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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.08.2021

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.Nos.4774, 12162 & 16772 of 2021

and

W.M.P.Nos.5388, 5393, 5395, 8376,12949 and 17738 of 2021

SRK International CBSE School

(Affiliated to CBSE)

Rep. by its Correspondent

Aayeept Main Road, Keezhur,

Neyveli, Cuddalore District - 607 302.

...Petitioner
in all Writ Petitions

vs.

1.The Central Board of Secondary Education,

Rep. by its Secretary,

Shiksha Kendra 2, Community Centre,

Preet Vihar,

Delhi -110 092.

2.The Regional Officer,

Chennai Central Board of Secondary Education,

New No. 3 Old No. 1630, A J Block,16th Main Road,

Anna Nagar West,

Chennai -600 040.

3.The Assistant Secretary,

New No.3 Old No. 1630, J Block, 16th Main Road,

Anna Nagar West,

Chennai -600 040.

...Respondents
in all Writ Petitions

PRAYER in W.P.No.4774 of 2021: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned letter in CBSE / RC(M) Exam/ E2/ADMN/2020 dated 30.11.2020 the letter in CBSE/RO(M)/ Exam / 2020 dated 16.12.2020 issued by the 2nd Respondent and letter in CBSE /RO(M) / Exam /2021 dated 13.02.2021 issued by the 3rd Respondent and quash the same and consequently direct the Respondent Board to ratify the admission of 27 students in class XII for the academic year 2020-21 by the Petitioner school by considering the Petitioner's application dated 03.09.2020 and further direct the 1st Respondent to permit the said 27 students of the Petitioner school to appear for the 12th Std. CBSE Board Examinations to be conducted in March 2021 or any other date specified.



PRAYER in W.P.No.12162 of 2021: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents to permit the petitioner school to upload the list of candidates of the 27 students in Class XII of the petitioner on the CBSE website and further direct the 1st and 2nd respondents to issue examination roll numbers and accept payment of examination fees and allow the 27 students of petitioner school in Class XII to write practical and written examinations in the name of petitioner school and in the petitioner school.

PRAYER in W.P.No.16772 of 2021: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the Respondents to declare results of the 27 class XII Students of the petitioner school for the academic year 2020-2021 issue mark sheets and migration certificate of our 27 students within a time frame to be fixed by this court.

For Petitioner : Mr.P.Wilson
(in All WPs) Senior Counsel
for Mr.Richardson Wilson

For Respondents : Mr.G.Nagarajan
(in All WPs) CGSC

C O M M O N O R D E R

The issue involved in all these three Writ Petitions are common and hence they are taken up together, heard and disposed of through this common order.

2.The Petitioner School is affiliated with the Central Board of Secondary Education (hereinafter referred to as "CBSE"). The Petitioner School had applied for CBSE affiliation for Classes 1 to 10, in the year 2015 and through proceedings dated 01.06.2017, the affiliation was granted, and the Petitioner School commenced admission of students for these classes.

3.The Petitioner School thereafter made an application seeking affiliation for classes XI and XII from the academic year 2019-2020. The affiliation was granted by CBSE through proceedings dated 09.01.2020, wherein the petitioner was permitted to admit students for Class XI effective from 1st April 2019, and the first batch of Class XII students were allowed to appear for Board Examinations conducted during March 2021. It is therefore clear that the Petitioner School has been granted affiliation by the CBSE for Classes XI and XII.



4.The further case of thepetitioner is that applications were submitted by 27 students for direct admission to Class XII during June 2020. Requisition letters were also given by the parents of these students to admit their children directly intoClass XII.

5.The Petitioner School, through a letter dated 03.09.2020, requested the 2ndRespondent to grant permission for the admission of those 27 students. The 2nd Respondent, through a letter dated 30.11.2020, on examining the request made by the Petitioner, informed the Petitioner that the admissions made by the Schoolcould not be accepted since the School did not adhere to the norms prescribed in that regard.

6.The Petitioner once again made a representation on 30.11.2020, and it was again rejected by the 2ndRespondent by a letter dated 16.12.2020. Admittedly, both these rejection letters were not challenged by the Petitioner School, and the Petitioner School continued to impart education knowing fully well that the 2nd Respondent has already rejected the requestmade by the petitioner.

7.The Petitioner made one more representation on 07.01.2021 to the 1stRespondent and requested for sanction/approval to the 27 students who were directly admitted in Class XII during the academic year 2020-2021. On receipt of this representation, the 1st Respondent through letter dated 13.02.2021, once again rejected the request made by the petitioner on the following grounds:

1.The SRK International School did not register any candidate in Class XI in the academic session 2019-2020.

2.All the 27 candidates admitted by the School in Class XII (for the academic year 2020-2021) are direct admissions.

3.All the 27 candidates were previously studying in the same School namely Jayapriya Vidyalaya (55569)

4.This year as there were no physical classes, there is no issue of distance also.

5.The School has taken the rules very lightly.

The 1st Respondent by taking into consideration the interest of the students,permitted the 27 students to register themselves in the previous School where they underwent education in Class XI and thereafter appear in the examination. The Petitioner was also directed to inform the students to register for the examination through the previous School immediately.



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admitted directly into Class XII. One such contingency is where the students are finding it difficult to attend regular school owing to the school being situated at a long distance from their respective residences. In the present case, the 27 students are said to have shifted to the Petitioner School only on the ground that their existing School is situated at Virudachalam, and they have to travel for nearly 80 kilometres every day. It is stated in the counter that the syllabus for the senior level is integrated for two years in Class XI and Class XII and therefore, the students are expected to study in the same School in both the classes and the direct admission of students in Class XII is only an exception. It is stated that out of 27 students, 20 students actually studied in Neyveli in a CBSE School upto Class X, and thereafter these students had shifted to the School at Virudachalam and they completed their Class XI in that School. Therefore, a stand has been taken in the counter affidavit that those students had joined at Virudachalam knowing fully well about the distance they had to travel and more particularly when they were undergoing studies at Neyveli till Class X and that School also had Classes XI and XII. The Respondents have also taken a stand to the effect that all is not well in the manner in which the Petitioner School has en bloc admitted 27 students directly into Class XII, and considering the fact that such an attempt has been made by the Petitioner School to cover up certain complaints received against the Petitioner, the Respondents took a decision not to grant the approval for the admission of the 27 students directly into Class XII.

16. Heard Mr. P. Wilson, learned Senior Counsel for the Petitioner and Mr. G. Nagarajan, learned Central Government Standing Counsel appearing for the Respondents.

17. It is an admitted fact that the Petitioner School has been granted affiliation by the CBSE for Classes XI and XII through letter dated 09.01.2020. The Petitioner School had not admitted any student in Class XI. Insofar as Class XII is concerned, they directly admitted 27 students alone and no other student was admitted in Class XII. It is clear from the counter affidavit as well as the relevant Regulations that there are certain contingencies which permit admission of students directly into Class XII. One such contingency is the long distance to be travelled by the students from their residences to the School. This is the contingency that is relied upon in the present case and according to the Petitioner School, all these students had to travel nearly 80 kilometres from Neyveli to attend the School at Virudachalam.

18. Admission of a student directly into Class XII is only an exception which can be resorted to under certain circumstances. It is clear from the Regulations that the syllabus prescribed at the senior level is integrated for two years during Classes XI and XII. That is the reason why direct admission into Class XII is prohibited and it is allowed only



under rare and prescribed circumstances. In the present case, the ground taken by the Petitioner School as if the students had sought for a transfer to the Petitioner School on the ground that they have to travel for long distance is quite artificial since there has been no physical school from April 2020 onwards and the students are attending classes and writing exams only through online mode. Admittedly, even the Petitioner School was imparting education only through online mode. If these 27 students had continued at Virudachalam School, they would not have travelled to the School at all during the entire period and they would have continued to attend the classes only through online mode. Therefore, the reason for admitting 27 students directly in Class XII sounds very whimsical and unacceptable. Even a careful reading of the letters submitted by the parents of the students shows that every letter has been worded in the same way and there is only a change with regard to the name mentioned therein. It is not known under what circumstances these parents have given such letters to the Petitioner School. It is quite curious that all the 27 students were previously studying in the same school namely Jayapriya Vidyalaya and this cannot be merely coincidental.

19. There is yet another issue that requires the consideration of this Court. The requests made by the Petitioner School for sanction/permission for admitting 27 students directly in Class XII was rejected in the month of November 2020 itself. It was once again rejected in the month of December 2020. In spite of the same, the Petitioner School continued with those 27 students and never thought it fit to challenge the rejection letters at that point of time. The Petitioner School was repeatedly making representations in this regard and their last representation was once again rejected by the impugned letter dated 13.02.2021. The reasons for the rejection have been extracted supra. In the same letter, it was made clear that the students will be permitted to register AISSCE 2021, through the previous School. Therefore, the interest of the students was taken care of by the Respondents. It is not known as to whether the Petitioner School has informed about this to the 27 students.

20. The Petitioner School took advantage of the fact that a notification was issued by the Board for conducting practical examination for Class XII. At that point of time, the Petitioner had approached this court and had challenged all the three rejection letters and had sought for various interim orders. Through interim orders, the students were allowed to take the practical examinations and again through interim orders, the names of the students were also allowed to be uploaded in the portal. All these interim orders were passed subject to the result of this Writ Petition. After all this, what remains is the declaration of the results of these 27 students.



21. On a combined reading of all the materials placed before this Court, this Court is of the considered view that the Petitioner School has taken advantage of the situation and is now projecting the interest of 27 students to validate the admissions that were made directly to Class XII. It is quite strange that apart from these 27 students, no one else was studying in Class XII and no one had joined even in Class XI, in the Petitioner School. Therefore, it is quite obvious that the Petitioner School has devised a mechanism to get 27 students transferred from a School and all of them were directly admitted to Class XII. It has been stated in the counter affidavit filed by the Respondents that some complaints were received against the Petitioner School to the effect that they were conducting coaching classes in the school campus and a notice was also issued to the Petitioner School in this regard by the 2nd Respondent calling for an explanation on 26.05.2020. On receipt of this notice, the Petitioner School also gave a reply dated 06.06.2020, stating that they have not admitted any students for Classes XI and XII. Immediately thereafter, 27 students get directly admitted in Class XII during August, 2020. There is a larger design that is involved in the present case which requires an enquiry by the CBSE. The enmasse transfer of 27 students in one go, who were admitted directly in Class XII with identical letters given by their respective parents shows that these admissions are not clean and it requires a serious enquiry on the part of CBSE.

22. The Petitioner School cannot take advantage of the interim orders passed by this Court and it was made clear even when those interim orders were passed that the same will be subject to the final result in the writ petition. It is quite unfortunate that 27 students were hoping that their results will be declared pursuant to the interim orders passed by this Court without understanding the repercussions, and also the fact that the final orders will be passed in the Writ Petitions only on the merits of the case.

23. The Hon'ble Supreme Court has time and again warned the High Courts from issuing directions in academic matters due to misplaced sympathy while exercising its jurisdiction under Article 226 of the Constitution of India. If this Court allows the 27 students admitted directly in Class XII to get their results published, unwittingly this Court also will be playing into the hands of the Petitioner School and the Petitioner School will easily get away from the larger design that requires an enquiry by the CBSE. Ultimately, these 27 students can once again write the Class XII examination and pursue their future as this might not cause an irretrievable loss to them. However, this Court does not want to allow the Petitioner School to use the students as a shield and get over the illegality committed by them. This



Court will never encourage such an attitude while exercising its jurisdiction under Article 226 of the Constitution of India.

24. This Court does not find any ground to interfere with the impugned rejection letters issued by the Respondents and accordingly, all the Writ Petitions stand dismissed. No costs. Consequently, all the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

KP

To

1. The Secretary,
Central Board of Secondary Education,
Shiksha Kendra 2 Community Centre,
Preet Vihar,
Delhi -110 092.
2. The Regional Officer,
Chennai Central Board of Secondary Education,
New No. 3 Old No. 1630, A J Block, 16th Main Road,
Anna Nagar West,
Chennai -600 040.
3. The Assistant Secretary,
New No.3 Old No. 1630,
A J Block, 16th Main Road,
Anna Nagar West,
Chennai -600 040.

+3ccs to Mr. RICHARDSON WILSON, Advocate, S.R.No.39565 TO 39567

W.P.Nos.4774, 12162 & 16772 of 2021

VBM(CO)
KM(11/08/2021)