



2026:HHC:40018

**IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA**

**CWP No.16307 of 2026**  
**Date of Decision: 18.09.2026**

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Dinesh Sharma

.....Petitioner

Versus

Vivek Thapar & Anr.

... Respondents

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Coram:

**Hon'ble Mr. Justice Sandeep Sharma, Judge.**

Whether approved for reporting? <sup>1</sup>

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**For the Petitioner:** Mr. Rahul Mahajan, Advocate.

**For the Respondents:** Nemo.

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**Sandeep Sharma, Judge**(oral):

Precisely, the grouse of the petitioner, as has been highlighted in the petition and further canvassed by Mr. Rahul Mahajan, learned counsel representing the petitioner, is that though private respondent No. 1 has been declared encroacher upon government land, but yet he was permitted to contest the election of Municipal Council, Theog. Since it is not in dispute that elections to Municipal Council were conducted in the month of May, 2026, coupled with the fact that respondent No. 1 has lost the election and now with the declaration of result, aforesaid Municipal Council stands constituted for a period of five years, reliefs, as have been prayed for in the instant proceedings, cannot be granted at this stage.

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<sup>1</sup>Whether the reporters of the local papers may be allowed to see the judgment?



2. Faced with the aforesaid situation, learned counsel for the petitioner seeks permission to withdraw the present petition at this stage with liberty to file afresh at appropriate stage. Ordered accordingly.

3. Before parting, this Court, having taken note of the fact that an encroacher is not competent to contest an election, be it to the Legislative Assembly, Parliament or civic bodies, deems it appropriate to observe that Himachal Pradesh State Election Commission shall take necessary steps to ensure that issue with regard to encroachment, if any, by a candidate is examined and settled at the stage of scrutiny of nomination papers, so that an unscrupulous person is not permitted to contest the election. In case needful, as indicated hereinabove, is not done at the initial stage, an encroacher, after getting himself/herself elected, may continue to hold public office for a considerable period, for the reason that disposal of an election petition takes considerable time. Needless to say, if otherwise permissible in law, petitioner herein shall always be at liberty to challenge the election by filing appropriate proceedings. Pending application(s), if any, stand disposed of..

**(Sandeep Sharma),  
Judge**

September 18, 2026  
(Sunil)