

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**RSA-1003-2019 (O&M)
Date of Decision: 08.02.2019**

Mohit Kumar

..... Appellant

VERSUS

Board of School Education Haryana, Bhiwani through its Secretary

..... Respondent

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Raman Singh Dhanda, Advocate,
for the appellant.

JAISHREE THAKUR, J.

1. This regular second appeal has been filed seeking to challenge the order dated 05.01.2018 whereby the suit filed by the plaintiff-appellant herein for declaration of the result of Mathematics subject of Secondary examination held by the Board of Secondary Education, Haryana, Bhiwani, has been dismissed. The appeal filed against the said order has also been dismissed.

2. In brief the facts are, that the plaintiff appellant herein appeared in the Secondary examination for the subject mathematics in May, 2011 under Roll No. 2210818301, Enrollment No. 09-8-YN-446-0021. He got re-appear in mathematics in Secondary Examination and thereafter re-appeared in the examination in the year

2012, however, was not successful. He further filled up his form for clearing the mathematics subject and appeared but was unsuccessful. He once again re-appeared in October, 2015, however, the result of the plaintiff -appellant was not declared. The plaintiff-appellant made several representations to declare the result but his request was not acceded to. Consequently, a suit was filed seeking declaration of his result.

3. Upon notice, the defendant-Board appeared and filed written statement taking various pleas therein. On merit, it was submitted that the plaintiff has in fact has already availed of 6 chances for re-appearing in the mathematics examination as per the Haryana Open School Scheme. It was submitted that having availed of 6 chances, the result was not declared.

4. On the basis of the pleadings of the parties, following issues were framed by the learned trial Court :-

- “1. Whether the plaintiff is entitled for the relief of declaration to the effect that the plaintiff is entitled for getting the result of Mathematics of secondary examination with consequential relief of mandatory directing the defendant to issue the result of secondary exam mentioned above and further directing the defendant to pay compensation in lieu of staying the result of the ground mentioned in the plaint?OPP
2. Whether the suit of the plaintiff is not maintainable in the present form?OPP
3. Whether the plaintiff has no locus-standi and cause of action to file the present case?OPD
4. Whether the plaintiff has suppressed true and

material facts and have not come with clean hand?OPD

5. Whether the present suit is bad for mis-joinder and non-joinder of the parties?OPD.

6. Relief.”

5. Learned trial Court on appreciating the evidence and the arguments raised, dismissed the suit on the ground that Rule 108 of Rules and Regulations of Board of School Education Haryana stipulate that, *“a candidate may earn the certificate of qualification in one attempt or in parts within a period of three years, subject to maximum of six attempts in all. The status of the result of such candidates who do not qualify the examination as per criteria laid down at 10(A & B) here above within the maximum period of three years, shall remain NPE (Needs Proficiency Enhancement) of the subjects in which he/she has not obtained the qualifying grade/marks. Such candidate would be required to seek fresh admission as per procedure laid down in these regulations in order to ear the certificate of qualification.”*

6. Interpreting the Rule the learned Courts below held that the Board had given him six chances to clear the compartment in mathematics which he failed to do so and having availed of all chances he could not seek declaration of the mathematics examination that was held in October, 2015 since it was also beyond the period of three years from the date when the examination was held.

7. The appeal too came to be dismissed.

8. I have heard learned counsel for the appellant and in view of the fact that Rule 108 of Rules and Regulations of Board of School Education Haryana specifically states that a candidate can avail of six chances for re-appearing in an examination and that too within a period of three years. This Court finds no infirmity in the orders passed by the Courts below.

Dismissed.

08.02.2019

Satyawan

**(JAISHREE THAKUR)
JUDGE**

Whether speaking/reasoned

Yes.

Whether reportable

No.