveen Sharma ..Petitioner.  
Versus

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

**246. CWP No. 5514 of 2013-B**

Padam Dev & others ..Petitioners.  
Versus

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

**247. CWP No. 5515 of 2013-B**

Amar Singh ..Petitioner.  
Versus

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

**248. CWP No. 5516 of 2013-B**

Anoop Thakur ..Petitioner.  
Versus

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

**249. CWP No. 5517 of 2013-B**

Tek Singh ..Petitioner.  
Versus

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

**250. CWP No. 5520 of 2013-B**

Mohan Singh Rolta ..Petitioner.  
Versus

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

**251. CWP No. 5521 of 2013-C**

Ravinder Dutt Sharma & Another ..Petitioners.  
Versus

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

**252. CWP No. 5522 of 2013-C**

Kamla Devi ..Petitioner.  
Versus

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

**253. CWP No. 5523 of 2013-C**

Tapinder Mohan Sharma ..Petitioner.  
Versus

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

**254. CWP No. 5524 of 2013-C**

Shamsher Singh & Another  
Versus

..Petitioners.

State of H.P. and others.

.. Respondents

**255. CWP No. 5525 of 2013-C**

Sher Singh  
Versus

..Petitioner.

State of H.P. and others.

.. Respondents

**256. CWP No. 5526 of 2013-C**

Surinder Kumar  
Versus

..Petitioner.

State of H.P. and others.

.. Respondents

**257. CWP No. 5533 of 2013-D**

Rakesh Kumar & Another  
Versus

..Petitioners.

State of H.P. and others.

.. Respondents

**258. CWP No. 5534 of 2013-D**

Sandhya  
Versus

..Petitioner.

State of H.P. and others.

.. Respondents

**259. CWP No. 5535 of 2013-D**

Sunita & another  
Versus

..Petitioners.

State of H.P. and others.

.. Respondents

**260. CWP No. 5538 of 2013-D**

Abdul Rehman & others  
Versus

..Petitioners.

State of H.P. and others.

.. Respondents

**261. CWP No. 5544 of 2013-E**

Bimla Devi & Another ..Petitioners.  
Versus

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

**262. CWP No. 5572 of 2013-H**

Rajeshwari & Another ..Petitioners.  
Versus

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

**263. CWP No. 5574 of 2013-H**

Gurdarshan ..Petitioner.  
Versus

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

**264. CWP No. 5575 of 2013-H**

Prakash Vati ..Petitioner.  
Versus

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

**265. CWP No. 5576 of 2013-H**

Suraj Dagotra ..Petitioner.  
Versus

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

**266. CWP No. 5582 of 2013-I**

Vijay Kumar ..Petitioner.  
Versus

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

**267. CWP No. 5583 of 2013-I**

Anil Kumar ..Petitioner.  
Versus

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

**268. CWP No. 5584 of 2013-I**

Sanjay Kumar ..Petitioner.

Versus

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

**269. CWP No. 5586 of 2013-I**

Munish Kumar ..Petitioner.

Versus

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

**270. CWP No. 5591 of 2013-J**

Shamsher Singh ..Petitioner.

Versus

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

**271. CWP No. 5592 of 2013-J**

Devinder Singh ..Petitioner.

Versus

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

**272. CWP No. 5605 of 2013-A**

Anuradha & Another ..Petitioners.

Versus

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

**273. CWP No. 5613 of 2013-B**

Arti & Another ..Petitioners.

Versus

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

**274. CWP No. 5616 of 2013-B**

Reena Devi ..Petitioner.

Versus

State of H.P. and others.

.. Respondents

**275. CWP No. 5627 of 2013-C**

Anjana

..Petitioner.

Versus

State of H.P. and others.

.. Respondents

**276. CWP No. 5629 of 2013-C**

Shalini & another

..Petitioners.

Versus

State of H.P. and others.

.. Respondents

**277. CWP No. 5632 of 2013-D**

Surjeet

..Petitioner.

Versus

State of H.P. and others.

.. Respondents

**278. CWP No. 5633 of 2013-D**

Anju Naidu

..Petitioner.

Versus

State of H.P. and others.

.. Respondents

**279. CWP No. 5634 of 2013-D**

Suresh Kumar

..Petitioner.

Versus

State of H.P. and others.

.. Respondents

**280. CWP No. 5635 of 2013-D**

Chandan Singh

..Petitioner.

Versus

State of H.P. and others.

.. Respondents

**281. CWP No. 5636 of 2013-D**

Himanshu

Versus

..Petitioner.

State of H.P. and others.

.. Respondents

**282. CWP No. 5643 of 2013-E**

Shashi Kumar

Versus

..Petitioner.

State of H.P. and others.

.. Respondents

**283. CWP No. 5648 of 2013-E**

Lekh Ram

Versus

..Petitioner.

State of H.P. and others.

.. Respondents

**284. CWP No. 5649 of 2013-E**

Amit Verma

Versus

..Petitioner.

State of H.P. and others.

.. Respondents

**285. CWP No. 5650 of 2013-E**

Sanjay Sharma

Versus

..Petitioner.

State of H.P. and others.

.. Respondents

**286. CWP No. 5651 of 2013-F**

Anil Kumar

Versus

..Petitioner.

State of H.P. and others.

.. Respondents

**287. CWP No. 5652 of 2013-F**

Jasvinder Singh

Versus

..Petitioner.

State of H.P. and others.

.. Respondents

**288. CWP No. 5653 of 2013-F**

Arun Kumar	..Petitioner.
Versus	
State of H.P. and others.	.. Respondents

**289. CWP No. 5655 of 2013-F**

Nisha Devi	..Petitioner.
Versus	
State of H.P. and others.	.. Respondents

**290. CWP No. 5656 of 2013-F**

Om Raj & Another	..Petitioners.
Versus	
State of H.P. and others.	.. Respondents

**291. CWP No. 5661 of 2013-G**

Madan Lal	..Petitioner.
Versus	
State of H.P. and others.	.. Respondents

**292. CWP No. 5664 of 2013-G**

Vijay Chauhan	..Petitioner.
Versus	
State of H.P. and others.	.. Respondents

**293. CWP No. 5675 of 2013-H**

Sarla Devi	..Petitioner.
Versus	
State of H.P. and others.	.. Respondents

**294. CWP No. 5676 of 2013-H**

Meera Devi	..Petitioner.
Versus	

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

**295. CWP No. 5682 of 2013-I**

Rakesh Kumar ..Petitioner.

Versus

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

**296. CWP No. 5689 of 2013-I**

Kartar Singh ..Petitioner.

Versus

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

**297. CWP No. 5695 of 2013-J**

Harish Kumar ..Petitioner.

Versus

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

**298. CWP No. 5710 of 2013-C**

Anita Devi & Another ..Petitioners.

Versus

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

**299. CWP No. 5734 of 2013-D**

Sonia Sharma ..Petitioner.

Versus

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

**300. CWP No. 5735 of 2013-D**

Anita Kumari ..Petitioner.

Versus

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

**301. CWP No. 5738 of 2013-D**

Binita Kumari ..Petitioner.

Versus

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

**302. CWP No. 5741 of 2013-E**

Sangita Kumari ..Petitioner.  
Versus

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

**303. CWP No. 5753 of 2013-F**

Poonam Tomar & Another ..Petitioners.  
Versus

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

**304. CWP No. 5759 of 2013-F**

Usha Mehta & another ..Petitioners.  
Versus

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

**305. CWP No. 5765 of 2013-G**

Mohinder Singh ..Petitioner.  
Versus

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

**306. CWP No. 5766 of 2013-G**

Vijay Kumar & Another ..Petitioners.  
Versus

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

**307. CWP No. 5775 of 2013**

Gagneshwari Devi ..Petitioner.  
Versus

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

**308. CWP No. 5805 of 2013-A**

Rajender Kumar & Another ..Petitioners.  
Versus

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

**309. CWP No. 5806 of 2013-A**

Ram Lal ..Petitioner.  
Versus

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

**310. CWP No. 5808 of 2013-A**

Kanwar Singh ..Petitioner.  
Versus

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

**311. CWP No. 5821 of 2013-C**

Manju Thakur & Another ..Petitioners.  
Versus

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

**312. CWP No. 5824 of 2013-C**

Kamlesh Kumar & Another ..Petitioners.  
Versus

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

**313. CWP No. 5825 of 2013-C**

Reena Kumari ..Petitioner.  
Versus

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

**314. CWP No. 5826 of 2013-C**

Dalip Singh ..Petitioner.  
Versus

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

**315. CWP No. 5833 of 2013-D**

Sanjeet Kumar ..Petitioner.  
Versus

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

**316. CWP No. 5834 of 2013-D**

Baldev Singh & others ..Petitioners.  
Versus

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

**317. CWP No. 5836 of 2013-D**

Sudesh Kumari ..Petitioner.  
Versus

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

**318. CWP No. 5843 of 2013-E**

Vinod Kumar ..Petitioner.  
Versus

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

**319. CWP No. 5844 of 2013-F**

Jashoda Kumari ..Petitioner.  
Versus

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

**320. CWP No. 5845 of 2013-E**

Beena Kumari ..Petitioner.  
Versus

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

**321. CWP No. 5849 of 2013-E**

Dev Raj ..Petitioner.  
Versus

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

**322. CWP No. 5850 of 2013-E**

Menka and another ..Petitioners.

Versus

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

**323. CWP No. 5851 of 2013-F**

Sesar Chand ..Petitioner.

Versus

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

**324. CWP No. 5854 of 2013-F**

Veena Devi ..Petitioner.

Versus

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

**325. CWP No. 5857 of 2013-F**

Suneel Dutt Bhatia ..Petitioner.

Versus

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

**326. CWP No. 5859 of 2013-F**

Rajesh Kumar ..Petitioner.

Versus

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

**327. CWP No. 5862 of 2013-G**

Dinesh Kumar ..Petitioner.

Versus

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

**328.CWP No. 5865 of 2013-G**

Shikha		..Petitioner.
	Versus	
State of H.P. and others.		.. Respondents

**329.CWP No. 5870 of 2013-G**

Arpan Thakur		..Petitioner.
	Versus	
State of H.P. and others.		.. Respondents.

**330.CWP No. 5879 of 2013-H**

Kewal Kumar		..Petitioner.
	Versus	
State of H.P. and others.		.. Respondents.

**331.CWP No. 5880 of 2013-H**

Arvind Kumar		..Petitioner.
	Versus	
State of H.P. and others.		.. Respondents.

**332.CWP No. 5891 of 2013-J**

Sangita and another		..Petitioners.
	Versus	
State of H.P. and others.		.. Respondents.

**333.CWP No. 5893 of 2013-J**

Anil Kumar and another		..Petitioner.
	Versus	
State of H.P. and others.		.. Respondents.

**334.CWP No. 5894 of 2013-J**

Babita Kumari & another		....Petitioners
	Versus	
State of H.P. and others.		.. Respondents.

**335.CWP No. 5897 of 2013-J**

Het Ram

Versus

..Petitioner.

State of H.P. and others.

.. Respondents.

**336.CWP No. 5901 of 2013-A**

Madhu Thakur

Versus

..Petitioner.

State of H.P. and others.

.. Respondents.

**337.CWP No. 5907 of 2013-A**

Tota Ram

Versus

..Petitioner.

State of H.P. and others.

.. Respondents.

**338.CWP No. 5908 of 2013-A**

Jog Raj

Versus

..Petitioner.

State of H.P. and others.

.. Respondents.

**339.CWP No. 5910 of 2013-A**

Sohan Lal

Versus

..Petitioner.

State of H.P. and others.

.. Respondents.

**340.CWP No. 5916 of 2013-B**

Chura Mani & others

Versus

..Petitioners.

State of H.P. and others.

.. Respondents.

**341.CWP No. 5919 of 2013-B**

Parkash & another

Versus

..Petitioners.

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

**342.CWP No. 5921 of 2013-C**

Lalita Kumari ..Petitioner.

Versus

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

**343.CWP No. 5925 of 2013-C**

Jagjiwan Ram & another ..Petitioners.

Versus

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

**344.CWP No. 5927 of 2013-C**

Shanta Kumar ..Petitioner.

Versus

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

**345.CWP No. 5941 of 2013-E**

Dipesh Kumar ..Petitioner.

Versus

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

**346.CWP No. 5950 of 2013-E**

Veena Kumari ..Petitioner.

Versus

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

**347.CWP No. 5951 of 2013-F**

Dinesh Chaudhary ..Petitioner.

Versus

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

**348.CWP No. 6008 of 2013-A**

Khem Raj

Versus

..Petitioner.

State of H.P. and others.

.. Respondents.

**349.CWP No. 6013 of 2013-B**

Pawan Kumar & another

Versus

..Petitioners.

State of H.P. and others.

.. Respondents.

**350.CWP No. 6014 of 2013-B**

Dalip Singh & another

Versus

..Petitioners.

State of H.P. and others.

.. Respondents.

**351.CWP No. 6015 of 2013-B**

Chaman Lal & another

Versus

..Petitioners.

State of H.P. and others.

.. Respondents.

**352.CWP No. 6016 of 2013-B**

Khube Ram

Versus

..Petitioner.

State of H.P. and others.

.. Respondents.

**353.CWP No. 6017 of 2013-B**

Rahul Bahnoo

Versus

..Petitioner.

State of H.P. and others.

.. Respondents.

**354.CWP No. 6019 of 2013-B**

Usha Devi

Versus

..Petitioner.

State of H.P. and others.

.. Respondents.

**355.CWP No. 6020 of 2013-B**

Khem Raj & others  
Versus  
..Petitioners.

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

**356.CWP No. 6025 of 2013-C**

Kewal Krishan & others  
Versus  
..Petitioners.

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

**357.CWP No. 6035 of 2013-D**

Sunil Kumar  
Versus  
..Petitioner.

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

**358.CWP No. 6050 of 2013-E**

Anjana Kumari & another  
Versus  
..Petitioners.

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

**359.CWP No. 6051 of 2013-F**

Devinder Kumar  
Versus  
..Petitioner.

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

**360.CWP No. 6052 of 2013-J**

Ranbir Mehta  
Versus  
..Petitioner.

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

**361.CWP No. 6065 of 2013-G**

Inderjeet Singh & another  
Versus  
..Petitioners.

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

**362.CWP No. 6071 of 2013-H**

Bandana Bala ..Petitioner.  
Versus

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

**363.CWP No. 6072 of 2013-H**

Ramesh Sharma ..Petitioner.  
Versus

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

**364.CWP No. 6080 of 2013-H**

Pardeep Kumar ..Petitioner.  
Versus

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

**365.CWP No. 6093 of 2013-J**

Chiranji Lal ..Petitioner.  
Versus

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

**366.CWP No. 6095 of 2013-J**

Bhag Chand ..Petitioner.  
Versus

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

**367.CWP No. 6096 of 2013-J**

Chuni Lal & another ..Petitioner.  
Versus

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

**368.CWP No. 6098 of 2013-J**

Kishori Lal

..Petitioner.

Versus

State of H.P. and others.

.. Respondents.

**369.CWP No. 6101 of 2013-A**

Narinder Singh Chauhan

..Petitioner.

Versus

State of H.P. and others.

.. Respondents.

**370.CWP No. 6109 of 2013-A**

Banita Devi

..Petitioner.

Versus

State of H.P. and others.

.. Respondents.

**371.CWP No. 6118 of 2013-B**

Rupinder Kumar

..Petitioner.

Versus

State of H.P. and others.

.. Respondents.

**372.CWP No. 6121 of 2013-C**

Manoj Kumar

..Petitioner.

Versus

State of H.P. and others.

.. Respondents.

**373.CWP No. 6126 of 2013-C**

Bhan Dei

..Petitioner.

Versus

State of H.P. and others.

.. Respondents.

**374.CWP No. 6131 of 2013-D**

Rakesh Kumar

..Petitioner.

Versus

State of H.P. and others.

.. Respondents.

**375.CWP No. 6133 of 2013-D**

Shish Pal

Versus

..Petitioner.

State of H.P. and others.

.. Respondents.

**376.CWP No. 6139 of 2013-D**

Anjana Devi

Versus

..Petitioner.

State of H.P. and others.

.. Respondents.

**377.CWP No. 6141 of 2013-E**

Rajinder Kumar

Versus

..Petitioner.

State of H.P. and others.

.. Respondents.

**378.CWP No. 6143 of 2013-E**

Kushal Dutt & another

Versus

..Petitioners.

State of H.P. and others.

.. Respondents.

**379.CWP No. 6149 of 2013-E**

Rekha Sharma

Versus

..Petitioner.

State of H.P. and others.

.. Respondents.

**380.CWP No. 6150 of 2013-E**

Shyam Sunder & another

Versus

..Petitioners.

State of H.P. and others.

.. Respondents.

**381.CWP No. 6153 of 2013-F**

Narinder Sharma ..Petitioner.  
Versus

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

**382.CWP No. 6157 of 2013-F**

Duni Chand & another ..Petitioners.  
Versus

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

**383.CWP No. 6201 of 2013-A**

Bir Singh & another ..Petitioners.  
Versus

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

**384.CWP No. 6202 of 2013-A**

Tanzin Chhopel ..Petitioner.  
Versus

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

**385.CWP No. 6205 of 2013-A**

Rajni Bodh & others ..Petitioners.  
Versus

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

**386.CWP No. 6211 of 2013-B**

Prem Lata ..Petitioner.  
Versus

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

**387.CWP No. 6215 of 2013-B**

Kamal Krishan ..Petitioner.  
Versus

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

**388.CWP No. 6223 of 2013-C**

Roshan Lal ..Petitioner.  
Versus

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

**389.CWP No. 6224 of 2013-C**

Suresh Kumar ..Petitioner.  
Versus

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

**390.CWP No. 6225 of 2013-C**

Anita Sharma ..Petitioner.  
Versus

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

**391.CWP No. 6226 of 2013-C**

Sonia Madan ..Petitioner.  
Versus

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

**392.CWP No. 6239 of 2013-C**

Tashi Chhopel ..Petitioner.  
Versus

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

**393.CWP No. 6246 of 2013-E**

Prianka Devi ..Petitioner.  
Versus

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

**394.CWP No. 6250 of 2013-F**

Dilbar Singh ..Petitioner.  
Versus

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

**395.CWP No. 6251 of 2013-F**

Manjeet Singh Rangta and another. ..Petitioners.  
Versus

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

**396. CWP No. 6255 of 2013-F**

Anil Kumar and another ..Petitioners.  
Versus

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

**397.CWP No. 6256 of 2013-F**

Babita Kumari ..Petitioner.  
Versus

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

**398.CWP No. 6259 of 2013-F**

Santosh Kumari ..Petitioner.  
Versus

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

**399.CWP No. 6264 of 2013-G**

Devi Lal ..Petitioner.  
Versus

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

**400.CWP No. 6265 of 2013-G**

Monika Devi and another. ..Petitioners.  
Versus

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

**401.CWP No. 6269 of 2013-G**

Shanta Kumari ..Petitioner.  
Versus

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

**402.CWP No. 6270 of 2013-G**

Virender Kumar and others. ..Petitioners.

Versus

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

**403.CWP No. 6271 of 2013-H**

Sushma Negi ..Petitioner.

Versus

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

**404.CWP No. 6273 of 2013-H**

Ajeet Kumar ..Petitioner.

Versus

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

**405. CWP No. 6275 of 2013-H**

Vijay Laxmi ..Petitioner.

Versus

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

**406.CWP No. 6287 of 2013**

Ranvir Singh ..Petitioner.

Versus

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

**407.CWP No. 6292 of 2013-J**

Jai Prakash ..Petitioner.

Versus

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

**408.CWP No. 6299 of 2013-J**

Sapna and others. ..Petitioners.

Versus

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

**409.CWP No. 6301 of 2013-A**

Amita Negi ..Petitioner.

Versus

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

**410.CWP No. 6302 of 2013-A**

Sonam Lamo and others. ..Petitioners.

Versus

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

**411.CWP No. 6303 of 2013-A**

Raghubinder Singh ..Petitioner.

Versus

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

**412.CWP No. 6304 of 2013-A**

Subhash Kumar ..Petitioner.

Versus

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

**413.CWP No. 6305 of 2013-A**

Nisha ..Petitioner.

Versus

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

**414.CWP No. 6309 of 2013-A**

Sandeepan Thakur and another. ..Petitioners.  
Versus

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

**415.CWP No. 6310 of 2013-A**

Megh Singh and others. ..Petitioners.  
Versus

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

**416.CWP No. 6311 of 2013-B**

Vinod Kumar ..Petitioner.  
Versus

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

**417.CWP No. 6312 of 2013-B**

Ravi Kant ..Petitioner.  
Versus

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

**418.CWP No. 6313 of 2013-B**

Anita Kumari and another. ..Petitioners.  
Versus

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

**419.CWP No. 6314 of 2013-B**

Manjeet Kumar ..Petitioner.  
Versus

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

**420.CWP No. 6315 of 2013-B**

Anita ..Petitioner.  
Versus

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

**421.CWP No. 6319 of 2013-B**

Prem Singh ..Petitioner.  
Versus

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

**422.CWP No. 6322 of 2013-C**

Suneel Singh ..Petitioner.  
Versus

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

**423.CWP No. 6323 of 2013-C**

Subhash Chand ..Petitioner.  
Versus

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

**424.CWP No. 6325 of 2013-C**

Babita ..Petitioner.  
Versus

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

**425.CWP No. 6326 of 2013-C**

Manish Kumar ..Petitioner.  
Versus

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

**426.CWP No. 6328 of 2013-C**

Meena Kumari ..Petitioner.  
Versus

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

**427.CWP No. 6330 of 2013-C**

Babu Ram ..Petitioner.  
Versus

State of H.P. and others.	.. Respondents.
<b>428.CWP No. 6333 of 2013-D</b>	
Kartar Kumar	..Petitioner.
Versus	
State of H.P. and others.	.. Respondents.
<b>429.CWP No. 6334 of 2013-D</b>	
Sunita Devi	..Petitioner.
Versus	
State of H.P. and others.	.. Respondents.
<b>430.CWP No. 6336 of 2013-D</b>	
Sanjay Kumar and others.	..Petitioners.
Versus	
State of H.P. and others.	.. Respondents.
<b>431.CWP No. 6337 of 2013-D</b>	
Thakur Moni	..Petitioner.
Versus	
State of H.P. and others.	.. Respondents.
<b>432.CWP No. 6341 of 2013-E</b>	
Chaman Singh	..Petitioner.
Versus	
State of H.P. and others.	.. Respondents.
<b>433.CWP No. 6342 of 2013-E</b>	
Arun Sharma	..Petitioner.
Versus	
State of H.P. and others.	.. Respondents.
<b>434.CWP No. 6346 of 2013-E</b>	
Sunita Devi and another.	..Petitioners.

Versus

State of H.P. and others.

.. Respondents.

**435.CWP No. 6347 of 2013-E**

Panma Chhodan

..Petitioner.

Versus

State of H.P. and others.

.. Respondents.

**436.CWP No. 6348 of 2013-E**

Sharwan Kumar

..Petitioner.

Versus

State of H.P. and others.

.. Respondents.

**437.CWP No. 6353 of 2013-F**

Reeta Devi and another

..Petitioners.

Versus

State of H.P. and others.

.. Respondents.

**438.CWP No. 6360 of 2013-F**

Jagdish Chand

..Petitioner.

Versus

State of H.P. and others.

.. Respondents.

**439.CWP No. 6364 of 2013-G**

Rama Dua

..Petitioner.

Versus

State of H.P. and others.

.. Respondents.

**440.CWP No. 6372 of 2013-H**

Narottam Singh

..Petitioner.

Versus

State of H.P. and others.

.. Respondents.

**441.CWP No. 6377 of 2013-H**

Shyama Devi and others.

..Petitioners.

Versus

State of H.P. and others.

.. Respondents.

**442.CWP No. 6390 of 2013-I**

Dila Ram

..Petitioner.

Versus

State of H.P. and others.

.. Respondents.

**443.CWP No.6400 of 2013-J**

Khube Ram and another.

..Petitioners.

Versus

State of H.P. and others.

.. Respondents.

**444. CWP No. 6402 of 2013-A**

Sunita Kumari

..Petitioner.

Versus

State of H.P. and others.

.. Respondents.

**445.CWP No. 6437 of 2013**

Sanjay Kumar

..Petitioner.

Versus

State of H.P. and others.

.. Respondents.

**446.CWP No. 6439 of 2013-D**

Man Singh

..Petitioner.

Versus

State of H.P. and others.

.. Respondents.

**447.CWP No. 6468 of 2013-G**

Kishan

..Petitioner.

Versus

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

**448.CWP No. 6469 of 2013-G**

Anil Kumar and another ..Petitioners.  
Versus

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

**449.CWP No. 6478 of 2013-H**

Bhag Chand ..Petitioner.  
Versus

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

**450.CWP No. 6483 of 2013-I**

Sudarshna ..Petitioner.  
Versus

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

**451.CWP No. 6484 of 2013-I**

Rakesh Kumar ..Petitioner.  
Versus

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

**452.CWP No. 6493 of 2013-J**

Naveen Kumar ..Petitioner.  
Versus

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

**453.CWP No. 6511 of 2013-B**

Ravinder Kumar ..Petitioner.  
Versus

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

**454.CWP No. 6551 of 2013-F**

Rajesh Kumar Sharma ..Petitioner.

Versus

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

**455.CWP No. 6556 of 2013-F**

Bir Singh ..Petitioner.

Versus

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

**456.CWP No. 6560 of 2013-F**

Vilam Singh ..Petitioner.

Versus

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

**457.CWP No. 6583 of 2013-I**

Sita Devi ..Petitioner.

Versus

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

**458.CWP No. 6585 of 2013-I**

Rekha Devi ..Petitioner.

Versus

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

**459.CWP No. 6736 of 2013-D**

Mukesh Kumar ..Petitioner.

Versus

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

**460.CWP No. 6737 of 2013-D**

Narinder ..Petitioner.

Versus

State of H.P. and others.

.. Respondents.

**461.CWP No. 6754 of 2013-F**

Yashpal

..Petitioner.

Versus

State of H.P. and others.

.. Respondents.

**462.CWP No. 6877 of 2013-H**

Suman.

..Petitioner.

Versus

State of H.P. and others.

.. Respondents.

**463.CWP No. 6878 of 2013-H**

Chander Mohan

..Petitioner.

Versus

State of H.P. and others.

.. Respondents.

**464.CWP No. 6907 of 2013-A**

Sushma Devi

..Petitioner.

Versus

State of H.P. and others.

.. Respondents.

**465.CWP No. 6948 of 2013-D**

Gurdayal Singh

..Petitioner.

Versus

State of H.P. and others.

.. Respondents.

**466.CWP No. 7057 of 2013-F**

Diwan Singh

..Petitioner.

Versus

State of H.P. and others.

.. Respondents.

**467.CWP No. 7059 of 2013-F**

Vinay Kumar

..Petitioner.

Versus

State of H.P. and others.

.. Respondents.

**468.CWP No. 7197 of 2013-J**

Tara Chand Thakur

..Petitioner.

Versus

State of H.P. and others.

.. Respondents.

**469.CWP No. 7205 of 2013-A**

Chuni Lal Thakur

..Petitioner.

Versus

State of H.P. and others.

.. Respondents.

**470.CWP No. 7218 of 2013-B**

Sneh Lata

..Petitioner.

Versus

State of H.P. and others.

.. Respondents.

**471.CWP No. 7311 of 2013-B**

Rakesh Kumar

..Petitioner.

Versus

State of H.P. and others.

.. Respondents.

**472.CWP No. 7312 of 2013-B**

Poonam Chauhan

..Petitioner.

	Versus	
State of H.P. and others.		.. Respondents.
<b>473.CWP No. 7321 of 2013-C</b>		
Sumita Devi		..Petitioner.
	Versus	
State of H.P. and others.		.. Respondents.
<b>474.CWP No. 7343 of 2013-E</b>		
Rajender Kumar		..Petitioner.
	Versus	
State of H.P. and others.		.. Respondents.
<b>475.CWP No. 7350 of 2013</b>		
Runa Devi		..Petitioner.
	Versus	
State of H.P. and others.		.. Respondents.
<b>476.CWP No. 7351 of 2013-F</b>		
Jamna Devi		..Petitioner.
	Versus	
State of H.P. and others.		.. Respondents.
<b>477.CWP No. 7373 of 2013</b>		
Rajesh Kumar		..Petitioner.
	Versus	
State of H.P. and others.		.. Respondents.
<b>478.CWP No. 7374 of 2013-H</b>		
Attar Chand		..Petitioner.
	Versus	
State of H.P. and others.		.. Respondents.

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*Coram*

**The Hon'ble Mr. Justice A.M. Khanwilkar, Chief Justice.**  
**The Hon'ble Mr. Justice V.K. Sharma, Judge.**

<sup>1</sup> Whether approved for reporting?    Yes.

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<sup>1</sup>    *Whether reporters of Local Papers may be allowed to see the judgment?*

Mr. R.K. Sharma, Senior Advocate, with M/s B.B. Vaid, Onkar Jairath, Rajinder Dogra, Rakesh Chandel, Archana Dutt, C.S. Thakur, Mukul Sood, Dinender Panwar, Shashi Kiran, Vinod Kumar Gupta, Sanjay Jaswal, Adarsh K. Vashisth, Lalit K. Sharma, Vandana Mishra, Dalip K. Sharma, Deepak Kaushal, D.C. Jaita, Surinder Saklani, R.S. Chandel, Naveen K. Bhardwaj, Rajinder Sharma, Devender Sharma, Maan Singh and B.N. Mehta, Advocates, for the respective petitioner(s) in all writ petitions.

Mr. Shrawan Dogra, learned Advocate General, with Mr. Romesh Verma & Mr. Anup Rattan, Additional Advocate Generals and Mr. J.K. Verma, Deputy Advocate General, for the respondents-State.

None for respondent(s)-SMCs, except Mr. Mukul Sood, Advocate, for respondent-SMC in CWP No. 4258 of 2013.

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**Per Justice A.M.Khanwilkar, C.J.**

I have perused the judgment prepared by my esteemed brother Justice V.K. Sharma. I respectfully disagree with my brother Judge and, therefore, deem it appropriate to express my opinion separately.

2. The group of petitions, which we have heard together, essentially form two sets of teachers engaged by the School Management Committees (hereinafter referred to as the SMCs), namely, teachers working in tribal/difficult areas and the other being non-tribal/non-difficult areas. However, the reliefs claimed in each of these petitions are similar with little variations. The petitioners have essentially sought direction against the State Authorities, inter alia, to pay the salary to the petitioners equal to the salary of the teachers working on the similar posts as regular teachers; to frame appropriate policy for giving training to the petitioners, if required, and to regularise them from the date of their joining as teachers; to release the balance of the salary of the petitioners after

calculating the same equal to the regular teachers of the same post and to pay appropriate interest on the said balance salary amount, as may be determined by the Court; and not to dispense with the services of the petitioners and instead allow them to continue as teachers on the post held by them in the concerned School.

3. Although the concerned SMCs have been impleaded as respondents, they have not chosen to appear in the proceedings, except in Writ Petition No.4258 of 2013.

4. Before dealing with the contentious issues, it is worthwhile to mention that during the course of arguments, the counsel appearing for the petitioners have fairly given up the relief claimed by the respective petitioners for regularisation and also regarding equal pay for equal work, as claimed. These reliefs have been given up realizing that none of the petitioners were appointed in selection process followed as per Recruitment and Promotion Rules of the State Government, nor were holding civil posts. Further, the appointments of the respective petitioners by the concerned SMCs as teachers were on period basis and not as full time teacher as such.

5. That leaves us essentially with three other broad reliefs claimed by the petitioners. Firstly, to direct the respondents to continue the petitioners in service until the regular teachers are appointed after following procedure prescribed under the Recruitment and Promotion Rules. Secondly, the State Authorities must be made responsible to bear the financial burden arising out of the employment of the petitioners on contract basis by the concerned SMCs, by providing grant-in-aid to the

respective SMCs to enable them to disburse the remunerations payable to the petitioners, as most of the petitioners were working without any remuneration whatsoever. Thirdly, the petitioners who have been appointed on contract basis by the SMCs must be paid on similar lines as given to PTA teachers and Vidya Upasaks.

6. As brother Justice Sharma has referred to the relevant provisions, I do not wish to reproduce the same in my judgment in entirety except the relevant provision wherever necessary, to avoid duplication.

7. I shall first deal with the relief claimed by the petitioners that the State Authorities be directed to pay the remuneration of the petitioners by way of grant-in-aid to the concerned SMCs, so that it can be disbursed to the petitioners. While considering this issue, one cannot be oblivious of the fact that there are large number of teachers similarly placed as that of the petitioners before this Court. As per the figure disclosed by the petitioners themselves, it is not less than 7000 teachers who have been appointed by different SMCs across the State. There can be no doubt that if it is obligatory for the State to appoint such contract teachers to discharge its obligation under the Right of Children to Free and Compulsory Education Act, 2009, (hereinafter referred to as the Act of 2009), the State cannot be heard to make grievance about financial implications and impossibility to undertake that obligation. Inasmuch as, the Act of 2009, by virtue of Section 8, casts duty on the State Government to provide free and compulsory elementary education to every child in the State. Similar obligation is cast on the Local Authority

by virtue of Section 9 of the Act of 2009. Section 6 of the Act of 2009 postulates that it is the duty of the appropriate Government and Local Authority to establish school within such area or limits of neighbourhood, as may be prescribed, where it is not so established, within a period of three years from the commencement of the Act. The financial liability for establishment and running of the Elementary Schools is jointly on the Central Government and the State Governments, as Section 7 predicates that the Central Government and the State Government shall take concurrent responsibility for providing funds for carrying out the provisions of the Act.

8. In none of the petitions before us, the grievance is about non-establishment of schools by the State Government or Local Authorities as per the norms prescribed by the Act of 2009 and Rules framed thereunder; nor the grievance is about not providing necessary organisational structure in those schools, except in CWP No.5098 of 2013, wherein it is asserted that for running of the school referred to in the said petition, all the teachers appointed are through concerned SMC on contract basis. In so far as the school referred to in this petition, that the State Authorities have failed to appoint regular teachers, but that issue will have to be answered independently.

9. The moot question is - whether the State Authorities can be made responsible for the appointments of teachers on contract basis made by the concerned SMC across the State? For answering the issue, it is elementary to first examine – whether the SMC had authority to make such appointments? That will have to be answered on the basis of the

scheme announced by the State Government, which form part of the communication, dated 6<sup>th</sup> March, 2010, issued under the signature of Principal Secretary (Education) addressed to the Director (Elementary Education). This scheme was obviously made in anticipation of coming into force of Article 21A of the Constitution and the Act of 2009. Both these provisions came into force w.e.f. 1<sup>st</sup> April, 2010. Article 21A, no doubt, mandates that the State shall provide free and compulsory education to all children of the age between 6 to 14 years in such a manner as the State, by law, determines. The Act of 2009 is the law enacted on that subject, which has also come into force w.e.f. 1<sup>st</sup> April, 2010. Section 21 of the Act of 2009 envisages that every school, other than unaided school not receiving any kind of grant or aid to meet its expenses from the appropriate Government or the Local Authority, shall constitute a School Management Committee (SMC) consisting of the elected representatives of the Local Authority, parents or guardians of children admitted in such schools and the teachers. The first proviso to Section 21 stipulates that at least three-fourth members of such Committee shall be parents or guardians. The second proviso envisages that proportionate representation shall be given to the parents or guardians of children belonging to disadvantaged group and weaker section; and the third proviso predicates that 50% of members of such Committee shall be women. Sub section (2) of Section 21 defines the functions to be performed by the SMC. The same reads thus:

- "(2) The School Management Committee shall perform the following functions, namely:-  
(a) Monitor the working of the school;

- (b) Prepare and recommend school development plan;
- (c) Monitor the utilisation of the grants received from the appropriate Government or local authority or any other source; and
- (d) Perform such other functions as may be prescribed:

Provided that the school Management Committee constituted under sub-section (1) in respect of, -

- (a) a School established and administered by minority whether based on religion or language; and
- (b) all other aided schools as defined in sub-section (ii) of clause (n) of section 2,

shall perform advisory function only.”

10. Notably, Section 21, per se, does not provide for making appointment of teachers on contract basis or otherwise as one of the function of the SMC. No doubt, in addition to the functions specified in sub-clause (a) to (c) of sub-section (2), it is open to frame Rules to entrust further functions to be discharged by the SMC, as sub-clause (d) of sub-section (2) is a residuary provision, but circumscribed by the functions to be prescribed. The expression “prescribed” has been defined in Section 2(l) to mean – prescribed by rules made under the Act of 2009.

11. A priori, we may have to now turn to the provisions in the Rules framed under the Act of 2009 known as the Right of Children to Free and Compulsory Education Rules, 2010, which have come into force w.e.f. 9<sup>th</sup> April, 2010. These are Central Rules. Rule 3 deals with the composition and functions of the School Management Committee. Sub rule (6) of Rule 3 provides for additional functions besides the functions of the SMCs specified in clauses (a) to (d) of sub-section (2) of Section 21 of the Act. The same reads thus:

“(6) The said Committee shall, in addition to the functions specified in clauses (a) to (d) of sub-section (2) of section 21, perform the following functions, namely:-  
(a) communicate in simple and creative ways to the population in the neighbourhood of the school, the rights of the child as enunciated in the Act; as also the duties of the appropriate Government, local authority, school, parent and guardian;  
(b) ensure the implementation of clauses (a) and (e) of section 24 and of section 28;  
(c) monitor that teachers are not burdened with non academic duties other than those specified in section 27;  
(d) ensure the enrolment and continued attendance of all the children from the neighbourhood in the school;  
(e) monitor the maintenance of the norms and standards specified in the schedule;  
(f) bring to the notice of the local authority any deviation from the rights of the child, in particular mental and physical harassment of children, denial of admission and timely provision of free entitlements as per sub-section (2) of section 3;  
(g) identify the needs, prepare a plan, and monitor the implementation of the provisions of Section 4;  
(h) monitor the identification and enrolment of, and facilities for education of children with disability, and ensure their participation in and completion of elementary education;  
(i) monitor the implementation of the mid-day meal in the school;  
(j) prepare an annual account of receipts and expenditure of the school.”

12. On a plain reading of the above provision, it is obvious that even the Central Rules do not envisage vesting of authority in the SMC to make appointments of teachers on contract basis. There is no other provision in the Rules which would remotely suggest that such authority vests in the SMC.

13. We may now turn to the Rules framed by the State Government in exercise of powers conferred under Section 38 of the Act of 2009, known as the Right of Children to Free and Compulsory

Education, Himachal Pradesh Rules, 2011, (hereinafter referred to as the State Rules). These Rules have come into force w.e.f. 5<sup>th</sup> March, 2011. Part VII of the Rules deals with the subject of teachers. Rule 13 prescribes for minimum qualification for the purposes of Section 23 of the Act of 2009 to be possessed by the person to be appointed as teacher in every school referred to in clause (n) of Section 2 of the Act of 2009. Rule 14 prescribes for acquiring minimum qualifications under proviso to Section 23(2) of the Act. This provision would apply to all teachers in the specified schools, who are already working in such schools, but do not possess the minimum qualifications laid down in Section 23 of the Act of 2009 at the time of commencement of the Act, with mandate to acquire such qualifications within a period of five years from the commencement of the Act. Much emphasis was placed at Rule 15 of the State Rules, which reads thus:

**"15. Salary and allowances and conditions of service of teachers for the purpose of section 23(3)**-The salary and allowances payable to and the terms and conditions of service of teachers of schools specified in sub-clause (i) of clause (n) of section 2, shall be as may be specified by the State Government from time to time through its various Recruitment & Promotion Rules of the respective posts and other orders/ instructions issued by the State Government.

Provided that the State Government may through a scheme notified by it, allow the School Management Committee to engage teachers on part-time or temporary basis and pay them at such rates as are specified in the instructions issued by the State Government."

14. No doubt, this Rule does not ex-facie make any distinction between the services of teachers of the schools appointed on regular basis and contract basis. It envisages that the salary and allowances payable to

and the terms and conditions of service of teachers of specified schools shall be as provided by the State Government from time to time through its various Recruitment and Promotion Rules of the respective posts and other orders/instructions by the State Government. Since the State Rules refer to Recruitment and Promotion Rules, it would necessarily follow that this provision must apply to teachers appointed as per the Recruitment and Promotion Rules. It is for that reason, proviso has been added to Rule 15, which contemplates that the State Government may, "through a scheme" notified by it, allow the School Management Committee to engage teachers on part time or temporary basis and pay them at such rates as are specified in the instructions issued by the State Government. This provision is, therefore, an enabling provision authorizing the State to formulate a scheme to allow the School Management Committee to engage teachers on part time or temporary basis.

15. The petitioners before this Court have admittedly been appointed by the concerned SMCs on contract basis and have been working in that capacity. Admittedly, no scheme has been formulated by the State Government, allowing the School Management Committees in non-tribal/non-difficult areas, (hereinafter referred to as the non-tribal areas), to engage teachers on part time or temporary basis, as of now. As a concomitant, it must follow that the State Government, in law, has not authorized the SMCs in non-tribal areas in the State of Himachal Pradesh to engage teachers on part time or temporary basis. In that case, the liability of payment of remuneration or to provide for grant-in-aid for that purpose cannot be fastened on the State Government at all.

16. I may not be understood to have examined the question: whether the appointments so made by the concerned SMCs would be nullity in law. For the time being, I will assume that the concerned SMCs in non-tribal areas proceeded to make such appointments in good faith and at best, committed some irregularity. But that would not absolve the concerned SMC to pay adequate and the agreed remuneration to the petitioners and similarly placed persons appointed by it, being their employer. The said SMCs will have to discharge that obligation qua the petitioners and similarly placed persons appointed by them. It is not open to the concerned SMCs to disown that liability having made appointments of teachers on contract basis without any authority from the State in that behalf.

17. Let us turn to the Scheme formulated by the State in March, 2010, as was issued in anticipation of coming into force of Article 21A of the Constitution and the Act of 2009. Clause 3 of the said Scheme provides for constitution of School Management Committee. The powers and responsibilities of School Management Committee are spelt out in clause (4), which reads thus:

**"4. Power and responsibilities of School Management Committee**

School Management Committee with the help of its executive committee will have the authority to perform following functions:

4.1 Steps would be taken for enrolment, ensure retention and reduce dropout to achieve the Universalization of education.

4.2 To ensure quality education and to monitor learning level of students regularly. Student's evaluation will be monitored by the system of Continuous Comprehensive Evaluation and the progress cards should be discussed with parents and remedial steps to be taken accordingly.

4.3 To develop, implement and monitor School development plan.

4.4. To ensure proper utilization of grants received from

government and any other agency.

4.5 To ensure timely availability of free text books, writing material, uniform, grants and scholarships to the students.

4.6 To ensure the implementation, quality and monitoring of Mid Day Meal.

4.7 To provide clean drinking water and toilet facility and to ensure cleanliness of toilets and school premises.

4.8 To organize regular medical checkup for students in convergence with department of Health and also to maintain health cards.

4.9 To ensure the implementation of provisions of Right of Children to Free and Compulsory Elementary Education Act-2009.

4.10 To ensure regular attendance of students and teachers. School Management will be empowered to bring to the notice of CHT/BEEOs for necessary action, the instances of absence and irregularity in absorbing school timings by teachers. CHT/BEEOs will take necessary action on the request and inform the same to Deputy Director Education. If in the general house of any recommendation is made in this context, then departmental officer will be bound to take time bound decision in the matter.

4.11 If in the general house of the SMC while praising the special contribution of any teacher in the development of the school or the students, in its last meeting of the academic session recommends that such teacher should not be transferred and the General house sends such resolution to the Dy. Director of education, then such teachers shall not be transferred from such school during the next one session. Similarly, if the General house of the SMC is not satisfied with the work of any teacher and that teacher has completed here/his normal tenure in the school, such teacher shall be transferred from that school. Such matters can be taken up for discussion only during the meeting convened after declaration of examination result and in no other meeting such decision can be taken.

4.12 The School Management Committee will carry out the annual appraisal of the work done by the part time and the contract workers and the renewal of the contract will be done on the recommendation of the School Management Committee.

4.13 In proper identification of CWSN and bring them within the fold of integrated education.

4.14 To provide support in the co-curricular programmes, Bal-Melas, science fairs and sports activities and increase the participation of the community.

4.15 To make various purchases for the school, subject to budget availability, for instance, the Teaching Learning Material, furniture, stationary and other items required for the school, lab instruments, library books, writing material for the students as per government schemes, various kits, school dresses, computer and related equipment etc.

4.16 To carry out the constructions work/repair work of the school

building and other infrastructural facilities. The SMC will have the authority to carry out the construction/repairs itself or get it done as per the directions. For this purpose, the SMC may constitute a sub-committee or may enter into a contract with a competent institution or the Panchayat.

4.17 The utilization of the annual school grant and the maintenance grant shall also be done through the School Management Committee.

4.18 Ensure proper utilization of the library available in the school for increasing the habit of reading among the students.

4.19 If required, to select the part-time/contract teachers as per the Government Policy but the SMC will not have the authority to appoint any part time/contract worker without the approval of the authorised officer.

4.20 Submit the annual report of the SMC in the General House and to make available its one copy to the concerned Gram Panchayat and the Centre Head Teacher.

4.21 Resources of the School Management Committee.”

18. Neither the petitioners nor the SMCs can rely on any of the provisions except clauses 4.17 and 4.19 to further their claim against the State Government. Clause 4.17 obliges the SMC to ensure that the utilization of the annual school grant and the maintenance grant should be done by it. This clause will not create any right whatsoever, muchless vested right, in the petitioners or the SMCs in non-tribal areas to assert that the State is obliged to provide additional grant-in-aid to the said SMCs for having engaged teachers on contract basis - sans such authority bestowed on the SMC in the non-tribal areas. Clause 4.19, on which much reliance was placed, will also be of no avail to the petitioners who have been engaged as teachers on contract basis by the SMCs in non-tribal areas. Inasmuch as clause 4.19 is only an enabling provision allowing the SMC to select teachers on part time/contract basis, provided, there is prior Government policy in place in that behalf and further only if prior approval of the Authorised Officer has been obtained for such

appointments.

19. As regards the non-tribal areas, the State Government, admittedly, has not announced any policy of making appointments of teachers on part time/contract basis by the respective SMCs. The fact that the SMCs in non-tribal areas were submitting periodical reports to the State Authorities from time to time indicative of appointments of contract teachers by them, such as petitioners and similarly placed persons, cannot be the basis to fasten liability on the State Government regarding the remuneration to be paid to such appointees. For, the SMCs in non-tribal areas were not delegated with such authority by the State Government either on case to case basis or for that matter, by a general policy. Since there was no policy in place for appointment of teachers on contract basis in non-tribal areas, the question of nominating any Authorised Officer to grant approval to the appointments of teachers on contract basis by the SMCs in non-tribal areas did not arise at all. In other words, non-responsiveness of the State Authorities in reacting to the periodical reports submitted by the Concerned SMC in non-tribal area would not make any difference nor can it be the basis to fasten liability on the State Government for such appointments. It is the concerned SMC in non-tribal area which is accountable for the situation and would be liable to pay the remuneration of contract teachers appointed by it from time to time.

20. The question is from where the SMC can generate finance to discharge such liability. For that, we may turn to clause 5.1 of the Scheme, dated 6<sup>th</sup> March, 2010. The same reads thus:

**"5.1 The financial resources of the School Management Committee may be received from the following sources:**

5.1.1 Out of the grants received from the government, the School Grant, maintenance grant, Grant in aid, building grant or other budgetary allocation made by the government.

5.1.2 Out of the grants as may be given to the SMC by the Non-government organizations, local bodies (urban and rural)

5.1.3 Voluntary donation/deposits by the parents/community members.

5.1.4 The fees of the utilization of school premises for fairs or other community objectives.

5.1.5 The bank account of the funds of the SMC will be opened and run under the joint signatures of the President and the Member Secretary. In case of change of President after the first annual meeting, the signature of the new President shall be conveyed to the Bank.

5.1.6 The annual accounts of the expenditure incurred will be submitted by the Member Secretary for the perusal of the general house and will be made available for social audit or for audit to the agency authorized by the government for audit."

21. Clause 5.1.1 postulates that the Government would give grants to the SMC which, amongst others, would form the corpus of the SMC. The State Government is obliged to pay grants to the SMC only in relation to the specified and permitted items by the State Government – be it of infrastructure or organisational structure. As the SMC was not authorised by the State Government under any policy or specific order of the competent Authority of the State to engage teachers on contract basis in non-tribal areas, there would be no liability on the State Government to pay by way of grants to be disbursed to the contract teachers so appointed by the SMCs. The other head from which finance resource can be generated by the SMC is from the non-government organisations, local bodies (urban or rural) as per clause 5.1.2. If the concerned SMCs are in financial difficulty in paying the remuneration due and payable to the teachers appointed by it on contract basis, they must take initiative of

generating finance from non-government organisations, local bodies. However, the SMCs in non-tribal areas cannot disown its liability to pay the amount to the respective teachers appointed by it on contract basis. There is another source from where the concerned SMC in non-tribal area can generate funds. As per clauses 5.1.3 and 5.1.4, the concerned SMC can use its good office to generate voluntary donation/deposits by the parents/community members and the fees of the utilization of the school premises for fairs or other community objectives to salvage the situation, which is its own creation.

22. To put it differently, the concerned SMCs in non-tribal areas are solely responsible for the situation and will have to discharge its legal obligation in paying remuneration to the teachers appointed by it on contract basis and cannot insist for funds to be made available by the State Government. Accepting the claim of the petitioners to issue direction to the State Authorities to arrange for their remuneration, which, in any case, cannot be done in law, inevitably, it would extricate the SMC from its responsibility. Significantly, no material has been placed before the Court by any of the petitioners, except in CWP No.5098 of 2013, that the SMC was forced to make appointment of teachers on contract basis, as no regular teacher appointed by following procedure prescribed as per Recruitment and Promotion Rules was available to run the school. It will be preposterous to assume, as of fact, that every appointments made by the concerned SMC in non-tribal area were on account of State Government's failure to ensure that regular teachers are appointed by following Recruitment and Promotion Rules before the commencement of

the academic year.

23. Assuming that the State Government or the concerned State Authorities have failed to ensure that regular teachers are appointed in the concerned school by following Recruitment and Promotion Rules before the commencement of the academic year, that cannot be the basis to shift the liability of the SMCs in non-tribal areas to pay remuneration of teachers appointed by it on contract basis on the State Government. At best, in such cases, the Court may direct the State Government to take immediate steps to fill up the regular posts by following Recruitment and Promotion Rules, as that process cannot brook delay. Such direction can be justified on the basis of the avowed objects and reasons for which Article 21A, has been inserted in the Constitution and including the enactment of the Act of 2009. As regards, Writ Petition No.5098 of 2013, pertaining to school in non-tribal area, the State Government/State Authorities should and must take immediate steps to fill up the vacant posts of teachers by regular teachers appointed as per Recruitment and Promotion Rules, either by making new appointments or transferring regular teachers from other areas to that school.

24. To conclude the discussion on this issue, I hold that the petitioners and similarly placed teachers appointed on contract basis by the SMCs in non-tribal areas would be entitled to remuneration as per their contract with the concerned SMC, from the concerned SMC; and cannot claim direction against the State Authorities or the State Government to pay their remuneration or provide additional or proportionate additional grants to the concerned SMC in non-tribal area.

In other words, the petitioners serving in non-tribal areas as contract teachers and similarly placed persons cannot be denied their remuneration. The concerned SMC, who has appointed them, shall be liable to discharge that obligation and pay their remuneration, as and when due, as agreed and mentioned in the contract between the SMC and the concerned employee. There is no lis between the petitioners and similarly placed persons serving in non-tribal areas with the State Government. Further, going by the provisions of the Act of 2009 and the Rules and including the scheme, no liability can be fastened on the State Government for the unauthorised acts of the concerned SMCs in non-tribal area.

25. The argument of the petitioners that it is the solemn obligation of the State Government to guarantee imparting quality elementary education to the children below the age of 14 years not only on account of the Act of 2009 but also the mandate of Article 21A of the Constitution of India, does not mean that the State should be saddled with the consequences arising out of the unauthorized act of the SMCs in non-tribal area of appointing large number of teachers on contract basis, without any authority in that behalf given by the State Government. As noted earlier, none of the petitions disclose any material facts to even remotely suggest that the State has failed to establish schools as per the norms specified by the Act of 2009 and Rules framed thereunder. It is not as if the petitioners were required to be appointed by the SMCs to run respective schools in non-tribal areas in absence of regular organizational infrastructure provided to the School by way of grants given by the State

Government therefor. It is possible that in some cases, the SMC may have appointed contract teachers to provide better facilities to the children of the concerned School but that is a unilateral act and decision taken by the concerned SMC and not on the basis of any authority flowing from the provisions of the Act of 2009 and Rules framed thereunder or for that matter Policy of the State Government for that purpose, as in the case of tribal areas. Understood thus, it is the concerned SMC who must be held responsible for the situation and would be, therefore, liable to discharge its obligation to pay remuneration to the contract teachers so appointed by it.

26. I am not impressed by the vague and unsubstantiated assertion of the petitioners that the decision of the State Government to dispense with the services of the petitioners and similarly placed contract teachers appointed by the SMCs in non-tribal areas across the State, is due to political vendetta as a consequence of change of political dispensation. That argument cannot be the basis to grant relief to the petitioners against the State Government for payment of their remuneration. Conceding to this argument would inevitably result in giving relief to the concerned SMCs who have exceeded their authority in making appointments of contract teachers. It would be certainly a case of misplaced sympathy which ought to be eschewed as observed by the Apex Court in the case of **Union of India and another** versus **Kartick Chandra Mondal and another**<sup>2</sup>. The Court observed that the Court should not be swayed by misplaced sympathy in granting relief of re-

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<sup>2</sup> (2010) 2 SCC 422

engagement and regularization of service in respect of irregular appointees/casual workers who were not recruited through proper procedure. The fact that the petitioners and similarly placed contract teachers in non-tribal areas were appointed by the SMCs across the State, albeit constituted under the statutory provision, sans any authorization in that behalf, by no stretch of imagination, can be said to be regular appointments and in any case, made the basis to fasten liability on the State Government regarding their remuneration. It would be apposite to reproduce paragraphs 24 & 25 of the abovesaid decision, which read thus:

“24. In our considered opinion, the ratio of both the aforesaid decisions are clearly applicable to the facts and circumstances of the present case. In our considered opinion, there is misplaced sympathy shown in the case of the respondents who have worked with the appellants only for two years, i.e., from 1981 to 1983.

25. Even assuming that the similarly placed persons were ordered to be absorbed, the same if done erroneously cannot become the foundation for perpetuating further illegality. If an appointment is made illegally or irregularly, the same cannot be the basis of further appointment. An erroneous decision cannot be permitted to perpetuate further error to the detriment of the general welfare of the public or a considerable section. This has been the consistent approach of this Court. However, we intend to refer to a latest decision of this Court on this point in the case of *State of Bihar v. Upendra Narayan Singh & Others* [(2009) 5 SCC 69], the relevant portion of which is extracted hereinbelow: -

"67. By now it is settled that the guarantee of equality before law enshrined in Article 14 is a positive concept and it cannot be enforced by a citizen or court in a negative manner. If an illegality or irregularity has been committed in favour of any individual or a group of individuals or a wrong order has been passed by a judicial forum, others cannot invoke the jurisdiction of the higher or superior court for repeating or multiplying the same irregularity or illegality or for passing wrong order" .....

[A reference in this regard may also be made to the earlier decisions of this Court. See also:

- (1) *Faridabad CT. Scan Centre v. D.G. Health Services and Others* [(1997) 7 SCC 752];
- (2) *South Eastern Coalfields Ltd. v. State of M.P. and Others* [(2003) 8 SCC 648] and
- (3) *Maharaj Krishan Bhatt and Another v. State of J&K and Others* [(2008) 9 SCC 24]]”

27. It is well established position that it is for the State to formulate policies and not for the Courts to do so. Whether the SMCs in the non-tribal areas should be authorized to make appointments of teachers on contract basis is certainly a matter of Policy. Before taking any policy decision in this behalf, several factors have to be reckoned by the State Government and it is within the exclusive discretion and jurisdiction of the State. The Apex Court in the case of **P.U. Joshi and others** versus **Accountant General, Ahmedabad and others**<sup>3</sup> in paragraph 10 observed thus:

“10. We have carefully considered the sub-missions made on behalf of both parties. Questions relating to the constitution, pattern, nomenclature of posts, cadres, categories, their creation/abolition, prescription of qualifications and other conditions of service including avenues of promotions and criteria to be fulfilled for such promotions pertain to the field of Policy and within the exclusive discretion and jurisdiction of the State, subject, of course, to the limitations or restrictions envisaged in the Constitution of India and it is not for the Statutory Tribunals, at any rate, to direct the Government to have a particular method of recruitment or eligibility criteria or avenues of promotion or impose itself by substituting its views for that of the State. Similarly, it is well open and within the competency of the State to change the rules relating to a service and alter or amend and vary by addition/substruction the qualifications, eligibility criteria and other conditions of service including avenues of promotion, from time to time, as the administrative exigencies may need or necessitate. Likewise, the State by appropriate rules is entitled to amalgamate departments or bifurcate departments into more and constitute different categories of posts or cadres by undertaking further classification, bifurcation or amalgamation as well as reconstitute and restructure the pattern and cadres/categories of service, as may be required from time to time by abolishing existing cadres/posts and creating new cadres/ posts. There is no right in any employee of the State to claim that rules governing conditions of his service should be forever the same as the one when he entered service for all purposes and except for ensuring or safeguarding rights or benefits already earned, acquired or accrued at a particular point of time, a Government servant has no right to challenge the authority of the State to amend, alter and bring into force new rules relating to even an existing service.”

28. The petitioners would, however, rely on the decision of the

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<sup>3</sup> (2003) 2 SCC 632

Apex Court in the case of **Brij Mohan Lal** versus **Union of India and others**<sup>4</sup> to contend that it is open to the Court and also its judicial duty to ensure that rule of law prevails. The Court must issue directions to the State Government to formulate Policy, even with regard to the non-tribal areas, as has been done with regard to tribal areas. This must be done in view of the legitimate expectation of large number of contract teachers appointed by the SMCs in non-tribal areas. Failure to do so by the State Government, results in discriminatory treatment meted out to the contract teachers between tribal areas and non-tribal areas, which ought not to be countenanced. Reliance is also placed on the decision of the Apex Court in the case of **Environmental and Consumer Protection Foundation** versus **Delhi Administration and others**<sup>5</sup>, to contend that it is well established by now that it is the obligation of the State to effectuate the rights of children of elementary schools and to provide them basic facilities and necessities. In that case, the State Government has no choice but to provide adequate number of teachers in every school commensurate with the norms specified under the Act of 2009 and Rules framed thereunder. This argument deserves to be stated to be rejected inasmuch as the State Government has given valid and tangible reason as to why it became necessary for the State Government to evolve a Policy for appointment of contract teachers in tribal areas. The experience showed that teachers appointed on regular basis were un-willing to work in tribal areas and the only way to fill up the vacant posts of teachers in

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<sup>4</sup> **(2012) 6 SCC 502**

<sup>5</sup> **2012 (10) SCC 211**

the schools in tribal areas was to provide interim arrangement by appointing contract teachers. In other words, the State Government was forced to introduce Policy to appoint contract teachers in tribal areas out of necessity and not by choice. The Scheme formulated by the State Government and notified by the Secretary (Education) Government of Himachal Pradesh on 17.7.2012 reads thus:

**“Procedure for the appointment of a Teacher by the SMC to the educational Institutions of Tribal/ Difficult Areas.**

The School Management Committees of the educational institutions located in the Tribal/Difficult areas have requested to fill up vacant posts of teachers in their schools. The Government is making all efforts to fill up all the vacant posts in the educational institutions in the State but even then some posts in the Tribal/Difficult areas remain vacant due to retirement, transfers, promotions etc. As such the studies of the students suffers badly. Keeping in view the betterment of the study of students in these area, it has been decided by the Government to permit the School Management Committees of educational institution situated in Tribal/Difficult areas as notified by the by the Department of Personnel (Annexure-I), to provide the teachers against vacant post as per the clause 15 of the “Right of Children to Free and Compulsory Education, Himachal Pradesh, Rules 2011” and para 4.19 of the guidelines issued by the Government for the constitution of School Management Committees in the educational institutions under the “Right of Children to Free and Compulsory Education, Himachal Pradesh Act, 2009”.

The Government hereby frames the following procedure for the appointment of teachers through the SMCs purely on period basis:

1. The SMC of the concerned educational Institution will submit request through the Head of the Institution to the respective Dy. Director of Education to allow them to provide the teacher against vacant post on period basis. The Head of the Institution will ensure that the teaching posts in his/her school are as per PTR norms. No posts will be filled up excess than PTR/Rationalization norms.
2. The concerned Dy. Director of Education after verifying the vacancies likely posting either on recruitment, transfers, promotion, availability of post as per PTR norms etc. may allow the SMC to provide the eligible teacher on period basis.
3. The concerned SMC of the Primary and Middle Schools will make an open advertisement at the Gram Panchayat/Nagar Panchayat/Urban local are and the SMC of the High and Senior Secondary Schools will make advertisement in all the Panchayats in the Patwar Circle of the concerned area also and ask all eligible candidates to apply within 15 days for said period based assignment.

4. Member of the selection committee will be as under:—

1. President SMC
2. Head of the Institution-*cum*-Member Secretary of SMC.
3. Subject expert from outside the concerned Institution.
4. Senior most Regular Teacher of the concerned institution. (If the regular Teacher is not available in the concerned institution, the same be called from the adjoining institution).

5. The SMC will conduct an interview and follow distribution of Marks for evaluation during the course of Selection Process as per Annexure-II. Preference will be given to local eligible candidates.

6. After conducting the interview, the President of the SMC will declare the result and issue order of assignment to the eligible candidate(s).

7. The Head of the Institution after verifying all the credentials, which include educational certificates as per R & P Rules and instructions issued by the Government, character certificates issued by the competent authority etc. will accept the joining of the said candidate(s).

8. The Head of the Institutions will ensure that no ineligible candidate joins the educational institution for teaching the students on period basis. If, it is found that the Head of Institution has permitted an ineligible candidate, the disciplinary action will be initiated against him/her as per the CCS (CCA) Conduct Rules, 1964.

9. The Head of the Institutions ensure that the services of the said SMC provided teachers will automatically be terminated as and when regular/contract teacher appointed/transferred by the Government joins against the said post or after completion of the academic session of the institution, whichever is earlier.

10. In the next academic session, a fresh selection process will be conducted. In no case, the SMC provided teacher earlier be allowed to be continue after completion of academic session nor after the joining of regular / contract teacher appointed by the Government.

11. The Grant-in-Aid is permissible only in favour of those Teachers, who have been provided by the SMCs after following these terms and conditions only.

12. The Grant-in-Aid will be released by the Government to the SMCs only against the vacant posts of PGTs, TGTs, LTs, Shastris, JBTs only. No GIA will be released against any other posts.

13. The amount of Grant-in-Aid to a SMC in respect of a Teacher engaged on period basis shall be calculated / provided by the Government in the following manners:—

1. (i) PGT Rs. 150/- per period (for 10+1 and 10+2 classes.)

- (ii) PGT Rs. 100/- per period (for 9th and 10th Classes.)
- 2. TGT Rs. 100/- per period.
- 3. LT Rs. 75/- per period.
- 4. Shastri Rs. 75/- per period.
- 5. JBTs Rs. 75/- per period.

14. Limit of Grant—The per month amount of GIA to a SMC provided teacher will not exceed the following limit:—

- 1. PGT Rs. 6000/- PM
- 2. TGT Rs. 6000/- PM
- 3. LT Rs. 4500/- PM
- 4. Shastri Rs. 4500/- PM
- 4. JBTs Rs. 3500/- PM

Any excess amount, if any, will be born by the SMC of the concerned institute.

15. The Grant-in-Aid will be given by the Government only to the SMCs constituted in those institutions located in the Tribal/Difficult areas.

16. The Grant-in-Aid given by the Government for this purpose will be not be incurred for other purposes/works.

17. *Application for Grant-in-Aid.*—The SMC, after providing the teacher on the period basis, submit an application for grant-in-aid in Form-I. Character/antecedents of such teachers verified by a Gazetted Government officer should be enclosed with the application. Further, the request for grant in respect of teachers provided should be accompanied by a certificate from the Head of Institution to the effect that the work and conduct of the teachers was satisfactory. In case the educational institution does not have a regular Head of Institution, the request for grant should be accompanied by certificates from the teacher of the institution carrying out the functions of Head of Institution.

18. *Non-admissibility during vacations/Holidays.*—No grant shall be admissible to SMCs for teachers made available during the period of vacations/Holidays, unless specifically allowed by the Dy. Director of Education (Concerned) for reasons to be recorded in writing.”

29. Suffice it to observe that the State Government is of the view that similar compulsion was not there in respect of non-tribal areas due to availability of regular teachers. In none of the petitions except in CWP No. 5089 of 2013, it has even been remotely demonstrated that contract teachers were appointed by SMCs for want of regular teachers or

the post of regular teachers were lying vacant to maintain the students-teacher ratio as per the norms specified by the Act of 2009 and Rules framed thereunder. It may not be appropriate for this Court to make a roving inquiry to ascertain that factual position, or for that matter, to unravel the excess appointments made by the SMCs in the concerned Schools in non-tribal areas for reasons best known to them. At best, this Court can ask the State Authorities to examine those matters and if it is found that substantial number of posts of regular teachers are lying vacant and not fulfilling the norms of students-teacher ratio specified under the Act of 2009 and Rules framed thereunder, they can recommend to the State Government to formulate a policy to provide grant-in-aid qua those posts for appointment of teachers on contract basis. That, however, can be done only prospectively, as policy of the State cannot be given retrospective effect. Except these observations, nothing more is required to be said.

30. Further, the fact that the SMCs in non-tribal areas are constituted under the provisions of the Act of 2009 and Rules framed thereunder cannot be the basis to assume that they have had authority to appoint teachers on contract basis. The Committee constituted under the Statute is obliged to discharge its functions specified by the Statute i.e. under Section 21 read with the Act of 2009 and Rules framed thereunder. The appointments made by the SMCs in non-tribal areas, therefore, cannot be treated as binding on the State Government and for which reason, it is not a case of State Government disowning its liability or discharging its obligation specified in the Act of 2009 and under Article

21A of the Constitution of India. Thus, the appointments of contract teachers made by the SMCs in non-tribal areas cannot be equated with teachers appointed on temporary basis by other Committees constituted under the instructions issued by the State Government; in the latter situation the contract teachers became entitled for benefit because of the policy of the State Government for which the State Government was liable to discharge its obligation, unlike in the present case where the contract teachers were appointed by the SMCs in non-tribal areas bereft of any policy of the State Government in that behalf and sans any authorization to do so given by the State Government. It was the unilateral act of the SMCs in non-tribal areas which cannot be the basis to hold the State Government responsible.

31. Similarly, the fact that the petitioners and similarly placed contract teachers have been appointed only for limited duration and re-engaged by the concerned SMCs cannot create any right in their favour mushless to ask for relief against the State Government. It is well established position that the appointment on contract basis would come to an end as per the tenure specified in the contract between the employer and the employee, without requiring the employer to do anything further. In the case of **Guru Charan Singh versus State of Uttar Pradesh and others<sup>6</sup>**, the Court held that once a regular candidate was selected by the Selection Board and joined his duties, the appointment of another person made on temporary basis even if valid, would come to an end. There can be no vested right in the contract teacher to continue in employment even

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<sup>6</sup> (2011) 13 SCC 37

if the teacher appointed on regular basis becomes available. Appointment of the contract teachers, by its very nature, is an interim arrangement.

32. It was vehemently contended on behalf of the petitioners that even if the petitioners cannot be regularized in service, the mandate of law obliges the State and in any case, the employer to offer at least basic pay equivalent to the minimum wages notified by the State Government. In most of the cases, the petitioners were not even receiving any amount leave alone respectable remuneration, for the services rendered by them. The petitioners and similarly placed contract teachers may pursue that remedy against the concerned SMCs under whose resolution they have been appointed; and for that they are free to make representation to the concerned State Authorities, who must decide their grievance with utmost dispatch. In case the appointment of the concerned contract teacher was unnecessary and in excess of the requirement of the school, the State Authorities must proceed against the members of the concerned SMCs for having abused their authority and for colourable exercise of power. However, these arguments cannot be the basis to grant relief to the petitioners, as claimed of issuing directions to the State Government, to pay the remuneration to the petitioners and similarly placed contract teachers or for that matter, to provide additional grant-in-aid to the concerned SMCs commensurate with the remuneration to the contract teachers, appointed by concerned SMCs in non-tribal areas in the State.

33. As regards contract teachers appointed by the SMCs in tribal areas, under the Policy dated 17.7.2012, the learned Advocate General

fairly stated that the State Government cannot refuse to discharge its obligation of providing grant-in-aid to concerned SMCs in the tribal areas as per the norms specified in the policy document. The grievance of the contract teachers appointed by the SMCs in tribal areas that they do not receive respectable remuneration clearly overlooks that their appointment is made by the SMCs, as per the Policy on period basis and not as regular teacher. The Policy is also intended to provide exposure to amateur teachers, after being appointed on contract basis. The fact that the posts of regular teachers in tribal areas are lying vacant does not mean that appointment to the said posts can be made through process other than R & P Rules. In other words, the contract teachers appointed by the SMCs in tribal areas under the stated Policy will have necessarily to be on period basis and not on regular basis. Accordingly, the grievance under consideration of the petitioners and similarly placed teachers appointed on contract basis by SMCs in tribal areas cannot be countenanced.

34. It is not possible to sustain the grievance of the petitioners that they should be given similar benefits and treatment as has been given by the State Government to PTA teachers, Vidya Upasaks and other category of teachers, as per the instructions issued by the State Government. Even the argument of the petitioners, relying on the decision of the Apex Court in the case of **Bhartiya Seva Smaj Trust and another** versus **Yogeshbhai Ambalal Patel and another**<sup>7</sup>, is devoid of merits. No doubt, in the abovesaid case, the Apex Court upheld the decision of the High Court re-instating the teacher with back wages,

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<sup>7</sup> (2012) 9 SCC 310

however, the Court has reiterated that the Court should not set aside illegal order if it is to revive another illegal order. The final decision in the said case is in the fact situation of that case, as the Court found that the termination order passed by the Trust was malafide, as the Trust did not act in similar way for the same reason, against other teachers who were appointed alongwith the respondent in pursuance of similar advertisement and possessing similar qualification.

35. Even reliance placed on the decision in the case of **Society for Unaided Private Schools of Rajasthan** versus **Union of India and another**<sup>8</sup>, is inapposite. In that case, the Court found that Sections 12(1) (c) and 18(3) of the Act of 2009 infringes fundamental freedom guaranteed to un-aided minority schools under Article 30 (1) of the Constitution of India and for which reason, by interpretative process the Court held that those provisions were inapplicable to unaided minority schools. But, that judgment has been made operative prospectively from academic year 2012-2013. I fail to understand as to how the ratio of this judgment can be the basis to hold that the State Government must be made liable to pay remuneration to the petitioners and similarly placed contract teachers appointed by the concerned SMCs in non-tribal areas or for that matter to equate them with other category of teachers appointed under scheme propounded by the State Government.

36. The petitioners have lastly contended that until the regular teachers are appointed against the vacancies in the concerned schools, the petitioners and similarly placed contract teachers be allowed to

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<sup>8</sup> **2012(6) SCC 1**

continue in service. This argument is canvassed by relying on the exposition of the Apex Court in **State of Haryana and others** versus **Piara Singh and others**<sup>9</sup> in particular paragraph 46, which reads thus:

“46. Secondly, an ad hoc or temporary employee should not be replaced by another ad hoc or temporary employee should not be replaced only by a regularly selected employee. This is necessary to avoid arbitrary action on the part of the appointing authority.”

37. This argument will have to be stated to be rejected following the Constitution Bench judgment of the Apex Court in **Secretary, State of Karnataka and others** versus **Uma Devi (3) and others**<sup>10</sup>. In paragraphs 47 and 48, on which reliance has been justly placed by the learned Advocate General read thus:

“47. When a person enters a temporary employment or gets engagement as a contractual or casual worker and the engagement is not based on a proper selection as recognized by the relevant rules or procedure, he is aware of the consequences of the appointment being temporary, casual or contractual in nature. Such a person cannot invoke the theory of legitimate expectation for being confirmed in the post when an appointment to the post could be made only by following a proper procedure for selection and in concerned cases, in consultation with the Public Service Commission. Therefore, the theory of legitimate expectation cannot be successfully advanced by temporary, contractual or casual employees. It cannot also be held that the State has held out any promise while engaging these persons either to continue them where they are or to make them permanent. The State cannot constitutionally make such a promise. It is also obvious that the theory cannot be invoked to seek a positive relief of being made permanent in the post.

48. It was then contended that the rights of the employees thus appointed, under Articles 14 and 16 of the Constitution, are violated. It is stated that the State has treated the employees unfairly by employing them on less than minimum wages and extracting work from them for a pretty long period in comparison with those directly recruited who are getting more wages or salaries for doing similar work. The employees before us were engaged on daily wages in the concerned department on a wage that was made known to them. There is no case that the wage agreed upon was not being paid. Those who are working on daily wages formed a class by themselves, they cannot claim that they are discriminated as against those who have been regularly recruited on the basis of the relevant rules. No right can be founded on an employment on daily wages to claim that such

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<sup>9</sup> (1992) 4 SCC 118

<sup>10</sup> (2006) 4 SCC 1

employee should be treated on a par with a regularly recruited candidate, and made permanent in employment, even assuming that the principle could be invoked for claiming equal wages for equal work. There is no fundamental right in those who have been employed on daily wages or temporarily or on contractual basis, to claim that they have a right to be absorbed in service. As has been held by this Court, they cannot be said to be holders of a post, since, a regular appointment could be made only by making appointments consistent with the requirements of Articles 14 and 16 of the Constitution. The right to be treated equally with the other employees employed on daily wages, cannot be extended to a claim for equal treatment with those who were regularly employed. That would be treating unequals as equals. It cannot also be relied on to claim a right to be absorbed in service even though they have never been selected in terms of the relevant recruitment rules. The arguments based on Articles 14 and 16 of the Constitution are therefore overruled.”

Further, the decision in Piara Singh’s case on which reliance has been placed by the petitioners has been duly considered in Uma Devi’s case.

38. Reliance has been justly placed by the learned Advocate General in the case of **State of Haryana & others** versus **Polu Ram and another**<sup>11</sup>, in paragraphs 3 & 4 of this decision, the Court observed thus:

“3. The State of Haryana is the appellant before us. CA No. 1143 of 2005 was filed against the judgment and final order of the High Court of Punjab and Haryana dated 17-4-1998 in Polu Ram v. State of Haryana by which the High Court allowed the writ petition filed by the respondents. The judgment of the High Court was challenged by the State of Haryana on various grounds. According to the State, the respondents are not entitled to continue on the post after expiry of specified period and that they were appointed on a fixed term on a stopgap arrangement. It is further submitted that the High Court was in error in directing the State of Haryana to take the services of the respondents till the availability of regularly appointed candidates. Several other grounds have also been urged in the appeal. Notice was issued in the matter on 3-8-1998 and certain directions in regard to the payment of salary to the respondents were issued. During the pendency of these batch of appeals, several other interim directions were also issued. On 7-9-2005, this Court passed the following order:

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<sup>11</sup> **(2010) 15 SCC 452**

"The issue arising for decision in these matters is the same as forming the subject-matter of reference order dated 23-8-2005 in State of Haryana v. Charanjit Singh whereby the matter has been referred to a larger Bench. Let the decision of the larger Bench in those matters be awaited.

All the pending applications will be taken up for consideration at the time of final hearing."

4. It is now brought to our notice that a Constitution Bench in State of Karnataka v. Umadevi (3) has delivered the judgment. The Constitution Bench has elaborately considered the rival claims of both the parties and rendered a detailed judgment on all aspects of the matter. In view of the appeals filed by the State of Haryana have to be allowed as prayed for. The same are accordingly allowed."

39. In another case relied by the learned Advocate General in **Karnataka State Road Transport Corporation and another** versus **S.G. Kotturappa and another**<sup>12</sup>, the Court observed that the services of temporary employee can be terminated upon compliance with the contractual or statutory requirements especially in a case such as the present one when the petitioners are not holding any civil post. In paragraphs 16 & 20 of the said decision, the Court observed thus:

"16. The mode of appointment, therefore, postulates appointment in three tiers. The status of a temporary employee is higher than a Badli worker. The names of Badli workers are not to be included in the select list but in the wait list. A select list of selected candidates prepared by the selection authority is required to be equal to the number of existing vacancies plus vacancies that may arise over a period of one year from the date of publication as may be assessed by the selection authority and only in exceptional cases, the validity thereof can be extended for a period not exceeding six months. The select list or the wait list, as the case may be, therefore, does not have an indefinite life. A bare perusal of the memo dated 13-5-1982 in terms whereof the respondent was appointed clearly states that he was appointed in the Corporation and did not have any right merely because his services were so utilised on day-to-day basis. The services of a Badli worker may be discontinued, if for any reason he is not found suitable for the job for which his services were utilised as Badli. A Badli worker is eligible for payment of wages only for the number of days his services are utilized.

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<sup>12</sup> (2005) 3 SCC 409

20. The terms and conditions of employment of a Badli worker may have a statutory flavour but the same would not mean that it is not otherwise contractual. So long as a worker remains a Badli worker, he does not enjoy a status. His services are not protected by reason of any provisions of the statute. He does not hold a civil post. A dispute as regards purported wrongful termination of services can be raised only if such termination takes place in violation of the mandatory provisions of the statute governing the services. Services of a temporary employee or a Badli worker can be terminated upon compliance with the contractual or statutory requirements.”

40. Suffice it to observe that the petitioners cannot succeed in getting relief of continuation beyond the term specified in the governing contract. As regards the teachers appointed on contract basis by the SMCs in tribal areas under the Policy, clause 10 of the Policy clearly predicates that fresh selection process must be conducted before the next academic session. Further, in no case, the contract teachers appointed by the SMCs in tribal areas can be allowed to continue after completion of academic session nor after the joining of regular/contract teacher appointed by the government. In other words, the contract teachers have to participate in the fresh selection process whenever conducted and cannot claim any vested right so as to continue in service till the regular appointment is made as per the R & P Rules. As a result, even this argument of the petitioners deserves to be negated.

41. Reverting back to CWP No. 5098 of 2013, pertaining to the School in non-tribal area as has been noted earlier, it is for the State Authorities to enquire into the reasons why the regular posts have been kept vacant in concerned school and issue directions for immediately starting the process of appointment on regular basis without any further delay and not waiting for the next academic session. It is not necessary to underscore that a regular establishment and appointment of regular

teachers alone can accomplish the avowed objects of the Act of 2009 in providing quality education. The contract teachers should be appointed only in case of exigency and not as a regular feature and that too on year to year basis. For, it is not open to the State Government to urge about financial constraints after the coming into force of the Act of 2009 and more particularly Article 21A of the Constitution of India. If the State Government is incapable of supporting and financing the cause of compulsory elementary quality education to every children in the State, it must take up the matter with the Central Government, who is concurrently responsible for providing funds for carrying out the provisions of the Act of 2009, by virtue of Section 7 of the Act of 2009.

42. Brother Sharma has referred to the decision of Patna High Court in the case of Renu Kumari Panday, which I do not wish to deal with as it was not relied by any party.

43. Taking overall view of the matter, therefore, all these petitions will have to be disposed of on the basis of observations made hitherto and on following terms:

**Re: Non tribal-areas.**

- a) I reject the relief claimed against the State Government to bear the liability of remuneration of the petitioners and similarly placed persons appointed on contract basis by the SMCs in non-tribal areas.
- b) The SMCs in non-tribal areas shall pay the remuneration to the teachers appointed by it on contract basis for the period they have worked regularly as per the terms specified in the contract.
- c) The State Government may consider of formulating a policy to compensate the SMCs in non-tribal areas by providing

commensurate grant-in-aid in respect of contract teachers appointed by it due to fortuitous situation.

d) The State Authorities shall make inquiry on case to case basis against the respective SMCs in non-tribal areas and take action as may be warranted by law including against the members of the SMC.

**Re: Tribal Areas:**

a) The assurance given by the State through the learned Advocate General that the contract teachers appointed by the SMCs in tribal areas will be paid remuneration as per the policy document, is accepted. The contract teachers appointed by the SMCs in tribal areas would be entitled to receive amount as specified in the policy document dated 17.7.2012.

**Re: Tribal and non-tribal areas:**

a) The relief of continuing the petitioners beyond the contract period and until the appointment of regular teacher by following R & P Rules, is rejected.

b) The relief claimed by the petitioners to give similar benefit as given to PTA and Vidya Upasaks, is rejected.

44. The Writ Petitions are disposed of accordingly, so also the pending application(s), if any.

45. In view of the divergence of opinion, the matter be placed before the third Judge. Office to take necessary steps in that behalf.

October 1, 2013.  
(tilak/karan)

( A.M. Khanwilkar )  
Chief Justice

**Per V.K. Sharma, J.**

46. Two sets of teachers engaged by the School Management Committees (SMCs) are before this court in this batch of writ petitions filed under Articles 226/227 of the Constitution. The first set comprises of the teachers working in Tribal/Difficult Areas and the second in Non-Tribal/Non-Difficult Areas.

47. The reliefs claimed by the petitioners in the respective sets of petitions are almost identical with slight variations here and there.

48. In one of the petitions (CWP No. 5850 of 2013-E, Ms Menka and another Vs. The State of H.P and others) filed on behalf of the petitioners therein working in Tribal/Difficult Areas, the following substantive prayers have been made:-

- “i) That the notification if any, issued by the Deputy Director Elementary Education for termination of the services of the petitioners made by the SMC, in view of Clause No. 10 of the policy notified vide notification dated 17.7.2012, may kindly be quashed and set aside.
- ii) That Clause No. 10 of the policy notified vide notification dated 17.7.2012 (Annexure P-1) by the State Government may also kindly be quashed and set aside in the interest of justice and fair play.
- iii) That the respondents may kindly be directed to allow the petitioner to continue at her present place of posting and the respondents may also be directed to release the salary of the petitioner.”

49. In some petitions SMC teachers of Tribal/Difficult Areas are also seeking regularization of their services alongwith consequential service benefits.

50. Similarly in one of the petitions (CWP No. 3162 of 2013-G, Shri Harish Kumar Vs. State of Himachal Pradesh and others), filed by a SMC teacher of Non-Tribal/Non-Difficult Area, which has been treated as the lead case of its type, the following reliefs have been claimed:-

“A. The respondents be directed to pay the salary of the petitioner equal to the salary of the teachers working on the similar posts as regular teachers.

B. The respondents be further directed to frame a proper policy for giving training to the petitioner if required and to regularize him from the date of his joining as teacher.

C. The respondents be further directed to release the balance of the salary to the petitioner after calculating the same equal to the regular teachers of the same post and to pay proper interest on the said balance salary as may be deemed fit and proper in the circumstances of the case.

D. By issuing a writ in the nature of mandamus the respondents be directed not to dispense with the services of the petitioner and to let the petitioner continue as teachers on the post held by the petitioner in the school Respondent No. 4. Such other and further relief be also granted to the petitioner as to this Court may deem fit and proper in the circumstances of the case.”

51. Here, we are concerned with universal elementary education guaranteed under Article 21-A of the Constitution, which mandates as under:-

“[**21-A. Right to education.-** The State shall provide free and compulsory education to all children of the age of six to fourteen years in such manner as the State may, by law, determine.]”

52. In order to give effect to the fundamental right of elementary education enshrined in the Constitution, the Parliament enacted The Right of Children to Free and Compulsory Education Act, 2009 (in short ‘RTE Act’). In exercise of the powers conferred under Section 38 of RTE Act, the Government of Himachal Pradesh has framed ‘the Right of Children to Free and Compulsory Education,

Himachal Pradesh Rules, 2011' (in short 'the Rules') vide notification dated 5.3.2011.

53. However, even before framing of the above Rules the State Government vide letter dated 6.3.2010, Annexure P-I, addressed by the Principal Secretary (Education) to the Govt. of Himachal Pradesh to the Director Elementary Education, had granted its approval for formation of SMCs under the RTE Act in the schools functioning under the education department as per guidelines contained in Annexure 'Ka' to the said letter with powers and responsibilities, interalia, under para 4.19, which reads as under:-

“4.19 If required, to select the part-time/contract teachers as per the Government Policy but the SMC will not have the authority to appoint any part time/contract worker without the approval of the authorized officer.”

54. Thereafter the State Government vide notification dated 17<sup>th</sup> July, 2012, notified the “policy to engage a Teacher(s) through the School Management Committees purely on period basis in Elementary/Higher Education Departments of Himachal Pradesh in Tribal/Difficult Areas” as per procedure contained in Annexure-A to the said notification.

55. We have heard the learned Senior Counsel/Counsel and learned Advocate General for the appearing parties and gone through the records. There is no appearance on behalf of SMCs, except in CWP No. 4258 of 2013.

56. The parties have relied upon the following case law:-

**PETITIONERS**

1. **Environmental and Consumer Protection Foundation Vs. Delhi Administration and others**, (2012) 10 Supreme Court Cases 211;
2. **Bhartiya Seva Samaj Trust through President and another Vs. Yogeshbhai Ambalal Patel and another**, (2012) 9 Supreme Court Cases 310;
3. **Society for Unaided Private Schools of Rajasthan Vs. Union of India and another**, (2012) 6 Supreme Court Cases 1 (para 5);
4. **Brij Mohan Lal Vs. Union of India and others**, (2012) 6 Supreme Court Cases 502;
5. **Union of India Vs. Dineshan K.K.**, (2008) 1 Supreme Court Cases 586 (para 13);
6. **Secretary, State of Karnataka and others Vs. Uma Devi (3) and others**, (2006) 4 Supreme Court Cases 1 (paras 47 and 48);
7. **State of Haryana and others Vs. Piara Singh and others**, (1992) 4 Supreme Court Cases 118 (para 46); and
8. Copy of judgment, dated 21<sup>st</sup> December, 2011, passed by Full Bench of this court in **Manju Bala Vs. State of Himachal Pradesh & others and connected matters**, CWP No. 1310 of 2009 & 5793 of 2010 (para 12).

#### **RESPONDENTS**

1. **Guru Charan Singh Vs. State of Uttar Pradesh and others**, (2011) 13 Supreme Court Cases 37 (paras 4 and 11);
2. **Union of India and another Vs. Kartick Chandra Mondal and another**, (2010) 2 Supreme Court Cases 422 (para 25);
3. **State of Haryana and others Vs. Polu Ram and another**, (2010) 15 Supreme Court Cases 452 (para 3);
4. **Secretary, State of Karnataka and others Vs. Uma Devi (3) and others**, (2006) 4 Supreme Court Cases 1 (paras 47 and 48).
5. **Karnataka State Road Transport Corporation and another Vs. S.G. Kotturappa and another**, (2005) 3 Supreme Court Cases 409 (paras 16 and 20).

6. **P.U. Joshi and others Vs. Accountant General, Ahmedabad and others, with Union of India and others vs. Basudeva Dora and others**, (2003) 2 Supreme Court Cases 632 ( para 10).

57. We have taken into consideration the principles of law laid down in the above authorities relied upon on behalf of the parties and borne the same in mind, which shall be referred to wherever necessary.

58. It appears that the petitioners are continuing as SMC teachers on the strength of interim orders passed by this court.

59. The first and foremost question that would arise for determination is as to whether SMC teachers working in Non-Tribal/Non-Difficult Areas can be discriminated against by the respondent-State vis-à-vis teachers of Tribal/Difficult Areas in violation of Articles 14 and 16 of the Constitution. It is submitted on behalf of the petitioners that it cannot be done in view of the mandate under Article 21-A of the Constitution read with the provisions of RTE Act. However, per contra, the learned Advocate General submits that SMC teachers of Tribal/Difficult Areas form a separate and distinct class with which the SMC teachers of Non-Tribal/Non-Difficult Areas cannot claim parity.

60. Article 21-A guarantees fundamental right to all children of the age of six to fourteen years for free and compulsory education. To materialize this right RTE Act has been brought on the statute book, scheme whereof is as follows.

61. As per Section 2 (l) “prescribed” means prescribed by Rules made under RTE Act. The right to free and compulsory

elementary education to every child of the age of six to fourteen years has been guaranteed under Section 3 of the Act. Chapter III of RTE Act enumerates duties of appropriate Government, local authority and parents. Section 6 casts the duty on appropriate Government and local authority to establish a school where there is no such school already established. Section 7 lays down mechanism for sharing of financial and other responsibilities in the following manner:-

**“7. Sharing of financial and other responsibilities.-**(1) The Central Government and the State Governments shall have concurrent responsibility for providing funds for carrying out the provisions of this Act.

(2) The Central Government shall prepare the estimates of capital and recurring expenditure for the implementation of the provisions of the Act.

(3) The Central Government shall provide to the State Governments, as grants-in-aid of revenues, such percentage of expenditure referred to in sub-section (2) as it may determine, from time to time, in consultation with the State Governments.

(4) The Central Government may make a request to the President to make a reference to the Finance Commission under sub-clause (d) of clause (3) of article 280 to examine the need for additional resources to be provided to any State Government so that the said State Government may provide its share of funds for carrying out the provisions of the Act.

(5) Notwithstanding anything contained in sub-section (4), the State Government shall, taking into consideration the sums provided by the Central Government to a State Government under sub-section (3), and its other resources, be responsible to provide funds for implementation of the provisions of the Act.

(6) The Central Government shall –

(a) develop a framework of national curriculum with the help of academic authority specified under section 29;

(b) develop and enforce standards for training of teachers;

(c) provide technical support and resources to the State Government for promoting innovations, researches, planning and capacity building.”

62. Duties of appropriate Government and local authority have been enumerated under Sections 8 and 9 of RTE Act and the same are as under:-

**“8. Duties of appropriate Government.** The appropriate Government shall –

- (a) provide free and compulsory elementary education to every child:

Provided that where a child is admitted by his or her parents or guardian, as the case may be, in a school other than a school established, owned, controlled or substantially financed by funds provided directly or indirectly by the appropriate Government or a local authority, such child or his or her parents or guardian, as the case may be, shall not be entitled to make a claim for reimbursement of expenditure incurred on elementary education of the child in such other school.

Explanation. – The term “compulsory education” means obligation of the appropriate Government to –

- (i) provide free elementary education to every child of the age of six to fourteen years; and
  - (ii) ensure compulsory admission, attendance and completion of elementary education by every child of the age of six to fourteen years;
- (b) ensure availability of a neighbourhood school as specified in section 6;
- (c) ensure that the child belonging to weaker section and the child belonging to disadvantaged group are not discriminated against and prevented from pursuing and completing elementary education on any grounds;
- (d) provide infrastructure including school building, teaching staff and learning equipment;
- (e) provide special training facility specified in section 4;
- (f) ensure and monitor admission, attendance and completion of elementary education by every child;
- (g) ensure good quality elementary education conforming to the standards and norms specified in the Schedule;
- (h) ensure timely prescribing of curriculum and courses of study for elementary education; and
- (i) provide training facility for teachers.

**9. Duties of local authority.** Every local authority shall –

- (a) provide free and compulsory elementary education to every child:

Provided that where a child is admitted by his or her parents or guardian, as the case may be, in a school other than a school established, owned, controlled or substantially financed by funds

provided directly or indirectly by the appropriate Government or a local authority, such child or his or her parents or guardian, as the case may be, shall not be entitled to make a claim for reimbursement of expenditure incurred on elementary education of the child in such other school;

(b) ensure availability of a neighbourhood school as specified in section 6;

(c) ensure that the child belonging to weaker section and the child belonging to disadvantaged group are not discriminated against and prevented from pursuing and completing elementary education on any grounds;

(d) maintain records of children up to the age of fourteen years residing within its jurisdiction, in such manner as may be prescribed;

(e) ensure and monitor admission, attendance and completion of elementary education by every child residing within its jurisdiction;

(f) provide infrastructure including school building, teaching staff and learning material;

(g) provide special training facility specified in section 4;

(h) ensure good quality elementary education conforming to the standards and norms specified in the Schedule;

(i) ensure timely prescribing of curriculum and courses of study for elementary education;

(j) provide training facility for teachers;

(k) ensure admission of children of migrant families;

(l) monitor functioning of schools within its jurisdiction; and

(m) decide the academic calendar."

63. Sub section (2) of Section 21 of RTE Act, which is extracted below, enumerates the functions to be performed by SMC:-

"(2) The School Management Committee shall perform the following functions, namely:-

(a) monitor the working of school;

(b) prepare and recommend school development plan;

(c) monitor the utilization of the grants received from the appropriate Government or local authority or any other source; and

(d) perform such other functions as may be prescribed."

64. Let us be quite forthright at the very outset that in the existence of Article 21-A of the Constitution and RTE Act the State

Government or for that matter any other Government in the country cannot discriminate between children within the age of six to fourteen years belonging to Tribal/Difficult Areas vis-à-vis such children of Non-Tribal/Non-Difficult Areas in the matter of providing free and compulsory education. If the State resorts to such recourse, it would be on the face of it ultra vires of the Constitution and against the very spirit of RTE Act and thus violative of Articles 14 and 16 of the Constitution. No such act can be countenanced on any premise, whatsoever.

65. Article 21-A of the Constitution was inserted by the Constitution (Eighty-Sixth Amendment) Act, 2002, with a view to grant the right of elementary education the status of a fundamental right against the backdrop that right to education was even earlier included under Article 41 of the Constitution as a directive principle of State policy. As a consequence thereof RTE Act was brought on the statute book. As already noticed, it was thereafter that the State Government granted its approval for formation of SMCs under RTE Act in the schools functioning under the education department as per guidelines contained in Annexure 'Ka' to the letter dated 6.3.2010, Annexure P-1, vesting those committees with power "to select the part time/contract teachers as per the Government policy" vide para 4.19. As per para 5.1 the financial resources of the SMC may be received from the following sources:-

**"5.1 The financial resources of the School Management Committee may be received from the following sources:**

- 5.1.1 Out of the grants received from the government, the School Grant, maintenance grant, Grant in aid, building grant or other budgetary allocation made by the government.
- 5.1.2 Out of the grants as may be given to the SMC by the Non-government organization, local bodies (urban or rural).
- 5.1.3 Voluntary donation/deposits by the parents/community members.
- 5.1.4 The fees of the utilization of school premises for fairs or other community objectives.
- 5.1.5 The bank account of the funds of the SMC will be opened and run under the joint signatures of the President and the Member Secretary. In case of change of President after the first annual meeting, the signature of the new President shall be conveyed to the Bank.
- 5.1.6 The annual accounts of the expenditure incurred will be submitted by the Member Secretary for the perusal of the general house and will be made available for social audit or for audit to the agency authorized by the government for audit."

66. There cannot be any denying of the fact that initially SMC teachers were engaged throughout the entire State in terms of para 4.19 of the guidelines contained in Annexure 'Ka' to the aforesaid letter dated 6.3.2010. The possibility that some of the petitioners engaged as SMC teachers for Tribal/Difficult Areas might have been initially recruited in terms of these guidelines, cannot altogether be ruled out. Para 4.19 mandated that "SMC will not have the authority to appoint any part time/contract worker without the approval of the authorized officer". However, "authorized officer" has not been defined either in RTE Act or the Rules. In such circumstances, "respective Dy. Director of Education" referred to in para 1 of the procedure contained in Annexure-A to the aforesaid letter dated 17.07.2012, whereby the policy for engagement of teachers through SMCs for Tribal/Difficult Areas was framed, cannot be said to be an authorized officer for the

purposes of para 4.19 of the guidelines contained in Annexure 'Ka' to the aforesaid letter dated 6.3.2010, retrospectively, that is prior to 17.7.2012. In this regard, we may refer to the following paragraph of a Division Bench judgment dated 23.8.2011 of the High Court of Judicature at Patna in **Civil Writ Jurisdiction Case No. 10113 of 2007, Smt. Renu Kumari Panday Vs. The State of Bihar and others and connected matters:-**

"We may also note here that though the State Government framed a complete scheme for employment of Panchayat Shiksha Mitra at Gram Panchayat level in furtherance of its goal of "Education for All", in none of the aforesaid Resolutions the Government had provided for an adjudicatory machinery. In other words, the State Government did not make any provision for redressal of grievance in respect of selection and employment of Panchayat Shiksha Mitra or their reemployment after the expiry of the contractual period. On perusal of the records of the above writ petitions, we find that in absence of such machinery, the aggrieved persons approached the authority whom such persons considered to be the competent/the convenient authority. In our opinion, in absence of powers expressly conferred upon any such authority the reports or the orders made by such authority are of no consequence. No relief can be granted on the basis of the finding recorded by such authority. We may also point out that Elementary Teachers Appellate Authority constituted under Rule 18 of the Rules, as amended by Bihar Panchayat Elementary Teacher (Employment and Service Conditions) (Amendment) Rules, 2008 is empowered to entertain, hear and decide the appeals arising out of the employment of elementary teachers under the Rules. The said appellate authority has no jurisdiction to entertain, hear or decide the disputes relating to the employment of Panchayat Shiksha Mitra under the then prevalent Resolutions, Circulars, Orders, Instructions."

67. The Hon'ble Supreme Court has declined to interfere with the above order of Hon'ble Patna High Court and has dismissed the **Special Leave to Appeal (Civil) No. 33303/2011, Renu Kumari Pandey Vs. State of Bihar & Ors.** vide order dated 9.1.2012, though

with liberty to the petitioner to file a review application before the High Court.

68. It is another matter that the term “respective Dy. Director of education” can be treated to be the authority vested with the implementation of the aforesaid policy for recruitment of teachers for Tribal/Difficult Areas through SMCs on and with effect from issuance of the aforesaid notification dated 17.7.2012. This inference is further fortified from the introductory note to the procedure contained in Annexure-A to the said notification dated 17.7.2012, titled as “Procedure for the appointment of a Teacher by the SMC to the educational Institutions of Tribal/Difficult Areas”, which reads as under:-

**“Procedure for the appointment of a Teacher by the SMC to the educational Institutions of Tribal/Difficult Areas.**

The School Management Committees of the educational Institutions located in the Tribal/Difficult areas have requested to fill up vacant posts of teachers in their schools. The Government is making all efforts to fill up all the vacant posts in the educational institutions in the State but even then some posts in the Tribal/Difficult areas remain vacant due to retirement, transfers, promotions etc. As such the studies of the students suffers badly. Keeping in view the betterment of the study of students in these area, it has been decided by the Government to permit the School Management Committees of educational institution situated in Tribal/Difficult areas as notified by the Department of Personnel (Annexure-I), to provide the teachers against vacant post as per the clause 15 of the “Right to Children to Free and Compulsory Education, Himachal Pradesh, Rules 2011” **and para 4.19 of the guidelines issued by the Government for the constitution of School Management Committees in the educational institutions under the “Right of Children to Free and Compulsory Education, Himachal Pradesh Act, 2009”** (emphasis supplied).

The Government hereby frames the following procedure for the appointment of teachers through the SMCSs purely on period basis:-

69. On a bare reading of the above introduction it is manifest that while framing the procedure for appointment of teachers through the SMCs purely on period basis for Tribal/Difficult Areas, para 4.19 of the guidelines (Annexure 'Ka') issued by the Government for the constitution of School Management Committees in the education institutions under RTE Act, was also taken into consideration, meaning thereby that prior to that there was no such detailed procedure for appointment of teachers through SMCs and as such para 4.19 was holding the field.

70. True it is that Annexure 'Ka' vide which SMCs have been constituted under RTE Act as per approval accorded by the State Government vide letter dated 6.3.2010 is not of statutory nature, but even despite that, we have no doubt in our minds that it is binding upon the respondent-State.

71. It shall be pertinent to notice Rule 15 of the Rules, which provides for salary and allowances and conditions of service of teachers for the purpose of Section 23 (3) of RTE Act, which reads as under:-

**"15. Salary and allowances and conditions of service of teachers for the purpose of section 23(3).** The salary and allowances payable to and the terms and conditions of service of teachers of schools specified in sub-clause (i) of clause (n) of section 2, shall be as may be specified by the State Government from time to time through its various Recruitment & Promotion Rules of the respective posts and other orders/instructions issued by the State Government.

Provided that the State Government may through a scheme notified by it, allow the School Management Committee to engage teachers on part-time or temporary basis and pay them at such rates as are specified in the instructions issued by the State Government."

72. A bare perusal of the above Rule would go to show that even the interests of SMC teachers working in Non-Tribal/Non-Difficult Areas are protected thereunder inasmuch as that they are entitled for payment of “salary and allowances as may be specified by the State Government from time to time through its various Recruitment and Promotion Rules of the respective posts and other orders/instructions framed by the State Government” (emphasis supplied). In the alternative the proviso to this Rule lays down that “the State Government may through a scheme notified by it, allow the School Management Committee to engage teachers on part-time or temporary basis and pay them at such rates as are specified in the instructions issued by the State Government” (emphasis supplied). In this view of the matter, Annexure ‘Ka’ to the aforesaid letter dated 6.3.2010, pursuant to which SMC teachers were engaged throughout the entire State including, perhaps, some of the SMC teachers of Tribal/Difficult Areas, is held to be binding upon the State Government.

73. In view of the above, we conclude that since the Government decision granting approval to SMCs for engagement of part time/contract teachers in terms of Annexure ‘Ka’ to letter dated 6.3.2010 is not shown to have been abrogated and is still in force and the same governs the entire state, albeit the fact that a separate policy for SMC schools of Tribal/Difficult Areas has also been framed by the State Government vide notification dated 17.7.2012, as per Annexure-A referred to hereinabove, there cannot be any discrimination between both

sets of SMC teachers as far as the period 6.3.2010 to 17.7.2012 is concerned, when procedure for engagement of teachers in Tribal/Difficult Areas through SMCs was introduced vide Annexure-A to the notification dated 17.7.2012. Even during this period the State Government cannot shirk its responsibility under Article 21-A of the Constitution read with Sections 6, 7, 8 and 9 of RTE Act to make provision for payment of remuneration to the part time/contract teachers engaged by the SMCs under para 4.19 of Annexure 'Ka' to the letter dated 6.3.2010 at par with their counterparts engaged by the State Government on contract/part time/period basis. It is because it was only for the reason that there was paucity of teachers in schools throughout the State, which necessitated engagement of such teachers, who were interviewed by the SMCs as per the prevailing criteria, as is apparent from Annexure P-3 to CWP No. 3162 of 2013. The State Government cannot be permitted to take a stand at this stage that such appointments were without the approval of the "Authorized Officer", as on the one hand no such officer is shown to have been appointed as already noticed and on the other no such material has been brought on record, which in any case can be available only with it and the petitioners cannot be expected to produce the same.

74. As far as the period after 17.7.2012 onwards is concerned, suffice it to say that as already observed the petitioners in both sets of cases are continuing in terms of interim orders passed by this Court and as such both sets of SMC teachers working in Tribal/Difficult

Areas and Non-Tribal/Non-Difficult Areas are required to be treated equally in the peculiar facts and circumstances of the present case.

75. Above all, the State exists in perpetuity and governance is continuing process, which requires fairness, impartiality, objectivity, transparency and consistency, interalia, amongst other facets of governance vis-a-vis executive/administrative functions.

76. In the face of Article 21-A of the Constitution and the provisions of the RTE Act, particularly those referred to hereinabove, the State cannot set up financial constraints as a valid ground to deny equality before law and equality of opportunity in matters of public employment guaranteed under Articles 14 and 16 of the Constitution. The defence of classification set up by the State as a valid ground for discrimination between SMC teachers of Tribal/Difficult Areas and Non-Tribal/Non-Difficult Areas does not pass the following twin test:-

- “(i) The classification must be founded on an intelligible differentia which must distinguish persons or things that are grouped together from others left out of the group; and
- (ii) Such differentia must have rational relation to the object sought to be achieved by the statute, legislation or provision.”

77. Furthermore, it is a matter of common knowledge that the so called public schools are mushrooming in every nook and corner of the State. Every parent, who is possessed of some means, is admitting his children in such schools even at the cost of hiring accommodation in the mufasil kasbas/towns where ordinarily mothers are residing with the children, so that they can get education in such schools. This trend is telling upon the overall standards of education in

Government schools and particularly at primary and middle level, which are the institutions of imparting universal free and compulsory education to children between the age of six to fourteen years. It is also a matter of common knowledge that only the children belonging to poor and weaker sections of society, such as Scheduled Castes, Scheduled Tribes, OBCs and other under privileged sections of society viz. migrant labourers, low paid employees working in Government/semi Government/private sectors and self employed persons, such as small vendors etc., send their children to Government schools. The State cannot allow the situation to deteriorate further by experimenting by way of recruiting teachers of various categories such as Volunteer, Vidya Upasak, Tenure, Contract, Ad hoc, Para, PAT, PTA and SMC appointees, Part Time/Period basis etc., as is the practice being adopted in the state for the last more than a quarter century.

78. Fundamental Right of free and compulsory elementary education to all children of the age of six to fourteen years guaranteed under Article 21-A of the Constitution would be meaningless unless the schools imparting such education are equipped with minimum necessary infrastructure such as school buildings, teachers etc., besides provision for portable drinking water and toilet facilities. In this regard, the directions issued by the Hon'ble Supreme Court in *Environmental and Consumer Protection Foundation Vs. Delhi Administration and others*,

(2012) 10 Supreme Court Cases 211 can be cited in support of the observations made by us hereinabove.

79. The claim for regularization has been given up by both sets of petitioners during the course of hearing and rightly so as neither they were recruited in accordance with the Recruitment and Promotion Rules nor they hold a civil post(s). To the contrary the nature of their engagement was purely part time/contractual/on period basis for a fixed term, which does not confer any right upon them to claim regularization.

80. In support of this conclusion, reliance is placed on (1) *Secretary, State of Karnataka and others vs. Uma Devi* (3) and others, (2006) 4 Supreme Court Cases 1 (supra), (2) *State of Haryana and others vs. Polu Ram and another*, (2010) 15 Supreme Court Cases 452 (supra), (3) *Guru Charan Singh vs. State of Uttar Pradesh and others*, (2011) 13 Supreme Court Cases 37, (4) *Union of India and another vs. Kartick Chandra Mondal and another*, (2010) 2 Supreme Court Cases 422 and (5) *P.U. Joshi and others vs. Accountant General, Ahmedabad and others and connected matter*, (2003) 2 Supreme Court Cases 632.

81. In view of the authoritative pronouncement of law enunciated by the Hon'ble Supreme Court in *Uma Devi* (supra), the contention on behalf of the petitioners that even if it is held that their appointment is by way of stop-gap arrangement, they cannot be replaced by another stop-gap arrangement, as has been held in *Piara Singh's* case (supra), does not hold good.

82. For the same reason as above, the petitioners are also not entitled for equal pay at par with regularly employed teachers, which factual and legal position has also been candidly admitted to be correct by them across the bar at the time of hearing. On the same analogy their prayer for framing policy for imparting training to them is not legally tenable.

83. The principle of law laid down by the Hon'ble Supreme Court in *Union of India vs. Dineshan K.K.*, (2008) 1 Supreme Court Cases 586 (supra), is not applicable to the peculiar facts and circumstances of the present case, as also for the detailed reasons enumerated hereinabove, as such the petitioners cannot derive any strength in support of their contention for "equal pay for equal work".

84. Now, the question that remains to be determined is whether a mandamus can be issued against the respondents-State not to dispense with the services of both sets of petitioners. Their prayer to this effect can also not be considered, what to say of being granted, keeping in view the nature of their employment and the reasons elaborated in detail hereinabove and is accordingly declined.

85. However, it is clarified that insofar as paras 9 and 10 of Annexure-A to the notification dated 17<sup>th</sup> July, 2012, laying down the policy/procedure "to engage a Teacher(s) through the School Management Committees purely on period basis in Elementary/Higher Educations Departments of Himachal Pradesh in Tribal/Difficult Areas", which are extracted below, mean one and the same thing that tenure of

a teacher appointed under this scheme would automatically come to an end in the situations stipulated under those paras and that such teacher shall not be allowed to continue after completion of academic session or after the joining of regular/contract teacher appointed by the Government, but does not mean that a SMC teacher, who has served under the said scheme for a term cannot compete for re-employment alongwith other aspirants during the next academic session, in which eventuality the most meritorious candidate would be entitled for engagement in the new academic session(s), which would be in the overall interests of the institutions and the students:-

- “9. The Head of the Institutions ensure that the services of the said SMC provided teachers will automatically be terminated as and when regular/contract teacher appointed /transferred by the Government joins against the said post or after completion of the academic session of the institution, whichever is earlier.
10. In the next academic session, a fresh selection process will be conducted. In no case, the SMC provided teacher earlier be allowed to be continue after completion of academic session nor after the joining of regular / contract teacher appointed by the Government.”

86. The prayer of both sets of petitioners for treating them at par with the teachers recruited by Parent Teacher Association (PTA appointees) does not fall within the domain of this court being a policy matter, which they may pursue with the concerned Government, if so advised, in accordance with law.

87. In the result, the petitions succeed partly and are accordingly allowed in part in the following terms:-

- (1) SMC teachers including those of Non-Tribal/Non-Difficult Areas would be entitled for remuneration with effect from their initial appointment till they continue to be in such employment strictly in terms of their employment on part time/contract/period basis and the respondent-State is directed to pay the same to them as mandated under Article 21-A read with Articles 14 and 16 of the Constitution, RTE Act and the Rules;
- (2) Both sets of SMC teachers are entitled to compete for being appointed as such in the new academic session(s) alongwith other eligible candidates and any interpretation of paras 9 and 10 of Annexure-A to the notification dated 17<sup>th</sup> July, 2012 to the contrary, would not come in their way.
- (3) Rest of the claims set up by the petitioners are declined.

88. The petitions stand disposed of accordingly.

(V.K. Sharma)  
Judge.

October 1, 2013.  
(Lsp/Vs/Rkv/Krs)