

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 1794 OF 2020

Rahul Sangram Narwade

.. Petitioner

Versus

The State of Maharashtra and others

.. Respondents

Mr. Shrikant T. Veer, Advocate for the Petitioner.

Mr. S. B. Yawalkar, Addl. G. P. for Respondent Nos. 1 and 2.

Ms. Surekha P. Mahajan, Advocate for Respondent No. 3.

Mr. Sanjeev B. Deshpande, A.S.G. for Respondent No. 4.

Mr. Kalyan V. Patil, Advocate for Respondent No. 5.

Mr. Sunil P. Koli, Advocate for Respondent No. 6.

**CORAM : S. V. GANGAPURWALA &
SHRIKANT D. KULKARNI, JJ.**

DATED : 12th FEBRUARY, 2020.

PER COURT:-

. The petitioner assails the letter dated 01.04.2019 by virtue of which the petitioner is not allowed to appear for 12th standard examination on the ground that the petitioner has secured 33 marks in the science subject in the 10th standard.

2. Mr. Veer, learned counsel for the petitioner submits that the petitioner has completed 10th standard education in Kendriya Vidyalay governed under CBSE Board. The petitioner has secured 33 marks in the science subject in the 10th standard examination and is declared as

passed. The petitioner was given admission in 11th standard (science faculty) in respondent No. 5 school governed by the State Board. The petitioner passed 11th standard and thereafter is admitted to the 12th standard in the same science faculty with respondent No. 6 school. The form is not being forwarded and accepted for the 12th standard examination on the ground that the petitioner did not acquire 35 marks in science subject in the 10th standard examination. According to the learned counsel, as per the CBSE Board guidelines and norms 33 are the passing marks. The said aspect be considered.

3. Ms. Mahajan, learned counsel for the Board submits that as per the rules and regulations of the SSC Board, the passing marks are 35. The petitioner failed to obtain the minimum marks required as per Board's regulation in the 10th standard examination. The learned counsel further submits that the syllabus at the relevant time of SSC Board and CBSE Board was not compatible. Now, the syllabus is made compatible. As such, the Board on 13.09.2019 took a decision of giving admission to the 11th standard (science faculty) even in respect of the student who has secured 33 marks in the science subject of CBSE course. In view of that, the petitioner can be considered for admission of 11th standard for the academic year 2019-2020 and for 12th standard he can be admitted for the academic year 2020-2021. The policy

decision has been taken by the Board considering the pros and cons involved in the matter. The learned counsel submits that the case of Rohit Mohavi is an exceptional case. The same cannot be precedent. Ms. Mahajan, learned counsel further submits that the Board does not supervise or exercise control over admissions to the 11th standard as the same is at the college level.

4. We have considered the submission canvassed by the learned counsel for the parties.

5. The factual matrix are not debatable. The petitioner has passed the 10th standard examination governed under CBSE Board. He got 33 marks in the science subject. As per the relevant regulations of CBSE Board the passing marks in science subject are 33. Subsequently, the petitioner is admitted to 11th standard in a school run under Secondary School Board. The passing marks under the Board regulations are 35. The petitioner was given admission for the academic year 2018-2019 in 11th standard governed by SCC Board regulations. When in the year 2018-2019 the petitioner was given admission, no objection was raised. The petitioner completed the year. It was only in April 2019 the objection was raised regarding the eligibility of the petitioner. It was too late in the day for respondents to raise such an objection. The

petitioner has already completed 11th standard in SCC Board. The reference can be had to the judgment in a case of **Krishnan Vs. Kurukshetra University** reported in **1976 AIR(SC) 376 : 1976 (1) SCC 311**.

6. Moreover, in case of similarly situated candidate namely Rohit Mohavi the Board considered the representation of Rohit Mohavi. The said Rohit Mohavi had appeared for SCC examination conducted by CBSE Board and had secured 34 marks in the science subject. He had filed the writ petition before Division Bench of this Court at Nagpur bearing Writ Petition No. 7661 of 2018. Under order dated 19.06.2019 this Court directed the SCC Board to consider the case of the said Rohit Mohavi. The Board allowed Rohit Mohavi to appear for 12th standard examination. Subsequently, the State Government has directed the Secondary School Board to consider the students eligible for admission to the 11th standard if the candidates have secured minimum passing marks required as per the regulations of the Board conducting the examination.

7. The Secondary School Board has now considered the said aspect and on the ground that now syllabus is compatible are allowing the candidates to appear for 12th standard examination but the only rider is

that they would be allowed to appear from the academic year 2020-2021.

8. Considering the fact that the petitioner was already admitted to the 11th standard for the academic year 2018-2019 and has completed the 11th standard and is also given admission to the 12th standard, it would be inequitable now at this stage to refrain the petitioner from appearing in the 12th standard examination.

9. In the light of the above, the impugned communication is quashed and set aside. If the petitioner is otherwise eligible, the petitioner shall not be refrained from appearing in the 12th standard examination only on the ground that the petitioner has secured 33 marks in the science subject in the 10th standard examination conducted by CBSE Board.

10. Before parting with the matter it is necessary to observe that the colleges are duty bound to admit the students who as per the Board regulations are qualified for admissions. The colleges are duty bound to adhere to the board regulations in its letter and spirit, any deviation therefrom would not be permissible. If the colleges are guilty of flouting the norms laid down by the Board, then the Board certainly can report this to the competent authority for taking necessary action

against the defaulting colleges.

11. Writ petition accordingly is allowed in above terms. No order as to costs.

12. Authenticated copy be given.

(SHRIKANT D. KULKARNI)
JUDGE

(S. V. GANGAPURWALA)
JUDGE

P.S.B.