

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.04.2018

CORAM:

THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

W.P.No.10540 of 2018

P.Sharon Nivedita

rep. by her father and Natural Guardian,

H.Prosper

... Petitioner

vs.

1. The Chairperson,
Central Board of Secondary Education (CBSE),
'Shiksha Kendra',
2, Community Centre,
Preet Vihar, New Delhi - 110 092.

2. The Joint Secretary,
Central Board of Secondary Education (CBSE),
Regional Office - Chennai,
Plot No.1630A, 'J' Block,
15th Main Road,
Anna Nagar West,
Chennai 600 040.

3. The Principal,
Padma Seshadri Bala Bhavan,
Senior Secondary School (PSBB),
No.29, Alagiri Sami Salai,
K.K.Nagar,
Chennai 600 078.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of mandamus directing the Respondents to permit the Petitioner, viz. Miss.P.Sharon Nivedita to continue her studies and pursue her XII Standard in Science Stream in the 3rd Respondent School during the academic year 2018-2019.

For Petitioner : Mr.Arun Anbumani
For Respondents 1 & 2: Mr.G.Nagarajan
For 3rd Respondent : Mr.Sathish Parasaran,
Senior Counsel
for Mr.R.Parthasarathi

O R D E R

The minor Petitioner has come up with the present Writ Petition seeking a direction to the Respondents to permit her to continue her studies and pursue her XII Standard in Science Stream in the 3rd Respondent School during the academic year 2018-2019.

2. According to the Petitioner, she passed her X Standard Examination with 80% marks. She took Science Stream in her XI Standard, which consists of 5 subjects, viz. English, Mathematics, Physics, Chemistry and Bio-Technology and she has been devotedly pursuing her studies. From 2018, the Petitioner has not been keeping good health, as she was suffering from viral fever. She took up her XI Standard Physics Practical examination on 27.02.2018. However, during the first week of March 2018, her health condition worsened and she was admitted in KM Hospital, K.K.Nagar, Chennai, on 02.03.2018. The Petitioner was diagnosed as a diabetic, which caused severe mental agony to her. She was counselled and she appeared for her XI Standard Annual Examinations. Prior to the Petitioner taking up her Annual Examinations, the 3rd Respondent informed the parents of the Petitioner that in the examination held so far, she has failed in Physics subject.

3. On 29.03.2018, about 8.30 a.m., the petitioner's parents were asked to meet the School Principal and when they met the Principal, she informed them that the Petitioner has not performed well in the Annual Examinations and that the Petitioner has a choice to redo her XI Standard in Commerce Stream or take a Transfer Certificate, in which, it will be mentioned that the Petitioner was 'detained' in XI Standard, and leave the 3rd Respondent School.

4. Being aggrieved by the firm decision of the 3rd Respondent-School not to furnish the Petitioner's evaluated Answer Sheets and also not to conduct re-examination for the Petitioner, assuming that she has scored less marks, the Petitioner is before this Court with the above prayer.

5. Even though the Petitioner has come forward with the aforesaid prayer, learned counsel for the Petitioner submitted that other students have been permitted to take up more than two subjects in the re-examination and as an exceptional case, taking into account the health condition of the Petitioner, she may be permitted by the 3rd Respondent/School to take up three subjects in the re-examination.

6. In reply, learned Senior Counsel appearing for the 3rd Respondent/School submitted that even though the 3rd Respondent/School has erred in permitting students who have failed in two subjects, to take up re-examination, the Petitioner will not have any right to appear in three subjects, as CBSE Regulations does not permit a student to take up re-examination in three subjects. He further submitted that in case, the Petitioner clears all the three subjects in the re-examination, she shall not insist the School Management that she will continue in the same School, as students who have already taken Transfer Certificate with the remarks 'Detained' could not be prejudiced and it would amount to discrimination.

7. However, learned counsel for the Petitioner undertakes that the Petitioner will not insist the 3rd Respondent/School that she will continue in their School, after clearing the three subjects in XI Standard.

8. Taking note of the said submissions of the learned counsel on either side and considering the facts and circumstances of the case, the minor Petitioner is permitted to take up XI Standard Examinations in the subjects, Physics, Chemistry and Mathematics on 21.05.2018, 23.05.2018 and 25.05.2018, respectively, in the 3rd Respondent/School.

9. It is made clear that if the Petitioner clears the XI Standard Examinations, the 3rd Respondent/School shall issue Transfer Certificate to her to enable her to join XII Standard in some other School. If she fails in all the three subjects or in any one of the subjects, Transfer Certificate shall be issued to the Petitioner with the remarks 'Detained'. It is further made clear that the Petitioner has been permitted to take up the Examinations only for the purpose of getting Transfer Certificate and joining in some other School, as CBSE Regulations/Guidelines are against the Petitioner.

With the above directions and observation, the Writ Petition stands disposed of. No costs. Consequently, connected W.M.P.No.12493 of 2018 is closed.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

(aeb)

To:

1. The Chairperson,
Central Board of Secondary Education (CBSE),
'Shiksha Kendra', 2, Community Centre,
Preet Vihar, New Delhi - 110 092.
2. The Joint Secretary,
Central Board of Secondary Education (CBSE),
Regional Office - Chennai,
Plot No.1630A, 'J' Block,
15th Main Road, Anna Nagar West,
Chennai 600 040.

+1cc to Mr.Arun Anbumani Advocate SR.No.32444

SVI(CO)

sm:10.5.2018

Order in
W.P.No.10540 of 2018