

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CWP No.12718 of 2016
Date of decision: June 23, 2016

Harsimran Kaur and others

....Petitioners

Versus

Central Board of Secondary Education and another

....Respondents

CORAM : HON'BLE MR. JUSTICE M. JEYAPPAUL.

Present: Mr. Vivek Aggarwal, Advocate
for the petitioners.

Mr. Sadavindu Goyal, Advocate, for
Mr. Nitin Setia, Advocate
for the respondents.

M. JEYAPPAUL, J.(ORAL)

Heard the submissions made by learned counsel on the either side.

Of course, the proxy counsel for the respondents seeks some time as the counsel for the respondent is not available for making submissions.

In the light of the decision in the similar writ petition in CWP No.12548 of 2016 on 15.06.2016, the presence of the counsel on record for making submissions in this matter is totally unnecessary.

The writ petitioner has challenged the notice dated 24.05.2016 issued by the Central Board of Secondary Education (CBSE) notifying the revaluation of the subjects.

In the above notice, it has been categorically observed that only as regards the subjects specifically referred to therein, the request for

reevaluation would be entertained. It is found that Physical Education and Computer Science were not the subjects which were notified as subjects for reevaluation.

The Co-ordinate Bench of this Court in a similar writ petition in CWP No.12420 of 2016, Shaurya Gulati Vs. Central Board of Secondary Education dated 13.06.2016, relying upon the decision of the Delhi High Court in Samarth Mittal Vs. Union of India and others, 2015(6) AD (Delhi 498, held that CBSE cannot restrict for reevaluation subjects when the bye-laws do not envisage any such restriction of reevaluation. There was also no plausible reason for discriminating the candidate who appeared for Physical Education paper in the matter of reevaluation.

Learned proxy counsel for the respondents submitted that the above decision of the Delhi High Court would only apply in a case where the candidate had applied for reevaluation within the time prescribed by the CBSE. Counsel for the writ petitioner suitably replied to the above submission to the effect that inasmuch as Physical Education and Computer Science had not been notified as subjects which could be reevaluated in terms of above letter dated 24.05.2016, the mandatory online application attempted to be submitted did not receive acceptance.

It is further contended by the proxy counsel for the respondents that the first petitioner had not in fact submitted the manual application by himself. In fact, it was submitted by the first petitioner through his father. Such a technical objection is not expected from the respondents.

There is a delay in submission of manual applications as the online application attempted to be submitted did not receive acceptance.

In view of the above, the writ petition is allowed and the 2nd

respondent is directed to consider the request made by the petitioners for conducting the reevaluation of the theory subject of Physical Education and Computer Science subject to deposit of the usual charges. The 2nd respondent shall also intimate the petitioners the result declared by them on revaluation within a period of 7 days from the date of issuance of this order.

Copy of this order be given under the signatures of the Bench Secretary.

June 23, 2016

Dinesh Bansal

(M.JEYAPPAUL)
JUDGE