



**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**



S.B. Civil Writ Petition No. 3052/2018

Manish Saini S/o Shri Ramswaroop Saini, Resident Of Chandoliya
Ki Dhani, Ward No. 35, Chomu, Distt. Jaipur Raj..

----Petitioner

Versus

1. Central Board Of Secondary Education, Todarmal Marg,
Ajmer Raj. 305001, Through Controller Of Examinations.
2. Assistant Secretary Mandm, Central Board Of Secondary
Education, Todarmal Marg, Ajmer Raj. 305001.
3. S.M. Nimawat Public School, Fatehpur Shekhawati, Distt.
Sikar, Through Its Director.

----Respondents

For Petitioner(s) : Mr. Amit Gupta with Mr.Akhilesh
Kumar Pareek
For Respondent(s) : Mr.M. S. Raghav

JUSTICE ANOOP KUMAR DHAND

Order

25/07/2025

Reportable

For convenience of exposition, this judgment is divided in the
following parts: -

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**Factual Matrix:-**

1. The instant writ petition has been filed by the petitioner with the following prayer:-

"It is, therefore, respectfully prayed that your Lordships may please to accept and allow the Writ Petition and by an appropriate writ, order or direction:-

i) the mark sheet of All India Senior School Certificate Examination, 2013 dated 27.05.2017 (Annexure-7) as well as the letter dated 21.09.2017 (Annexure-10) issued by the CBSE may kindly be ordered to be quashed and set-aside. The respondents no. 1 & 2 may kindly be directed to conduct an enquiry in the matter and declare the petitioner pass in the Senior School Certificate Examination, 2013 and accordingly issue him the mark-sheet by declaring the petitioner pass in all the subjects;

ii) by an appropriate writ order or direction it may kindly be held that the petitioner rightly appeared in the compartment subject i.e. Chemistry of the AISSC Exam, 2013 and as he has been declared pass in the Chemistry Subject of the Exam, 2013 and he has been declared pass in other subjects of the Exam of 2012, therefore, the respondent Central Board of Secondary Education (CBSE) may kindly be directed to issue the mark-sheet to the petitioner by declaring him pass in the Senior School Certificate Examination;

ii) any other order or direction which this Hon'ble Court deems just and proper may also be passed in the facts and circumstances of the case."





2. By way of filing this writ petition, a prayer has been made for issuing direction to the respondents to issue the correct Class-XII mark-sheet to the petitioner.

Submissions by the Petitioner:-

3. Learned counsel for the petitioner submits that the petitioner appeared in the All India Senior School Certificate Examination (for short "AISSC Examination") in the year 2012, wherein he failed to pass the Chemistry subject. Thereafter, the petitioner appeared in the supplementary examination, but again he failed to pass in the said subject. Counsel submits that the petitioner intended to appear in the compartment examination for the said subject only i.e. Chemistry, however, on account of error on the part of the School i.e. the respondent No.3, while forwarding his examination form, instead of sending the form only for the Chemistry subject, the examination forms for all the five subjects, i.e., English Core, Physics, Chemistry, Mathematics and Physical Education were sent to the respondent-CBSE for examination of all the five subjects mentioned above. Counsel submits that the petitioner never intended to appear in the other four subjects, which he had already passed while appearing in the AISSC Examination, 2012. The petitioner's sole intention was to appear in the Chemistry compartment examination only, having failed that subject both in the main and supplementary examination. Counsel submits that when the Admit Card was issued by the Board, it came into his notice that he has to appear in all the five subjects in the compartment examination. Thereafter, the petitioner raised an objection before the School in this regard, which, in turn, assured him that needful would be done at their





level and he was asked to appear in the Chemistry Compartment Examination only. Counsel submits that under the aforesaid assurance, the petitioner appeared in the Chemistry Subject only and thereafter, the school i.e. Respondent No.3 issued a Transfer Certificate reflecting the petitioner as "XII Passed". Counsel submits that based on the aforesaid, the petitioner secured admission in the Bachelor of Technology Course (for short, "B.Tech"). He successfully completed the B.Tech. Course and later sought admission in the Master of Technology Course (for short, "M.Tech"), but the authorities concerned asked the petitioner to submit his Class-XII mark-sheet. Counsel submits that under these circumstances, the petitioner approached the school for issuance of a fresh Class-XII mark-sheet, however, he was shocked to know that he was shown as 'Absent' in the other four papers and passed in Chemistry. Counsel submits that the petitioner was declared 'Fail' in the revised mark-sheet on the basis of being marked absent in other four papers. Counsel submits that since the petitioner had not appeared in the four papers, which he had previously passed, there was no justified reason for declaring him as failed.

4. Counsel submits that on account of the mistake committed by the respondent No.3, the petitioner cannot be made to suffer for his entire life and furthermore, his career is at stake. Therefore, under these circumstances, interference of this Court is warranted.

Submissions by the respondent-CBSE:-

5. *Per contra*, learned counsel for the respondent-CBSE opposes the arguments advanced by the petitioner's counsel and submits





that the petitioner failed to pass his Class-XII Examination both in the main and supplementary examinations and subsequently, the petitioner filled the examination form indicating his intention to appear in all the five subjects, i.e., English Core, Physics, Chemistry, Mathematics and Physical Education. Counsel further submits that the petitioner failed to appear in all the four papers and appeared only in the Chemistry Compartment Examination. Therefore, the respondent-CBSE has shown him absent in all the above four papers in accordance with of Rule 42 of the CBSE Examination By-Laws, 1995. Counsel submits that there was no fault on the part of the respondent-CBSE.

6. Counsel submits that there are instances where a student, who has already passed, may submit an examination form to improve his marks, by re-appearing in the passed subjects. In the instant case, the petitioner himself submitted the examination form expressing his intention to appear in all the five papers, but remained absent in four papers. Therefore, there was no fault on the part of the respondent-CBSE in declaring the petitioner as failed. Hence, interference of this Court is not warranted and the writ petition is liable to be rejected.

Analysis, Discussions & Findings:-

7. Heard and considered the submissions made at the Bar and perused the material available on record.

8. Perusal of the record indicates that when the petitioner attempted for the main examination of Class-XII, he passed all the subjects except Chemistry and thereafter, he appeared in the supplementary examination for Chemistry, but again failed to





pass. Subsequently, he submitted an application to appear in the compartment examination.

9. The examination form annexed with the writ petition bears only the signatures of the petitioner, however, the description of the subjects and subject codes have not been filled in the petitioner's handwriting. It appears that the school Authorities themselves filled out the examination form of the petitioner, mentioning all the five subjects. It further appears that when the admit card was issued, it was revealed to the petitioner that he was supposed to appear again for all the four subjects, which he had already passed. In this regard, the petitioner submitted a representation to the school administration. It is the contention of the petitioner that he was given assurance by the school authorities that the needful will be done on their part and acting upon such assurance, the petitioner appeared only for one examination, i.e., Chemistry in his compartment examination. It appears that the school forwarded the petitioner's theory marks to the respondent-CBSE without consent of the petitioner.

10. Subsequently, the school has issued a transfer certificate to the petitioner reflecting the petitioner as passed in Class-XII Examination and on the basis of the said certificate, the petitioner got admission in B.Tech and passed his graduation and later on he sought admission to the Post Graduation Course, i.e., M.Tech., at the relevant time, the authorities concerned asked the petitioner to produce his Class-XII mark-sheet and at this juncture, when the petitioner contacted the school, he was given a fresh mark-sheet, wherein he was shown as fail and absent in four papers.





11. It is quite shocking on the part of the school authorities that the examination form of a passed candidate was forwarded, for appearance in all those subjects, which the petitioner has already passed.

12. This Court finds that the respondent No. 3, i.e., the School is guilty of not only sending an incorrect examination form of the petitioner to the respondent-CBSE, marking the petitioner's passed subjects for reappearance, but also guilty of issuing an incorrect and erroneous Transfer Certificate to the petitioner by showing him as "XII Passed" in the same. Since the respondent-CBSE treated the petitioner as absent in the four subjects and declared him "Fail" in the subsequent examinations, the School has no reason or occasion to issue a Transfer Certificate showing the petitioner as "XII Passed".

13. On the basis of this Transfer Certificate, the petitioner was admitted in the three year graduation course of B.Tech., which he successfully completed and when he sought admission for his post graduation course in M.Tech, he was required to submit his Class-XII marksheet, thereafter, when the petitioner approached the School for obtaining a fresh marksheet, he discovered that that he was shown as "Fail".

14. This Court finds that the petitioner successfully completed his three year B.Tech. course after paying the requisite fee to the concerned college. His parents have incurred huge expenses and likely mobilized their significant resources with the hope of securing a better future for their son. The petitioner has also devoted entire three years in pursuing his graduation in B.Tech.





15. The respondent No.3 i.e. School, through such overt and casual act, has tried to cause a loss of three valuable years to the petitioner and his parents as well. Therefore, the School is liable to provide adequate compensation for such negligence and casual act.

16. It would be relevant to note that on account of the mistake and negligence committed by the School, not only the petitioner suffered but even the respondent-CBSE has also been unnecessarily dragged into the litigation and compelled to incur the litigation expenses of the present case despite there being no fault on their part. The casual approach of the School is further apparent from the fact that in spite of service, the School has chosen not to appear and assist this Court, resultantly, the averments made in the present writ petition remained unrebutted by the School. Sending an incorrect examination form of the petitioner to the Board and issuing him an erroneous Transfer Certificate showing him "XII Passed" indicates gross negligence on the part of the School.

17. This Court finds that the Hon'ble Apex Court in the case of **Krina Ajay Shah & Ors. Vs. The Secretary, Association of Management of Unaided Private Medical & Dental Colleges & Ors.** reported in **(2016) 1 SCC 666** has considered grant of compensation to the candidates, if such candidates were not to be granted admission, after a lapse of time, the candidates were given damages under "public law damages" theory. Relevant para No.14 of the said judgment is quoted hereunder for ready reference:



"14. In the circumstances, though the relief such as the one sought by the Petitioners cannot be granted at this stage in view of the long lapse of time but we are of the opinion that the Petitioners are certainly entitled to public law damages. State of Maharashtra is directed to pay an amount of ` 20 lakhs to each one of these Petitioners towards public law damages and such payment should be made within a period of four weeks from today. We also deem it appropriate to direct the State of Maharashtra to identify the officers who are responsible for the inaction on the report of the Monitoring Committee dated 11th January, 2013 and take appropriate action against those officers including the recovery of the amount (to be paid pursuant to this order, by the State) from those officers. The special leave petitions stand disposed of accordingly."

18. Similarly, the Hon'ble Apex Court again in the case of **S. Nihal Ahamed Vs. The Dean, Velammal Medical College Hospital and Research Institute & Ors.** reported in **(2016) 1 SCC 662** has granted compensation to the candidate. Relevant para No.7 of the said judgment is quoted hereunder for ready reference:

"7. Reliance was placed by the Appellants on the order of this Court dated 2.9.2014 in Krina Ajay Shah and Ors. v. The Secretary, Association of Management of Unaided Private Medical and Dental Colleges, Maharashtra and Ors. (SLP No. 31900 of 2013 etc). The said bunch of SLPs was filed in 2013 and the Petitioners therein were students who appeared for the entrance examination conducted by the Association of Private Medical Colleges and Dental Colleges, Maharashtra and the Petitioners were heard together and this Court held that in spite of the pendency of the SLPs for over a year, the State of Maharashtra never thought it fit to file any affidavit explaining its stand in the matter and the grievance of the Petitioners was fully justified but the Petitioners cannot be granted admission in view of the long lapse of time but they are entitled to public law damages and awarded a sum of Rs.





20 lakhs to each one of the Petitioners as public law damages. In the present case the learned Single Judge after elaborately considering the facts and circumstances held that the Appellants writ Petitioners are entitled to a sum of Rs. 3 lakhs each as compensation payable by the Respondent Medical College and directed to pay within a period of 8 weeks. The said direction has been erroneously reversed by the Division Bench. In our view the order of the learned Single Judge has to be restored.”



19. For causing harassment and mental agony to the petitioner by creating an obstacle in his future educational pursuits, the respondent-School is liable to compensate him adequately for its blatant negligence.

20. If any fault has been committed by the school authorities, the petitioner cannot be made to suffer for the same.

21. The instant case is a case where the petitioner has successfully completed his Graduation i.e. B.Tech. If the action of the respondents is allowed to stand in the same manner, the entire future and career of the petitioner would be jeopardized despite there being no fault on his part.

Conclusion & Directions:-

22. In view of these peculiar facts and circumstances of the case, the instant writ petition is liable to be and is hereby allowed. The respondent-CBSE is directed to issue a fresh mark-sheet and certificate to the petitioner, based on the marks of all the four subjects which he previously secured in the main examination along with the marks secured by him in Chemistry subject in the compartment examination.

23. Needless to observe, the respondent-CBSE shall comply with the order passed by this Court within a period of one month.



24. Looking to the conduct of the respondent No.3-School, wherein the petitioner has been harassed unnecessarily, the respondent No.3 is directed to pay a cost of Rs.1,00,000/- to the petitioner, within the above period of one month.



Aayush Sharma /108

(ANOOP KUMAR DHAND),J