



**IN THE HIGH COURT OF HIMACHAL PRADESH  
AT SHIMLA**

**CWP No.2427 of 2026  
and CWP No.2501 of 2026  
Decided on: 29.04.2026.**

**1. CWP No. 2427 of 2026**

Joint Teachers Front of Himachal Pradesh  
...Petitioners

*Versus*

State of H.P. & Others  
...Respondents

**2. CWP No. 2501 of 2026**

Narender Kumar & Another  
...Petitioners

*Versus*

State of H.P. & Others  
...Respondents

**Coram:**

**Hon'ble Mr. Justice Vivek Singh Thakur, Judge**

**Hon'ble Mr. Justice Ranjan Sharma, Judge**

<sup>1</sup>*Whether approved for reporting?. Yes.*

For the Petitioners : Mr. Sanjeev Bhushan Senior Counsel alongwith Mr. Rajesh Kumar and Mr. Rakesh Chauhan, Advocates, in CWP No 2427 of 2026.

For the Respondents: Mr. Anup Rattan, Advocate General with Mr. Ramakant Sharma, Additional Advocate General, and Ms. Swati Draik, Deputy Advocate General and Mr Shalabh Thakur, Assistant Advocate General for the Respondents 1 & 2-State, in CWP No. 2427 of 2026.

Ms. Richa Sharma, Advocate, for Respondent No 3-HPBSE.

Ms. Ritta Goswami, Senior

<sup>1</sup> *Whether reporters of Local Papers may be allowed to see the judgment?*

Advocate with Ms. Komal Chaudhary, Advocate, for Respondent No 4-CBSE.

For the Petitioners : Mr. Roop Lal Chaudhary and Mr. H.R. Sidhu, Advocates, in CWP No. 2501 of 2026. ◇

For the Respondents: Mr. Anup Rattan, Advocate General and Mr Ramakant Sharma, Additional Advocate General, Ms. Swati Draik, Deputy Advocate General and Mr. Shalabh Thakur, Assistant Advocate General, for the Respondents 1 & 2-State, in CWP No 2501 of 2026.

Mr. Chander Shekhar Advocate, for Respondent no 3 -HPBSE.

Ms. Ritta Goswami, Senior Counsel with Ms. Komal Chaudhary, Advocate, for Respondent No.4-CBSE.

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**Ranjan Sharma, Judge**

Joint Teachers Front of Himachal Pradesh and one Shri Satish Kumar being the petitioners in CWP No. 2427 of 2026, have come up before this Court seeking the following reliefs:

- “(i). That an appropriate writ, order directions may kindly be issued and para 5.5 of the Notification dated 19.1.2026, Annexure P-3 may be quashed and set aside with further directions to the respondents not to implement any other provision of the policy with respect to creating a sub care within the respective

parent cadres of the teachers already teaching in the State of HP in the interest of law and justice.

- (ii) That an appropriate writ, order or directions may kindly be issued directing the State of HP not to conduct any selection process for appointment of the teachers in the newly CBSC affiliated schools in the interest of law and justice.
- (iii) That an appropriate writ, order or directions may kindly be issued and the impugned Notification dated 11.2.2026, Annexure P-7 may very kindly be quashed and set aside in the interest of law and justice.”

**2.** In connected petition, one Shri Narender Kumar and another being the petitioners, in CWP No 2501 of 2026, have come up before this Court seeking the following reliefs:

- “(i). That writ of certiorari may kindly be issued, quashing and setting aside the impugned communication dated 19.02.2026 (Annexure P-7).
- (ii) That writ of mandamus may kindly be issued, directing the respondent department to deploy all the teachers i.e. Language Teacher, Shastri and TGTs whose names have already been submitted by the respondent State to the CBSE to get the affiliation and

CBSE thereafter deployed such teachers like the petitioners to check the answer-sheets of CBSE.

- (iii). That writ of mandamus may kindly be issued, directing the respondent department not to create class into class of the teachers by holding test for selection in the schools affiliated to Central Board of School Education (CBSE).
- (iv) That writ of mandamus may kindly be issued, directing the respondent department to grant the same and similar benefits to the teachers who will teach the students in the schools affiliated to H.P. Board of School Education, Dharamshala as has been granted to the teachers who will teach in CBSE affiliated schools i.e. allowances and period of stay at one station and similar facilities like CBSE affiliated schools should also be given to the normal schools.
- (v) That writ of mandamus may kindly be issued, directing the respondents to open all CBSE affiliated schools in hard /tribal, backward and rural areas so that the children of these areas can also get a chance of getting high quality education, as far as the urban areas are concerned, number of institutions i.e. convent schools, CBSE affiliated schools are already in existence and

the children of urban areas are already getting high quality education from these convent schools, CBSE affiliated schools.”

3. Since the controversy involved in both the connected petitions is *pari materia*, therefore, with consent of Learned Counsels, both these writ petitions are taken up for adjudication together by treating CWP No 2427 of 2026, titled as Joint Teachers Front of Himachal Pradesh and Another versus State of Himachal Pradesh and Others as “**Lead Case**”.

**FACTUAL MATRIX:**

4. Case as set up by the Learned Senior Counsel, in the lead case is, that Petitioner Front was formed from eight registered Associations and Federations, which are duly recognized by the Respondent State, represent all streams of teachers, including Junior Basic Teachers (JBT), Vocational Teachers, Centre Head Teachers, Trained Graduate Teachers, Headmasters, Lecturers (School Cadre), Headmasters and Principals etc. who are serving in Government Schools being run by

State Government, which are affiliated to Respondent No 3-Himachal Pradesh Board of School Education, in terms of their affiliation regulations/byelaws. It is averred that the State Government notified “*Scheme for CBSE Affiliated Schools of Excellence in Himachal Pradesh*” [hereinafter referred to as the “**Scheme**”] on 19.01.2026, [Annexure P-3], which was published in Rajpatra on 11.02.2026, providing for affiliating government schools with the Respondent No 4-Central Board of Secondary Education [CBSE] and also in notifying a *Sub-Scheme for Creation of Sub-Cadre of Teachers for CBSE Affiliated Schools in Himachal Pradesh*, vide Annexure-I [hereinafter referred to as the “**Sub-Scheme**”].

4(i). It is averred that the action of the State Government in creating a sub-cadre within one class of in-service teachers in their respective categories is illegal. It is averred that Para 5.5 of the Sub-Scheme providing for creation of a sub-cadre of teachers and in making the existing teachers to undergo selection, by way of written

test and counselling, when, in-service teachers who are members of petitioner front were appointed after due selection as per applicable norms at relevant time and once they have acquired long experience and are qualified then, action of the State Government in subjecting in-service teachers to undergo written test, followed by counselling, for deployment in CBSE Affiliated Schools will lead to unrest and this criteria was irrational and uncalled for and instead of this criteria, the State government should have prescribed performance based criteria for deployment-posting against posts in sub cadre in CBSE Affiliated schools. It is averred that CBSE has granted affiliation to various schools, being run by the State Government, including Government Senior Secondary School, Chopal as per *Annexure P-5* and even the teachers existing in those schools were allotted Teachers Code by CBSE and were made to perform the duties as Invigilator(s) during examinations and to perform evaluation duties as per *Annexure P-9* and such teachers were

continuing in respective CBSE Affiliated schools and therefore, members of the petitioner front being similarly placed deserve to be treated similarly but without being displaced by teachers who undergo selection for deployment under the Sub-Scheme. It is averred that the implementation of Para 5.5 of Sub-Scheme has created confusion as existing teachers who apply for selection for their deployment in CBSE affiliated schools but were not selected will demoralize them and will demolish the academic atmosphere in the State and therefore, the criteria for making in-service teachers to undergo written test and counselling was irrational. It is averred that even in-service teachers, who are sought to be selected for CBSE Schools, upon promotion will revert back to their parent cadre resulting in vacancies in CBSE Affiliated Schools leading to reshuffling of teachers posted in CBSE Affiliated schools and this will obstruct the studies and defeat the scheme. It is averred that the criteria in Para 5.5. of Sub-Scheme amounts to creating a class within a class in

view of the fact that in-service teachers having than three years for superannuation have been denied the right to compete for deployment against posts in these CBSE Affiliated Schools and this will frustrate and defeat the rights those teachers who have less than two years for superannuation were entitled for posting at stations of choice or preferential schools as per transfer guidelines. It is averred that Para 5.5 of Sub-Scheme does not provide for reservation while filling the posts in CBSE Affiliated schools from in-service teachers. It is averred that the implementation of Para 5.5 of Sub-Scheme shall lead to discrimination amongst the state run schools and implementation of sub scheme will amount to making two boards functional within a State; and implementation of sub-scheme will force the enrolled students to leave existing schools and shift elsewhere ; and the sub-scheme equates two unequals i.e. those existing teachers having longer experience with lower reflexes vis-à-vis in-service teachers who were new entrants and had lesser experience and may have more

active communication skills and aptitude by making them to undergo same written test is alleged to be irrational.

**4(ii).** In-addition to the above, Learned Senior Counsel contented that Respondent No 3-Board could not have been assigned the task of acting as an “authorized agency” for conducting written test, in terms of the prospectus, *Annexure P-8*, when, State government has withdrawn affiliation of 145 schools from Respondent No 3-State Board of School Education Board and had switched over the affiliation to the Respondent No 4 Board-CBSE, which reveals inefficiency of the State Board. It is averred that in terms of Clause 12 of the Prospectus, *Annexure P-8*, though question paper for written test was to have four series but question paper of one series was circulated at the time of written test and therefore, the selection being contrary to the terms in the prospectus was vitiated.

In this backdrop, the *Lead Case* was filed, with averment in Paras 9 (vii) and (xiii)

that petitioner(s) do not intent to lay a challenge to the Policy but have prayed for quashing Para 5.5 of the Notification dated 19.01.2026, Annexure P-3, creating the sub-cadre of posts of teachers in CBSE Affiliated Govt Schools and for quashing the criteria for filling up the posts in the newly CBSE Affiliated Govt Schools from in-service teachers by making them to face the written examination; with the prayer to quash the Notification issued by the Respondent No-3 State Board on 11.02.2016 [Annexure P-7], starting process for filling 5623 posts of teachers [for 134 CBSE Affiliated Govt Schools, which were later increased] from the in-service teachers by inviting online applications in terms of prospectus; with the further prayer for directing the State Authorities not to conduct any written test in terms of Para 5.5 of sub-scheme for filling posts of teaches in the newly CBSE Affiliated Govt schools.

**PROCEEDINGS BEFORE THIS COURT:**

**5.** Pursuant to the issuance of notice on 03.03.2026, the Respondents 1 to 3 have filed

their respective replies. Respondent No 4-CBSE prayed for time to file reply. Learned Counsel for the petitioners made a statement that no rejoinders were intended to be filed. The matter was listed on 20.03.2026, when, Learned Counsel for the petitioners prayed for time to bring on record subsequent events and therefore, this Court passed an interim order on 20.03.2026, that the process may go on, but the result shall not be declared without leave of the Court.

**STAND OF STATE AUTHORITIES IN REPLY-AFFIDAVIT:**

**6.** Pursuant to the notice of motion, the State Authorities have filed Reply-Affidavit dated 11.03.2026, of Director School Education, Himachal Pradesh.

**6(i).** Perusal of Reply-affidavit indicates that in conformity with the National Education Policy 2020, Respondent State took a policy decision notifying a “Scheme for CBSE Affiliated Schools of Excellence” for implementation in the Himachal Pradesh in a phased manner. It is averred that for achieving the objectives, the Respondent State

notified a “Sub-Scheme for creation of Sub-Cadre of Teachers for CBSE Affiliated Schools”, so as to establish, strengthen and upgrade selected government schools across the State at par with national standards. It is averred that Scheme was aimed at improving teacher quality, school governance and excellence through high professional standards for teachers. It is averred that Scheme provides for creation of a Sub-Cadre of teaching faculty, creation of new posts and rationalization of existing staff. It is averred that the Scheme was aimed at ensuring stability, specialization and continuity through dedicated CBSE Teachers Sub-Cadre, in terms of the norms provided in Sub-Scheme, as in Annexure-I. It is averred that separate dedicated sub-cadre of teachers shall be formed from teaching posts within the existing parent cadre and by creation of new posts as per actual need of the institutions, as may be approved by the government. It is averred that the teaching faculty for sub cadre shall include all categories of teachers from Primary Teachers

to Principal {except Mathematics and English Teachers, for whom higher educational standards have been prescribed for TGT's and PGTs}. It is averred that the State Government may create separate dedicated cadre of teaching faculty for schools under this sub-scheme and the State Government may frame Recruitment and Promotion Rules for resulting service conditions of teachers of this cadre. It is averred that for creation of sub-cadre, the induction into CBSE Sub-Cadre shall be made by method of selection, in order of merit, on the basis of written test followed by counselling amongst the in-service teachers who were below 55 years of age {except those teaching who are left with less than 3 years for superannuation at 58 years} {hereinafter referred to as **“Selection of eligible Inservice Teachers for Deployment”**} and by way of selection from eligible candidates by open competition through Rajya Chayan Ayog by direct recruitment on the basis of written test and counselling {hereinafter referred to as **“Selection of eligible candidates**

***for Direct Recruitment}***”.

**6(ii).** Reply Affidavit states that the Scheme and Sub Scheme aims at achieving objectives of the National Education Policy. It is averred that initially 5623 posts, and now 6146 posts of 27 categories of teachers were to be filled in newly CBSE Affiliated schools by “*Selection for Deployment-Posting from eligible Inservice Teachers*” on the basis of written test followed by counselling in terms of Prospectus and 12093 teachers had applied for written test in terms of Para 5.5 of Sub Scheme. It is averred that the criteria of selection in Para 5.5. of Sub-Scheme prescribed a just and transparent mechanism of selection for filling up of posts from in-service teachers. It is averred that Para 5.5 of the Sub-Scheme, prescribes eligibility for in-service teachers giving an equal opportunity to desirous eligible in-service teachers, covered under the Scheme to apply and compete for said posts. It is averred that presently 145 Government Schools, as detailed in *Annexure R-2*, have been affiliated with CBSE and the State

Government is committed to affiliate 500 Government Schools with CBSE. It is averred that the CBSE affiliation has been resorted to for upgrading the quality of education and to meet out the drop out in Government schools. It is further averred that the eligible in-service teachers, who opt and apply for Selection for posts in the newly CBSE Affiliated Govt Schools are to be posted on the basis of merit obtained in written test followed by counselling. It is averred that besides the mode of recruitment to the posts in sub cadre from in-service teachers, the State Government will fill-up the posts in the sub cadre of CBSE Affiliated Govt schools by way of direct recruitment for which the State Government granted approval on 27.02.2026, *Annexure R-2/5*, for filling 600 posts of various categories of teachers through Rajya Chayan Ayog. Reply-Affidavit indicates that after the introduction of Scheme on 19.01.2026 [*Annexure P-3*] the enrolment in CBSE affiliated schools as mentioned in Para 20 of the reply-affidavit has considerably increased. It is averred

that merely because the implementation of the Scheme and Sub Scheme shall lead to personal hardships, in dislocating-transferring existing in-service teachers cannot be a ground to defeat larger public interest. It is averred that there are 59443 teachers serving in State of Himachal Pradesh and in order to eliminate the pick and choose in deployment and postings amongst the in-service teachers, the criteria-method mentioned in Para 5.5 was evolved to ensure a just, equitable and transparent mechanism-method for selection of teachers through selection. Para 27 of Reply -Affidavit states that the selection for sub-cadre as prescribed in Para 5.5 will not adversely affect the conditions of service of in-service teachers in any manner, as their lien has been retained in parent cadre with right of promotion etc, in parent cadre. It is averred that the contention that CBSE gave affiliation to GSSS Chopal as in Annexure P-5 and other Government Schools and such teachers were given CBSE Teachers Code and made to perform the duties as invigilator

and in evaluation in CBSE Affiliated Govt Schools and petitioners may be treated similarly is denied with the stand that such teachers do not have any vested right to continue in newly CBSE Affiliated Govt School(s) but continuance if any, in the CBSE Affiliated Schools, shall be as stop gap arrangement so as to meet out the exigencies under the Scheme/Sub Scheme, in case, number of in-service teachers selected is less than the number of posts sought to be filled by selection and subject to fulfilment of other conditions in Para 5.5. of Sub-Scheme as referred to above. Para 9 (v) of Reply-Affidavit indicates that Para 5.6.2 of the Notification dated 19.01.2026 providing that the in-service teachers who undergo selection under this sub-scheme and are posted in CBSE Schools shall not have any lien in their parent cadre stands substituted with the issuance of a Notification on 23.02.2026 [Annexure P-6] and Para 5.6.2 now provides that in-service teachers who are deployed-posted in CBSE Sub Cadre after due selection, shall retain lien in their

respective parent cadre(s) and even on promotion, such teachers shall be eligible for posting in non-CBSE or CBSE schools as per the available vacancies. Para 24 of the Reply-Affidavit indicates that the petitioner(s) in Lead Case, Joint Teachers Front of Himachal Pradesh has named one Shri Hari Ram Sharma is a Chief Patron (Principal Association of the petitioner front] and petitioner No.2-Satish Kumar both have submitted online applications, desiring to participate in the written test to be conducted by the Respondent-Board for selection to CBSE Affiliated Schools and once both of them have voluntarily participated in selection process therefore, having participated in selection under Para 5.5 of Sub Scheme, they cannot subsequently question the selection process including Para 5.5 as referred to above. It is averred that instant writ petition is a deliberate attempt to obstruct the fair, transparent and merit based administrative mechanism introduced by State Government for deployment of existing teachers in the newly CBSE affiliated schools. In

this background, the State Authorities have prayed for dismissing the writ petition.

**REPLY-AFFIDAVIT BY RESPONDENT No 3-  
STATE EDUCATION BOARD:**

7. Respondent No 3, State Board of School Education, filed Reply-Affidavit dated 12.03.2026 with averments that in terms of communication dated 24.01.2026 received from the Director of School Education, the Respondent No.3-Board issued necessary prospectus and had initiated the selection process, by conducting a written test for selection of eligible in-service teachers against posts in sub-cadre in the newly CBSE Affiliated schools. It is averred that Respondent Board is performing duty of recruiting-selecting agency in terms of the Scheme.

**REPLY-AFFIDAVIT BY RESPONDENT No 4-  
CENTRAL BOARD:**

8. Respondent No 4, Central Board of Secondary Education, filed Reply-Affidavit dated 17.03.2026, of Assistant Secretary Incharge of the Board, with the stand that the affiliation was accorded in lieu of Article 51-A of the

Constitution of India, so as to achieve objective of quality education in schools all over India. It is averred that petitioner has questioned Para 5.5. of Sub Scheme as in Notification dated 19.01.2026 and Respondent No 4-Board, being an affiliating body grants affiliation to schools who fulfill the norms as per its affiliation by-laws.

**NO REBUTTAL BY PETITIONER(s):**

9. After receipt of reply, and listing of the case, Learned Counsel for the petitioners in Lead case made a statement on 12.03.2026, that the petitioners did not intend to file any rejoinder.

**CLAIM OF PETITIONERS IN CONNECTED CASE:**

10. Claim of petitioners is that they were initially appointed in the Respondent State, as Shastri and Language Teachers, who were later treated as Trained Graduate Teachers (Hindi and Sanskrit) respectively as per the Notification dated 20.08.2022 and in terms of the judgment dated 04.09.2023, in CWP No 2171 of 2023, they

were held entitled for the pay scale of Trained Graduate teachers and other benefits and State had filed an LPA, wherein, the financial benefits have been kept in abeyance. It is averred that the petitioners have been performing the duties in CBSE Affiliated Govt Schools and they may be continued in said schools. It is averred that Notification dated 19.02,2026, Annexure P-7, creates a class within a class and the criteria prescribing holding of written test for selection and resultant deployment to these Schools was illegal and arbitrary. It was averred that Para 6 of the Notification dated 19.02.2026, Annexure P-7, giving the Financial Incentive to teachers who were selected and deployed in the CBSE Affiliated Govt Schools but in denying these incentives to the petitioners was discriminatory. It is averred that the State Authorities should open the CBSE Affiliated Schools in the entire state and in not extending CBSE Affiliation to others schools was illegal and discriminatory.

**11.** This matter was listed for considering

on 02.04.2026 and was thereafter heard on four occasions. During hearing Learned Counsel for the petitioner stated that the relief(s) sought in connected case were pari materia and therefore, matter was heard further on 21.04.2026 and was finally heard on 22.04.2026.

**12.** Heard, Mr. Sanjeev Bhushan, Learned Senior Counsel assisted by Mr. Rajesh Kumar and Mr. Rakesh Chauhan in CWP No. 2427 of 2026; and Mr. Roop Lal Chaudhary and Mr. H.R. Sidhu, Learned Counsel(s) for petitioners in CWP No. 2501 of 2026; and Mr. Anup Rattan, Learned Advocate General with Mr Ramakant Sharma, Additional Advocate General and Ms. Swati Draik, Deputy Advocate General and Mr Shalabh Thakur, Asstt. Advocate General, for Respondent-State; and Ms. Richa Sharma & Mr. Chander Shekhar, Learned Counsel(s) for the Respondent No 3-HPBSE; and Ms. Ritta Goswami, Learned Senior Counsel, assisted by Ms. Komal Chaudhary, Advocate, for the Respondent No 4-CBSE and have gone through the material on

record.

**CONTENTIONS OF LEARNED SENIOR COUNSEL IN LEAD CASE:**

**13.** Learned Senior Counsel has assailed Para 5.5. of Notification dated 19.01.2026 Annexure P-3, issued by the State Authorities and Notification dated 11.02.2026, Annexure P-7, issued by Respondent No 3-Board in starting the selection process for filling 5623 up [now 6146 posts] of teachers in newly CBSE Affiliated Govt Schools; on the grounds, firstly, in terms of the Notification dated 19.01.2026, Annexure P-3, the Respondent State could not have created a sub-cadre of teachers for newly CBSE Affiliated Govt Schools in terms of Para 5.5 thereof; and secondly, the criteria prescribed in Para 5.5 of the sub-scheme providing for filling posts of teachers in newly created sub-cadre of CBSE Affiliated Govt Schools from in-service teachers including the petitioners by selection on the basis of the written test and counselling was arbitrary, unreasonable and illegal; and thirdly, even implementation of Para 5.5 of the Sub-Scheme has resulted in arbitrariness

in State action, as detailed hereinunder.

**SCHEME AND SUB-SCHEME CREATING SUB-CADRE OF TEACHERS IN CBSE AFFILIATED GOVT SCHOOLS:**

**14.** Before proceeding to analyze the issue it is necessary to have a recap of the Scheme i.e. *Scheme for CBSE Affiliated Schools of Excellence in Himachal Pradesh [referred to as the “Scheme”]* on 19.01.2026, Annexure P-3, for implementation in Government schools recently affiliated to CBSE, as under:-

Government of Himachal Pradesh  
Department of School Education  
No. EDN-B-A(1)-3/2025 Dated: Shimla-2,

**19<sup>th</sup> January, 2026**

**NOTIFICATION**

The Governor, Himachal Pradesh, is pleased to approve the “Scheme for CBSE Affiliated Schools of Excellence” **(ANNEXURE-I)** for implementation in Government Schools in the State, affiliated with the Central Board of School Education (CBSE) in the public interest.

The Scheme shall come into force from the date of its publication in the Rajpatra (E-Gazette), Himachal Pradesh.

By Order

Sd/-

Rakesh Kanwar, IAS  
Secretary (Education)

Government of Himachal Pradesh

Copy to:

1 to 15. ....not relevant...

**ANNEXURE-1**

**A SCHEME FOR CBSE AFFILIATED SCHOOLS OF EXCELLENCE**

CHAPTER-I

**OBJECTIVE AND REASONS**

The Government of Himachal Pradesh, in **conformity with the National Education Policy 2020** and the growing demand for nationally benchmarked schooling, **hereby introduces the scheme to establish, strengthen, and upgrade selected Government Schools across the State into modern, high-performing, CBSE affiliated institutions** that provide quality education at par with national standards, connecting students of the State with future-ready learning pathways, contemporary pedagogies, strong foundational competencies, advanced skills, and national level opportunities.

This scheme aims to represent a systemic effort to improve Government School infrastructure, academic delivery, **teacher quality**, school governance, and student learning environments in a holistic and sustainable manner.

The primary objective is to establish a network of world-class Government CBSE affiliated Schools in Himachal Pradesh that ensure excellence, equity and accessibility.

The scheme seeks to provide high-quality academic opportunities to students belonging to all socio-economic backgrounds, including children from Scheduled Castes, Scheduled Tribes, OBCs, EWS families, IRDP/BPL households, orphans, single girl children, CwSN, and those residing in remote, tribal, and educationally backward areas.

**Through this initiative**, the Government aims to create future-ready schools with modern infrastructure, high professional standards for teachers, optimal classroom facilities, advanced pedagogical tools, scientific laboratories, digital learning centres, sports infrastructure, and safe and well-regulated campuses. **The scheme shall be implemented in a phased manner across Districts**, with priority accorded to aspirational and underserved regions.

**CHAPTER-II  
PRELIMINARY**

**1. Name of the Scheme and its Commencement**

(1) This Scheme shall be known as **“Scheme for CBSE Affiliated Schools of Excellence”**.

(2) It shall come into force from the date it is notified in the Rajpatra of Himachal Pradesh or from any date as may be specified by the Department of Education.

**2. Definitions-**

(a) to (k). ...not relevant...

(l) **“NCTE”** (National Council for Teacher Education) is a statutory body under the Ministry of Education, Government of India, with its headquarters in New Delhi and regulates and ensures **quality standards in teacher education and training programs across the country**;

(m) **“National Education Policy (NEP) 2020”** means a comprehensive framework developed by the Union Government to guide the development of education in the country and aims to transform education system by promoting holistic development, inclusivity, and lifelong learning;

(n)&(n)....not relevant...

(p) **“state”** means State of Himachal Pradesh.

3 to 14. ....not relevant...

**CHAPTER-VII  
STAFFING NORMS, TEACHER SUB-CADRE AND  
HUMAN RESOURCES**

**15. Creation of Sub-Cadre of teaching faculty, creation of new posts and rationalization of existing staff** including non-teaching faculty;

(1) All teaching appointments shall conform to CBSE Bye-laws and NCTE norms, ensuring that teachers are professionally qualified and trained.

(2) To ensure stability, specialization and continuity, **a dedicated CBSE Teachers Sub-Cadre shall be created under this scheme** and shall be

treated a sub scheme of this scheme, containing detailed rules relating to selection /recruitment/ appointment, tenure, transfer, career progression and performance evaluation. **Separate framework/ Sub scheme** for this is annexed as **ANNEXURE-I**.

(3)(4) ...not relevant...

(5) **Heads of Schools and all Teachers shall undergo induction and refresher programs** on academic leadership, teaching skills, community engagement, crisis management, financial prudence, human resource administration, and school improvement planning.

(6) **All teachers shall undergo annual training** as per the prescribed training calendar covering pedagogy, inclusive education, technology integration, assessment literacy, classroom management, and subject enrichment. Teachers shall participate in CBSE training modules, NISHTHA courses and school-based workshops. Training portfolios shall be maintained and reviewed annually.

**16 to 53.** ...not relevant...

#### **CHAPTER-XIV MISCELLANEOUS**

**54.** All the facilities and concessions, as admissible to students of Government existing schools in the State under various schemes, rules, Act, guidelines, executive instructions etc. shall also be extended to all such schools and students under this scheme.

55. ...not relevant...

**56.** The Government may issue supplementary instructions, operational guidelines and clarifications to ensure effective implementation of this scheme.

57. ...not relevant...

58. Any difficulty arising in implementation of this scheme may be addressed by issuance of appropriate executive orders or instructions, as may be required.

**59.** Department may notify Operational Guidelines

or SOPs for architectural designs of the school building, staffing norms, admission procedures, fee to be charged from the students, scholarships, transport facilities for the students, **allowances for the teachers etc.** and other miscellaneous Guidelines **with the approval of the Government** as per the requirement.

60. The Department may, with the prior approval of the Government, make such changes or amendments to the scheme as may be required to achieve the broader objectives of the scheme.

**14(i).** In order to give effect to object of the Scheme and the creation of a dedicated CBSE Sub-Cadre of teaching faculty and the creation of new posts and rationalization of existing staff including non-teaching faculty, State Government formulated a Sub-Scheme for the Creation of a Sub-Cadre of Teachers for CBSE Affiliated Govt Schools as in *Annexure-I [referred to as the "Sub Scheme"]*, reads as under:-

**ANNEXURE-I**

**A SUB SCHEME FOR CREATION OF SUB-CADRE OF TEACHERS FOR CBSE AFFILIATED SCHOOLS IN HIMACHAL PRADESH**

**1. INTRODUCTION:**

In pursuance of the announcement made by Hon'ble Chief Minister, in his speech on 15th August 2025, on the occasion of Independence Day Celebrations **to affiliate selected 100 schools with the CBSE Board**, the Department of School

Education, Government of Himachal Pradesh has drafted this scheme to **provide quality, equitable, and holistic education to the students** enrolled in the Government Schools including those located in rural and remote areas of the State. This scheme will further strengthen the existing Government Schools including Rajiv Gandhi Government Model Day Boarding Schools, PM SHRI Schools, Institution of Excellence (Schools) and Atal Adarsh Vidhyalayas having good infrastructure and enrolment by affiliating with Central Board of School Education (CBSE).

2. In order to ensure high academic standards in conformity with CBSE curriculum / bye-laws and NCTE norms, **there is a need for a dedicated separate Sub-Cadre of teachers for all such CBSE Schools**, distinct from the general State Cadre of teachers but within the respective parent cadre.

3. The sub-scheme seeks to **create a dedicated Sub-Cadre of qualified and selected teachers by way of selection from amongst the state cadres of teachers** with the limited transfer options within such CBSE schools only and, if required, **by way of creation of new posts**, as may be approved by the Government, from time to time.

**4. DEFINITIONS:**

**4.1 “CBSE School”** means a Government school in Himachal Pradesh that has been granted affiliation by the Central Board of Secondary Education (CBSE) and notified by the State Government for coverage under this Sub-Scheme.

**4.2 “Sub-Cadre”** refers to a distinct category of

teaching posts within the existing parent cadres of the Education Department for exclusive deployment in CBSE affiliated Government Schools, comprising teachers selected through a competitive process.

**4.3 “Parent Cadre”** means original and substantive cadre of teaching faculty (JBT, C&V, TGT, Lecturer /PGT and Principal etc.) as per Government of Himachal Pradesh Recruitment and Promotion Rules, from which the Sub-Cadre shall be carved, for the time being.

**4.4 “Teaching Faculty”** means all categories of teachers including Principals, Vice Principals, Post Graduate Teachers, Trained Graduate Teachers, C & V Teachers and Primary Teachers (JBTs) etc. and **deployed for teaching and academic duties in CBSE Schools** but shall not include the English and Mathematics teachers engaged temporarily under the sub scheme of main Scheme.

**4.5 “Balvatika”** mean pre-primary classes under the School Education System, corresponding to foundational stage learning (3-6 years) as per the National Education Policy, 2020.

**4.6 “Competitive Examination”** means a selection process comprising written test, skill/aptitude assessment, as may be approved/prescribed by Government, conducted by an authorized Government agency for induction of teachers into the Sub-Cadre for the time being.

**4.7 “Vocational/Skill Teachers”** means teachers or trainers appointed as per Central Government /Government norms for providing skill-based,

vocational, technical, or NSQF-aligned education in CBSE Schools.

**4.8 to 4.11 ..not relevant...**

**4.12 “Government Authorized Agency”** means any institution or agency notified by the State Government to conduct competitive examinations, evaluations, verification, or related processes for selection of teachers under this sub-scheme.

**4.13 “Standard Teachers Staffing Norms”** refers to the indicative teacher-strength and subject-wise deployment pattern applicable to CBSE Schools based on enrolment, class-section ratio, and CBSE Affiliation Bye-Laws, as provided in Annexure-A.

**4.14 “NEP-2020 Reforms”** means provisions of the National Education Policy, 2020 applicable to school education, including competency-based learning, foundational literacy and numeracy, multidisciplinary teaching, and digital learning standards etc.

**4.15 “Government or State Government”** means Government of Himachal Pradesh.

**5. SCOPE OF THE SUB-SCHEME, COVERAGE AND APPLICABILITY**

5.1 This Scheme shall be called **“A Sub-Scheme for Creation of Sub-Cadre of Teachers for CBSE affiliated Schools in Himachal Pradesh”** and shall apply to select Government Schools, affiliated with CBSE in Himachal Pradesh.

5.2 The sub-cadre shall cover teaching faculty from Pre-Primary (Balvatika) to Senior Secondary level.

5.3 There shall not be any sub-Cadre of non-

teaching faculty and category wise posts shall be created or sanctioned separately, over and above the existing sanctioned strength, if required in view of functional needs of each institution, by way of internal rationalization/upgradation of posts etc. or by way of recruitment, if required and as may be approved by the Government.

**5.4 CADRE STRUCTURE:**

5.4.1 The **sub cadre of teaching faculty** shall include Principal, Vice-Principal, Post Graduate Teachers (Lecturers-SN), DPEs, Trained Graduate Teachers, C&V, PETs and Primary Teachers i.e. JBTs etc. but shall not include the English and Mathematics Teachers engaged temporarily for these schools under a separate sub scheme. Existing R&P Rules, as applicable to the teachers working in parent cadre of different posts of teaching faculty shall continue to be applicable to all such teachers.

5.4.2 NTTs, Special Educators, Wellness Teachers /Instructor, Vocational/Skill Teachers, and Co-curricular Specialists Teachers etc. **shall be recruited or engaged under the Government Policy in vogue** and shall be appointed/deputed /engaged in such schools on priority basis.

5.4.3. Since **English and Mathematics Teachers** engaged under a separate sub scheme **will not be the part of the sub-cadre**, therefore, their services shall be governed by the respective sub scheme under which they are recruited.

5.4.4. Selection of teachers shall be done keeping in view the requisite Pupil Teacher Ratio and Teacher Section Ratio in conformity with the

provisions contained in the Right to Education Act, 2005 and CBSE Affiliation Bye-Laws, as notified /amended from time to time.

5.4.5 Standard norms for staffing (teaching) in such schools with 1200 students are prescribed in Annexure-A. Based on these standard norms and considering the actual enrolment of students in each class actual requirement of teaching faculty for the creation of sub-cadre shall be assessed and maintained.

5.4.6 Subject to the provisions of the standard requirement of teaching faculty and subject coverage, on the basis of actual enrolment in each class /section in such schools, **Government may, by notification, increase or decrease numbers of teaching and non-teaching faculty in the sub-cadre** from time to time.

5.4.7 Standard requirement for **creation of new posts/cadre**, based on target enrolment upto 1200 students for these CBSE affiliated schools is specified in Annexure-B, subject to the approval / sanction of posts by the Government, from time to time and as per the actual need of the institutions.

5.4.8 Sufficient cadre of ministerial staff shall be provided by rationalization/ upgradation of existing cadre/posts and as prescribed by the Government from time to time. An indicative standard requirement of ministerial staff is specified in Annexure-C.

**5.4.9** Government may **create a separate dedicated cadre** of teaching faculty for schools under this sub scheme and may **notify recruitment and promotion rules** for determining the service

conditions of teachers of such cadre.

## **5.5. SELECTION AND APPOINTMENT**

5.5.1 Selection of teachers for creation of sub cadre within their respective parent cadre shall be made by authorized Government Agency, as approved by the Government, by way of screening through a Competitive Examination **for which applications from the interested eligible teachers** shall be invited by the Directorate of School Education or authorized Agency. Standard format of Application Form shall be devised by the Directorate or authorized Agency.

5.5.2 **Only those existing/in-service teachers** who have a minimum of three years of service remaining at the time of application **shall be eligible for posting in CBSE-affiliated schools and for induction into the CBSE sub cadre.** Other terms and conditions including eligibility criteria and procedure of selection process may be specified by the Government.

5.5.3. In case the Directorate decides to receive the applications for competitive examination, after scrutiny of applications at Directorate level, a list of eligible applicant teachers shall be supplied to the exam conducting agency otherwise the exam conducting agency may directly invite applications as per the terms and conditions finalized by the Government.

5.5.4. **Syllabus for competitive examinations**, for each post of the sub-cadre shall be finalized by Director School Education (or by the authorized agency, in consultation with the Director School Education).

5.5.5 **Teachers applying for selection** to the sub-cadre of CBSE Schools shall be required to exercise their **option for posting in CBSE-affiliated school(s) in order of preference. Selection shall be made on the basis of a written examination followed by counseling.** The allotment of schools shall be made strictly in order of merit, as determined on the basis of the overall score obtained in the written examination and counseling, subject to the candidate qualifying the competitive examination. **Any vacancies remaining unfilled after completion of the selection process** shall be filled through stop-gap arrangements, i.e., by retention of the existing incumbent or by transfer of teachers from other schools. **The process for filling such posts through Direct Recruitment shall be initiated** simultaneously. The **screening/ written test for teachers may be conducted more than once**, as may be decided by the Education Department.

5.5.6 Any teacher retained in or transferred to a CBSE-affiliated school against a vacancy as a stop-gap arrangement shall not be entitled to any additional incentive or special allowance admissible to teachers of the sub-cadre. Such stop-gap arrangement shall remain operative only until the post is filled through Direct Recruitment or through a selection process for the sub cadre.

5.5.7 **Eligibility criteria shall conform** to the NCTE regulations and CBSE byelaws or as may be specified by the Government. However, the **Government may prescribe higher standards** than

the standards prescribed in the existing Recruitment & Promotion Rules for selection of such teachers: Provided that the teachers engaged on outsource, honorarium or Grant in Aid basis or teachers appointed under any Government policy or scheme temporarily, by whatever name called, shall not be eligible for selection to sub cadre.

**5.6 SERVICE CONDITIONS:**

5.6.1 The teachers appointed to the CBSE affiliated schools (existing teachers after the screening test and those who will be recruited by way of direct recruitment) will be appointed to a particular school and shall not be transferred for a period of 10 years in the first instance. The transfer of these teachers within the CBSE schools will be governed and subject to pre-defined guidelines and approval after 10 years. However, under exceptional circumstances, such teachers may be considered for transfer before 10 years within the CBSE schools under the five percent transfer quota system to be specified by the Government.

5.6.2 Existing teachers, who will join CBSE Schools after screening test, will have to give their option to join CBSE teacher sub cadre before joining and **shall not have any lien in the parent cadre.**

5.6.3. Government may specify other service conditions of the sub cadre.

**6 to 9... not relevant...**

**10. MISCELLANEOUS:**

10.1 The Department of School Education, after approval of Government, shall be empowered to

*issue clarifications /instructions to implement the objectives of this sub-scheme, from time to time.*

10.2 The **staffing structure of CBSE Schools shall be reviewed every year** before the start of academic session.

**Annexure-II**

**SUB SCHEME FOR THE ENGAGEMENTS AS PROFESSIONAL ENGLISH AND MATHEMATICS TEACHER WITH FIXED "HONORARIUM" / CONSOLIDATED AMOUNT:**

**1. INTRODUCTION:-** The State Government's decision to make English a compulsory subject from Class 1 to Class 12 is a significant step towards improving education standards.

The State's education system is facing an **acute shortage of professionals in school education**. It has also been observed that, in the past, the state government formulated various policies to recruit teachers at the PTA, SMC and sub-division levels, yet talented professionals could still not be appointed.

The Government has now decided to end such ad-hoc policies and to frame a new policy that ensures recruitment is carried out in accordance with Articles 14 and 16 of the Constitution of India, while staying within the state's financial resources.

Moreover, it has been noted in the public sector that when appointments are made on a regular basis, efficiency and professional ethics tend to decline, causing loss to the education system.

To ensure a robust and equitable education system, the state must prioritize merit-based, transparent recruitment while safeguarding its financial stability-thereby restoring confidence in our schools and securing a brighter future for all students.

To achieve this goal, the government plans to formulate a **special policy** for engaging “English Teachers and Mathematics Teachers” **with higher educational standards** than those prescribed in the Recruitment and Promotion Rules for TGT/PGT positions.

After careful deliberation, the State Government has now decided to introduce a new scheme for the engagement of English Teachers and Mathematics Teachers in the Government schools of the state of Himachal Pradesh.

## **2. AIMS AND OBJECT OF THE SCHEME:**

### **(a) To Bring Professionalism in Education:**

Shifting from routine learning to competency-based learning, where students are encouraged to explore and learn through practical activities.

**(c) Student-Centric Approach and Experiential Learning:** Focusing on developing critical thinking, problem-solving, and life skills among students.

**(d) Professional Development:** Establishing National Professional Standards for Teachers to improve pedagogical skills, enhance subject knowledge, and promote continuous professional development.

**3. & 4.** ...not relevant...

## **5. EDUCATIONAL QUALIFICATION AND AGE FOR ENGLISH TEACHER:**

### **EDUCATIONAL QUALIFICATIONS:**

- A. MA English with 50% marks in Graduation with B.ED and Teaching of English as compulsory subject in B.Ed (BA-B.Ed/B. Com- B.Ed/BSc -B.Ed will be eligible).
- B. The applicant must have passed the Graduation and B.ED with minimum 50% marks and 55% marks in English Subject at Graduation level.
- C. SC, ST and OBC candidates should have 45% marks in Graduation and B.ED and 50% marks in English Subject at Graduation

level.

**AGE:**

A person shall be eligible for engagement under this scheme if he is not less than 25 years and not more than 45 years of age as on the last date of submission of application.

**6. EDUCATIONAL QUALIFICATION AND AGE FOR MATHEMATICS TEACHERS:**

**EDUCATIONAL QUALIFICATIONS:**

- A. MA/MSc. Mathematics with 50% marks in Graduation with B.ED and teaching of Mathematics as compulsory subject in B.Ed (BA- B.Ed/B.Com -B.Ed/B.Sc -B.Ed will be eligible).
- B. The applicant must have passed the Graduation and B.ED with minimum 50% marks and 55% marks in Mathematics Subject at Graduation level.
- C. SC, ST and OBC candidates should have 45% marks in Graduation and 45% marks in B.Ed and 50% marks in Mathematics Subject at Graduation level.

**AGE:**

A person shall be eligible for engagement under this scheme if he is not less than 25 years and not more than 45 years of age as on the last date of submission of application.

**7. to 9. (i) to (xxi).** ....not relevant...

**14(ii).** Respondent-State issued another Notification on 23.02.2026, *Annexure P-6*, substituting Para 5.6.2 of the Notification dated 19.01.2026, by allowing the in-service teachers, who were selected and deployed against posts in sub-cadre of CBSE Affiliated Govt Schools to retain lien in the respective parent cadre

without adversely affecting their seniority, promotion and other related terms of service, in the following terms:-

“Government of Himachal Pradesh  
Department of School Education  
No. EDN-B-A(1)-3/2025 Dated: Shimla the

**23<sup>rd</sup> February, 2026**

**NOTIFICATION**

The Governor, Himachal Pradesh in partial modification of this Department's Notification No EDN-B-A(1)-3/2025 dated 19th January, 2026, is pleased to Substitute the Para 5.6.2 of the "Scheme for CBSE Affiliated Schools of Excellence in Himachal Pradesh", as under:-

"Existing teachers, who will join CBSE Schools after screening test, will have to give their option to join CBSE Teacher Sub-Cadre before joining, however, they **shall have the lien in their respective parent cadre**. Further, their seniority, promotion and other related terms of service shall not get affected in their parent cadre in any manner whatsoever. **On promotion**, the teachers posted in CBSE Schools shall be eligible for posting in non CBSE or CBSE schools, as per available vacancies."

By Order

Sd/-

Rakesh Kanwar, IAS  
Secretary (Education) to the  
Government of Himachal Pradesh

**15.** In backdrop of the Scheme and Sub-

Scheme, as referred to above, this Court proceeds to examine the contentions of the petitioners herein.

**ANALYSIS OF CONTENTIONS OF PETITIONERS:**

**16.** First contention of the Learned Senior Counsel is that Para 5.5 of Notification dated 19.01.2026, Annexure P-3 creating a sub-cadre of teachers by the Respondent State is without authority of law.

The above contention cannot sustain for the reason, firstly, Clause (2) of Article 246 of the Constitution of India empowers the State Legislature to make laws with respect to any matters enumerated in List-III in the Seventh Schedule, in case, the Parliament has not made any laws with respect to entries in the same; and secondly, in terms of Entry No 25 in List-III [Concurrent List] in the Seventh Schedule, the Parliament has not made any laws for creating a dedicated service and for regulating conditions of service of teachers in CBSE Affiliated State Govt Schools ; and thirdly,

in the absence of any laws made by the Parliament, the Legislature of Respondent State was empowered to make laws with respect to matters enumerated in List-III; and fourthly, nothing has been placed on record by the petitioners to establish that the legislature of Respondent State had made laws for creating dedicated service or cadre and for regulating conditions of service of teachers in the CBSE Affiliated State Govt Schools; and fifthly, in the absence of any laws having been made by the legislature of the Respondent State, the power of the State Executive under Article 162 of the Constitution of India does extend to matters upon which the State Legislature is competent to legislate; and sixthly, the power of the State Executive is not confined to the matters over which legislation has already been passed; and seventhly, for exercising executive functions, the only caveat is that is that executive functions do not go against the Constitution or of any law.

**16(i).** The above principles have been outlined by Constitutional Bench of the Honble Supreme Court in the case of **Ram Jawaya Kapur versus State of Punjab, (1955) 1 SCC 553**, in the following terms:-

9. **Article 162**, with which we are directly concerned in this case, lays down :

"Subject to the provisions of this Constitution, the executive power of a State shall extend to the matters with respect to which the Legislature of the State has power to make laws :

Provided that in any matter with respect to which the Legislature of a State and Parliament have power to make laws, the executive power of the State shall be subject to, and limited by, the executive power expressly conferred by this Constitution or by any law made by Parliament upon the Union or authorities thereof."

Thus under this article the executive authority of the State is executive in respect to matters enumerated in List II of Seventh Schedule. The authority also extends to the Concurrent List except as provided in the Constitution itself or in any law passed by the Parliament. Similarly, article 73 provides that the executive powers of the Union shall extend to matters with respect to which the Parliament has power to made laws and to the exercise of such rights, authority and jurisdiction as are exercisable by the Government of

India by virtue of any treaty or any agreement. The proviso engrafted on clause (1) further lays down that although with regard to the matters in the Concurrent List the executive authority shall be ordinarily left to be State it would be open to the Parliament to provide that in exceptional cases the executive power of the Union shall extend to these matters also. Neither of these articles contain any definition as to what the executive function is and what activities would legitimately come within its scope. They are concerned primarily with the distribution of the executive power between the Union on the one hand and the States on the other. They do not mean, as Mr. Pathak seems to suggest, that it is only when the Parliament or the State Legislature has legislated on certain items appertaining to their respective lists, that the Union or the State executive, as the case may be, can proceed to function in respect to them. On the other hand, the language of **Article 162 clearly indicates that the powers of the State executive do extend to matters upon which the state Legislature is competent to legislate and are not confined to matters over which legislation has been passed already.** The same principle underlies article 73 of the Constitution. These provisions of the Constitution therefore do not lend any support to Mr. Pathak's contention.

14. It may not be possible to frame an exhaustive definition of what executive function means and implies. Ordinarily the executive power connotes the residue of governmental functions that remain after legislative and judicial functions are taken away. The Indian Constitution has not indeed recognised the doctrine of separation of powers in its absolute rigidity but the functions of the different parts or branches of the Government have been sufficiently differentiated and consequently it can very well be said that our Constitution does not contemplate assumption, by one organ or part of the State, of functions that essentially belong to another. The executive indeed can exercise the powers of departmental or subordinate legislation when such powers are delegated to it by the legislature. It can also, when so empowered, exercise judicial functions in a limited way. The executive Government, however, can never go against the provisions of the Constitution or of any law. This is clear from the provisions of article 154 of the Constitution but, as we have already stated, ***it does not follow from this that in order to enable the executive to function there must be a law already in existence and that the powers of executive are limited merely to the carrying out of these laws.***

15. The limits within which the executive Government can function under the Indian Constitution can be ascertained without much difficulty by reference to the form of the executive which our Constitution has set up. Our Constitution, though federal in its structure, is modelled on the British Parliamentary system where the executive is deemed to have the primary responsibility for the formulation of governmental policy and its transmission into law though the condition precedent to the exercise of this responsibility is its retaining the confidence of the legislative branch of the State. ***The executive function comprises both the determination of the policy as well as carrying it into execution.*** This evidently includes the initiation of legislation, the maintenance of order, the promotion of social and economic welfare, the direction of foreign policy, in fact the carrying on or supervision of the general administration of the State.

17. Suppose now that the Ministry or the executive Government of a State formulates a particular policy in furtherance of which they want to start trade or business. Is it necessary that there must be a specific legislation legalizing such trade activities before they could be embarked upon? ***We cannot say that such legislation is always necessary....”.***

**16(ii).** The Central Staffing Scheme framed in

exercise of executive power was upheld, with the findings, that there is no precondition that in order to enable the executive to function, there must be a law in existence and the power of the executive is not limited merely to carry out the existing laws and not otherwise; subject to the rider that executive functions do not so against the Constitution or the laws, as mandated by the Honble Supreme Court in **Satya Narain Shukla vs Union of India, (2006) 9 SCC 69**, in following terms:-

12. The appellant strongly urged that his case falls under the procedure prescribed in the Central Staffing Scheme, which is wholly unconstitutional and illegal. According to the appellant, the service conditions of IAS officers are governed by the provisions of the All India Services Act, 1951 (AIS Act) and the Rules framed thereunder. The appellant contended that it was not permissible for the Government of India to prescribe any procedure therefor other than by way of rules framed strictly in accordance with the AIS Act. In his submission, no executive order made in respect of a matter under Article 309 or 312 could be inconsistent with the statutory rules framed under the AIS Act. The

Central Staffing Scheme was neither the provisions of any legislative enactment nor a supporting legislation framed under the AIS Act, and, therefore, to the extent of inconsistency with the said Act or the Rules framed thereunder, it was illegal. For this contention, the appellant relied on the judgment of this Court in G.K. Rao and Others v. S. Bhattacharya and A.B. Krishna v. State of Karnataka.

14. On 17.10.1957, the Central Staffing Scheme was formulated by a resolution of the Government of India and was intended to make "adequate arrangements for staffing senior administrative posts of and above the rank of Depute Secretary to the Government of India." This staffing scheme has been amended from time to time by resolutions of subsequent dates and the last one relevant to us, which was challenged by the appellant, was dated 5.1.1996.....

15. .... It is not possible to accept the contention of the appellant that the Central Staffing Scheme is either a rule or a Regulation within the meaning of Section 3 of the AIS Act, nor is it possible to accept that there is no other power available to the executive to deal with the recruitment and conditions of service otherwise than by a validly made rule under Section 3 of the AIS Act.

16. It is not well established that the Central

Government's executive power extends to the same subjects and to the same extent as that of the Parliament, as long as it does not infringe any provision of any law made by the Parliament or of the Constitution. In **Rai Sahib Ram Jawaya Kapur** and Others v. The State of Punjab ... “ (supra).

In facts of instant case, no laws have been made either by the Parliament or the State Legislature, with respect to Entry No 25 (Education), in List-III of the Seventh Schedule, for creating dedicated service or cadre and for regulating the conditions of service of teachers in these CBSE Affiliated State Govt Schools. No existing laws, as such, have been brought to the notice of this Court, despite the competency of the Legislature of Respondent State to enact laws relating to “Education”; and in absence of any laws, the Respondent State, in exercise of its executive functions was empowered to frame a Scheme for the CBSE Affiliated Govt Schools and therefore, Respondent State, had issued the Scheme, called as, Scheme for CBSE Affiliated Schools of Excellence” and its Sub-Scheme for

creation of a “Sub-Cadre of teachers for CBSE Affiliated Schools in Himachal Pradesh” in terms of Notification dated 19.01.2026, Annexure P-3. Nothing has been placed on record to establish that issuance of Scheme and its Sub-Scheme infringed any Constitutional mandate or the law, establishing incompetency of Respondent State to frame such scheme or a policy. Based on factual matrix and the principles mandated by the Honble Supreme Court in cases of **Ram Jawaya Kapur and Satya Narain Shukla** (supra), the contention of Learned Senior Counsel is turned down and competency of Respondent State to formulate a Scheme and Sub-Scheme, is upheld.

**17.** Second contention of Learned Senior Counsel is that Respondent State had created a sub-cadre of teachers, as in Para 5.5 of the Notification dated 19.01.2026, Annexure P-3, by carving a class within a class, is arbitrary and illegal.

**17(i).** For analyzing the contention, the same

is split into two parts i.e. first part deals with the issue as to whether the Respondent State could create cadre or sub cadres of teachers in terms of Para 5.5 of the Sub Scheme and second part deals with the issue as to whether forming a sub-cadre amounts to creating class within a class.

**17(i-a).** First part of the contention is that the Respondent State could not create a sub-cadre of teachers in CBSE Affiliated Govt Schools in terms of Para 5.5 of Sub-Scheme on 19.01.2026, Annexure P-3, cannot sustain, for the reason, firstly, an employee has no right to claim that rules or norms governing conditions of service should be forever the same; and secondly, the Govt has authority to amend, alter and bring into force new rules or norms relating to even an existing service; and thirdly, the State in exigencies of service, by way of a policy, has exclusive discretion and jurisdiction to take a decision regarding the constitution, pattern, nomenclature of posts, cadres, categories, their

creation/abolition, prescription of qualifications and the conditions of service or to amalgamate department departments or bifurcate departments into more, and constitute different categories of cadres/posts, and reconstitute and restructure the pattern and cadres/categories of service by undertaking further classification by abolishing existing cadres/posts or by creating new cadres /posts, and to prescribe method of recruitment, qualifications and eligibility, as may be required from time to time; and fourthly, while exercising such discretion, the State has to ensure that the rights and benefits already earned, acquired or accrued to an employee are safeguarded; and fifthly, the exercisability of such discretion of State is subject to overarching requirement that the same does not violates the Constitution or law or is patently arbitrary or vitiated by malafides.

**17(i-b).** The power of the State to regulate the recruitment and conditions of service includes the power to constitute new cadre conditions of service

in terms of the mandate of the Honble Supreme Court in **S P Sivaprasad Pipal vs Union of India, (1998) 4 SCC 598**, as under:-

4. .... The power to regulate recruitment and conditions of service is wide and would include the **power to constitute a new cadre** by merging certain existing cadres.
15. **A decision to merge such cadres is essentially a matter of policy.** Since the three cadres carried the same pay scale at the relevant time, merging of the three cadres **cannot be said to have caused any prejudice to the members of any of the cadres.** The total number of posts were also increased proportionately when the merger took place so that the percentage of posts available on promotion was not in any manner adversely affected by the merger of the cadres.

**17(i-c).** The exclusive discretion of the State to take decision regarding constitution, pattern, nomenclature of posts, cadres, categories, their creation/abolition, reconstitute and restructure the pattern and cadres/categories of service by undertaking further classification by abolishing existing cadres/posts or by creating new cadres

/posts, and to prescribe method of recruitment, qualifications and eligibility, has been outlined by the Honble Supreme Court in the case of **P.U. Joshi vs Accountant General, (2003) 2 SCC 632**, in following terms:

10. We have carefully considered the submissions 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***.

**17(i-d).** The right of employer relating to creation and abolition of posts, formation and structuring and restructuring of cadres, prescribing the mode /source of recruitment and qualifications, criteria

of selection, and evaluation of service records fall within the exclusive domain of an employer so as to improve the efficiency in administration, as mandated by the Honble Supreme Court in **Union of India vs Pushpa Rani and others, (2008) 9 SCC 242**, in following terms:

37. Before parting with this aspect of the case, we consider it necessary to reiterate the **settled legal position that matters relating to** creation and abolition of posts, formation and **structuring /restructuring of cadres, prescribing the source / mode of recruitment** and qualifications, **criteria of selection**, evaluation of service records of the employees fall within the exclusive domain of the employer. **What steps should be taken for improving efficiency of the administration is also the preserve of the employer.** The power of judicial review can be exercised in such matters only if it is shown that the action of the employer is contrary to any constitutional or statutory provision or is patently arbitrary or is vitiated due to mala fides. The Court cannot sit in appeal over the judgment of the employer and ordain that a particular post be filled by direct recruitment or promotion or by transfer. The Court has no role in determining the methodology of recruitment or laying down the criteria of selection. It is also

not open the Court to make comparative evaluation of the merit of the candidates. The Court cannot suggest the manner in which the employer should structure or restructure the cadres for the purpose of improving efficiency of administration.

Based on factual matrix and principles outlined hereinabove, the contention of Learned Senior Counsel, cannot sustain, for the reason, that firstly, nothing has been brought on record by petitioners that existing service rules, if any, do not prohibit the creation of new cadres or sub-cadres; and secondly, the existing service rules does not include any bar or prohibition, restraining the State from creating a new cadre or sub-cadre; and thirdly, whatever has not been included, has impliedly been excluded, in terms of the maxim "***expressio unius est exclusio alterius***"; and fourthly, once the existing service rules do not specifically include any restriction, prohibiting the State from creating new cadres or for creating sub-cadres of existing teachers, therefore, the action of the State Authorities in creating a sub-cadre of existing teachers in terms of Para 5.5 of the Sub-Scheme, for newly

CBSE Affiliated Govt Schools and do not suffer from any infirmity or illegality; and *fifthly*, nothing has been placed on record to establish that creation of sub cadre of teachers for newly CBSE Affiliated Govt Schools (by selection of in-service teachers and by selection of persons by direct recruitment) infringed any constitutional mandate or any law; and *lastly*, the petitioners have failed to establish that due to the creation of a sub-cadre as in Para 5.5 supra, the rights and benefits already earned, acquired or accrued by petitioners are adversely affected. In these circumstances, Para 5.5 of the Sub Scheme, creating a sub-cadre for the teachers for newly CBSE Affiliated Govt Schools (by selection of in-service teachers and by selection of persons by direct recruitment) do not suffer from the vice of unconstitutionality or illegality and the contention is repelled.

**17(ii).** Second part of the contention is that Para 5.5 of Sub Scheme, creating a sub-cadre of teachers for newly CBSE Affiliated Govt Schools creates a class within class of in-service teachers

the State is violative of Article 14 and 16 of the Constitution of India.

The above contention of Learned senior Counsel, at the very outset is misconceived, *for the reason, firstly,* a perusal of Para 5.5 of the Sub Scheme provides for creating a sub-cadre of teachers for newly CBSE Affiliated Govt Schools is based on reasonable classification; and *secondly,* the twin test of reasonableness of classification and rationale relation to the object is achieved by creating a sub cadre of teachers of newly CBSE Affiliated Govt Schools (comprising of in-service teachers and direct recruits) in terms of scheme and its sub scheme; and *thirdly, the* Central Govt notified the **National Education Policy 2020** with the object of bringing development of education, for moving towards the benchmark schooling so as to transform the education system. In conformity with the National Education Policy, and for preventing high drop outs and gender disparity, Respondent State notified the "Scheme for CBSE Affiliated Schools of Excellence".

This object was sought to be implemented in Himachal Pradesh in a phased manner, so as to establish, strengthen and upgrade selected government schools across the State at par with national standards, by improving teacher quality, school governance and excellence by ensuring stability, specialization and continuity through dedicated CBSE Teachers Sub-Cadre, who were sought to be deployed from amongst the eligible in-service teachers based on merit obtained in selection and by direct recruitment from eligible persons on the basis of merit in selection; and fourthly, the plea that a class within a class was formed, **cannot sustain, on facts**, in view of the fact that the in-service teachers, who are sought to be deployed in CBSE Affiliated Schools, based on merit obtained in selection, shall continue to retain lien, with right of seniority, promotion and other related terms of service in their parent cadre in terms of Para 5.6.2 of the sub scheme for creating a sub cadre notified on 23.02.2026, Annexure P-6; and fifthly, a conjoint reading of

sub-scheme for creation of sub-cadre indicates that **initial induction of teachers** (comprising of in-service teachers and direct recruits) shall be governed by sub scheme for creation of sub-cadre as in Para 5.5 and State Govt may notify the Recruitment and Promotion Rules for a separate **dedicated cadre of teaching faculty** in terms of Para 5.4.9 of sub-scheme, hereinafter; and sixthly, deployment of in-service teacher to CBSE Schools was subject to the eligibility and the desirability of such in-service teacher to apply and compete for merit based selection, ensuring equal opportunity; and seventhly, plea of the petitioners that Math's and English Teachers were excluded for selection for deployment in these schools, is based on a rationale, in terms of Para 1, 5 & 6 Annexure-II of Sub Scheme in Annexure-I, that the State Govt shall recruit dedicated Math's and English teachers, who possess the higher qualifications vis-à-vis the existing qualifications of Trained Graduate Teachers and Post Graduate Teachers ; and lastly, the plea that in-service teachers persons who have crossed

55 years have been illegally excluded from the scheme is without any merit, in view of the fact that deployment-recruitment of in-service teachers, who are nearing retirement shall defeat the stability in tenure and continuity of teachers, which is sought to be conferred, so as to achieve the object of the Scheme through dedicated teachers in these CBSE Affiliated Govt Schools in terms of Para 15 of the Scheme and Para 5.5 of the Sub-Scheme and moreover, when, the prescription of cut-off lies within the domain of the State, and the same cannot be interfered with, solely on the ground, that some in-service teachers fall on the wrong side of it, ignoring that their exclusion was based on a valid rationale as discussed above.

Based on factual matrix and the principles outlined by the **Constitutional Bench** of the Honble Supreme Court in **Budhan Chaudhary vs State of Bihar, AIR 1955 SC 191** [Para 5] and by Three Judges Bench of the Honble Supreme Court in **State of Punjab and Ors vs Senior Vocational Staff Masters Association and Ors, (2017) 9 SCC 379**

[Para 23] and ***Shikhar and Anr vs National Board of Examination and Ors, (2024) 15 SCC 725***

[Paras 14] the contention of Learned Senior Counsel must fail. Ordered accordingly.

**18.** Third contention of Learned Senior Counsel is that Para 5.5 of the Sub-scheme, requiring the petitioners and other similar in-service teachers to face written test for selection in CBSE Affiliated Govt Schools was uncalled for, when, in-service teachers were initially appointed after due selection and they have acquired long experience and their non-selection will lead to unrest and will also demoralize them and will demolish the academic atmosphere in the State.

For examining this contention, it is necessary to have a recap of factual matrix, which indicates that at present there are 59443 teachers in the State. Pursuant to the CBSE affiliation granted to 134 government schools (now 154 or a like number having 5623 posts as in Annexure P-7, which were increased to 6146 posts}. Absence of any criteria for filling up of these posts and/or applying an

undefined criteria by pick and choose and/or non-prescription of any criteria would not only result in administrative chaos but shall also defeat the object of attaining excellence through stability, specialization and continuity of teachers in these schools. In these circumstances, State Authorities in its wisdom had devised a fair, just, transparent and objective criteria as in Para 5.5 of the Sub Scheme in Annexure P-3, providing for filling the posts in CBSE Affiliated Govt Schools by selection of in-service teachers on the basis of the merit, obtained in written test and counselling, giving equal opportunity to eligible in-service teachers to apply and compete for selection against these posts in terms of Para 5.5 of the Scheme. Nothing has been brought to the notice of this Court by the petitioners that prescription of a written test for the in-service teachers could not have been prescribed. Even neither any constitutional mandate nor any law has been pointed out, which ousts the prescription of written test for selection for deployment in CBSE Affiliated Govt Schools.

**18(i).** Right of an employer to decide the mode or source of recruitment, eligibility, qualifications has been outlined by the Honble Supreme Court in case of Three Judges Bench of the Honble Supreme Court in **S S Moghe and Ors vs Union of India, (1981) 3 SCC 271**, in following terms;

**29.** We shall now proceed to deal with the challenge raised by the petitioners against the provisions contained in the impugned rules. It is under Rule 3 of the Rules that the Aviation Research Centre (Technical) Service was constituted for the first time. The composition of the service has been described in Rule 4, wherein the designations, classifications and scales of pay of the various posts included in the Service have been set out. Rule 6 provides for the **initial constitution of the Service**. The petitioners have challenged the validity of sub-rule (I) of this Rule which declares that all persons holding, as on the appointed day, any one of the categories of posts specified in Rule 4, whether in a permanent or temporary or officiating capacity or on deputation basis, shall be eligible for appointment to the service at the initial constitution thereof. **When a new service is proposed to be constituted by the Government, it is fully within the competence of the Government to decide as a matter of policy the sources from which the**

**personnel required for manning the Service are to be drawn.** It is in the exercise of the said power vested in the Government, that provision has been made by sub-rule (I) that all the persons who, as on the appointed day were already working in the ARC organisation on a temporary and ad hoc basis and had thereby acquired valuable experience in the specialized kinds of work would be eligible for appointment to the new service at the stage of its initial constitution. The writ-petitioners as well as the deputationists, namely, respondents Nos. 8 to 67 were **all functioning in the temporary ARC organisation on an adhoc basis.** Equal opportunity was given to all of them by sub rule (I) of Rule 6 to get permanently appointed in the new ARC (Technical) Service subject to their being **found fit by the Screening Committee** referred to in the sub-rule (2). We fail to see how the said provision can be said to be violative of Articles 14 and 16 of the Constitution. The attack levelled by the petitioners against sub-rule (1) of Rule 6 is thus manifestly devoid of merit.

**18(i-a).** The above principle was followed by the Honble Supreme Court in the case of **State of Andhra Pradesh and Anr vs V Sadanandam & Ors, (1989) Supp (1) SCC 574,** in following

terms:

**17.** We are now only left with the reasoning of the Tribunal that there is no justification for the continuance of the old Rule and for personnel belonging to other zones being transferred on promotion to offices in other zones. In drawing such conclusions, the Tribunal has travelled beyond the limits of its jurisdiction. **We need only point out that the mode of recruitment and the category from which the recruitment to a service should be made are all matters which are exclusively within the domain of the Executive.** It is not for judicial bodies to sit in judgment over the wisdom of the Executive in choosing the mode of recruitment or the categories from which the recruitment should be made as they are matters of policy decision falling exclusively within the purview of the Executive....”.

**18(i-b).** The prescription of the mode or source of selection, eligibility and minimum qualification and its relevancy falls within the domain of an employer, with reference to the responsibility and suitability attached or may be required for a post by the Hon’ble Supreme Court in **Chandigarh Administration vs Usha Kheterpal Waie and others, (2011) 9 SCC 645**, in following terms:

22. It is now well settled that ***it is for the rule-making authority or the appointing authority to prescribe the mode of selection and minimum qualification for any recruitment.*** The courts and tribunals can neither prescribe the qualifications nor entrench upon the power of the authority concerned so long as the qualifications prescribed by the employer is reasonably relevant and has a rational nexus with the functions and duties attached to the post and are not violative of any provision of the Constitution, statute and rules. In the absence of any rules, under Article 309 or statute, the appellant had the power to appoint under its general power of administration and prescribe such eligibility criteria as it is considered to be necessary and reasonable. Therefore, it cannot be said that the prescription of Ph.D. is unreasonable."

**18(i-c).** For the purpose of induction into a cadre, an employer has to carve a methodology to secure the selection of best and most suitable person for the job so as to avoid patronage and favoritism. Selection has to be merit based and that too in an objective and impartial manner. Merit based selection is *sine-qua-non* for useful

and efficient public service is achieved. To achieve this purpose, discretion is necessarily to be left to an employer to devise its method or procedure to select a candidate most suitable for the post subject to the overarching principles enshrined in Articles 14 and 16 of the Constitution of India. In the absence of any statutory rules, the employer has the right as well as discretion to devise the procedure for selection of candidates suitable for a post. Article 14 of the Constitution of India is the genus and Article 16 is the species. Article 16 gives effect to the concept of equality in all matters relating to public employment. Both these articles strike at arbitrariness in State action and ensure fairness and equality of treatment. While resorting to public employment, the State is bound to act fairly and in a transparent manner. This elementary requirement is granted under Article 14 of the Constitution of India. While giving effect to Articles 14 and 16 of the Constitution, equal opportunity has to be given to eligible incumbents in terms of the mandate of the Constitutional

Bench of the Hon'ble Supreme Court in the case of **Tej Prakash Pathak and others vs Rajasthan High Court and others, (2025) 2 SCC 01**, in the following terms:

“50. While written examination has certain distinct advantages over the interview test there are yet no written tests which can evaluate a candidate's initiative, alertness, resourcefulness, dependableness, cooperativeness, capacity for clear and logical presentation, effectiveness in discussion, effectiveness in meeting and dealing with others, adaptability, judgment, ability to make decision, ability to lead, intellectual and moral integrity. Thus, the **written examination assesses the man's intellect and the interview test the man himself and “the twain shall meet” for a proper selection.**

51. ....***What is suitable for one post may not be for the other.*** Thus, a degree of discretion is necessary to be left to the employer to devise its method/procedure to select a candidate most suitable for the post albeit subject to the overarching principles enshrined in Articles 14 and 16 of the Constitution as also the Rules/ Statute governing service and reservation.

52. Thus, in our view, the appointing authority /recruiting authority/competent authority, ***in absence of Rules to the contrary, can devise a procedure for selection of a***

**candidate suitable to the post and while doing so it may also set benchmarks for different stages of the recruitment process including written examination and interview....”.**

65.4 Recruiting bodies, subject to the extant Rules, may devise appropriate procedure for bringing the recruitment process to its logical end provided the procedure so adopted is transparent, non-discriminatory/non arbitrary and has a rational nexus to the object sought to be achieved.

In the light of factual matrix and the principles outlined by the Honble Supreme Court in **S S Moghe, V Sadanandam, Usha Kheterpal Waie and Tej Prakash Pathak** (supra), Para 5.5 of Sub Scheme, creating a sub-cadre of teachers for the CBSE Affiliated Govt Schools in terms of the Notification dated 19.01.2026, Annexure P-3, and the wisdom of the State Authorities in evolving and in prescribing a fair, just, transparent and objective criteria for filling up of 5623 [posts as in Annexure P-7, increased to 6146 posts of teachers] from a large flock of 59443 teachers in the State, by **“Selection from amongst eligible in-service Teachers for induction and Deployment”** on

the basis of overall merit obtained in the written test followed by counselling, by permitting such selected in-service teachers to retain lien in their respective parent cadre coupled with the fact that existing service norms do not prohibit creation of a new cadre or sub-cadre or to devise the procedure for selection of teachers to CBSE Affiliated Govt Schools therefore, the action of the State Authorities in devising the criteria as in Para 5.5 is fair, just, transparent and objective does not suffer from vice of unconstitutionality or illegality in any manner.

**CONTENTION OPPOSING IMPLEMENTATION:**

**19.** Fourth contention of Learned Senior Counsel that Para 5.5 of the Sub-Scheme, shall lead to hardships and also dislocation and transfer of members of petitioner front and other in-service teachers to other places and stations, is not a ground to show indulgence, for the reason, that the selection of teachers was optional enabling eligible in-service teachers apply and compete in selection. Those teachers

who have chosen not to participate in selection for induction and deployment in these schools are estopped to raise any grievance. Even transfer of an employee is an incident of service and their dislocation-transfer to other schools cannot be a ground to scuttle Para 5.5 of the sub scheme, when, apprehended transfer or dislocation, if any, will not adversely affect the conditions of service of other in-service teachers, who chose not to apply for selection or who applied but had lower merit in selection in any manner. The personal hardships, if any, shall have to succumb to larger public interest which is sought to be attained by the Scheme dated 19.01.2026 and Para 5.5 thereof. In these circumstances, the contention of Learned Senior Counsel does not hold water and same is devoid of any merit and is turned down.

**20.** Fifth contention of the Learned Senior Counsel that the implementation of Para 5.5. of the Sub Scheme shall defeat the rights of teachers of CBSE Affiliated Schools for promotion

in parent cadre, cannot sustain, for the reason, that Para 5.6.2 of the scheme originally notified on 19.01.2026 [Annexure P-3] stands substituted by Notification dated 23.02.2026 [Annexure P-6] providing that the lien of in-service teachers who join CBSE schools after screening test shall be kept intact in respective parent cadre(s) and their seniority, promotion and other service conditions shall not get affected in their parent cadre and on promotion, such teachers shall be eligible for posting in Non-CBSE or CBSE schools against vacancies. Thus, once Para 5.6.2 safeguards the lien and all other conditions of service which accrue in the parent cadre [during the period of their deployment-posting in CBSE Affiliated Schools] then, contention of Learned Senior Counsel is misconceived and is turned down.

**21.** Sixth contention of the Learned Senior Counsel is that as per Annexure P-5, the CBSE has given affiliation to Government Senior Secondary School Chopal and many other govt

schools and the teachers in those schools were assigned CBSE Teaching Code and were made to perform invigilation, examination and evaluation duties and are continuing in CBSE Affiliated Schools and therefore, the members of petitioner front and other teachers may be extended the right to continue in CBSE Affiliated Schools is devoid of any merit, for the reason, that mere generation of Teacher Code by the CBSE or performance of invigilation, examination and the evaluation duties will not confer any enforceable right to seek continuance in CBSE Affiliated School ; de hors the mandate of Para 5.5 of the Sub-Scheme, so as to scuttle the rights of the eligible in-service teachers for deployment, in such schools, who had faced selection and have attained requisite merit. In this backdrop, contention must fail. Ordered accordingly.

**22.** Seventh contention of Learned Senior Counsel is that the State Authorities have not applied reservation while filling-up 6146 posts

in CBSE Affiliated Schools in terms of Para 5.5 of Sub-Scheme which is violative of Articles 14 & 16 of the Constitution of India ; cannot sustain, for the reason, that reservation applies in case of direct recruitment and promotion. Reservation is neither applicable nor can it be claimed in case of “selection of in-service teachers for deployment” in newly created sub cadre of teachers for CBSE Govt Schools. No person has any vested right to claim reservation. In these circumstances, contention of Learned Senior Counsel is misplaced and is accordingly turned down.

**23.** Eighth contention of Learned Senior Counsel is that the petitioners have filed an application, CMP No 6818/2026, to assert that as per Clause 12 of prospectus, selection of teachers for CBSE Affiliated Schools was to be held on the basis of the written test, for which, question paper was to be in four different series whereas, Respondent No 3-Board had made the candidates to attempt question paper

in one series only and this vitiates the selection. This plea cannot come to the aid of the petitioners, for the reason, firstly, Respondent No 3-Board placed on record communication dated 12.03.2026 [Taken on Record] whereby Clause 12 of the prospectus stood substituted/modified, mandating candidates to take written test in question paper in single series only ; and secondly, the Respondent No.3 Board has accorded a level playing field to the eligible teachers, who had faced the written test; and thirdly, the petitioners have failed to establish that the action of the Respondents in making in-service to take written test in one series instead of four different series has prejudiced the candidates or any legal or vested right of in-service teachers was violated in any manner. In these circumstances, contention of Learned Senior Counsel is misplaced.

**24.** Ninth contention of Learned Senior Counsel that the exclusion of the Mathematics and English teachers from the purview of the

Scheme and Sub Scheme is discriminatory and illegal and this plea cannot sustain, for the reason, the State Authorities have decided to recruit English and Mathematics teachers in these schools, who possess higher educational standards-qualifications {50% marks in Masters and BEd} in terms of Para 1 and Para 3 (c) (d) & (e) and Paras 5 & 6 of Sub-Scheme as in Annexure II vis-à-vis lower qualifications {45% marks in Masters and BEd} prescribed in Recruitment and Promotion Rules for posts of TGT/PGT with the object that the English and Mathematics teachers, possessing higher educational standards were able to accomplish the object of imparting basic and fundamental knowledge and skills in an effective manner. Distinction and exclusion of in-service teachers of these two streams from the purview of the Scheme and Para 5.5 of the Sub-Scheme on the basis of higher educational qualifications and the action of the State in deciding to make recruitment for them separately is based

on valid rationale. However, since the issue regarding the mode of recruitment and the conditions of service of such teachers (English and Mathematics, has not been questioned in instant petitions, the same is left open to be examined in appropriate proceedings.

**25.** Tenth contention of Learned Counsel for the petitioners in connected petition that Para 6 of the Notification dated 19.01.2026, Annexure P-7, Financial Incentive are granted to teachers who were selected and deployed in CBSE Affiliated Govt Schools but in denying these incentives to the petitioners was discriminatory.

The above plea is untenable, for the reason that admissibility of financial incentives for teachers, who are selected for deployment in CBSE Affiliated Govt Schools is not automatic and the same is subject to the fulfilment of conditions, to be prescribed by the Government. No such conditions have been placed on record. Further, the admissibility or inadmissibility of alleged financial incentive, if any, is subject

to measurable improvements in student learning outcome in CBSE Schools as well as additional efforts undertaken by teachers and is linked to the performance also. Even, the provisions are subject to amendment by the State also. In this backdrop, assertion is premature and does not creates any enforceable right, as yet.

**26.** Last contention of Learned Counsel for the petitioners in connected petition is that the action of the State Authorities in granting CBSE Affiliation to selected government schools but in denying this upgradation to other schools is discriminatory and illegal.

The above contention is *untenable, for the reason*, in the teeth of Article 41 of the Constitution of India, the State Authorities are bound to make effective provision for right to education is subject to the economic capacity and development, in view of the mandate of the Constitutional Bench of the Honble Supreme Court in ***Unnikrishnan J P and Ors vs State of Andhra Pradesh and Ors, (1993) 1 SCC 645***

[Para 171] and in ***Sambhavana vs University of Delhi, (2013) 14 SCC 781*** [Para 13]. In this backdrop, the action of the Respondent State in framing “Scheme for CBSE Affiliated Schools of Excellence” so as to ensure development in education, within its economic capacity in a “phased manner across districts” does not suffer from any infirmity or illegality.

**CONTENTIONS OF LEARNED ADVOCATE GENERAL:**

**27.** Learned Advocate General has opposed the claim of petitioners on the ground, that the petitioners have not assailed the Scheme dated 19.01.2026, Annexure P-3. The provision of Para 5.5 of sub-scheme prescribing the mode of selection of teachers for induction to sub-cadre of CBSE Affiliated Schools, on the basis of a fair, just and transparent criteria i.e. by a twin mode i.e. “Selection of Eligible In-service Teachers for Deployment on the basis of the overall merit in written test and counselling and Selection of Eligible Candidates for Direct Recruitment” in CBSE Affiliated Govt Schools

does not infringes any constitutional mandate or any law. The wisdom of State in prescribing mode of selection based on merit so as to avoid pick and choose amongst teachers was valid, reasonable and not arbitrary, so as to attain the object of Scheme to give effect to National Education Policy, 2020, by establishing, strengthening and upgrading the Government schools across districts in the State, into modern and high performing CBSE affiliated institutions in phased manner, within its economic capacity, through professionally and qualified trained teachers by creating a sub-cadre for ensuring stability, specialization and continuity through dedicated cadre of teaching faculty does not suffer from vice of unconstitutionality. Scheme and Sub Scheme, including Para 5.5 creating a sub cadre for teachers for these schools based on policy decision is not in any manner dehors the provisions of any law. Moreover, nothing has been asserted to show that Scheme was bad on account of State having acted

beyond its power of delegation. Reliance is also placed on various judgments, including **Asif Hameed v. State of J & K, 1989 Supp (2) SCC 364**, and in **Narmada Bachao Andolan v. Union of India and Others, (2000) 10 SCC 664**, and in **Balco Employees Union (Regd.) v. Union of India and Others, (2002) 2 SCC 333**, and in **Devesh Sharma v. Union of India and Others, (2023) 18 SCC 339**, that the wisdom and advisability of the policies are not amenable to judicial review, unless it is demonstrated that policy is contrary to any statutory provision of the constitution and the domain of the judicial review cannot extend so as to embark upon an enquiry as to whether a particular public policy is wise or whether a better public policy can be evolved. Nor can the Courts strike down a policy at the behest of a petitioner merely because it has been urged that a different policy would have been fairer or wiser or more scientific or more logical. Objection regarding the maintainability of the

petition, by the joint front is raised, which in considered view of this Court is left open, to be adjudicated in appropriate proceedings, as these writ petitions included other persons, in individual capacity also.

Based on these principles, the plea of the petitioners is opposed by the Learned Advocate General, that instead of conducting selection of filling posts in CBSE Affiliated Govt Schools from in-service teachers on basis of the overall merit obtained in the written test and counselling, the State Authorities should have followed performance-based selection. The submission made by Learned Advocate General has force, as Courts are not to consider as to whether another method or policy would have been wiser or better one can be evolved. Mere individual hardships cannot be a ground to invalidate a Scheme or Sub Scheme or a Policy. Court cannot sit in appeal to test the wisdom of an employer, when, the contentions raised by Learned Senior Counsel for petitioner(s)

in Lead Case and the Learned Counsel for the petitioners in connected case, do not establish any unconstitutionality or infraction of any law or arbitrariness, unreasonableness or perversity in the Scheme or its Sub Scheme, including Para 5.5, which is primarily bone of contention in these cases.

In the above backdrop, the claim of the petitioners in the Lead Case and connected petition, being devoid of merit are dismissed. Para 5.5 of Sub-Scheme, creating a sub-cadre for teachers in the CBSE Affiliated Govt Schools does not warrant any interference by this Court. Consequently, Para 5.5, of sub scheme, notified on 19.01.2026, Annexure P-3, ***is upheld.***

**28.** No other point was argued/raised.

**CONCLUSION:**

**29.** In view of the above discussion and for reasons recorded hereinabove, both the writ petitions are ***dismissed***, in following terms:

- (i). Writ petitions i.e. CWP No 2427 of 2026, titled as Joint Teachers Front

of Himachal Pradesh versus State of Himachal Pradesh & Others; and CWP No 2501 of 2026, titled as Narender Kumar & Another versus State of Himachal Pradesh & Others, **are dismissed;**

- (ii). Para 5.5 of the Sub-Scheme, in the Scheme for CBSE Affiliated Schools of Excellence notified on 19.01.2026 [Annexure P-3] does not suffer from unconstitutionality nor it is violative of law and is neither arbitrary nor unreasonable nor perverse in any manner;
- (iii). Para 5.5 of the Sub Scheme, being fair, just, transparent and objective, **is upheld;**
- (iv). State Authorities may proceed ahead by declaring result of written-screening test held on 05.03.2026; and thereafter to undertake counselling and to proceed ahead in the matter in accordance with law, including Para 5.5 (supra);
- (v). Needless to say, all other issues, which have not been raised in these petitions, are left open;
- (vi). Interim orders dated 20.03.2026 shall stand vacated;
- (vii). Parties to bear respective costs.

In the aforesaid terms, instant petitions and all pending miscellaneous application(s), if any, shall stand disposed of.

**(Vivek Singh Thakur)**  
**Judge**

**(Ranjan Sharma)**  
**Judge**

**April 29, 2026**  
*[Shivender]*

High Court of MP