

\$~39

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 16th April, 2019

+ W.P.(C) 1976/2018 and CM No.8123/2018

PRANSHU SHAKTI TIWARY THROUGH MOTHER
SMT.KANCHAN TIWARY Petitioner
Through: Mr. Ankur Chhibber, Adv.

versus

CENTRAL BOARD OF SECONDARY
EDUCATION & ORS. Respondents
Through: Mr. Amit Bansal, Sr.SC-CBSE
with Mr. Aman Rewaria, Adv.
Ms. Rashmi Bansal and Mr. Mohd. Kaisar
Ansari, Advs. for R-2 and 3

CORAM:
HON'BLE MR. JUSTICE C.HARI SHANKAR

% **J U D G M E N T (O R A L)**

1. The petitioner Pranshu Shakti Tiawri was admitted to the 12th Class, in the Kendriya Vidyalaya, Andrews Ganj, in 2017.

2. The petitioner, it is submitted, suffered from a medical condition resulting in low immunity, as a result of which he frequently fell ill during the academic session 2017-2018. The writ petition annexes the various prescriptions/certificates issued by the doctors at the National Security Guard Composite Hospital (hereinafter referred to as the "NSG Hospital"), prescribing medications for the condition

suffered by the petitioner, and advising him periods of rest from time to time. Ultimately, on 31st January, 2018, the Medical Officer, NSG, Manesar, Palam HQ, in the Composite Hospital, NSG, Manesar issued the following medical certificate :

“MEDICAL CERTIFICATE

1. It is certified that Master Pranshu Shakti Tiwary age 17 Years male son of Mr. B S Tiwary. He was under my treatment on OPD basis under following mentioned date:- April 5th to 7th, May 2nd to 4th, June -21st to 24th, July-12th to 15th, Aug- 01st to 05th and 21st to 28th, Oct-06th to 09th, Nov -17th to 29th and Dec-18th to 21st.
2. Total 43 days above period absent from school was inescapable for his medical recovery. He was accordingly declared fit after his last date of treatment.
3. This certificate is issued for School purpose only.

Medical Officer, NSG
Manesar/Palam HQ”

Mr. Amit Bansal, learned counsel for the CBSE, fairly stated that he was not questioning the veracity of the above certificate dated 31st January, 2018, but contended, nevertheless, that the periods of absence, as reflected in the said certificate, were not condonable under the provisions of the applicable Bye-Laws.

3. The issue in controversy in the present writ petition is very brief.

4. Subsequent to submission, by the aforesaid medical certificate, and attendant prescriptions, dealing with the treatment being administered to him and the rest advised to him from time to time, the petitioner was, on 21st February, 2018, issued an admit card for appearance in the XII Class Examination, which was to commence on 5th March, 2018. Despite the issuance of the said admit card, the petitioner received a message from the Respondent No.2 – School (hereinafter referred to as “the School”), on 27th February, 2018, informing him that the Central Board of Secondary Education (CBSE) had, *vide* its order dated 22nd February, 2018, refused to condone the shortage of attendance of the petitioner and had directed, therefore, that the admit card issued to him be returned, and that he would not, therefore, be allowed to appear in the examination scheduled for 5th March, 2018. Aggrieved thereby, the petitioner moved the present writ petition, before this Court, praying for issuance of an appropriate writ, quashing the order dated 22nd February, 2018, of the CBSE, refusing to condone the shortage of his attendance and, consequently, to allow him to appear in the XII Class Examination.

5. While issuing notice in the writ petition, this Court, *vide* order dated 1st March, 2018 allowed the petitioner to participate in the XII Class Examination, *albeit* without creating any equities either way, as a result thereof. *Vide* a subsequent order dated 10th May, 2018, the results of the said examination were also directed to be released. Mr. Ankur Chhibber, learned counsel appearing for the petitioner emphasises the fact that the petitioner cleared the said examination and is, subsequently, pursuing his L.L.B. Course, in which he is at the

threshold of completing his first year. Needless to say, however, inasmuch as the permission granted, by this Court, to the petitioner, to appear in his XII Class examination was *sans* creation of any resultant equities, these factors cannot influence this Court to arrive at a decision in the present case.

6. This Court has, instead, to be guided by the applicable Clause of the Examination Bye-laws of the CBSE, which cover the field. The specific clause that demands interpretation, in the present case, is Clause 14 of the Bye-laws, of which sub-clause (i) to (iii) read thus :

“14. Rules for Condonation of Shortage of Attendances

(i) If a candidate's attendance falls short of the prescribed percentage, in case of students appearing for the Secondary and Senior School Certificate Examinations conducted by the Board, the Head of the School may submit his name to the Board provisionally. If the candidate is still short of the required percentage of attendance within three weeks of the commencement of the examination, the Head of the Institution shall report the case to the Regional Officer concerned immediately. If in the opinion of the Head of the Institution, the candidate deserves special consideration, he may submit his recommendation to the Regional Officer concerned not later than three weeks before the commencement of the examination for condonation of shortage in attendances by the Chairman, CBSE, who may issue orders as he may deem proper. The Head of the School in his letter requesting for condonation of shortage in attendance, should give the maximum possible attendance by a student counted from the day of commencing teaching of Classes X/XII (beginning of the session) upto the 1st of the month preceding the month in which the examination of the Board commences, attendance by the candidate in question during the

aforesaid period and the percentage of attendance by such a candidate during the aforesaid period.

(ii) Shortage up to 15% only may be condoned by the Chairman in respect of those students appearing for the Secondary and Senior School Certificate Examinations conducted by the Board. Cases of candidates with attendance below 60% in class X or class XII, appearing for the Board's examinations as the case may be, shall be considered for condonation of shortage of attendance by the Chairman only in exceptional circumstances created on medical grounds, such as candidate suffering from serious diseases like cancer, AIDS, TB or similar serious diseases requiring long period of hospitalization.

(iii) The Principal shall refer a case of shortage within the above prescribed limit of condonation to the Board, either with the recommendations or with valid reasons for not recommending the case."

7. In the present case, the Principal of the school, apparently acting in exercise of the authority conferred on him by Clause 14(3) of the Bye-laws, addressed a communication dated 31st January, 2018, to the CBSE, recommending condonation of the default in attendance by four students, including the petitioner. The said certificate indicates that the percentage of classes attended by the petitioner was 53.7% (though it is, apparently inadvertently mistyped, in the copy of the said communication as filed, as "63.7%").

8. That brings us to sub-clause (ii) of clause 14 of the Bye-laws, already extracted hereinabove. A juxtaposed reading of the Clause 13.2(i)(a) and 14(ii) of the Bye-laws indicates that

- (i) 75% of classes are required to be attended by a student in order to enable her, or him, to appear in the XII Class Examination,
- (ii) the Chairman of the CBSE is empowered to condone shortage in attendance up to the extent of 15%, i.e. in respect of students who have attended between 60% and 75% of the classes in the relevant academic year, and
- (iii) students, who have attended less than 60% of the classes in the relevant academic year, would be considered for condonation of shortage of attendance by the Chairman “only in exceptional circumstances created on medical grounds, such as candidates suffering from serious diseases like Cancer, Aids, TB or similar serious diseases requiring long period of hospitalization.”

9. This Court is, in the present case concerned with this last category of cases, i.e. cases of students who have attended less than 60% of the classes in the concerned academic session. The case of the petitioner is that, if the periods from 5th to 7th April, 2nd to 4th May, 21st to 24th June, 12th to 15th July, 1st to 5th August, 21st to 28th August, 6th to 9th October, 17th to 29th November and 18th to 21st December, 2017 (as per the certificate dated 31st January, 2018 *supra*), are to be condoned, as he would have attended more than 60% of the classes in the 2017-18 academic session, thereby placing him within the window covered by the second category of cases to which para 7*supra* refers, i.e. the category of cases in which the Chairman was empowered to

condone the shortfall in attendance of the student, being between 60% and 75%.

10. As to whether the petitioner is entitled to fall within category (ii) in para 7*supra*, would depend on whether the shortage of attendance of the petitioner could be treated as attributable to “exceptional circumstances created on medical grounds such as candidates suffering from serious diseases like cancer, AIDS, TB or similar serious diseases requiring long period of hospitalization”.

11. The case of the CBSE, predictably, is that the categories of diseases, particularised in the above-extracted Clause 14(ii) of the Bye-laws, have to be treated as exhaustive, or at least as constituting a distinct genus of the kinds of ailments/diseases which would entitle a student to the benefit of the said Clause. Mr. Bansal, appearing for the CBSE, submits that the petitioner was not a sufferer of cancer, AIDS, TB, or of any similar serious disease requiring a long period of hospitalization. He cannot, therefore, Mr. Bansal would seek to submit, be said to suffer from “serious diseases like” these ailments. For the same reason, Mr. Bansal would submit that the petitioner could not seek the benefit of the clause relating to “exceptional circumstances created on medical grounds”, as these circumstances have necessarily to be akin to the nature of ailments specified thereafter, i.e. similar to cancer, AIDS, TB or similar serious diseases requiring long period of hospitalization. Mr. Bansal’s submission is that it is not every case where a student is unable to attend the requisite number of classes on account of medical grounds, as would

entitle him to the benefit of clause 14(ii), but only exceptional circumstances, similar to those specified in the said clause. The petitioner, according to Mr. Bansal, does not fall in this category and cannot, therefore, claim any relief.

12. To reiterate, Mr. Bansal has been fair in submitting that it is not his client's case that the medical certificates produced by the petitioner are not genuine, or that the petitioner was not actually disabled from attending classes during the period stipulated therein. This circumstance, however, he would contend, would not bring the petitioner's case within the peripheries of Clause 14(ii) of the Bye-laws, so as to enable him to cross the magic 60% figure, as would enable the Chairman to condone the default of attendance on his part.

13. Arguing *per contra*, Mr. Ankur Chhibber, learned counsel for the petitioner places reliance on a judgment of a Single Judge of the High Court of Calcutta in *Payal Sarkar v. C.B.S.E., (2010) SCC Online Cal 531*, particularly on para 16 thereof, which reads thus :

“16. In view of what has been observed hereinbefore, I am of the opinion that condonation of shortage of attendance by the Chairman, only in exceptional circumstances created on medical grounds, such as candidates suffering from serious diseases like cancer, AIDS, T.B. or similar serious diseases requiring long period of hospitalization in terms of the above-quoted Bye-law, is wholly inapplicable in the facts of this case. This Bye-law is merely indicative or illustrative and not exhaustive. This, indeed, is a special case which brings out an extraordinary situation and cannot be dealt with or said to fall squarely within Bye-laws 14(i) & (ii) of the Examination Bye-laws, 1995. The words, "medical grounds", in the referred context, should be read in its

generic form. Special learning disability, per se, may not be a life-threatening 'serious disease', but it is definitely a disability of such a nature which the Chairman can consider as an exceptional one, for condonation of shortage of attendance. The principal of Kendriya Vidyalaya, Fort William, is, therefore, directed to treat the case of the writ petitioner as a special case, in view of the observations made hereinbefore and forward her recommendation for condonation of shortage of attendance to the Chairman of the Central Board of Secondary Education forthwith, so as to enable him to take a decision in the matter.”

14. Mr. Chhibber also draws my attention to another decision of a learned Single Judge of the Calcutta High Court in *Nirmalya Sengupta v. C.B.S.E.*, (2018) SCC OnLine Cal 7903, which relies, in para 15, on the judgment in *Payal Sarkar (supra)*. He also relies on the judgment of a Division Bench of the Aurangabad Bench of the High Court of Bombay in *Yash Bharat Zende v. U.O.I.*, W.P. No. 3203/2019 paras 15 to 17 whereof read thus :

“15. Considering the examination bye-laws of the Board, it reveals that rule 13.1 pertains to requirement of attendance which is to be at least 75% and rule 14 (ii) is the provision enabling considering for condonation of shortage of attendance. Perusal of these rules show that cases of candidates with attendance below 60% in class X or class XII, as the case may be, appearing for the board examination, shall be considered for condonation of shortage of attendance by the Chairman only in exceptional circumstances created on medical ground, such as, candidate suffering from serious diseases like cancer, AIDS, TB or similar serious diseases requiring long period of hospitalization.

16. Sub-rule (iv) of rule 14 reads thus:

“The following may be considered valid reasons for recommending the cases of the candidates with attendance less than the prescribed percentage:

- (a) prolonged illness;
- (b) loss of father/mother or some other such incident leading to his absence from the school and meriting special consideration; and seek any other reason of similar serious nature.”

Reading these provisions makes it clear that the cases of ailments referred to in clause (ii) of Rule 14 are illustrative in nature and Rulemaking authority was conscious of the fact that there can be some reason which is though not referred in the Rules but may prompt a situation for a long absence and as such to meet with such an exigency, sub-rule (iv) clause (c) states that any other reason of similar serious nature. We have no hesitation to say that the authorities can certainly consider the cases wherein material placed before them shows that the absence was for certain reason of an illness and was beyond the control of a student or his parents.

17. We have no hesitation to state that the object of the education authorities should be to see that the students are not deprived of pursuing their academic career in genuine cases and they deserve to be given an opportunity to prove their metal in the examination along with other fellow students and there are certain occasion wherein the authorities are faced with a situation probably not arisen earlier but, in such a situation the authorities are expected to think out of the box so as to provide as opportunity to student to appear for examination, instead of raising technical hurdles and depriving him/her of prosecuting his/her academic career. It may not be out of place to state that when we say that an opportunity of education be granted to a young boy or a girl, it is not only for appearance for examination but it

is basically for young generation to raise his/her academic career and make him/her a literate and a responsible citizen. In present case, depriving such an opportunity would not only be loss of academic year but it would also be a loss for petitioner particularly in losing his confidence and aggravating his depression, which we wish to avoid.”

15. As against this, Mr. Amit Bansal, learned counsel appearing for the CBSE has relied on the judgment of the Supreme Court in *Assistant Collector of Central Excise, Guntur v. Ramdev Tobacco Company, (1991) 2 SCC 119* which essentially deals with the principle of *ejusdem generis*. Mr. Bansal would seek to submit, that applying the said principle to the clause under consideration in the present case, the words “exceptional circumstances created on medical grounds” have to be read *ejusdem generis* with the categories of diseases which follow i.e. serious diseases like cancer, aids, TB or similar serious diseases requiring long periods of hospitalization.”

Analysis

16. Certainty in the law is the *raison d’etre* of a robust legal system. The three judgments, of the High Court of Calcutta and the Aurangabad Bench of the High Court of Bombay, cited by Mr. Ankur Chhibber, have accorded an expansive interpretation to Clause 14(ii) of the Bye-laws of the CBSE, in circumstances similar to those obtaining in the present case. Ordinarily, and unless the circumstances so warrant, it would be in the interests of uniformity in the law, and upholding of the *stare decisis* principle, that this Court should not

adopt a contrary interpretation of the same clause, which has pan-India application, in circumstances which are similar.

17. Of course, having said that, it is also true that the decisions of other High Courts would be only of persuasive value, so far as this Court is concerned, and it would not be proper of this Court to blindly follow such decisions, without examining the relevant Clause of its own accord, to assess whether the views of the other High Courts commends acceptance, or not.

18. Having done so, I see no reason to depart from the view taken by the High Court of Calcutta or the High Court of Bombay, in the judgments cited by Mr. Chhibber.

19. Before proceeding to elucidate the reasons for my so holding, reference may usefully be made to a judgment of the Supreme Court in *Royal Hatcheries Pvt. Ltd. v. State of A.P., 1994 Supp (1) SCC 429*. The Supreme Court was, in that case, concerned with Rule 5(2) (xxvi) of the Andhra Pradesh General Sales Tax Rules. Rule 5(2) and clause (xxvi) thereunder, read thus:

“(2) In the case of under-mentioned goods, the turnover of a dealer for the purposes of these rules shall be the total amount payable by the dealer as the consideration for the purchase of goods.

* * *

(xxvi) Livestock, that is to say, all domestic animals such as, oxen, bulls, cows, buffaloes, goats, sheep, horses etc.”

20. Dealing with this Clause, the Supreme Court held as under:

“5. Having regard to the relevance of the language employed in Rule 5(2)(xxvi), it would be appropriate to set out the same over again here. It reads: “Livestock, that is to say, all domestic animals such as, oxen, bulls, cows, buffaloes, goats, sheep, horses etc.” The clause opens with the word, ‘livestock’, but it does not stop there. Had it stopped there, there could be no doubt that day-old chicks or for that matter, older chicks and chicken would have certainly fallen within the ambit of the expression ‘livestock’ and would have been taxable at purchase point. But the clause proceeds further and restricts the ambit of the expression “livestock” to domestic animals referred to therein. That is the effect of the words “that is to say”. The meaning and purport of the words “that is to say” is explained by this Court in *Rajasthan Roller Flour Mills Assn. v. State of Rajasthan* [1994 Supp (1) SCC 413: JT (1993) 5 SC 138]. They are words of limitation. In other words because of the use of the said words, the livestock contemplated by the said clause becomes confined to the domestic animals referred to in the said clause. ‘Livestock’ is, ordinarily speaking, not confined to domestic animals. As held in *Peterborough Royal Foxhound Show Society v. IRC* [20 Tax Cases 249 : (1936) 1 All ER 813] the word ‘livestock’ takes in ‘animals’ of any description. But the rule-making authority chose to limit the meaning of ‘livestock’ in the said clause only to domestic animals mentioned therein. Yet again, the clause does not stop with the words “all domestic animals”. It proceeds further and goes on to illustrate the meaning of the expression “all domestic animals” by mentioning some of them, namely oxen, bulls, cows, buffaloes, goats, sheep and horses and then ends with the word “etc.”. This could not have been without a purpose. It could only be to indicate the type of domestic animals the rule-making authority had in mind. Why did the rule-making authority not mention a single bird, while mentioning so many animals? *It is true, the words “such as” indicate that what are mentioned*

thereafter are only illustrative and not exhaustive. The clause also ends with the word “etc.”, which does mean that some more domestic animals in addition to those specifically mentioned therein are also included within the meaning the words “all domestic animals”. But the question still remains, whether day-old chicks were contemplated as included within the clause? In other words, whether chicks can be called ‘domestic animals’ so as to fall within the purview of the said clause?”

(Emphasis supplied)

21. In the above-extracted para 5 of *Royal Hatcheries Pvt. Ltd. (supra)*, the Supreme Court has categorically held that the words “such as” indicate that what are mentioned thereafter are only illustrative and not exhaustive. Though Mr. Bansal has sought to distinguish this decision by trying to contradistinguish the clause, with which the Supreme Court was concerned, with that which engages the attention of this Court in the present case, I am of the view that, insofar as the interpretation of the expression “such as” is concerned, the words of the Supreme Court are clear, unambiguous and admitting of only one interpretation, i.e. that the conjunctive phrase “such as” indicates that the words which follow thereafter are to be treated as only illustrative, and not exhaustive.

22. Insofar as the principle of *ejusdem generis*, on which Mr. Bansal would seek to rely, and the judgment of the Supreme Court in *Ramdev Tobacco Company (supra)*, which Mr. Bansal presses into service in support of the said argument, are concerned, I am of the view that the said principle has absolutely no application in the facts of the present case. This is clear even from a reading of the clause

with which the Supreme Court was concerned in ***Ramdev Tobacco Company (supra)***. The Supreme Court was, in that case, concerned with Section 40(2) of the Central Excise and Salt Act, 1944, which reads thus :

“40.(2) No suit, prosecution or other legal proceeding shall be instituted for anything done or ordered to be done under the Act after the expiration of six months from the accrual of the cause of action or from the date of the act or order complained of.”

23. Dealing with the expression, “no suit, prosecution or other legal proceeding”, the Supreme Court held that the words “other legal proceeding” are to be read *ejusdem generis* with the words “suit”, and “prosecution”. There can be no cavil, whatsoever, with this proposition, or of the applicability, of the principle of *ejusdem generis*, while interpreting such a clause. The words “suit” and “prosecution” indicate a genus, which persuaded the Supreme Court to hold that the words “other legal proceedings” have to be treated as part of the same genus, as the words “suit”, “prosecution” and “other legal proceeding” were in one statutory parenthesis.

24. Unlike the situation which obtained in ***Ramdev Tobacco Company (supra)*** in the present case, the words “exceptional circumstances created on medical grounds” are not parenthesised with the words “serious diseases like cancer, aids, TB or similar serious diseases requiring long periods of hospitalization”. In view thereof, there can be no question of applying the *ejusdem generis* principle in interpreting the words “exceptional circumstances created on medical grounds”. Rather, as the said words are succeeded by the use of the

words “such as”, the pronouncement of the Supreme Court in *Royal Hatcheries Pvt. Ltd. (supra)* would directly call for application, in interpreting “such as”.

25. Applying the principle laid down in the said decision, it is clear that, while interpreting the expression “exceptional circumstances created on medical grounds” in clause 14(ii) of the Bye-laws, it would be folly, on the part of this Court, or any judicial authority, to read the said words as corsetted by the use of the words “serious diseases like cancer, aids, TB or similar serious diseased requiring long period of hospitalization” which follow thereafter. Rather, the use of the words “such as” clearly indicate that the categories of diseases which follow after the said words are not to be treated as exhaustive, but only illustrative in nature. When interpreting the words “exceptional circumstances created on medical grounds” in the light of this legal position, Read thus, the Court has necessarily to bear in mind the fact that it is dealing with the case of a student suffering from a medical ailment, owing to which he has been unable to attend the required number of classes. The approach of a Court, in a case such as this, has necessarily to be distinct and different from other cases. It would be a complete travesty of justice if the Court is to adopt a hyper technical interpretation of clause 14(ii) of the Bye-laws, so as to deny such a student, who, despite his medical disablement, wants to appear in the examination and try and score well therein, a chance to do so. That can never be aim or purport of the clause. Rather, it appears that, by wording the clause in a deliberately wide manner, the framers thereof have left ample room for cases in which, though the candidate may not

be suffering from the specific disablements stipulated in the said clause, she/he is nevertheless, unable to attend the requisite number of classes owing to a serious medical condition. Viewed thus, any case where the student is handicapped from attending classes owing to exceptional circumstances created on medical grounds, would, in my view, clearly fall within the umbrella of clause 14(ii) of the Bye-laws (*supra*).

26. Where the rule has not chosen to particularise the expression “exceptional circumstances”, I am of the view that the phrase has necessarily to be accorded a purposive construction. The recent pronouncements of the Supreme Court in *Shailesh Dhairyawan v Mohan Balkrishna Lulla (2016) 3 SCC 619* and *Richa Mishra v. State of Chhattisgarh (2016) 4 SCC 179* clarify that, in recent times, the “golden rule” of interpretation has metamorphosed from the rule of literal construction to the rule of purposive interpretation. Purposively interpreted, I am of the view that the words “exceptional circumstances created on medical grounds”, as employed in clause 14(ii) of the Bye-laws have to expansively construed. Where a student is, owing to genuine medical reasons, unable to attend classes, and, thereby, his attendance falls short of 60%, as in the present case, he would be entitled to have the period of his absence, to the extent it exceeds 60% of the classes held, as attributable to “exceptional circumstances created on medical grounds”.

27. In view thereof, I am of the opinion that the absence of the petitioner, from classes, for the period from 5th to 7th April, 2nd to

4th May, 21st to 24th June, 12th to 15th July, 1st to 5th August, 21st to 28th August, 6th to 9th October, 17th to 29th November and 18th to 21st December, 2017 during which the petitioner could not attend classes, as certified by the Medical Officer, NSG Hospital, in the certificate dated 31st January 2018, is eligible to be regarded as attributable to “exceptional circumstances created on medical grounds”, within the meaning of Clause 14 of the Examination Bye-Laws. Consequently, if, by condoning the said period, the petitioner would have attended more than 60% of the classes in the 2017-2018 Class XII academic session, his case would fall within the category of cases in which the Chairman would be empowered to condone the shortage of attendance.

28. I am not entering, here, into an arithmetic assessment of whether, by condoning the aforesaid periods, as per the medical certificate dated 31st January 2018, the petitioner’s attendance would, or would not, cross the 60% mark. That is a matter which the CBSE would have to examine and ascertain on facts, though the contention of Mr. Chhibber, learned counsel for the petitioner, is that it would.

29. Consequently, this writ petition is allowed in the following terms :

- (i) The impugned order, dated 22nd February, 2018 *supra*, is quashed and set aside, *qua* the petitioner. The petitioner is declared as entitled for condonation of the periods of absence from class XII in the 2017-2018 academic session during 5th to 7th April, 2nd to 4th May, 21st to 24th June, 12th to 15th July, 1st to

5th August, 21st to 28th August, 6th to 9th October, 17th to 29th November and 18th to 21st December, 2017.

(ii) The CBSE is directed to work out the percentage of classes attended by the petitioner, after grant of condonation of the shortfall of attendance, by him, for the said periods.

(iii) In case, after the said condonation, the petitioner would have attended more than 60% classes, the Chairman, CBSE, is directed to take a decision on condonation of the default in attendance of the petitioner, exercising his power under clause 14(ii) of the Bye-laws (*supra*).

(iv) In that event, if the default in attendance of the petitioner is condoned, the petitioner shall be treated as having validly appeared in his Class XII examinations and would be entitled to all benefits that would follow thereupon.

30. No costs.

C.HARI SHANKAR, J

APRIL 16, 2019/kr