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LISTED ON: 17.06.2021

SECTION:

IN THE SUPREME COURT OF INDIA
(CIVIL ORIGINAL JURISDICTION)
WRIT PETITION (CIVIL) NO. 522 OF 2021
[UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA]

IN THE MATTER OF:

MAMTA SHARMA

... PETITIONER

**VERSUS** 

CENTRAL BOARD OF SECONDARY EDUCATION AND ORS

... RESPONDENTS

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SANDEEP DEVASHISH DAS

ADVOCATE FOR THE RESPONDENT NO. 2

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Filed On: 16-06-2021

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... RESPONDENT

### SHORT AFFIDAVIT OF THE RESPONDENT NO.2

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Filed By

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MAMTA SHARMA

... PETITIONER

**VERSUS** 

CENTRAL BOARD OF SECONDARY EDUCATION AND ORS.

... RESPONDENT

### SHORT AFFIDAVIT OF THE RESPONDENT NO. 2

I, Gerry Arathoon, S/o Mr. H. E. Arathoon, aged about 65 years, the Chief Executive and Secretary of the Respondent No. 2 which has its registered office at Pragati House, 3rd Floor, 47-48, Nehru Place, New Delhi – 110019, do hereby solemnly affirm and declare as under:

1. That I am well acquainted with the facts, records and circumstances of the present case and I am authorized and competent to swear this affidavit on behalf of the Respondent No. 2.

That at the outset I deny all averments in the instant Petition preferred by the Petitioner, and nothing stated therein should be deemed to be admitted merely on account of non-traverse. While the Respondent No. 2 has various objections to the present petition,

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including on maintainability and other jurisdictional objections, the present short affidavit is being filed to place on record the scheme devised by the Respondent No. 2 for allocation of marks to students who were to appear for Class XII ISC examinations in 2021 and Class X ICSE examinations in 2021. The present short affidavit is being filed without prejudice to the Respondent No. 2's rights to file a detailed response to the present Petition, wherein all objections including jurisdictional objections and objections regarding maintainability of the present petition would be mentioned.

3. That the Respondent No. 2 Council is a premier education board of the country and is committed to serving the nation's children, through high quality educational endeavours, empowering them to contribute towards a humane, just and pluralistic society, by creating exciting learning opportunities with a commitment to excellence. The Respondent No. 2 prides itself in being child friendly and adopting a sympathetic approach towards the needs and interests of its students. I say that in furtherance of such ideals

and approach and keeping in view the hardships and risks ensuing

due to the Covid-19 pandemic wave in India recently, the

Respondent No. 2 Council decided not to conduct the standard

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annual board examinations for Class XII and Class X students for the year 2021. I say that the foregoing decision of the Respondent No. 2 regarding cancellation of Class XII examinations was also orally conveyed and taken on record by this Hon'ble Court on the last date of hearing, i.e., on 3 June 2021.

- 4. Pursuant to the foregoing decision, the Respondent No. 2 devised a scheme formulating the objective criteria of assessment for students who were to appear for the ISC Class XII Year 2021 examination and the ICSE Class X Year 2021 examination. The present Affidavit is being filed for the limited purpose of placing on record the aforesaid schemes.

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submit the concerned data *vide* a letter dated 3 June 2021. A copy of the letter dated 3 June 2021 is annexed hereto and marked as Annexure R-2 (Page No. 10 to 11).

- 6. That a similar circular dated 29 April, 2021 was issued for submission of data regarding students who were supposed to appear for Class X ICSE Examination 2021. A copy of the circular dated 29 April, 2021 is annexed hereto and marked as Annexure R-3 (Page no. 12 to 13).
- 7. That the Respondent No. 2 constituted an expert panel comprising of 3 external members, who are renowned scholars in the field of statistics from reputed institutions; and 6 in-house members who are experts in the field of education and conducting year end examinations for developing the scheme for objective assessment. A large number of members of the expert panel were same as in the year 2020, who had devised the scheme for that year. This expert panel analysed the documents and data submitted by the affiliated schools of the Respondent No. 2, and on the basis thereof devised the marking scheme for students who were to appear for the ISC Year 2021 and the ICSE Year 2021 examinations. This was a herculean exercise since the expert panel analysed the data for



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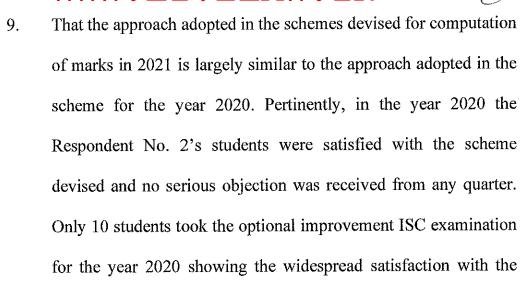
approximately 1,00,000 students from approximately 1,200 schools for the ISC examination and approximately 2,20,000 from approximately 2500 schools for ICSE examination. Inputs were also received and considered from various other stakeholders and the Executive Committee of the Respondent No. 2 which comprises of 4 eminent educationists also reviewed the two schemes. The details of the scheme for Class XII ISC Year 2021 are more particularly set out in the presentation annexed hereto and marked as Annexure R-4 (Page No. 14 to 18). The details of the scheme for Class X ICSE Year 2021 examinations are set out in the presentation annexed hereto and marked as Annexure R-5 (Page No. 19 to 23).

8. That the Respondent No. 2 Council has developed the aforesaid schemes independently, with the assistance and advice of the expert member panel and keeping in view the best interest of the students as well as the most objective marking criteria in the given situation. The said scheme is general and exceptions, if any, will be taken into account by the Respondent No. 2 Council to protect the interest of the student(s) concerned.



GERRY ARATHOON

Chief Executive & Secretary
COUNCIL FOR THE INDIAN SCHOOL
CERTIFICATE EXAMINATIONS
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10. That basis the objective criteria for assessment set out in the schemes, the Respondent No. 2 will endeavour to declare and publish the results by 20 July 2021, in the event the Respondent No. 2 is immediately allowed to implement the schemes.

scheme devised by the Respondent No. 2 in 2020.

- 11. That to provide additional opportunities to the students, the Respondent No. 2 has further decided to allow students who are dissatisfied with their results pursuant to the aforesaid scheme, if any, to take improvement examinations subsequently. The schedule of such examinations will be notified by the Respondent No. 2 at a later date, in due consideration of the Covid-19 scenario in India.
- 12. That the Respondent No. 2 craves leave to file additional affidavits, if required. The contents of this Affidavit are true and correct based on the records maintained by the Respondent No. 2 Council.

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Chief Executive & Secretary
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Verification

GERRY ARATHOON Chief Executive & Secretary COUNCIL FOR THE INDIAN SCHOOL CERTIFICATE EXAMINATIONS 47-48, Pragati House, 3rd Floor Nehru Place, New Delhi - 110019

I, the abovenamed deponent, do hereby verify that the contents of paragraphs no. 1 to 12 of this affidavit are true and correct to my knowledge and belief derived from the records of the Respondent

No. 2. No part of the same is false and nothing has been concealed therefrom.

1 6 JUN 2021

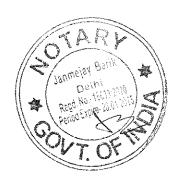
VERIFIED ON 16 JUNE, 2021 AT NEW DELHI.

S/O, W/O, D/O, Shri S/O Sanderf. ias solemnly aftirmed before me at Dell

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GERRY ARATHOON Chief Executive & Secretary COUNCIL FOR THE INDIAN SCHOOL CERTIFICATE EXAMINATIONS 47-48, Pragati House, 3rd Floor Nehru Place, New Delhi - 110019



identify the Deponent with the sence has signed in fit presence

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### COUNCIL FOR THE INDIAN SCHOOL CERTIFICATE EXAMINATIONS

PRAGATI HOUSE, 3RD FLOOR, 47-48, NEHRU PLACE, NEW DELHI - 110019
TELEPHONES: 29564831, 29564833, 26411706, 26413820 E-mail: council@cisce.org FAX: 91-11-29564735

Chief Executive & Secretary
GERRY ARATHOON
M.A., B.Ed.

### STRICTLY CONFIDENTIAL

CISCE/ CIR/2021 27th May 2021

To: All Heads of Schools presenting candidates for the ISC Year 2021 Examination.

### Subject: Submission of data by the schools through the CAREERS Portal.

Dear Principal,

The CISCE is in the process of collating and collecting the data from all our schools presenting candidates for the ISC Year 2021 Examination. You are, therefore, requested to provide the following information of the candidates registered and confirmed for the ISC Year 2021 Examination:

- 1. The Average Marks of papers / subjects scored by the candidates concerned in the various tests / examinations conducted by the school at the Class XI level through the Academic Year 2019-20. (In percentage form, i.e., out of 100)
- 2. **The Average Marks** of papers / subjects scored by the candidates concerned in the various tests / examinations conducted by the school at the Class XII level through the Academic Year 2020-21. (In percentage form, i.e., out of 100)

(Note: The papers/subjects must be the same for which the candidates have been registered and confirmed for the ISC Year 2021 Examination.)

### Supplementary Candidates & the Candidates Not Awarded Pass Certificates (Code 3&4 candidates):

The average marks for these candidates must be submitted as per the Academic Year/s wherein they had completed Class XI & Class XII at the school.

Transfer candidates:

For the candidates who had been transferred from one of the ISC schools to another ISC school, the average marks for Class XI may be sought from the previous school or from the candidate's Class XI Report Card. (The xerox copy of the Report Card must be verified by the Head of the school and the same be uploaded on the Portal.)

Procedure:

The submission of the above-mentioned average marks of papers/subjects should be done online, through the Internal Assessment Module on the CAREERS Portal.

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Chief Executive & Secretary GERRY ARATHOON M.A., B.Ed.

### Steps to be followed to submit the average marks through the CAREERS Portal:

1. Login to the CAREERS Portal using the Principal's login credentials.

2. Click on the tile Examination System.

3. Next, select ISC > Internal Assessment Marks. Click on the button Enter Marks to submit the Class XI Average Marks, subject wise/paper wise (Academic Year 2019 -

4. Upload the Consolidated Mark Sheet/s of Class XI for the Academic Year 2019 - 20

by clicking on the button Upload Marksheet.

5. Submit the marks to the Council by clicking on the button Submit to CISCE.

6. Next, select ISC > Internal Assessment Marks. Click on the button Enter Marks to submit the Class XII Average Marks, subject wise/paper wise (Academic Year 2020 -21).

7. Thereafter, upload the Consolidated Mark Sheet/s of Class XII for the Academic Year

2020 - 21 by clicking on the button Upload Marksheet.

8. Submit the marks to the Council by clicking on the button Submit to CISCE.

The schools are required to submit (upload) the Consolidated Mark Sheet of Class XI and that of Class XII (which are available in the school records) to validate the marks uploaded by the school on the CAREERS Portal. These documents need to be authenticated and verified. These should then be signed by the Head of the School concerned. Also, these documents should be stamped along with the date clearly mentioned. Next, these documents should be scanned and uploaded on the CAREERS Portal, as mentioned above.

Timelines:

The Internal Assessment Module will be activated from Friday, 28th May 2021, 10:00 a.m. onwards. Schools are required to submit the above-mentioned data and upload the Consolidated Marksheets of Classes XI and XII latest by Monday, 7th June 2021.

Your cooperation and support in this regard is solicited.

With warm regards.

Yours sincerely

Gerry Arathoon

Chief Executive & Secretary

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Chief Executive & Secretary GERRY ARATHOON M.A., B.Ed.

### STRICTLY CONFIDENTIAL

CISCE/ CIR/2021 3 June 2021

To: All Heads of Schools presenting candidates for the ISC Year 2021 Examination.

### Subject: Submission of data by the schools through the CAREERS Portal.

Re:

- (a) Mamta Sharma vs. CBSE & Ors. bearing number W.P. (C) 522/2021, pending before the Hon'ble Supreme Court of India; and
- (b) CISCE's Circular dated May 27, 2021, bearing number CISCE/CIR/2021

Dear Principal,

As you are aware, due to the spread of COVID 19, in the interest of our students and their safety, CISCE has decided to cancel the ISC Year 2021 Examination. Consequently, CISCE is in the process of formulating the alternative objective criteria for assessment of students who would have otherwise appeared for the ISC Year 2021 Examination.

You were required by CISCE's circular dated May 27, 2021, bearing number CISCE/CIR/2021 to submit by **7 June 2021** the following information of the candidates registered and confirmed for the ISC Year 2021 Examination through the CAREERS Portal:

- 1. **The Average Marks** of papers / subjects scored by the candidates concerned in the various tests / examinations conducted by the school at the Class XI level through the Academic Year 2019-20. (In percentage form, i.e., out of 100)
- 2. The Average Marks of papers / subjects scored by the candidates concerned in the various tests / examinations conducted by the school at the Class XII level through the Academic Year 2020-21. (In percentage form, i.e., out of 100)

Kindly refer to the Circular under reference for further details of the information required. The aforesaid information is required to enable CISCE to devise the alternative objective criteria for assessment of students for the year 2021.

It is a matter of grave concern that only a handful of schools have till date submitted the required information. Most schools have not yet submitted the complete information, while some schools have not even commenced submission of the information sought.

The gravity and urgency of the situation cannot be stressed upon enough since not only does CISCE need to devise the objective criteria but subsequently, collate, declare, and publish the results in a timely manner.

In this regard, please note that pursuant to the hearing on 3 June 2021, in the matter of Warmta Sharma vs. CBSE & Ors, pending before the Hon'ble Supreme Court (wherein CISCE is

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Chief Executive & Secretary GERRY ARATHOON M.A., B.Ed.

Respondent No. 2), CBSE; the Union of India; and CISCE are to devise the objective criteria for assessment within 2 weeks, i.e., by 17 June 2021.

To devise the objective criteria for assessment within the specified timeframe, CISCE requires your full support by submission of the required information (as per the Circular under reference) by 7 June 2021. While we understand that some schools may be facing difficulties in collation of data due to restrictions on travel during lockdowns, in most States exemptions are available under special circumstances allowing travel. You are requested to do all that is necessary to enable collation of data and submission on the CAREERS Portal.

You are once again requested to submit the required information on the CAREERS Portal as expeditiously as possible and in any event, no later than **7 June 2021**.

The schools that have not been able to conduct the Practical Examination/s for one or more candidate/s are required to note that while submitting the average marks of the subjects, they are not necessarily required to parallelly enter the marks for the pending practical examination/s too. This exercise may be attended to, by the concerned Schools, even after submitting the Average Marks on the Portal. The Council will be shortly sharing the guidelines regarding the conduct of pending Practical Examination/s and submission of the marks for the same.

Your cooperation and support in this regard is solicited.

With warm regards,

Yours sincerely

Gerry Arathoon

Chief Executive & Secretary

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### STRICTLY CONFIDENTIAL

CISCE/ CIR/2021 29th April 2021

To: All Heads of Schools presenting candidates for the ICSE 2021 Examination.

Subject: Submission of data by Schools through the CAREERS Portal

Dear Principal,

As stated in our circulars dated 16th April and 19th April 2021 respectively, the CISCE is resolute and committed to a 'fair and an unbiased criterion' while preparing the results of the ICSE Year 2021 candidates, under the given circumstances.

In this regard, the CISCE is in the process of collating and collecting data, which will be required from all our schools. Therefore, you are requested to provide the following information of the candidates registered & confirmed for the ICSE Year 2021 Examination:

- 1. The Average Marks of papers/subjects scored by the concerned candidates in the examinations conducted by the School at the Class IX Level for the Academic Year 2019-20. (In percentage form / out of 100)
- 2. The Average Marks of papers/subjects scored by the concerned candidates in the examinations conducted by the School at the Class X Level for the Academic Year 2020-21. (In percentage form / out of 100)

(Note: The papers/subjects must be the same for which the candidates have been registered and confirmed for the ICSE Year 2021 Examination.)

Supplementary Candidates & Candidates Not Awarded Pass Certificates (Code 3&4 candidates): The Average Marks for these candidates must be submitted as per the Academic year/s wherein they had completed Class IX & X.

**Transfer candidates:** For candidates who had been transferred from one ICSE School to another ICSE School, the Average marks for Class IX of those candidates may be sought from the previous school or from the candidate's Class IX Report Card. (The xerox copy of the Report Card must be verified by the Head of the School and the same uploaded.)

The Procedure: The submission of the above Average marks of papers/subjects is to be submitted online, through the Internal Assessment Module on the CAREERS Portal.

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### Steps to be followed to submit the average marks through the CAREERS Portal:

1. Login to the CAREERS Portal using the Principal's login credentials.

2. Select the Examination System

- 3. Now select ICSE > Internal Assessment Marks Click 'Enter Marks' button to submit the Class IX Average Marks, subject wise / paper wise (Academic Year 2019 - 20)
- 4. Upload the Consolidated Mark Sheet/s of Class IX for the Academic Year 2019 20 by clicking on 'Upload Marksheet' button.
- 5. Next select ICSE > Internal Assessment Marks Click 'Enter Marks' button to submit the Class X Average Marks, subject wise / paper wise (Academic Year 2020 - 21)
- 6. Thereafter, upload the Consolidated Mark Sheet/s of Class X for the Academic Year 2020 – 21 by clicking on 'Upload Marksheet' button.

Schools are required to submit the Consolidated Mark Sheet/s of Class IX & X (which are available in the school records) to corroborate the marks given on the CAREERS Portal. These documents need to be authenticated & verified, then stamped, dated and signed by the Head of the School concerned. The same is to be scanned and uploaded through the Careers Portal, as mentioned above.

Timelines: The Internal Assessment Module will be activated from Friday, 30th April 2021, 10:00 a.m. onwards. Schools are required to submit the above-mentioned data and upload the Consolidated Marksheets of Classes IX & X latest by Saturday, 15th May 2021.

In States where there is presently a total lockdown, Schools must submit the same latest by 22<sup>nd</sup> May 2021.

Any delay in the submission of the above information will subsequently affect the processing and cause a delay in the declaration of the ICSE Year 2021 results.

Your cooperation and support is urgently solicited.

With warm regards,

Yours sincerely,

Gerry Arathoon

Chief Executive & Secretary

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Annexure R-4

### 

## FINAL CALCULATIONS

. Scaled Score (A):  $\frac{\sigma}{S}(P_{raw}-m)+\mu$ 

Percentage Subject Project & Practical Work (B)

Class X Board Percentage (C)

SUBJECT BOARD MARKS PERCENTAGE = 0.6 A + 0.3 B + 0.1 C

SUBJECT BOARD MARKS = SUBJECT BOARD MARKS PERCENTAGE × WEIGHTAGE FOR **BOARD MARKS**  SUBJECT FINAL MARKS = SUBJECT BOARD MARKS + SUBJECT PROJECT & PRACTICAL

## COMPUTED FACTORS

- Subject Raw marks: P<sub>raw</sub> weightage for board marks + PS
- Raw total: Total marks (out of 400) calculated for a candidate using the same mandated formula as for ISC, using the raw marks
- Raw standard deviation (common for all subjects) for a school (s): The standard deviation of the percentage based on the raw totals (out of 400) obtained by all candidates of the school appearing for English and at least three other subjects in 2021
- Subject raw average percentage for a school (m): The school average percentage in the theory paper for the subject in 2021

### RATIONALE

- examinations, (ii) the Project & Practical Work in the subjects, (iii) the performance of the candidates in the school examinations in the subjects in classes XI and XII, measured through their best marks obtained in the two years (referred to as raw marks) and (iv) the best performance of the school in The components used to arrive at the formula limited to (i) marks percentage in class X board the last six years.
- subject proficiency of the candidates, while the last is a measure of the general quality of the schools The first factor measures the general proficiency of the candidates, the next two factors measure the the candidates are appearing from.
- To arrive at the weights, detailed analyses were performed on the data from the past board examinations from the years 2015 to 2020.
- Extensive scenario analyses were done based on different subjects.

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# FINAL CALCULATIONS

• Scaled Score (A):  $\frac{\sigma}{c}(P_{raw}-m)+\mu$ 

Percentage Subject Project & Practical Work (B)

SUBJECT BOARD MARKS PERCENTAGE = 0.7 A + 0.3 B

SUBJECT BOARD MARKS = SUBJECT BOARD MARKS PERCENTAGE × WEIGHTAGE FOR **BOARD MARKS** 

SUBJECT FINAL MARKS = SUBJECT BOARD MARKS + SUBJECT PROJECT & PRACTICA

# FACTORS USED IN THE COMPUTATIONS

- Best year for school: From among the years 2015-2020, the best year for a school is the year when the school achieved the best average percentage in terms of the total scores (out of 500)
- Benchmark standard deviation (common for all subjects) for a school ( $\sigma$ ): The standard deviation of the percentage based on the total scores in the best year for the school
- Subject benchmark average percentage for a school ( $\mu$ ): The school average percentage in the theory paper for the subject in the best year for school
- Subject Raw theory percentage (Praw): The maximum of the percentage marks obtained by a candidate in the theory paper of the said subject in Classes IX and X
  - Subject Project & Practical Work marks (PS): Total marks obtained by the candidate in the Project & Practical Work of the subject.

From School

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## COMPUTED FACTORS

Subject Raw marks: Prawx weightage for board marks + PS

Raw total: Total marks (out of 500) calculated for a candidate using the same mandated formula a for ICSE, using the raw marks Raw standard deviation (common for all subjects) for a school (s): The standard deviation of the percentage based on the raw totals (out of 500) obtained by all candidates of the school appearing for English and at least four other subjects in 2021

Subject raw average percentage for a school (m): The school average percentage in the **theory paper** for the subject in 2021

### RATIONALE

The components used to arrive at the formula limited to (i) the Project & Practical Work in the subjects, (ii) the performance of the candidates in the school examinations in the subjects in classes. IX and X, measured through their best marks obtained in the two years (referred to as raw marks). and (iii) the best performance of the school in the last six years.

The first two factors measure the subject proficiency of the candidates, while the last is a measur of the general quality of the schools the candidates are appearing from. To arrive at the weights, detailed analyses were performed on the data from the past board examinations from the years 2015 to 2020.

Extensive scenario analyses were done based on different subjects.

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