

**IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.****LPA No. 306 of 2025****Date of decision: 01.09.2026**


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| Ishan Dogra | ...Appellant |
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Versus

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| State of H. P. & Ors. | ...Respondents |
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*Coram****The Hon'ble Mr. Justice G. S. Sandhawalia, Chief Justice.******The Hon'ble Mr. Justice Chirag Bhanu Singh, Judge.****Whether approved for reporting?***For the Appellant:** Mr. Vinod Sharma and Ms. Mamta Kumari, Advocates.**For the Respondents:** Mr. Gobind Korla, Additional Advocate General, for respondents No. 1 to 4.

Mr. Vinay Mehta, Advocate, for respondent No. 5.

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**G. S. Sandhawalia, Chief Justice (Oral)**

The present appeal is directed against the order of the learned Single Judge passed in ***CWP No. 14813 of 2024***, titled as ***Ishan Dogra vs. State of H.P. & Ors.***, dated 18.12.2024, by the unsuccessful writ petitioner, wherein the writ petition was dismissed on the ground that he had not disclosed in the writ petition that he had applied for the post on the strength of another certificate issued by the Himachal Pradesh Board of School Education and that he had appeared in the improvement examination and, therefore, he had not come to the Court with clean hands. It was accordingly held that the detailed mark sheet submitted, when he applied for the post had

lesser marks as compared to the selected candidate and in such circumstances, the cost of Rs. 5000/- was imposed, while dismissing the writ petition.

2. Learned counsel for the appellant submitted that the selection was for the post of '*Van Mitra*' in Mashnoo beat and to offer appointment to him being topper, as it was the case of the petitioner that he had secured 81.1% marks and the private respondent had secured 79% marks and, therefore, he was higher in merit and should have been selected.

3. The case of the respondents was that when the petitioner had applied, he had submitted a certificate dated 22.04.2019 issued by the Himachal Pradesh Board of School Education, wherein he had secured 390 marks out of 500 marks. However, when he participated in the counselling, he had produced another digitized copy of the certificate issued to him by the same Board, dated 27.06.2019, in which he had secured 409 marks out of 500 marks. Resultantly, the learned Single Judge came to the conclusion that he had not applied on the strength of the second certificate, in which he had got higher marks and accordingly upheld the selection as such of the private respondent.

4. We have perused the record as such from the original writ file and found that on the basis of the record as

such, the learned Single Judge has decided the case without any specific pleading to this extent by the respondents who had not filed reply, thus, the issue could not be crystalized and also the fact that the petitioner could have amended his writ petition by incorporating the plea that the re-valuation marks could have also been taken into consideration.

5. We are further fortified by the position of law that where the marks have been improved in re-valuation, it could relate back to the date of the earlier examination. Reliance can be placed upon the Division Bench judgment of the Punjab and Haryana High Court in ***Nidhi Sharma vs. Guru Nanak Dev University, Amritsar and Ors., 2004 (4) SCT 468.***

6. While sitting in the Division Bench in the High Court of Punjab and Haryana, one of us (Justice G. S. Sandhawalia) also delivered a similar judgment in ***LPA No. 552 of 2021***, titled as ***Haryana Public Service Commission vs. Sandeep Sharma & Ors.***, on 01.12.2021 and also noticed the fact that there was another judgment passed in ***CWP No. 23896 of 2012***, titled as ***Preeti Gulia vs. State of Haryana and Anr.***, decided on 10.01.2013, wherein, it was also held that an improvement of a score relates back to the date on which the qualification was acquired.

7. Reliance upon the celebrated judgment of the Apex Court in ***Dolly Chhanda vs. Chairman, JEE, 2004 (4) SCT 546*** can also be made, wherein, a three-Judge Bench has held that the eligibility qualification has to be seen on the last date fixed for the production of documents and there can be some relaxation in the matter of submission of proof and it would not be proper to apply rigid principle as pertains to the domain of procedure. The relevant portion reads as under:-

*“7. The general rule is that while applying for any course of study or a post, a person must possess the eligibility qualification on the last date fixed for such purpose either in the admission brochure or in application form, as the case may be, unless there is an express provision to the contrary. There can be no relaxation in this regard i.e. in the matter of holding the requisite eligibility qualification by the date fixed. This has to be established by producing the necessary certificates, degrees or marksheets. Similarly, in order to avail of the benefit of reservation or weightage etc. necessary certificates have to be produced. These are documents in the nature of proof of holding of particular qualification or percentage of marks secured or entitlement for benefit of reservation. Depending upon the facts of a case, there can be some relaxation in the matter of submission of proof and it will not be proper to apply any rigid principle as it pertains in the domain of procedure. Every infraction of the rule relating to submission of proof need not necessarily result in rejection of candidature.”*

8. It is not disputed that two certificates in question dated 22.04.2019 and 22.07.2019 have been issued by the same Board and there is no doubt regarding the veracity of the second certificate. It is only at the time of the cut off date that the earlier certificate had been relied upon. This aspect apparently, which is purely legal, had missed the attention of the authorities and they did not consider the second certificate leading to the selection of private respondent No. 5.

9. On 04.08.2026, we had asked the State to file an affidavit as to whether there is any vacancy for the post of Van Mitra, as there was no fault of respondent No. 5 as he had secured selection on the basis of the certificate taken into consideration and his merit was apparently higher if the appellant's first certificate is taken into consideration.

10. In such circumstances, the State has given us information that there are three vacant posts in Rampur Forest Circle under Kinnaur Division, out of which only one is subject matter of pending court case for the Block Bhaba Nagar. Thus, there are two posts available in Kilba and Karchham.

11. Accordingly, we allow the present appeal and set aside the judgment passed by the learned Single Judge and direct the official-respondents that the petitioner be considered for appointment against one of the two vacant posts. The said

appointment would, of course, be in relaxation of the requirement that 'Van Mitra' is required to be a normal/neighbouring resident of the Gram Panchayat/urban Local Body falling within the jurisdiction of the concerned Forest Beat. In the present case, the petitioner is the resident of Rampur, which is adjoining to the Kinnaur District and he has given his willingness against the two vacant posts and, therefore, the State will take necessary action and appoint the petitioner within a period of four weeks from today.

12. Needless to say that the petitioner shall not be entitled for any benefit of seniority etc. and the right of service benefits will only accrue from the date of issuance of the appointment order.

13. Since the appeal has been allowed, the cost of Rs.5000/- imposed by the learned Single Judge, is set aside. If the said cost is deposited, it may be refunded to the appellant.

14. The appeal stands disposed of, so also the pending applications, if any.

**(G. S. Sandhawalia)**  
**Chief Justice**

**(Chirag Bhanu Singh)**  
**Judge**

**1<sup>st</sup> September, 2026**  
(sanjeev)