

No: PCH-HA(3)17/06-II-GP Kangra
Government of Himachal Pradesh
Department of Panchayati Raj

50696

To

District Panchayat Officer
Kangra, District Kangra
Himachal Pradesh.
Shimla-9

dated 28 August, 2019

Subject:- Directions Regarding Mid-Day Meal Worker.

Sir,

Kindly refer to your office letter no. Panch KGR 6815 dated 08.07.2019 on the above cited subject. In this context, I would like to inform you that advice of the Law Department has been sought on the matter whether the elected representative of Panchayati Raj Institution can be appointed as Cook-cum-Helper under Mid-Day-Meal Scheme in the Schools of State Government or otherwise.

Law Department has opined that elected representatives of the PRI cannot be offered appointment as Cook-cum-Helper through School Mangement Committee under Mid-Day Meal Scheme as the provisions of the HP Panchayati Raj Act 1994 disqualify him/her for being a representative of the Panchayati Raj Institutions.

The Mid-Day Meal Scheme offers appointment to the incumbents on contract/part time basis but not on seasonal or casual basis which has been categorically pointed out in the explanation part of the Section 122(g) of the HP Panchayati Raj Act, 1994. Hence Cook-cum-Helpers under Mid-Day Meal Scheme are covered under the provisions of Section 122(g) of the HP Panchayati Raj Act.

Therefore, in view of the above, you are requested to issue further directions to all PRIs concerned to your district, in the light of the opinion of the Law Department.

Yours faithfully,

(Kewal Sharma)

Additional Director
Panchayati Raj Department
Himachal Pradesh.

PCH-HA(3)17/06-II- 50697-707 Shimla-171009, Dated 28/8/2019
Copy to: 1. All the District Panchayat Officers HP(Except DPO Kangra) for information and necessary action please.

Additional Director
Panchayati Raj Department
Himachal Pradesh.



राज्य निर्वाचनआयोगहिमाचलप्रदेश

STATE ELECTION COMMISSION HIMACHAL PRADESH

Shimla-171002Armsdale, Shimla-171002 Tel. 0177-2620152,2620159,2620154,Fax. 2620152
Email:secysecc-hp@nie.in

No. SEC (F)10-26/2021-4002

Dated the 8th July, 2021

To

The Director
Elementary Education
Himachal Pradesh Shimla-171001


Subject:- Clarification in respect of part time MDM Workers engaged under MDM scheme in school for being chosen and for being an office bearer of a Panchayat.

Sir,

With reference to your letter No. EDN-H(EE)(6)4-47/2013-19 Misc dated 20.04.2021, the matter was taken up with the Panchayati Raj Department and clarification issued by the said department is enclosed herewith.

Enclosure-I

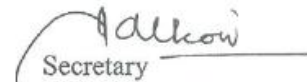
Yours faithfully,


Secretary
State Election Commission
Himachal Pradesh.

No. SEC (F)10-26/2021-4003-4014

Dated the 8th July, 2021

Copy to all the Deputy Commissioners-cum-District Election Officers (P) Himachal Pradesh for information please.


Secretary
State Election Commission
Himachal Pradesh.

No: PCH-HA(1)10/2020-Clarification 41504
Government of Himachal Pradesh
Department of Panchayati Raj

The Secretary
State Election Commission
Himachal Pradesh.

Shimla-171009,

Dated 21 June, 2021

Sub: Clarification in respect of part time MDM Workers engaged under MDM Scheme in school for being chosen and for being an office bearer of a Panchayat.

Sir,
Kindly refer to your office letter dated 11.06.2021 on the above cited subject. In this context, I would like to inform you that advice of Law deptt. in the past has been sought on the similar matter whether the elected representatives of Panchayati Raj Institution can be appointed as Cook-cum-Helper under Mid-Day-Meal Scheme in the Schools of State Government or otherwise.

Law Deptt. has opined that elected representatives of PRIs cannot be offered appointment as Cook-cum-Helper through School Management Committee under Mid-Day-Meal Scheme as the provisions of the HP Panchayati Raj Act, 1994 disqualify him/her for being a representatives of the Panchayati Raj Institutions.

The Mid-Day- Meal Scheme offers appointment to the incumbants on contract/part time basis but not on seasonal or casual basis which has been categorically pointed out in the explanation part of the Section 122(g) of the Panchayati Raj Act, 1994. Hence, Cook-cum-Helper under Mid-Day-Meal Scheme are covered under the provisions of Section 122(g) of the Panchayati Raj Act, 1994.

You are therefore, requested to inform O/o Director, Elementary Education, H.P. accordingly.

Yours faithfully,



(Rewal Sharma)

Additional Director,
Panchayati Raj Department
Himachal Pradesh

No: PCH-HA(1)10/2020-Clarification 41505 Shimla-171009. 21/06/2021
Copy to: 1. The Director, Elementary Education, HP w.r.t letter dated 20.04.2021 for information and necessary action please.



Additional Director,
Panchayati Raj Department
Himachal Pradesh

**URGENT/TIME BOUND
ELECTION MATTER**



**राज्य निर्वाचन आयोग हिमाचल प्रदेश
STATE ELECTION COMMISSION HIMACHAL PRADESH**

Secretary, Election - 171002, Armsdale, Shimla-171002 Tel. 0177-2620152, 2620159, 2620154, Fax. 2620152

No. SEC-15-17/2007-4507-28 Dated the 9th Dec. 2010

To

All the Distt. Election Officers (Panchayat)
Returning Officers (Municipalities)
(Deputy Commissioners),
Himachal Pradesh.

**Subject: Clarification regarding eligibility of candidates to
contest the election.**

Madam/Sir,

The State Election Commission has received queries regarding eligibility of Water Carriers/Anganwari Workers/Helpers/Mid Day Meal Workers to contest the elections.

In this regard your kind attention is invited towards the following provisions enshrined in Section 122(1)(g) of the Himachal Pradesh Panchayati Raj Act, 1994 and Section 16(1)(g) of the Himachal Pradesh Municipal Act, 1994:-

(1) A person shall be disqualified for being chosen as, and for being, an office bearer of a Panchayat/Municipality -

(g) If he is in the employment or service under any Panchayat/Municipality or of any other local authority or Co-operative Society or the State Govt. or Central Govt. or any Public Sector Undertaking under the control of the Central or the State Govt.

Explanation – for the purposes of this clause, the expression “Service” or employment shall include persons appointed, engaged or employed on whole time, part time, casual, daily or contract basis.


In view of the aforesaid provision being clear-cut and unambiguous, the matter was reconsidered in the Commission and the Commission has taken a view and decided that all the categories mentioned above are disqualified to contest the elections to Panchayats and Municipalities.


I am, therefore, directed to request you to bring this clarification to the notice of all the Returning Officers/Asstt. Returning Officers immediately so as to enable them to take decision on the nomination papers accordingly.

Needless to say that this supersedes Commission's earlier letter No. SEC-13-58/96-I-2312-25 dated 1st December, 2005.

Copy enclosed herewith

Yours faithfully,


Secretary,

 State Election Commission,
Himachal Pradesh, Shimla-2

FAX-MESSAGE

ELECTION URGENT
TIME- BOUND

No. SEC-13-58/96-I
State Election Commission
Himachal Pradesh

From:

Secretary,
State Election Commission,
Himachal Pradesh.

To

The Principal Secretary (SJ & E),
Government of Himachal Pradesh
Shimla-171002.

Shimla-171002 dated the 1st December, 2005.

Subject

Clarification regarding Anganwari workers and helpers .

Sir,

With reference to your letter No. WLF-F(4)-1/86-VII-Loose dated 30.11.2005. The matter was considered in the Commission at length and after consideration the Commission has decided that since the Anganwadi workers and helpers working under Integrated Child Development Services are not in the employment of Government as they are getting an honorarium. There can be no objection in filing the nomination papers by them. But after winning the election they shall have to quit the post of Anganwari Worker or helper as the case may be. The earlier clarification at Sr.No 3 issued vide Commission's letter No. SEC.16-18/96-IV-3339-3350 dated 28th November,2000 is hereby superseded.

Yours faithfully

Secretary
State Election Commission
Himachal Pradesh.

Endst.No. SEC-13-58/96-I-23/3 to 25 dated the 1st December, 2005.
Copy to ~~SECRETARY~~

All The District Election Officers (Panchayat) with the request that this clarification may be brought into the notice of all Returning Officers/Assistant Returning Officers in your District immediately in the interest of free and fair election.

Secretary
State Election Commission
Himachal Pradesh.

No.PCH-HA(5)84/2002
Government of Himachal Pradesh,
Department of Panchayati Raj.

...

From: Director-cum-Special Secretary Panchayati Raj,
to the Government of Himachal Pradesh.

To All the Deputy Commissioners,
Himachal Pradesh.

Shimla-171 009, dated . the June, 2003.

Subject:- Clarification regarding disqualification under clause (g) to sub-section (1) of section 122 of the Himachal Pradesh Panchayati Raj Act, 1994.

Sir/Madam,

Under the provisions of clause (g) to sub-section (1) of section 122 of the Himachal Pradesh Panchayati Raj Act, 1994, it has been provided that a person shall be disqualified for being chosen as, and for being, an office bearer, of a Panchayat if he is in employment or a service under any Panchayat or of any other local authority or Co-operative Society of the State Government or the Central Government, or any public sector undertaking under the control of the Central or the State Government.

It has come to the notice of this Department that some of the individuals, who have been elected office bearers of the Panchayats are functioning as depot holders under P.D.S, in whose name the Fair Price shops have been allotted individually. Of late, the question as to whether such office bearers may be disqualified because they have incurred disqualification under the above provisions of the Act, has been raised.

As per the information received from the Department of Food, Civil Supplies and Consumer Affairs, the Fair Price Shops/Depots are allotted to the following:-

- (i) Individuals.
- (ii) Co-operative Societies.
- (iii) State Civil Supplies Corporation
- (iv) Gram Panchayats.
- (v) Mahila/Yuvak Mandal.

The question whether a person is or has become subject to any of the disqualification under sub-section(1) of section 122 of the Himachal Pradesh Panchayati Raj Act, 1994 is however to be decided by the Deputy Commissioner, if such question arises after the election process is over.

~~After careful examination, it is clarified that the fair price shops/depots allotted to a person individually, who is also an office bearer of the Panchayat, does not fall within the ambit of above provisions of the Act and such an office bearer does not incur disqualification for being chosen as and for being an office bearer of the Panchayat under section 122(1)(g) of the Act *ibid*. In case the depots/fair price shop is allotted either by the Co-operative Society or by the Civil Supplies Corporation, the said office bearer is construed to be in the service of the said Co-operative Society or the Civil Supplies Corporation's Fair Price Shop and is sufficient to initiate action under section 122(1)(g) of the Act *ibid*.~~

Yours faithfully,

blar
Director-cum-Special Secretary(PR) to the
Government of Himachal Pradesh.
Dated *27* June 2003

-9142-54
Endst. No. As above- Shimla-9
Copy forwarded for necessary action to:-
1. Director, Food, Civil supplies and Consumer Affairs Deptt. H.P. Shimla-9
2. All District Panchayat Officer in H.P.

blu
Director-cum-Special Secretary(PR) to the
Government of Himachal Pradesh.

TIME BOUND/ELECTION MATTER
URGENT

82



राज्य निर्वाचन आयोग हिमाचल प्रदेश

STATE ELECTION COMMISSION HIMACHAL PRADESH

आर्म्सडेल, शिमला-171002, Armsdale, Shimla-171002 Tel. 0177-2620152, 2620159, 2620154, Fax. 2620152

No. SEC.15-15/2007-

4922

Dated, the

15/12/10

To

The Distt. Election Officer (P),
(Deputy Commissioner),
Kullu Distt. Kullu, HP.

Sub: Clarification regarding Krishak Mittar.

Sir

With reference to your letter No. 1588 dt. 11/12/2010 I am directed to clarify that the "Krishak Mitar" are eligible to contest the elections as they are not in the employment or service of the any Panchayat or Local authority or Co-operative Society or the State Government or Central Government or any Public Sector Undertaking under the control of the Central or the State Government.

Yours faithfully.

Secretary

State Election Commission
Himachal Pradesh

Dated, Shimla-2.

15/12/10

Endst.No.SEC.15-15/2007-4923-34
Copy to;

All the Distt. Election Officer(P)(Deputy Commissioner) in Himachal Pradesh, for favour of information.

Secretary

State Election Commission
Himachal Pradesh



राज्य निर्वाचन आयोग हिमाचल प्रदेश

STATE ELECTION COMMISSION HIMACHAL PRADESH

आर्मसडेल, शिमला-171002 Armsdale, Shimla-171002 Tel. 0177-2620152, Fax. 2620152, Email: secysec-hp@nic.in

No. SEC-15-15-07-

Dated

the

29th December, 2020

To

All the District Election Officers (Municipalities/Panchayats)
-cum- Deputy Commissioners
Himachal Pradesh.

Subject: - Disqualification on account of encroachment.

Sir/Madam,

The matter regarding disqualification of those persons who have encroached upon land described under Section 16(1)(c) of the H.P. Municipal Act, 1994 and applied for regularization of encroachment was considered in the Commission. Keeping in view various pronouncements by the Hon'ble High Court of Himachal Pradesh the Commission has decided that such persons shall be disqualified to contest the elections. Further the Hon'ble High Court in CWP No. 921 of 2019 titled as Ram Lal vs State of H.P. has observed as under:-

"Section 122(1)(c) merely speaks about encroachment and not about either the removal of encroachment or the declaration of encroachment. They are extraneous to Section 122(1)(c). The language employed in clause(c) of sub-section (1) of section 122 is "has encroached upon". The section does not use the expression "has been declared to be an encroacher".

You may decide such matters accordingly. These disqualifications shall also be applicable in respect of elections to Panchayats under Section 122 (1)(c) of the Panchayati Raj Act.

Yours faithfully

/
Secretary
State Election Commission
Himachal Pradesh.

Endst. No. SEC-15-15-07-9001-9013 Dated

the

29th December, 2020

Copy to:-

1. All the Assistant District Election Officers (Panchayats) cum DPOs with the direction to bring this information into the notice of all ROs/AROs urgently.
2. Returning Officer (Municipality)-cum-SDO(c) Theog, Shimla w.r.t their letter No. THG/MA(Election-2020)/2020-2925-26 for information and necessary action.

Naikoni
Secretary 29.12.20
State Election Commission
Himachal Pradesh.

(14)

(329)

संख्या:-पीसीएच-एचए (1) 1/2018- 70439
हिमाचल प्रदेश सरकार,
पंचायती राज विभाग।

प्रेषक:-

निदेशक, पंचायती राज,
हिमाचल प्रदेश।

सेवा में,

खण्ड विकास अधिकारी,
बंगाणा, जिला ऊना (हि0प्र0)

शिमला-9

दिनांक

19/11/2019

विषय:-

मार्गदर्शन बारे।

महोदय,

उपरोक्त विषयक आपके कार्यालय पत्र क्रमांक-विकास बंगाणा/पं0 प्रतिनिधि/2019-7208, दिनांक 05.09.2019 के संदर्भ में, गृह रक्षा, तृतीय वाहिनी शिमला के कार्यालय से मार्गदर्शन मांगा गया कि क्या गृह रक्षक, ग्राम पंचायत पदाधिकारी के रूप में कार्य कर सकता है या नहीं। इस सम्बन्ध में आदेशक, गृह रक्षा, तृतीय वाहिनी शिमला ने उनके कार्यालय पत्र दिनांक 13.11.2019 द्वारा सूचित किया है कि हिमाचल प्रदेश होमगार्ड एक्ट 1968 की धारा 16 (1) (प्रति संलग्न) अनुसार गृह रक्षक चुनाव में भाग ले सकता है।

अतः उपरोक्त अधिनियम के प्रावधानानुसार गृह रक्षक पंचायत पदाधिकारी के रूप में कार्य कर सकता है।

भवदीय,

अतिरिक्त निदेशक,
पंचायती राज विभाग,
हिमाचल प्रदेश।
दिनांक 19/11/2019

पू0 संख्या:-पीसीएच-एचए-70440-53/ शिमला-9
प्रतिलिपि:

1. समस्त जिला पंचायत अधिकारी हि0प्र0 को सूचनार्थ एवं आवश्यक कार्रवाई हेतु प्रेषित है।
2. समस्त खण्ड विकास अधिकारी हि0प्र0 को सूचनार्थ एवं आवश्यक कार्रवाई हेतु प्रेषित है।

अतिरिक्त निदेशक,
पंचायती राज विभाग,
हिमाचल प्रदेश।

(83)

(8)

खुया पोसोएच-एचए 38-14/94-39-44
हिमाचल प्रदेश सरकार,
ग्रामीण विकास एवं पंचायती राज विभाग

प्रेषक

निदेशक ग्रामीण विकास एवं पंचायती राज,
हिमाचल प्रदेश

प्रेषित:

अतिरिक्त जिला दण्डाधिकारी,
ऊना, जिला ऊना, हिमाचल प्रदेश
शिमला-171002, दिनांक 26 नवम्बर, 1994

बिषय:-

नम्बरदारान पर पंचायत चुनाव लड़ने पर पाबन्दी उठाने बारे।

महोदय,

उपरोक्त बिषय पर आपके कार्यालय पत्र संख्या:पंच-ऊना
दिनांक 08/14-2055 दिनांक 8.11.1994 के सन्दर्भ में आपको सूचित किया
जाता है कि-हिमाचल प्रदेश पंचायती राज अधिनियम, 1994 में ऐसा कोई
भौ प्रावधान नहीं है जिसके तहत नम्बरदारों को पंचायत चुनाव लड़ने हेतु
अयोग्य ठहराया गया हो। अतः नम्बरदार पंचायत चुनाव लड़ने हेतु योग्य
है यदि वह उक्त अधिनियम की धारा 122 के प्रावधानों के अन्तर्गत पंचायत
चुनाव लड़ने हेतु अयोग्य न ठहराया गया हो।

भवदीय,

3745-3768

उप निदेशक ग्रामीण विकास एवं
पंचायती राज, हिमाचल प्रदेश

पृष्ठांक:पोसोएच-एचए 38-14/94- शिमला-2, दिनांक 26 नवम्बर, 1994
प्रतिलिपि सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषित है:-

- 1. समस्त उपायुक्त, हिमाचल प्रदेश।
- 2. समस्त जिला विकास एवं पंचायती राज, हिमाचल प्रदेश।

उप निदेशक ग्रामीण विकास एवं
पंचायती राज, हिमाचल प्रदेश

पवन
1911