

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH : NAGPUR.**

WRIT PETITION NO.2133/2020

Jatin Prabhakar Ghotekar,
aged 19 Yrs., Occ. Student,
R/o Rajura, Tah. Rajura,
Dist. Chandrapur.

..Petitioner.

..Vs..

1. State of Maharashtra,
through, the Secretary, Higher
Secondary & Technical Education,
Mantralaya, Mumbai.
2. Maharashtra State Board of Secondary
and Higher Secondary Education, Nagpur
Divisional Board, Nagpur, through its
Secretary, Revindranath Tagore Marg,
Nagpur.
3. The Principal,
Adv. Yadavrao Dhote Junior College
Rajura, Tah. Rajura, Dist. Chandrapur.
4. Maharashtra State Board of Secondary
and Higher Secondary Education, Pune,
through its Secretary, Shivaji Nagar,
Pune.

..Respondents.

Mr. A.A. Dhawas, Advocate for the petitioner.
Mr. A.A. Madiwale, A.G.P. for respondent No.1.
Mr. Anand Parchure, Advocate for respondent Nos.2 and 4.
Mr. S.M. Nafdey, Advocate for respondent No.3.

CORAM :- SUNIL B. SHUKRE AND
ANIL S. KILOR, JJ.
DATED :- 6.9.2021.

ORAL JUDGMENT *(Per Sunil B. Shukre, J.)*

Heard. **Rule.** Rule made returnable forthwith. Heard by

consent.

2. The facts of this case indicate that the petitioner who had cleared his 10th standard examination from C.B.S.C. board in the year 2018 obtaining 33% of marks was admitted to respondent No.3 college to 11th standard science course. It is further seen that as per the eligibility criterion prescribed for 11th standard courses affiliated to state board minimum 35% marks are required if one is interested in taking admission to science stream. The passing percentage for 10th standard state board examination is of 35% while passing percentage for 10th standard examination for C.B.S.C. board is 33%. It appears that the eligibility criterion fixed for securing admission to 11th standard science stream courses offered by the college affiliated to state board, is based upon the minimum passing percentage prescribed for state board 10th standard examinations and this criterion does not take into consideration the minimum passing percentage of 10th standard examination prescribed by C.B.S.C. board. This effect of mismatch was considered by this Court in the case of Rohit S/o Shankar Madavi V/s. State of Maharashtra and others in Petition No.7661/2018 decided on 19.6.2019 and suitable directions were issued to the state board for reconsideration of its eligibility criterion for 11th standard science course. The state board accordingly

took its decision, which is seen from the order dated 26.7.2019 issued to all the junior colleges in Nagpur Division and declared that the eligibility criterion for 11th standard science course shall be consistent with the passing percentage of 10th standard examination taken by C.B.S.C. board.

3. So there are cases where the state board has permitted students of C.B.S.C. board to be admitted to state board 11th standard science courses on the basis of their passing percentage of 10th standard C.B.S.C. examination. If that is so, we do not think that any different criterion can be applied to the case of the petitioner. The petitioner would have to be given same benefit as the other similarly situated candidates have been and, therefore, this petition deserves to be allowed.

4. However, we also think it necessary to impose costs upon respondent No.3 college for the mistake that they have committed in the present case. From the copy of the relevant page of the register available on record, it can be seen that the petitioner was initially admitted to commerce stream of 11th standard and then he was permitted to take science stream examination and this was all done without seeking prior approval of respondent No.2 board. This

mistake was noticed by the board after it examined record of respondent college which occasion arose because of filing of the present petition. There is also an admission given by respondent No.3 about this mistake and as such imposition of reasonable costs upon respondent No.3 college would be necessary.

5. The petition is **allowed**. The impugned communication dated 6.7.2020 and also the communication dated 24.7.2020 both are quashed and set aside. It is declared that the petitioner is entitled for declaration of his result of 12th standard science examination and issuance of marks-sheet of the same to him within one week after the deposit of costs by respondent No.3 college in the account as directed by this Court. The respondent No.3 college shall deposit costs of Rs.25,000/- (₹ Twenty Five Thousand) in the account of High Court Legal Services Sub-Committee, Nagpur within one week from the date of the order. Rule accordingly.

JUDGE

JUDGE