

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.04.2021

CORAM

THE HON'BLE MR.JUSTICE M.M.SUNDRESH
and
THE HON'BLE MS.JUSTICE R.N.MANJULA

W.A.No.860 of 2021
and C.M.P.No.5006 of 2021

- 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.1630A,
J-Block, 16th Main Road,
Anna Nagar West, Chennai - 600 040.
 - 3.The Assistant Secretary,
New No.3, Old No. 1630A,
J-Block, 16th Main Road,
Anna Nagar West,
Chennai - 600 040.
- ... Appellants
- Vs
- SRK International CBSE School,
(Affiliated to CBSE),
Rep. by its Correspondent,
Aayeept Main Road, Keezhur,
Neyveli,
Cuddalore District - 607 302.
- .. Respondent

Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 26.02.2021 passed in W.M.P.No. 5395 of 2021 in W.P.No.4474 of 2021.

Prayer in W.P.No.4474 of 2021: Writ Petition filed under Article 226 of the constitution of India pleaded to issue a writ of certiorified 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 CBSC/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 student in class XII for the accademic year 2020-21 by the Petitioner School by considering the Petitioners application dated 03.09.2020 and further direct the 1st Respondent to permit the said 27 studants of the petitioner school to appear for the 12th std.CBSC Board Examinations to be conducted in March, 2021 or any other date specified.

For Appellants : Mr.G.Nagarajan

For Respondent : Mr.P.Wilson, Senior Counsel
for Mr.Richardson Wilson

JUDGMENT

(Delivered by M.M.SUNDRESH, J.)

This writ appeal is filed by the appellant, aggrieved over the interim order granted by the learned single Judge, by permitting the candidates admitted by the respondent to appear for the practical examinations.

2. Learned counsel appearing for the appellants submitted that it would not be possible to comply with the direction of this Court. Until and unless the approval is given, there is no question of permitting the students to write the examination.

3.Learned senior counsel appearing for the respondent submitted that what is passed is only an interim order and the contentions are not adjudicated upon. Therefore, the very appeal itself is not maintainable. It is further submitted that the fact that the students are studying in the respondent school with the requisite attendance is not in dispute and the problem arose only when the students are made to undertake practical examination 40 kms away.

4. The objections raised by the appellants are extracted herein:-

"12. It is also pertinent note that the interim direction granted by His Lordships cannot be complied with unless the following conditions are fulfilled.

1.First of all, the admission of XII Std students should have been approved by CBSE Board.

2.The List of Candidates (LOC) with the required particulars has to be forwarded by the school to CBSE Board.

3.The necessary examination fee has to be paid by the candidates.

4.Thereafter Roll Number has to be allotted to each candidates on all India level.

5.On conducting the practical examinations after the fulfilment of the above criteria the practical marks obtained by the candidate shall be uploaded in CBSE Portal."

5.We find that these objections cannot be relevant factors with respect to the order passed by the learned single Judge. In other words, complying with the objections raised would not amount to either allowing the writ petition or accepting the case as projected by the respondent/writ petitioner. What the learned single Judge did was to facilitate the writing of the practical examination. While doing so, compliance is required on the part of the appellants. Therefore, the appellants can comply with the requirements only for the purpose of giving effect to the interim order passed, in which case, the contentions on merit would certainly be raised and decided at a subsequent stage by the learned Single Judge, either interlocutory or final. Now, the appellants have also come on record. Therefore, the learned Single Judge has to consider the grant of appropriate orders either interlocutory or final, only by hearing the appellants. This would include permitting the students to write the written examination also.

6.In such view of the mater, we are not inclined to interfere with the order passed by the learned single Judge, leaving all the issues open, notwithstanding the compliance to be made by the appellants.

7.The submission made by the learned senior counsel for the respondent that fees would be paid within a period of three days from the date of receipt of a copy of this order stands recorded. We expect the compliance to be made by the appellants

within a period of two weeks from the date of receipt of a copy of this order.

8.As the interest of students, who are desirous of attending the practical examination to be conducted by the respondent, is involved, we request the learned Single Judge dealing with the case to expedite the hearing and grant interlocutory or final order.

9.With the above observation and direction, the writ appeal stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-III)

//True copy//

Sub Assistant Registrar

mmi

To

1.The Central Board of Secondary Education,
Rep. by its Secretary,
"Shiksha Kendra" 2, Community Centre,
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2.The Regional Officer,
Chennai,
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Copy To
The Section Officer,
Writ Section, High Court, Madras.

W.A.No. 860 of 2021

MG(CO)
GMY(17/04/2021)