

Court on its own motion Vs. State of H.P. & ors. a/w connected matters

CWPIL No. 12 of 2019 a/w CWP No.919 of 2026

[Item D-8]
31.08.2026

Present: Ms. Devyani Sharma, Senior Advocate, as *Amicus Curiae* with Mr. Anirudh Sharma, Advocate.

M/s. Deven Khanna, Prashant Sharma & Sambhav Bhasin, Advocates, for the applicant in CMP No. 1335 of 2026.

Ms. Priyanka Chauhan, Deputy Advocate General, for the respondents-State.

Mr. Balram Sharma, Deputy Solicitor General of India, with Mr. Rajeev Sharma, Advocate, for respondent No.4- Union of India.

Ms. Shardha Karol, Advocate, for respondent No.5- High Court of Himachal Pradesh.

CWP No. 919 of 2026

Mr. Balwant Singh Thakur, Advocate, for the petitioners.

Ms. Priyanka Chauhan, Deputy Advocate General, for the respondents-State.

CWPIL No.12 of 2019

Affidavit dated 24.08.2026, on behalf of the Director, Empowerment of SCs, OBCs, Minority & Specially Abled (ESOMSA in short), H.P., has been filed. From the perusal of the same, it is evident that the issue with respect to the appointment of the independent State Commissioner has not been mentioned in the affidavit in terms of order dated 23.07.2026 passed by us. The appointment of the State

Commissioner is provided under Section 79, whereas his functions are provided under Section 80 of the Rights of Persons with Disabilities Act, 2016.

2. The said affidavit refers to filling up of 172 posts reserved for Persons with Disabilities and the stages of the recruitment have been given, which started from December 2025 to April 2026 in different departments, as per the Chart given.

3. The M.R. Home (Intellectually Disabled Home), Hostel and School Building is situated at Hiranagar, District Shimla, which was established at the estimated cost of Rs. 5.24 Crores for 50 children with intellectual disabilities. A fund of Rs. 25 Lakhs has been provided for covering the inner courtyard of the school block premises with transparent sheets. The deficiencies and modifications sought to be rectified have been estimated at an amount of Rs. 828.47 Lakhs, which is more than the cost of construction of Rs. 5.24 Crore. An amount of Rs. 79.24 Lakhs has been sanctioned by the Government of India, out of which Rs. 39.61 Lakhs has been received under the creation of a Barrier-Free Environment for the construction of an approach path from the Observation Home, Hiranagar to the school premises. A sum of Rs. 25 Lakhs has been received for

covering the inner courtyard of the school block premises with transparent sheets.

4. It was earlier noticed that, in Para No. 8 of the earlier order dated 23.07.2026, the building is stated to have suffered from various defects and not feasible for disabled persons, inasmuch as even the doors leading to the bathroom are narrow and there is an issue of persons using a walker or wheelchair not being able to access the said facilities. The State shall also give the details of the persons who are occupying the said building in question and the extent of their disabilities.

5. The shortcomings pointed out are to be taken up as soon as the required budget is provided by the State Government. Keeping in view the above, let fresh affidavit be filed by the Secretary (Social Justice and Empowerment) to the Government of Himachal Pradesh, Shimla, regarding the issues which have been addressed and raised, as noticed in the earlier order dated 23.07.2026 and in the present order. Responsibility be also fixed upon the person who has approved the aforesaid infrastructure for which more money than the original cost is now required for its modification and rectification of deficiencies.

6. Since, in the counter affidavit filed on behalf of respondent No. 6, it has been highlighted that it is only the Commissioner who can review the safeguards provided by law,

monitor implementation and delegation of powers to the Director would not be appropriate. Reliance is also placed on the judgment in ***Seema Girija Lal Vs. Union of India, 2023 SCC OnLine SC 854***, decided on 17.07.2023, whereby the cut-off date was 31.08.2023 and the State had done little to ensure compliance with the said order, whereby it has been specifically stated that the State shall appoint an independent Commissioner.

7. Mr. Deven Khanna, Advocate for respondent No. 6, has drawn our attention to the stand taken by the State in the affidavit that though a letter dated 08.07.2026 (Annexure R-1) had been written by the Director for the Empowerment of SCs, OBCs, Minorities & the Specially Abled, H.P., to give one-time approval to fill all the posts reserved for persons with disabilities in Group-C and Group-D posts/categories, it had met with opposition from the State on the ground that it would be discriminatory to allow filling up of all vacant posts of a particular reserved category in one go and, as such, the recommendation had been declined.

8. Reference is made to the special drive conducted for Group-D services for filling up vacancies for only visually impaired persons by the State of Punjab in various subordinate offices, to show that an effort has been made in other States and

where there is a will, there is a way. We have also gone through the Chart at page No.485 (Annexure R-1), which pertains to 36 Departments only and it also goes on to show that there are following vacancies for visually impaired persons.

Details of Filed up and vacant post reserved for persons with disabilities												
Sr. No	Name of Department	Classification & Nomenclature of posts	No. of posts filed amongst persons with Disabilities				Total	No. of posts vacant amongst persons with Disabilities				Total
			Visually Impaired	Hearing Impaired	Ortho. Disability	Multiple Disability		Visually Impaired	Hearing Impaired	Ortho. Disability	Multiple Disability	
1.	Directorate, Food Civil Supplies & Consumer Affairs	Group-A	0	0	0	0	0	1	0	0	0	1
		Group-B	1	1	1	0	3	0	0	0	0	0
		Group-C	2	2	0	0	4	0	0	1	0	1
		Group-D	0	0	0	0	0	1	0	0	0	1
2.	Directorate of information and Public Relations, H.P	Group-A	1	0	0	0	1	1	0	0	0	1
		Group-B	3	1	1	0	5	0	0	0	0	0
		Group-C	5	2	0	0	7	1	0	0	0	1
		Group-D	1	1	0	0	2	1	0	0	0	1
3.	Directore of Youth Service and sports	Group-A	0	0	0	0	0	0	0	0	0	0
		Group-B	0	0	0	0	0	0	0	0	0	0
		Group-C	0	0	0	0	0	1	0	1	0	2
		Group-D	0	0	0	0	0	1	0	0	0	1
4.	CSK HP Krishi Vishvavidyalaya, Palampur	Group-A	0	0	0	0	0	0	1	1	0	2
		Group-B	0	0	0	0	0	0	0	0	0	0
		Group-C	1	1	0	0	2	1	1	0	2	4
		Group-D	0	0	0	0	0	2	1	1	2	6
5.	Department of Language & Culture	Group-A	0	0	0	0	0	0	0	0	0	0
		Group-B	0	0	0	0	0	0	0	0	0	0
		Group-C	1	1	3	0	5	0	0	1	0	1
		Group-D	0	2	0	0	2	1	0	0	0	1
6.	Directorate of Industries	Group-A	0	0	0	0	0	0	0	0	0	0
		Group-B	0	0	0	0	0	0	0	0	0	0
		Group-C	2	0	0	0	2	0	2	0	0	2
		Group-D	2	3	1	0	6	2	2	1	0	5
7.	Rural Development Department	Group-A	0	0	0	0	0	0	0	0	0	0
		Group-B	0	0	0	0	0	0	0	0	0	0
		Group-C	5	6	5	0	16	2	3	2	5	12
		Group-D	2	0	0	0	2	2	4	4	2	12
8.	HIMURJA	Group-A	0	0	0	0	0	1	0	0	0	1
		Group-B	1	0	0	0	1	0	0	0	0	0
		Group-C	2	1	0	0	3	0	0	0	0	0
		Group-D	0	0	0	0	0	1	0	0	0	1
9.	Excise and Taxation	Group-A	0	0	0	0	0	0	0	0	0	0
		Group-B	0	0	0	0	0	0	0	0	0	0
		Group-C	4	2	1	1	8	3	4	3	3	13
		Group-D	1	0	0	0	1	2	3	3	3	11
10.	HPPWD	Group-A	0	0	0	0	0	0	0	0	0	0
		Group-B	0	1	0	0	1	0	0	0	0	0
		Group-C	4	7	10	3	24	4	14	15	17	50
		Group-D	7	6	9	2	24	9	10	7	16	42
11.	Technical Education Department	Group-A	0	0	0	0	0	0	0	0	0	0
		Group-B	0	0	0	0	0	0	0	0	0	0
		Group-C	7	4	11	1	23	3	4		3	10
		Group-D	10	2	2	1	15	1	1	1	0	3
12.	Ayush Vibhag	Group-A	0	0	0	0	0	2	1	2	2	7
		Group-B	0	0	0	0	0	0	0	0	0	0
		Group-C	6	5	35	0	46	3	6	1	4	14
		Group-D	4	2	5	0	11	2	0	0	0	2

9. For reference, only visually impaired persons are referred to at this moment, details are all given in the said Chart as to the number of vacancies. It is also pointed out visually impaired Class IV aspirants have certain disadvantages, as they cannot apply for higher posts due to lack of educational facilities and, therefore, they would be entitled, as such, for recruitment only to Class IV posts. Accordingly, let effective steps be taken, at the first instance, to fill up the posts of Class IV for visually disabled persons lying vacant, at the first instance, by issuing the necessary advertisement before the next date of hearing. Reference can be also made to Section 33 for identification of the posts for reservation for the various categories of persons with Benchmark Disabilities in terms of the provisions of Section 34, which provides for reservation of 1% up to a maximum of not less than 4%. Let the State take necessary effective steps to do the needful also.

List on 27.10.2026.

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10. Counsel for the petitioners submits that the matter may be de-tagged from CWPIL No. 12 of 2019.

11. Keeping in view the particular reliefs in this matter regarding the promotion of persons with disabilities, as the matter is not getting appropriate consideration, the Office is

directed to de-tag it from CWPIL No. 12 of 2019 and list the matter as per Roster.

(G.S. Sandhawalia)
Chief Justice

(Chirag Bhanu Singh)
Judge

August 31, 2026
(Shamsh Tabrez)