



W.P.Nos.13481, 11590, 12971, 12977, 12979, 12981, 12982 and 12985 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.04.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

**W.P.Nos.13481, 11590, 12971, 12977, 12979,
12981, 12982 and 12985 of 2023**

And

**W.M.P.Nos.13161, 13163, 13166, 11490, 12748, 12752,
12754, 12756, 12757, 12758, 12761, 12763,
12764, 12765, 12767, 12768, 12770, 12772,
12773, 12775, 12777 and 12779 of 2023**

Sivadeepak Kannan
Represented by his G
and Mother Mrs.K.Gomathi ... Petitioner in W.P.13481/2023

Vs.

- 1.The Regional Officer, CBSE,
Old No.1630 A, 6th Avenue,
3, 6th St, near Sri Devi Hospital,
Bharathi Colony, Bharathi Nagar,
Anna Nagar, Chennai,
Tamil Nadu – 600 040.
- 2.The Deputy Commissioner,
Kendriya Vidyalaya Sangathan,
I.I.T. Campus,
Chennai – 600 036.
- 3.The Principal,
Kendriya Vidyalaya Sangathan,
Dr.Natesan Salai, Ashok Nagar,
Chennai – 600 083. ... Respondents in W.P.13481/2023



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Prayer in W.P.No.13481/2023:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents to forthwith constitute the promotion committee to deal with the peculiar situation of enmasse students failed in 11th Standard in "A" Section in the academic year 2022 – 2023 so as to conduct compartment/supplement examination to the petitioner who failed in the academic year 2022 – 2023 for promoting the petitioner to get admitted in 12th Standard in the 3rd respondent School.

For Petitioners : Mr.K.Raja
for Mr.M.Chellakkannu
in W.P.13481/2023

Mr.K.Elangoo
in W.P.11590/2023

Mr.K.Raja
in W.Ps.12971, 12977, 12979,
12981, 12982 and 12985 /2023

For Respondents : Mr.M.Siva Bharathi for R1
CGSC
Mr.G.Nagarajan for R2
Mr.M.Vaidhiyanathan
Counsel for KVS
in all the W.Ps.



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COMMON ORDER

The petitioners have filed these writ petitions seeking direction to the respondents to conduct compartment/ supplement examination to the petitioners who failed in the academic year 2022 – 2023 for promoting the petitioners to get admitted in XII Standard.

2.Since the issue involved in all these writ petitions are one and the same, they are heard together and disposed of by way of a common order.

3.The respective learned counsel appearing for the petitioners submitted that the petitioners are students of Kendriya Vidyalaya Sangathan. Some of the students of Kendriya Vidyalaya failed in one subject and they were allowed to write supplementary examination and some of the students failed in more than one subject and they were not allowed to write supplementary examination by relying upon Clause 3 of the Assessment and Evaluation Practices for classes III to VIII and IX and XI in the academic session 2022 – 23, dated 16.09.2022.



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4.The learned counsel appearing for Kendriya Vidyalaya Sangathan submitted that there are many students studying in Kendriya Vidyalaya Sangathan and the students who failed in one subject are placed under Compartment and are allowed to write supplementary examination and the students who failed in more than one subject are treated as Essential Repeat and are not allowed to write supplementary examination.

5.In response, the respective learned counsel appearing for the petitioners submitted that similar issue was considered by this Court in respect of CBSE student in W.P.No.10540 of 2018 dated 28.04.2018 and this Court granted permission to the petitioner therein to write supplementary examination inorder to continue her study in XII Standard.

6.Heard the arguments advanced on either side and perused the materials available on record.

7.Petitioners are students of Kendriya Vidyalaya Sangathan and the students who failed in one subject were allowed to write



W.P.Nos.13481, 11590, 12971, 12977, 12979, 12981, 12982 and 12985 of 2023 supplementary examination and who failed in more than one subject were not allowed to write supplementary examination by relying upon Clause 3 of the Assessment and Evaluation Practices for classes III to VIII and IX and XI in the academic session 2022 – 23, dated 16.09.2022.

8.It is useful to extract hereunder Clause 3 of the Assessment and Evaluation Practices for classes III to VIII and IX and XI in the academic session 2022 – 23, dated 16.09.2022:

*"3.Students failing in one of the five subjects in Class XI will be placed under Compartment in that subject and students failing in more than one subject will be treated as '**Essential Repeat**'."*

9.It is also useful to extract hereunder the relevant portion of the order of this Court made in W.P.No.10540 of 2018, dated 28.04.2018:

*8. Taking note of the said submissions of the learned counsel on either side and considering the facts and circumstances of the case, **the minor Petitioner is permitted to take up XI Standard Examinations in the subjects,***



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Physics, Chemistry and Mathematics on 21.05.2018, 23.05.2018 and 25.05.2018, respectively, in the 3rd Respondent/School.

9. It is made clear that if the Petitioner clears the XI Standard Examinations, the 3rd Respondent/School shall issue Transfer Certificate to her to enable her to join XII Standard in some other School. If she fails in all the three subjects or in any one of the subjects, Transfer Certificate shall be issued to the Petitioner with the remarks 'Detained'. It is further made clear that the Petitioner has been permitted to take up the Examinations only for the purpose of getting Transfer Certificate and joining in some other School, as CBSE Regulations/Guidelines are against the Petitioner."

10. There is no quarrel with regard to either the mandate of clause 3 of the Assessment and Evaluation Practices or with regard to the order passed in W.P. No.10540/2018. However, the facts of W.P. No.10540/2018 clearly reveal that it cannot be imported to the present case, as in the said case, the examinations were directed to be conducted for the student only for the purpose of issuing transfer



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certificate subject to the outcome of the exams so as to enable the students to pursue their higher education elsewhere in some other school. In the aforesaid backdrop, Clause 3 of the Assessment and Evaluation Practices assumes significance.

11. Even a bare perusal of Clause 3 of the Assessment and Evaluation Practices reveals that students failing in one of the five subjects in Class XI will be placed under 'Compartment' and the students failing in more than one subject will be treated as 'Essential Repeat'. Barring the above, the clause is silent on the movement of the student to the next higher standard. The said clause does not speak about the promotion of the student to the next higher class, even on the failure of the student be it in one subject or in multiple subjects. It merely differentiates the students on the basis of the number of subjects in which the student has failed. The coinage of 'compartment' and 'essential repeat' therefore merely differentiates the students based on the failures in the subjects, be it solitary or multiple and it does not speak about the movement to the next higher standard. It is to be pointed out that failure should not be the basis to create a class within itself, be it failure in one subject or multiple subjects, which is an inequality and is a direct affront on Article 14 of



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the Constitution. When clause 3 does not speak of promotion to the next higher class, viz., Class XII, but only differentiates the students on the basis of the number of subjects in which they have failed, ensuring equality as adumbrated in the Constitution, this Court feels that the interests of all the students should be taken into consideration for the purpose of their movement to the next higher standard, viz., XII Standard without reference to the number of subjects in which a student has failed, as it is the life of the students which is at stake.

12.In such view of the matter, Article 14 warrants an equal treatment to be meted out to all the students, irrespective of the number of subjects in which they have failed. Therefore, as a one time measure, this Court directs the Kendriya Vidyalaya Sangathan to conduct supplementary examination for all the students, throughout the State of Tamil Nadu, who failed in more than one subject, to enable them to come out successful and get promoted to the next higher standard of XII for pursuing their studies. Kendriya Vidyalaya Sangathan is further directed to conduct the supplementary examination, within a period of three weeks from the date of receipt of a copy of this order.



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13.These writ petitions are accordingly disposed of. No costs.

Consequently, the connected miscellaneous petitions are closed. The order passed by the Court above is as a one time measure and the same shall not be quoted as a precedent in future cases.

27.04.2023

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Note: Issue order copy on 28.04.2023

Speaking Order/ Non Speaking Order

Index: Yes/ No

Internet: Yes/ No

To

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M.DHANDAPANI,J.

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