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W.P.No.32521 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **06.02.2023**

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P.No.32521 of 2022

Gokul Aaji G.M.

... Petitioner

Vs

1 The Assistant Secretary/Deputy Secretary
Central Board of Secondary Education
New No.3 Old No. 1630 AJ Block
16th Main Road, Anna Nagar West,
Chennai 600040.

2 The Regional Director,
Central Board of Secondary Education
New No.3, Old No. 1630 AJ Block
16th Main Road, Anna Nagar West,
Chennai 600040.

3 The Principal
Jagannath Vidyalaya
Thaiyur 603103
Chengalpattu Taluk and District.

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, for the issuance of a Writ of Mandamus directing the 2nd respondent to issue hall ticket and permit the petitioner to appear in the Compartment Examination to be held in February 2023 for Mathematics examination with subject Code 041.



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For the Petitioner : Mr.G.Vasudevan
For the Respondents : Mr.G.Nagarajan,
for respondents 1 and 2
Mr.S.Kamalesh Kannan,
for the third respondent

ORDER

The writ petition has been filed in the nature of a mandamus seeking a direction to the second respondent, the Regional Director, Cental Board of Secondary Education, Chennai to issue hall ticket and to permit the petitioner to appear in the Compartment Examination to be held in February 2023, for the mathematics subject with subject Code 041.

2. The petitioner was a student of the third respondent, Jagannath Vidyalaya Thaiyur, Chengalpet District. The said school is under the control of Central Board of Secondary Education. He had attended his XII standard examination in March, 2020. He scored a total of 28 marks in Mathematics. He had to rewrite the said exam. Thereafter the Covid 19 pandemic had set in. According to the petitioner, one of his family members was also afflicted by Covid 19.



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He then applied to write the Compartmental Exam in September, 2021 for Mathematics. He again failed. He again applied to write the same paper in May, 2022. He claimed that the admit card was not issued and therefore he did not write the examination and thereafter he had applied for writing the said examination in February 2023. However the admit card was not issued. Seeking permission to write the examination in February 2023, the present writ petition has been filed.

3. A counter affidavit had been filed on behalf of the first and second respondents namely the officials of the Central Board of Secondary Education. They stated that as per the Rules of the Central Board of Secondary Education, a candidate can write a particular paper only three times. If he is not able to secure the requisite pass marks those three occasions, he would have to write all the subjects once again.

4. In so far as the petitioner is concerned, it had been stated that he had applied to write the exam originally in March, 2020. He did not get the requisite mark in the mathematics paper to be declared as pass. He had then applied to write the compartment examination in



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September 2021. Again he was not successful in clearing the paper.

He then again applied to write the exam in March, 2022.

5. With respect to the claim of the petitioner that he did not receive the admit card, it had been very specifically stated in the counter affidavit that the admit card also known as hall ticket was issued only through online and not offline. It had therefore been stated that the admit card was forwarded in proper manner through online.

6. It had been stated that therefore the contention that the petitioner had not written the examination cannot be taken into consideration since he had applied and the hall ticket has been issued. He has taken a conscious decision to not to write the exam.

7. It had been stated that therefore he had taken more than three chances and it was therefore contended that if he wants to clear his XII std, he must write all the papers.



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8. The learned counsel stated that the schedule to apply to write the examination in February, 2023 had passed and therefore the petitioner can write all the papers in September, 2023.

9. I have heard the arguments advanced.

10. Rule 42 of the CBSE notification dated 01.02.2018 is as follows:

" 42.(ii) A candidate who does not appear or fails at one or all the chances of compartment shall be treated to have failed in the examination and shall be required to reappear in all the subjects at the subsequent annual examination of the Board as per syllabi and courses laid down for the examination concerned in order to pass the examination."

The rule is clear. The rule is straight forward.

11. A candidate can write a particular paper on three occasions. If he fails on all the three occasions, then, he cannot write that individual paper alone again but must write all the subjects.

12. In the instant case, the petitioner had for the first time written the mathematics examination in March, 2020. He did not get



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the requisite marks to be declared as having passed the exam. He then applied again to write the same paper in September, 2021. He again did not get requisite marks to cross the threshold between failure and pass. He then again applied in March, 2022. The contention raised is that the petitioner did not receive the hall ticket. But the specific stand of the respondent is that the hall ticket was not issued offline but rather uploaded online. The petitioner having applied for the exam should have sought the said hall ticket through online. The petitioner did not write the examination. Now the petitioner has lost all the three chances to write one single paper again. He will now have to write all the subject papers once again and should secure requisite marks to be declared as having passed the XII std examination. The rules cannot be changed for the sake of one student. The petitioner having applied to write the paper in March, 2022, should have been vigilant and should have written the paper. He had not written the examination. That would not give him any advantage since he had applied and expressed his intention to write the examination. Once he had so applied then he has a choice to either physically appear and write the paper or not to write the paper. The fact is he has applied to write and that would be counted as one



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chance. That particular application has exhausted all the three chances to pass the mathematics paper. Since he had failed, now he has to write all the papers. That opportunity, will come once again in September, 2023.

13. The Learned counsel for the respondent stated that, that opportunity is available to the petitioner herein.

14. The window for writing the examination in February 2023 had since closed. Therefore the petitioner would not be in a position to apply and I would therefore wish him well to prepare and write all the papers in September, 2023.

15. The relief sought to write one single paper in February, 2023 cannot be granted by this Court

16. The writ petition to that narrow extent stands dismissed but with a caveat that the petitioner can always write all the papers in September, 2023.



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17. The writ petition stands dismissed. No costs.

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Index: Yes/no
mrn

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C.V.KARTHIKEYAN, J.
(mrn)

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