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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 5428 OF 2021

Parth Ramesh Dhoble

... Petitioner

Versus

Union of India and Ors.

... Respondents

Mr. Akshay R. Kapadia for the Petitioner.

Mr. Mihir Joshi for the Respondent No.2-CBSE.

Mr. Javed R. Patel for the Respondent No.3.

**CORAM: R. D. DHANUKA AND
ABHAY AHUJA, JJ.**

DATE : 17th NOVEMBER, 2021.

P.C. :-

. By this petition filed under Article 226 of the Constitution of India, the petitioner prays for a writ of certiorari thereby quashing and setting aside the order dated 12th August, 2021 and reply dated 1st September, 2021 passed by the respondent no.3 on the representations made by the petitioner dated 10th August, 2021 and 18th August, 2021.

2. The results for 12th class examination was declared on 30th July, 2021. It is the case of the petitioner that if the marks of the petitioner is computed as per the policy of the respondent no.2 than he would be entitled to get 90.6% marks in 10th standard, 61.6% in 11th standard and 81% marks in 12th standard aggregating to 83.6% marks. The respondent no.2 however has awarded only 68.4% marks i.e. 342 out of 500 marks to the petitioner. The petitioner accordingly made a

representation to respondent no.3 on 10th August, 2021 which came to be rejected on 12th August, 2021. The petitioner made further representations on 18th August, 2021 and 31st August, 2021. On 1st September, 2021, the respondent no.3 rejected the representations made by the petitioner.

3. Learned counsel for the petitioner invited our attention to the circular dated 8th August, 2021 issued by the respondent no.2 prescribing the terms and conditions for resolution of dispute regarding computation of results. He also placed reliance on calculations annexed at Exhibit E to the petition and submits that since the petitioner was not satisfied with the marks in 12th standard allotted by the respondent no.2 assessment policy, he made a representation to the respondent no.2 through the respondent no.3 annexed at page 44 of the petition. It is accordingly submitted that the representations are erroneously rejected by the respondent no.2 and the same ought to have been allowed for re-computing the marks by adopting the dispute type II and III.

4. On the other hand, learned counsel for the respondent no.2 submits that the reliance placed by the learned counsel for the petitioner on circular dated 8th August, 2021 annexed at page 38 is misplaced. The said circular only provides for resolution of dispute regarding computing of results by referring disputes to a committee constituted by respondent no.2. He tenders a copy of the notification dated 17th June, 2021 issued by the respondent no.2 in support of the submission that the said circular provides the procedure for assessment

of students and more particularly in paragraph 4, 6 and 7.

5. It is submitted by the learned counsel that even under the said circular dated 8th August, 2021 relied upon by the learned counsel for the petitioner, the other important instruction's at page 40 of the petition would clearly indicate that the students were not at liberty to challenge the method of computation of marks used by the Result Committee or the moderation implemented by the school for increasing/decreasing of marks.

6. It is submitted by the learned counsel that the respondent no.2 rightly rejected the representation made by the petitioner. The petitioner thereafter invoked the Dispute IV and made further representation to the CBSE Board through the Principal of the respondent no.3-college. He submits that in the said representation, it was made clear that the petitioner did not dispute the policy framed by the CBSE.

7. Learned counsel for the respondent no.3 supported the submission of the respondent no.2 and would submit that there is no discrepancy in the computation of marks as sought to be canvased by the learned counsel for the petitioner.

8. In our view, the circular dated 8th August, 2021 pressed in service by the learned counsel for the petitioner would not support the case of the petitioner for the purpose of the methodology of computation of marks. The said circular provides that the board and management

dispute regarding the computation of results have to be resolved by the Committee to be constituted by the CBSE.

9. Learned counsel for the petitioner could not dispute that the notification dated 17th June, 2021 issued by the CBSE prescribing that process of assessment and moderation would apply to the petitioner and other similar situated students who will appear for the said CBSE examination. Paragraph 10 of the said notification provides for assessment moderation of class 11th and class 12th component. Paragraph 10(b) provides that the subject wise marks assessed by the school for 2020-2021 should be within a range of +/- 5 marks obtained by the students in the school in the subject. However, the overall average marks for the school assessed in 2020-2021 for all the subjects, should not exceed the overall average marks obtained by the school by 2 marks in the specific reference year. Clause 28 of the said notification provides that the students who are not satisfied with the assessment done based on the policy will be given an opportunity to appear in examinations to be conducted by the board when conditions are conducive for holding the examinations. As per this policy, marks scored in later examination will be considered as final.

10. Type IV dispute invoked by the petitioner annexed to the petition at page 57 clearly indicates that the petitioner has not disputed the policy framed by the respondent no.2-CBSE.

11. Be that as it may, the opportunity provided in Clause 28 of the notification dated 17th June, 2021 is not availed by the petitioner.

12. Insofar as the submission of the learned counsel for the petitioner that no breakup of the marks is given is concerned, in our view, even if the said circular dated 8th August, 2021 pressed in service by the learned counsel for the petitioner could be extended for limited purpose, even the said circular and more particularly important instructions in clause 1, would make it clear that the students are not at liberty to challenge the method of computation of marks used by the Result Committee or the moderation implemented by the school for increasing/decreasing of marks. The petitioner is thus entitled to breakup of the marks.

13. The petition is devoid of merits and is accordingly dismissed. There shall be no order as to costs.

[ABHAY AHUJA, J.]

[R. D. DHANUKA, J.]