

IN THE HIGH COURT OF ORISSA AT CUTTACK

WP (C) No.20398 of 2022

OdishaAbhibhabakMahasangha ***Petitioner***
Ms.AdishaMohanty,Advocate
-versus-

Central Board of Secondary Education, Delhi & another ***Opp.Parties***

CORAM:
THE CHIEF JUSTICE
JUSTICE CHITTARANJAN DASH

ORDER
11.10.2022

Order No.

03. 1. The present Public Interest Litigation has been brought by OdishaAbhibhabakMahasangha questioning the criteria adopted by the Central Board of Secondary Education (CBSE) of shifting the weightage between Term-I and Term-II examinations held by the Schools covered by the CBSE system. During the period of pandemic in which there was a complete closure of schools during November and December, 2021. Accordingly,the weightage has been shifted to 30:70 for the two terms. In other words, CBSE has decided by means of a circular dated 31st March 2022 that 30% weightage would been given to Term-I marks and 70% weightage to Term- II marks.
2. On an earlier occasion, this Court had posed a query to the learned counsel for the Petitioner whether the changed criteria adversely would affect all the students uniformly or whether it

would affect one section of the students who may not have scored sufficient marks in either Term. Learned counsel for the Petitioner offered that the Petitioner's organization would itself conduct an empirical study to ascertain the factual position.

3. Pursuant thereto I.A No.13684 of 2022 has been filed by the Petitioner *inter alia* enclosing a copy of the result of survey conducted by the Petitioner organization. The fact of the matter is that the Petitioner has ascertained that while there may be a section of students aggrieved by the changed criteria of the CBSE, the Petitioner organization has not been able to persuade such students to come forth to implead themselves as Petitioners. Learned counsel for the Petitioner candidly states that those students may be apprehensive of the result of such challenge to the changed criteria.

4. Learned counsel for the Petitioner also drew the attention to the Court to the judgment dated 26th August, 2022 of the learned Single Judge of the Delhi High Court in ***Devasri Bali v. Central Board of Secondary Education*** whereby relief was granted to the individual Petitioner by issuing directions to the CBSE to declare her result in terms of previous circular dated 5th July, 2021 which provides for special scheme of assessment mandating equal weightage to the theory papers for Term-I and Term-II while computing the result. In particular, learned counsel for the Petitioner has drawn the attention of this Court to the following passage of the said judgment;

“31. Officer of the CBSE was present during the hearings before this Court and assisted this Court. On the query made by this Court *qua* the approval of

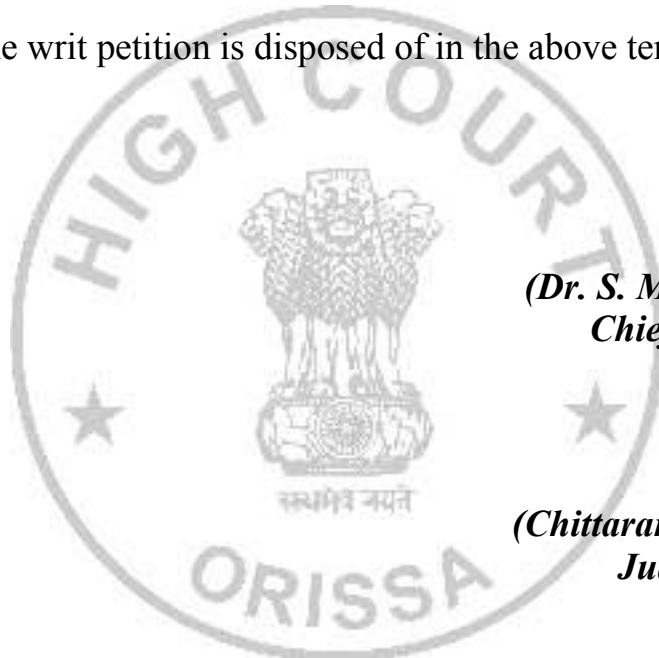
the Minutes of the Result Committee Meeting, which has been placed on record, the concerned officer responded that the same has been approved by the competent authority of the Board. Upon not finding any formal order by the competent authority enforcing the recommendation regarding the new weightage formula, this Court was constrained to summon the Original file, which was furnished by the concerned officer present in the Court. However, it was disappointing to see that only two green coloured sheets containing the notes of the Controller of Examinations was present, and no such order made by the Chairperson/Competent Authority accepting, enforcing and notifying the recommendation regarding the new weightage formula was present in the file produced. Even, the Officer present was unable to satisfactorily answer the query of the Court in this regard.”

5. This Court notes that in Para 40 of the same judgment, the learned Single Judge of Delhi High Court has observed as under:

“40. As goes the popular saying – “Justice should not only be done, but also seen to be done.” In the academic Session 2021-2022, around 14 lakhs students appeared for the CBSE Class-XII Board Examinations, whose results have been prepared and declared in accordance with revised weightage formula. Therefore, in the greater interest of the students at large and to ensure that justice does not in itself become an agent of chaos, as well as in light of the fact that the petitioner has not pressed its prayer for setting aside of the impugned circular of revised weightage formula, this Court is not interfering with the Revised Scheme of Weightage of Term-I and Term-II exams dated 23rd July 2022. It is also made clear that the petition has been partly allowed in the peculiar facts and circumstances of the case and shall not operate as a precedent.”

6. In the above circumstances, with the aggrieved students not being prepared to come before this Court as Petitioners, this Court is not inclined to entertain the present petition in the current form as a PIL. Nevertheless, it will be open to the aggrieved students if any to seek relief in appropriate proceedings, including approaching the CBSE, by relying on the aforementioned judgment of the learned Single Judge of the Delhi High Court, if it has not in the meanwhile been interfered with in appeal.

7. The writ petition is disposed of in the above terms.



(Dr. S. Muralidhar)
Chief Justice

(Chittaranjan Dash)
Judge

B.C.Mohanty