

Directorate of Higher Education, H.P.

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Dated: Shimla-1, the 25th March, 2014.

To

All the Deputy Director of Higher Education,
Himachal Pradesh.

All the Principals,
Govt. Sr. Sec. Schools in Himachal Pradesh.

Subject:- Reg. appointments made by School Management committee in terms of
SMC policy dated 17.07.2012.

Memo

On the subject cited above teachers have been engaged by the School Management Committee on period basis in Tribal/ Difficult Areas and in non-tribal areas. But there is no policy/ instructions to engage teachers in non-tribal areas, however Govt. framed policy to engage the teachers in Tribal/ Difficult areas on period basis by the School Management Committees. According to this policy dated 17.07.2012, the services of these teachers will automatically be terminated as and when regular/ contract teacher appointed/ transferred by the Govt. joins against the said post or after completion of the academic session of the institution whichever is earlier.

The SMC provided teachers have filed various CWPs before the Hon'ble High Court for continuing their services, claiming to remuneration etc. The Hon'ble High Court of Himachal Pradesh has disposed of CWP No. 3162 of 2013 titled as Harish Kumar versus State of HP and connected matters on 25.10.2013 with following directions:-

“Re: Non-tribal areas.

a) The relief claimed against the State Government to bear the liability of remuneration of the petitioners and similarly placed persons appointed on contract basis by the concerned SMCs in non-tribal areas, is rejected.

b) The SMCs in non-tribal areas shall pay the remuneration to the teachers appointed by it on contract basis for the period they have worked regularly as per the terms specified in the contract.

c) The State Government may consider of formulating a policy to compensate the SMCs in non-tribal areas by providing commensurate grant-in-aid in respect of contract teachers appointed by it due to fortuitous situation.

d) The State Authorities shall make inquiry on case to case basis against the respective SMCs in non-tribal areas and take action, as may be warranted by law, including against the members of the SMC.

Re: Tribal Areas:

a) The assurance given by the State through the learned Advocate General that the contract teachers appointed by the SMCs in tribal areas will be paid remuneration as

per the policy document, is accepted. The contract teachers appointed by the SMCs in tribal areas would be entitled to receive amount as specified in the policy document, dated 17th July, 2012.

Re: Tribal and non-tribal areas:

a) The relief of continuing the petitioners beyond the contract period and until the appointment of regular teacher by following R & P Rules, is rejected.

b) The relief claimed by the petitioners to give similar benefit as given to PTA and VidyaUpasaks, is rejected.

c) The State shall ensure strict compliance of the provisions of the Right of Children to Free and Compulsory Education Act, 2009, more specifically, Sections, 25, 26 and 27 and the relevant Rules framed thereunder.

2. Needless to observe that interim relief in the respective cases, if any, shall stand vacated forthwith in view of the disposal of the writ petitions.

3. All writ petitions are disposed of on the above terms.”

Therefore, you are directed to take necessary action accordingly.

This is also available on the departmental website i.e. www.educationhp.org .



(Shashi Bhushan Sekhri)
Director of Higher Education
Himachal Pradesh