

(2010) 12 SHI CK 0038
In the High Court Of Himachal Pradesh
Case No : CWP (T) No. 9343 of 2008

Kaushalaya Devi	Vs	APPELLANT
State of Himachal Pradesh and Others		RESPONDENT

Date of Decision : 16-12-2010

Acts Referred:

Constitution of India, 1950 — Article 14, 16

Citation : (2010) 12 SHI CK 0038

Hon'ble Judges : Rajiv Sharma, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Rajiv Sharma, J.—Eleven candidates appeared for the post of Part Time Water Carrier in Government Primary School, Brahmpukhar. The interviews were held on 17.7.2002. Case of the Petitioner, in a nutshell, is that since her husband has donated two biswas of land for the construction of school building, she should have been appointed as Part Time Water Carrier. It has come in the reply that besides the Petitioner, two more candidates, namely, Satya Devi wife of Hari Ram and Santosh Devi wife of Gian Chand, have also donated the land to the school.

2. Mr. Tara Singh Chauhan has strenuously argued that since the husband of his client has donated two biswas of land to the school, she was entitled to preference.

3. In the policy framed by the State, it is provided that five marks are to be allotted to the incumbents, who have donated land for the school, irrespective of the area/measurement of the land. The suitability of the Petitioner and the selected candidate, as per the averment of the reply, has been gone into by a duly constituted Selection Committee. The larger issue involved in this petition is: whether preference can be given to those candidates, who have donated land to the school or not. The Court is of the considered view that giving preference or awarding five marks to the candidates, who have donated the land, is violative of

Articles 14 and 16 of the Constitution of India. In public employment the rigours of Articles 14 and 16 of the Constitution of India must apply. The public employment must be based on merit, i.e. educational qualification, experience etc. and not on the basis of candidate's capability to donate the land.

4. Accordingly, in view of the observations made hereinabove, there is no merit in the petition and the same is dismissed. However, there shall be no order as to costs.