

Janhvi Sharad Hindurao Minor through father Sharad Yashwant Hindurao	...Petitioner
<i>Versus</i>	
State of Maharashtra, through Principal Secretary, School Education Department & Ors	...Respondents

Mr AS Rao, for the Petitioner.
Mrs RA Salunkhe, AGP, for Respondent No. 1-State.
Mr Sandeep Mishra, for Respondent No. 3.

**CORAM: S. C. DHARMADHIKARI &
G.S. PATEL, JJ**
DATED: 16th September 2019

PC:-

1. Heard Mr Rao appearing for the petitioner. Perused the writ petition and the annexures thereto.
2. The 3rd respondent is the college which the petitioner attended to complete her studies in HSC course. The 12th standard Higher Secondary examination is held by the Board of Secondary and Higher Secondary Education, the 2nd respondent before us. The affiliated institution is respondent No. 3. The petitioner attended the respondent No. 3 as a student, completed the course,

appeared at the examination, and it is her own case that she failed in two subjects, mathematics and physics.

3. The petitioner, therefore, was desirous of clearing the examination in a second attempt. She, therefore, decided to take such a chance or opportunity by appearing in all the subjects. Now this itself shows the fallacy in the argument of Mr Rao for the petitioner had not failed in all subjects but only in mathematics and physics. That she was allowed to take examination in all subjects including the one in which she has passed will not improve her case and as projected before us.

4. The petitioner says that there was not only a theory examination but a practical as well in which she had first appeared. The petitioner is conspicuously silent as to which subject's examination has only a theory paper or which has both or which has only practicals. The petitioner may be a repeater and may have attempted a second examination in all subjects, but we do not see how the Board was obliged to issue a mark-sheet showing the petitioner's marks in every subject that she attempted on the second occasion, including the one in which she has passed earlier. We do not see how in the absence of such stipulations or regulations/rules binding the Board we can call on the Board to issue a consolidated mark-sheet and delete the word 'exempted' as against the two subjects from the mark-sheet that was issued to the petitioner. It is only the petitioner's own version which is projected and we have clearly seen that the petitioner could not have as of right attempted to appear for all subjects including the one she had earlier appeared and was declared not failed but passed therein.

5. Now, we have seen Exhibits “D”, “E” and “F”. Pertinently, on 26th August 2019, the institution writes to the Board informing it that the petitioner while filling examination form thought that Environment Science and Physical Education marks will be carried forward from the previous examination so she did not appear for these two subjects in July 2019. Now she expects a single mark-sheet. This communication from the college is at direct variance from what the petitioner pleads in the writ petition.

6. It is in these circumstances that at page 22 she once again through the college makes a request for issuance of a consolidated mark-sheet. The petitioner has contended in that communication to the Board at page 22 of the paper-book that in March 2019 she had passed in these two subjects. In our view, therefore, she was correctly exempted from appearing at the examination again in these two subjects. If she was exempted from appearance, there was no question of the Board issuing a consolidated mark-sheet allotting her marks even in the exempted subjects.

7. The petition has, therefore, no merit and is dismissed.

(S. C. DHARMADHIKARI, J)

(G. S. PATEL, J)