

Shephali

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 2578 OF 2016**

Miss Khair Vaishnavi Deepak through her
Mother ...Petitioner
Versus
The Maharashtra State Board, Secondary &
Higher Secondary Education through its ...Respondents
Divisional Secretary & Ors.

Mrs. Anupama B. Shah, *for the Petitioner.*
Mr. Anuj Jaiswal, *a/w MR. Nirav Shah, i/b Little & Co., for the*
Respondent No. 1.
Ms. Sushma Bhende, AGP, *for the Respondent No. 4.*

**CORAM: S.C. DHARMADHIKARI &
G.S. PATEL, JJ.**
DATED: 1st March 2016

PC:-

1. The Petitioner has approached this Court in writ jurisdiction seeking to quash and set aside a decision that has been taken by the Competent Authority to withdraw permission to the Petitioner to appear at the Secondary School Certificate (Board Examination) in the State of Maharashtra, which is commencing from 2nd March 2016.

2. The Petitioner does not fulfill the condition, according to the authorities, of minimal attendance. The Petitioner's attendance for the academic session 2015-2016 is 27.08% in the first academic session/semester and in the second, it is 16.27%.

3. The Competent Authority is of the view that the minimum attendance that is required to be maintained, meaning thereby the student must have a attendance record of 75% of the classes and other academic sessions held during the term, has not been so maintained. The total of the two percentages noted above falls below that required percentage.

4. The Petitioner's Advocate would submit that this communication/decision of the Competent Authority was brought to the notice of the Petitioner's parents only by another communication at page 78 of the paper-book, i.e., that the school communicated that decision only on 25th February 2016.

5. The Petitioner says that, however, the parents had placed before the authorities the entire record. The Petitioner was said to be not keeping well. She was suffering from fever from time to time. She also had headaches. Medical certificates would evidence the treatment undergone from June 2015 onwards. The Petitioner's parents had pointed out that there was never any complaint but that their minor daughter was traumatised on account of continuing taunts and remarks by students and the teachers. She took ill

frequently and, therefore, did not attend school regularly. The reason for the same is to be found only in the medical record and nothing else.

6. It is submitted that once a hall ticket has been issued enabling the Petitioner to appear for the examination, then such a last minute withdrawal of the permission violates the mandate of Article 14 of the Constitution of India and completely ruins the educational career of a student. The minor is at the threshold of the academic career since this is the last year of study as a secondary school student, and after this, the minor Petitioner would be eligible to enter Junior College/Higher Secondary School certificate course. That entry is now blocked, and at the last minute.

7. Reliance is placed upon the Secondary School Code and, particularly paragraph 22.2(b) therein. Our attention is also invited to the note below this paragraph.

8. We have perused the entire Petition carefully. We have anxiously considered the submissions of Mrs. Shah, learned Advocate appearing for the Petitioner. We have found from the annexures to the Petition that the academic record/progress of the child is poor and inadequate. She has not been able to maintain the minimum requirement of attendance. Her conduct is certified as good but the progress is not satisfactory. Therefore, her performance in the examination as well would not enable us to

interfere with the decision of the Competent Authority. The copies of the medical certificates marked as Annexure “B” collectively indicate that the first annexure at page 32 pertains to January 2015. That is equally the case with the second document at page 33. Both are thus much prior to the academic session. True it is that once the academic year commenced, the child has been complaining of cough and cold from July 2015 but that would not enable us to interfere with the decision of the academic authority. If the child was unwell intermittently and required treatment, the certificates do not evidence that she was unfit to attend the school. From page 46 onwards, the medical certificates show that she was advised rest from 13th July 2015 to 23rd July 2015 and even prior thereto, from 13th June 2015 to 12th July 2015. Afterwards, it was a cold and headache complaint and, therefore, rest was advised for one day. There was a viral fever attack from 27th September 2015 to 30th September 2015. This was all in the year 2015. The principal was approached by the parents with a letter, a copy of which is at page 51 of the paper-book. The hall ticket, a copy of which is relied upon, would also not enable us to interfere because the school is said to be cooperative. However, the Petitioner as also her parents were aware of the requirement of minimum attendance. At page 55 of the paper-book, there is a letter which was addressed by the school principal as far back as on 6th June 2015. It is in these circumstances, that the parents of the minor Petitioner are both aware that merely because a hall ticket is issued does not mean that she will be allowed to appear for the examination. Ultimately,

everything depends upon the decision of the Maharashtra Board of Secondary and Higher Secondary Education. The child was sometimes absent and without any intimation. The medical reports alone, therefore, would not enable us to interfere with the decision of the Competent Authority.

9. If some minimum standards of attendance have not been maintained for permission to appear at an examination which is conducted at the State level, then, this Court interfering with such decisions would definitely send a wrong message. We do not find anything arbitrary much less discriminatory or malafide in the impugned order of the Competent Authority. Once the permission for sanction to appear is withdrawn purely for want of compliance with the academic standards, then, this Court should not interfere with the decision of the experts in the field.

10. We do not find any merit in this Petition and it is dismissed.

(G. S. PATEL, J.)

(S. C. DHARMADHIKARI, J.)