

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.1340 /2021

Kaustubh s/o Bhumeswar Bante
Aged about 17 Years (Minor),
Occupation : Education,
The Petitioner is minor Through his
Natural Guardian father Bhumeswar s/o
Tarachand Bante, Age : 57 Years,
Occupation: Service, R/o: Plot No.267,
Durga Nagar, Tumsar, Tah, Tumsar,
District – Bhandara.

..... PETITIONER

// VERSUS //

1. Maharashtra State Board of
Secondary and Higher Secondary
Education Divisional Board, Civil Lines,
Nagpur – 01, through its Divisional
Chairman / Secretary.
2. Matoshree Vidhya Mandir and
Junior College, Tumsar, through its
Principal, Tah. Tumsar,
District – Bhandara.
3. Maharashtra State Board of
Secondary and Higher Secondary
Education, Pune, Through its
Secretary, Near Balchitrawani,
Bhamburda Shivaji Nagar Pune.

.... RESPONDENTS

WITH

WRIT PETITION NO.1341 /2021

Ankush S/o Santlal Gedam,
Aged about 18 Years,
Occupation : Student,
R/o. C/o. Chandrashekhar

Jayantram Kanoje, Plot No.83,
Santlal Gedam, Durga Nagar,
Tumsar, Tah. Tumsar,
District – Bhandara.

..... PETITIONER

// VERSUS //

1. Maharashtra State Board of
Secondary and Higher Secondary
Education Divisional Board, Civil Lines,
Nagpur – 01, through its Divisional
Chairman / Secretary.
2. Matoshree Vidhya Mandir and
Junior College, Tumsar, through its
Principal, Tah. Tumsar,
District – Bhandara.
3. Maharashtra State Board of
Secondary and Higher Secondary
Education, Pune, Through its
Secretary, Near Balchitrawani,
Bhamburda Shivaji Nagar Pune.

.... RESPONDENTS

Shri Ranjeet Singh Tomar, Advocate for petitioners in both
petitions.

Shri Anand Parchure, Advocate for respondent nos.1 and 3 in both
petitions.

CORAM : SUNIL B. SHUKRE AND
AVINASH G. GHAROTE, JJ.

DATED : 15/03/2021

ORAL JUDGMENT : (PER:- SUNIL B. SHUKRE, J.)

1] **Rule.** Rule made returnable forthwith. Heard finally by
consent of Shri Tomar, learned counsel for the petitioners and Shri

Parchure, learned counsel for the respondent nos.1 and 3.

2] The petitioners, who had secured admission to 11th standard in the year 2018-19 were promoted to 12th standard and were permitted to take the final examination of 12th standard for the year 2019-20. When it came to declaration of result of the final 12th standard examination, the respondent nos.1 to 3 found that the initial admission of the petitioners to 11th standard was not in accordance with the eligibility criteria then prescribed by the respondent nos.1 to 3 and therefore, the result was withheld by them.

3] It is the contention of the learned counsel for the petitioners that the criteria of 35 % of passing percentage of marks in 10th standard examination, as prescribed by the State Board, is applicable to the students of State Board and the criteria of 33 % of passing percentage is applicable to the C.B.S.E. Board candidates. He submits that the petitioners being the C.B.S.E. Board candidates, were eligible for securing admission to science stream of 11th standard. The learned counsel for the petitioners submits that in view of the judgment of this Court delivered in the case of *Tulika d/o Dinanath Timande Vs. Maharashtra State Board of Secondary and Higher Secondary Education Divisional Board, Civil Lines Nagpur – 01, through its Divisional Chairman/Secretary and another* in **Writ Petition No.2096 of 2020**, decided on 01.10.2020 and also the judgment of this Court in the case of

Rohit S/o Shankar Madavi Vs. State of Maharashtra Through, The Secretary, Higher Secondary & Technical Education, Mantralaya, Mumbai and others in **Writ Petition No.7661 of 2018**, decided on 19.06.2019, respondent nos.1 to 3 changed the criteria and took a decision that the students who had taken admission in the academic session 2019-20 and on wards would be treated as validly admitted to 11th standard, provided they had secured minimum 33 % of marks in the C.B.S.E. Board examination. He submits that this criteria can also be applied to the students like the petitioners.

4] Shri Purchase, learned counsel for the respondents submits that the policy decision taken by the State Board applies to the candidates admitted to 11th standard from the academic session of 2019-20 and on wards and it does not apply to the academic session of 2018-19. He submits that such decision has been taken by the Board in the interest of the students who have fallen victim to the exploitative tactics of the Management and it is precisely for this reason that it is necessary to impose penalty upon such Managements if any directions for regularization of even previous admissions are to be issued, in order to protect the academic interest of the students.

5] We appreciate the concern expressed by Shri Anand Purchase, learned counsel on behalf of the State Education Board and we are also of the view that in academic field, there should not be any

irregularity committed by the Managements and that the academic field must not be polluted. But, effective steps, in our considered opinion, in this direction can be taken only by the State Board. Till the time, such steps are taken, we are also of the opinion that the academic interest of the students could not be made to suffer. Then, if a policy decision has been taken by the State Board to treat as valid the admissions taken in the 11th standard from the academic session of 2019-20 and on wards, we see no reason in not treating as valid the admissions taken in the previous year as well. Ultimately, treating such previous admissions as valid would only protect the academic interest of the students without making any arbitrary distinction between the students admitted in one particular year and students admitted in another year. Therefore, we are inclined to allow these petitions to the extent it seeks regularization of admission of the petitioners in the 11th and 12th standard and also declaration of the final result of the 12th standard examination.

6] Accordingly, the petitions are allowed. The respondent nos.1 and 3 are directed to treat as valid the admission of the petitioners to the 11th standard in the academic session of 2018-19 and also to the 12th standard in the year 2019-20. We further direct respondent nos.1 and 3 to declare the final result of 12th standard examination of the petitioners.

7] We grant liberty to the respondent nos.1 and 3 to impose

appropriate penalty upon the respondent no.2, if it so desires, but subject to giving of show cause notice to the respondent no.2 and giving of adequate opportunity of hearing to respondent no.2.

Rule is made absolute accordingly.

(AVINASH G. GHAROTE, J)

(SUNIL B. SHUKRE J.)

Sarkate.