



IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No.4309 of 2026

Decided on: 22.04.2026

Nishant Kumar

... Petitioner

Versus

State of Himachal Pradesh and others

... Respondents

Coram

Hon'ble Mr. Justice Ajay Mohan Goel, Judge.

Whether approved for reporting?¹

For the petitioner: Mr. Vinod Sharma, Advocate.

For the respondents: Mr. Rahul Thakur, Deputy Advocate General.

Ajay Mohan Goel, Judge (Oral)

By way of this petition, the petitioner has, *inter alia*, prayed for the following reliefs:-

“a) Issue a writ of Certiorari quashing the impugned order dated 20.06.2024 (Annexure P-2) to the extent whereby the petitioner's claim for re-engagement/continuation has been rejected by not considering the judgment passed in Sanjay Kumar's case.

b) Issue a writ of Mandamus directing the respondents to re-engage/continue the petitioner as Physical Education Teacher at GSSS Ghatasni, District Chamba, H.P., against the existing vacant post or in other schools where the post of Physical Education Teacher is lying vacant in view of his having 10 years services as Physical Education Teacher from the date of disengagement, with consequential service benefits.

c) Direct the respondents to consider the case of the petitioner for re-engagement under the PTA-GIA Rules/SMC Policy in parity with similarly situated PTA

¹ Whether reporters of the local papers may be allowed to see the judgment?



teachers regularized vide order dated 12.07.2021 (Annexure P-3) and extend all consequential benefits.”

2. A perusal of the petition demonstrates that in terms of averments made in Para-11, after passing of order dated 20.06.2024, the petitioner filed CWP No.12985 of 2025, titled Nishant Kumar Versus State of Himachal Pradesh & Ors. in the Court, which as per the averments made in the petition was dismissed on 12.08.2025, on account of delay. Present petition is conspicuously silent as to what was prayed in said petition. This Court is of the considered view that as said petition was filed in the year 2025 and the impugned order was already in-existence, the petitioner ought to have assailed the order also in the said petition or should have had sought the leave of the Court to independently assail the same later on.

3. Learned Counsel for the petitioner has produced the order passed by the Hon'ble Coordinate Bench of this Court in CWP No.12985 of 2025, which reads as under:-

“ Since it is quite apparent from the pleadings adduced on record that petitioner herein, who at one point of time was working as Physical Education Teacher on PTA basis at GSSS Ghatasni, Tehsil Bhattiyat, District Chamba, Himachal Pradesh, was removed on account of joining of regular hand, coupled with the fact that thereafter no appropriate proceedings in appropriate Court of law were ever initiated by the petitioner for his re-engagement till filing of the present petition, this Court sees no reason to



entertain the present petition, which besides being hopelessly time barred, deserves outright rejection for the reason that petitioner herein was replaced by regular hand, which is permissible as per the scheme formulated by the Government of Himachal Pradesh for appointment of Teachers on PTA basis.

2. In view of the above, present petition is dismissed being devoid of merits. Pending application(s), if any, stand disposed of.”

4. This Court directed the Registry to produce the Court file of CWP No.12985 of 2025, titled Nishant Kumar Versus State of Himachal Pradesh & Ors. A perusal of the said file demonstrates that said writ petition was filed on 05.08.2025. The following reliefs were prayed therein:-

“Issue a writ of mandamus directing the Respondent authorities to appoint the petitioner as Physical Education Teacher at GSSS Ghatasni, Tehsil Bhattiyat, District Chamba, H.P. on SMC basis where the post of Physical Education Teacher is lying vacant since 2022 in the interest of justice and fair play.”

5. In fact, in the earlier petition, there is no reference of the order passed by the Authority, dated 20.06.2024, which is assailed in this writ petition. No prayer was made therein for setting aside of the said order, though the same was in-existence when the earlier petition was filed.

6. In the present writ petition, in Para-5 thereof, there is a mention of order 20.06.2024 and thereafter, in Para-6 thereof, there



is a mention of CWP No.12985 of 2025. Now, a harmonious reading of Paras 5 and 6 demonstrates that it was not the case of the petitioner that when he filed CWP No.12985 of 2025, he was not aware of the order passed by the Authorities on 20.06.2024.

7. In terms of the provisions of Order II, Rule 2 of the Civil Procedure Code, the party has to seek all the reliefs by way of a petition or a proceeding and if party fails to raise an issue qua which the cause exists at the time when the party files the case, then the party is precluded from raising the said plea subsequently by way of fresh proceedings. Only exception is that if a party seeks the leave of the Court and the leave is granted, then the party can subsequently raise the issue.

8. In the present case, evidently when the petitioner filed CWP No.12985 of 2025, it had the cause to agitate order dated 20.06.2024, which is assailed by way of this petition. Apparently, as neither the impugned order herein was challenged in said writ petition nor any leave was sought as is evident from the record, present petition is not maintainable in light of provisions of Order II, Rule 2 of the Civil Procedure Code and the same is accordingly dismissed. Pending miscellaneous application(s), if any also stand disposed of accordingly.

(Ajay Mohan Goel)
Judge

April 22, 2026
(Rishi)