

ITEM NO.1 Court 4 (Video Conferencing) SECTION X

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Writ Petition(s) (Civil) No(s). 743/2021

ASSOCIATION OF PRIVATE SCHOOLS OF UTTAR PRADESH & ANR. Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(FOR ADMISSION and IA No.77596/2021-GRANT OF INTERIM RELIEF and IA No.77599/2021-APPLICATION FOR EXEMPTION FROM FILING ORIGINAL VAKALATNAMA/OTHER DOCUMENT)

Date : 05-08-2021 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.M. KHANWILKAR
HON'BLE MR. JUSTICE SANJIV KHANNA

For Petitioner(s)

Mr. R. P. Gupta, AOR
Mr. Manish Vaish, Adv.

Mr. Devajit Saikia, Sr. Adv.(AG)
Mr. Debojit Borkakati, AOR
Ms. Rukmini Barua, Adv.
Ms. Padmini Barua, Adv.
Mr. Vivek Sonker, Adv.

For Respondent(s)

Mr. Rupesh Kumar, AOR
Mr. Rajeev Sharma, Adv.
Ms. Neelam Sharma, Adv.
Ms. Pankhuri Shrivastava, Adv.
Mr. Pravesh Bahuguna, Adv.
Mr. Alekshendra Sharma, Adv.

Mr. K.M. Natraj, ASG
Ms. Swarupama Chaturvedi, Adv.
Mr. Rupesh Kumar, Adv.
Mr. B. K. Satija, Adv.
Mr. Vatsal Joshi, Adv.
Mr. Gurmeet Singh Makker, AOR

Mr. Parag P. Tripathi, Sr. Adv.
Mr. J.K. Das, Sr. Adv.
Mr. Sandeep Das, Adv.
Ms. Akanksha, Adv.
Ms. Mishika Bajpai, Adv.
Mr. Shaswat Sarin, Adv.

Mr. Sandeep Devashish Das, AOR

UPON hearing the counsel the Court made the following
O R D E R

The matter was adjourned on the earlier occasion to enable the two boards i.e., Central Board of Secondary Education (C.B.S.E.) and Indian Certificate of Secondary Education (I.C.S.E.) to respond to the proposal given by Mr. Fali S. Nariman, learned Senior Advocate, counsel appearing for the petitioners.

In response, the boards have filed separate affidavits making firm commitment about the Schedule. As there was some ambiguity in the affidavit filed by the C.B.S.E., on instructions, learned counsel appearing for the C.B.S.E. has submitted a schedule for conducting exams for Improvement/Compartment/Private/Patrachar students of Class XII and Class X.

The schedule indicated by I.C.S.E in paragraph 5 of this affidavit reads thus:-

"The following schedule for the afore stated "Improvement Examinations" will be followed:

04.08.2021: The Candidates should register themselves for the improvement examinations with the Respondent No.3 Board by August 4, 2021.

5/6.08.2021: The Respondent No.3 Board will declare a detailed examination schedule by 5th or 6th August, 2021.

16.08.2021: The improvement examinations

shall commence on August 16, 2021.

20.09.2021: The results for the Improvement Examinations shall be declared around September 20, 2021."

The Schedule given by C.B.S.E. reads thus:

"CBSE Schedule

Following schedule will be followed of CBSE for conducting Exams Improvement/Compartment/Private/Pratrachar Students of Classes XII & X:

10.08.2021 CBSE Portal will be opened for Students for registration.
10.08.2021 Circular will be issued by CBSE declaring Date Sheet for Exams.
25.08.2021 Commencement of Exams.
15.09.2021 Completion of Exams with last Paper.
30.09.2021 Date for declaration of Results."

In light of this assurance given by two Boards, nothing more needs to be done regarding the apprehension of the petitioners and similarly placed persons about the uncertainty in conducting examinations and declaration of results thereof by the respective boards.

The other apprehension put forth by Mr. Ravi Prakash Gupta, learned counsel for the petitioners, during the course of arguments today, is that, the students, who are affected due to the decision of the Result Committee of reduction of their marks are not being informed about the extent of reduction.

In this regard, learned counsel for the C.B.S.E., on

instructions, submitted that C.B.S.E will issue instructions to all the schools registered under that Board to notify the internal assessment marks, highest average in the preceding three years and the marks assigned by the Result Committee on case to case basis. That shall be the responsibility of the concerned school(s) where the students are pursuing studies. This arrangement, in our opinion, would redress the grievance of the petitioners.

Mr. Ravi Prakash Gupta, learned counsel appearing for the petitioners would then submit that the boards be directed to refund the examination fees collected from the concerned students in respect of examinations, which have been cancelled. The argument though attractive at the first blush needs to be rejected. For, the explanation offered by the boards on affidavit about their inability to refund the stated amount having spent the same for preparatory work and for making logistical arrangements for conducting the examination which had to be cancelled at the last minute, commends to us. Hence, this issue raised by the petitioners does not merit consideration.

The last grievance made by Mr. Ravi Prakash Gupta,

learned counsel is in respect of the Notification issued by the State of Assam bearing No. PMA (S) 71/2021/12 dated 01.07.2021 and Notification No. ASE.16/2016/Pt-II/68 dated 01.07.2021, respectively.

The Government of Assam has now issued Notification on 08.07.2021 to annul paragraph 5 of the earlier Notification and has declared that the marksheets issued by the concerned board would be valid for all purposes.

Mr. Ravi Prakash Gupta, learned counsel, however, submits that the second paragraph of the Notification dated 08.07.2021 (Annexure-R/4) may create some difficulty and uncertainty.

We find no merits in this submission. For, learned counsel for the State of Assam has made it amply clear that the State may have to conduct equalizing examination for the purpose of recruitment, if it is not in a position to determine the relative merits of the candidates on the basis of the marksheet issued in the current year and those who had appeared in the examination in the previous years. In any case, the equalizing examination for the purpose of recruitment would apply to all candidates and not limited to the candidates, who have been issued marksheets by the two

boards referred to in the Notification dated 01.07.2021.

In view of this, nothing more is required to be said.

As no other issue has been raised before us, the writ petition stands disposed of accordingly.

Pending applications, if any, stand disposed of.

(DEEPAK SINGH)
COURT MASTER (SH)

(VIDYA NEGI)
COURT MASTER (NSH)