

IN THE HIGH COURT AT CALCUTTA

(Civil Appellate Jurisdiction)

APPELLATE SIDE

Present:

The Hon'ble Justice Subrata Talukdar

And

The Hon'ble Justice Supratim Bhattacharya

MAT 663 of 2022

with

IA No. CAN 1 of 2022

Sankarlal Khanra & Anr.

Vs.

West Bengal Board of Secondary Education & Ors.

For the Appellants : Mr. Partha Sarathi Bhattacharyya
Mr. Indubhusan Das
Mr. Raja Bhattacharyya

For the Respondent Nos.4 : Mr. Shyamal Kumar Das
and 5. Ms. Smita Pal
Mr. Krishna Yadav

For the WBBSE : Mr. Santanu Kumar Mitra

Heard On : 06.02.2023

Judgement Delivered On : 04.05.2023

Supratim Bhattacharya, J.:-

- 1.** The instant appeal has been preferred against the Judgement and Order passed in the writ petition being WPA 17066 of 2021 dated 28th March, 2022.
- 2.** Through the said impugned order the Hon'ble Single Bench has been pleased to dismiss the prayer of the writ petitioners praying for direction upon the respondent authorities especially the Secretary, Managing Committee of the Bora Madhusudan High School and the West Bengal Board of Secondary Education (hereinafter referred to as Board) to show cause as to why they did not take steps for preparation and supply of marksheets of Madhyamik Pariksha (Class X) 2021 to the wards of the petitioners.
- 3.** The appellants in the instant appeal were the writ petitioners. The appellants/writ petitioners are the fathers of both the students who did not appear in the Madhyamik Pariksha (Class-X) 2021.
- 4.** The fact of the instant *lis* is that both the wards of the appellants/writ petitioners are the students of Bora Madhusudan High School, Singur, Hooghly. The said two students were unable to fill up the Form for the Madhyamik Examination 2021, as a result of which they could not appear for the said examination. The remaining 141 students out of 143 students had come to the School and had filled up the Form for the said

examination. Being unable to appear in the Madhyamik Pariksha (Class-X) 2021, the fathers of both the students preferred applications before the West Bengal Board of Secondary Education praying for investigation as regards to the filling up of Forms of the Madhyamik Pariksha (Class-X) 2021, and issuing results for the said examination in respect of the said two students. Being unable to obtain any fruitful result both the fathers preferred the writ petition. Being unsuccessful before the Hon'ble Single Bench the fathers of both the students have come up before this Court.

5. (a) The Learned Counsel appearing on behalf of the appellants/writ petitioners has submitted that the School Authority did not intimate either of the students as regards to the filling up of the Forms for the Madhyamik Examination (Class-X), 2021. It has been submitted that during the said period, pandemic was in full swing so both the students, that is the sons of the appellants could not visit the school. It is further submitted that neither the writ petitioners nor their sons were intimated from the school as regards to the filling up of the forms for the said examination.

(b) It has been submitted that the telephone numbers of both the petitioners were with the school authority and the school did not take any initiative to inform either the petitioners or their sons. Learned Counsel has also submitted that the situation prevailing at that time was not normal. As such, it was the incumbent duty of the school authority to intimate either the writ petitioners or their sons which was not done. It is asserted that

there was no laches or negligence on the part of either the writ petitioners or their sons.

(c) It is also submitted that the petitioners and their sons have been made to suffer, not for any fault of their own but, because of the negligent approach of the school authority. Banking on the aforementioned facts and circumstances the Learned Counsel prayed for allowing the instant appeal and issuing the result in respect of the Madhyamik Examination 2021 of the said two wards of the petitioners .

6. a) The Learned Counsel appearing on behalf of the respondents/ West Bengal Board of Secondary Education has denied the allegation of negligence on the part of the authority. It is submitted that in the said year there were altogether 143 students who were to appear in the said examination through the said school. It is further submitted that out of 143 students, 141 students appeared in the said examination barring these two students only. He has further submitted that when 141 students could appear in the said examination out of 143 students, it is evident that there was no laches on the part of either the school authority or the said Board, on the contrary both the students and their parents were not diligent enough and did not have the seriousness with which they ought to have approached the issue then.

b) The Learned Counsel has further submitted that because of the present situation, neither the school authority nor the West Bengal

Board of Secondary Education is to be blamed. Relying on the aforesaid facts and circumstances, Learned Counsel has prayed for rejection of the instant appeal.

7. From the facts and circumstances of the instant *lis*, the crux of the said matter is that as to whether the students or the authority that is the Board and the school are responsible for the present situation of the two students.

8. The writ petitioners being the fathers of the wards who could not appear in the Madhyamik Examination, 2021 have preferred the appeal alleging negligence on the part of the school authority due to the situation created by the pandemic leading to cancellation of the Madhyamik Examination 2021 by the Board of Secondary Education whereby the Head of the institutions were directed to submit Enrolment Form duly filled up by the candidates along with specific fees. They were also to provide the marks obtained by the respective candidates in the Annual Examination of Class X. The writ petitioners have alleged that though the Enrolment Form were sent by the Board, the school authority did not communicate the information to them for filling up the Enrolment Form in spite of the fact that their mobile numbers had been provided to the school authority.

9. It is apparent that the said school namely, Bora Madhusudan High School, Hooghly had the total strength of 143 students appearing for the Madhyamik Examination, 2021 out of which 141 students had gone to

the school for filling up the requisite form and only two students i.e. the sons of the writ petitioners did not fill up the form. Since both the students did not fill up the requisite Form so they have not been declared successful in the Madhyamik Examination 2021.

10. It is apparent that out of 143 students only two students did not turn up while the remaining students performed their duties. From the aforesaid fact it transpires that the school authorities did not sit tight over the said issue and if that had been so then many more students would not have got the opportunity to appear in the said examination. It is also fact that due diligence ought to have been/should have been shown by the writ petitioners and their wards in case of the special circumstance which was prevailing them.

11. The Hon'ble Single Bench has rejected the prayer of the appellants/writ petitioners citing disputed questions of fact. This Court, upon consideration of the aforesaid facts and circumstances, also does not find any reason to accept the arguments of the appellants/writ petitioners.

Accordingly, no interference is called for with the impugned Judgement and Order passed by the Hon'ble Single Bench as such the same is affirmed.

MAT 663 of 2022 along with **IA No. CAN 1 of 2022** is **dismissed**.

Parties shall be entitled to act on the basis of the server copy of the judgment and order placed on the official website of the Court.

Urgent Xerox certified photo copies of this judgment, if applied for, be given to the parties upon compliance of the requisite formalities.

I agree.

(Subrata Talukdar, J.)

(Supratim Bhattacharya, J.)