

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CWP-6483-2023

Date of decision : 02.12.2023

Riya

... Petitioner

Versus

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Akshit Mehta, Advocate and
Mr. Ashish Gupta, Advocate
for the petitioner.

Mr.Naveen Singh Panwar, DAG, Haryana.

Mr.B.S.Seemar, Advocate
for respondents no.2 and 3-Board.

None for respondent no.4-school.

VIKAS BAHL, J.(ORAL)

1. This is a civil writ petition filed under Article 226/227 of the Constitution of India for the issuance of a writ in the nature of certiorari for quashing of the impugned order dated 17.02.2023 (Annexure P-16) whereby the claim of the petitioner for correction of her result and for issuance of corrected detailed marks certificate has been rejected.

2. Learned counsel for the petitioner has submitted that the petitioner was studying in 10th standard in respondent no.4-school and in the year 2021 on account of Covid-19 situation in the country and enforcement of lockdown, the schools in the State of Haryana were closed and a conscious decision was taken by the respondents to upgrade/ pass the students to higher standard on the basis of assessment made by the

concerned schools and thus, respondent no.4-school prepared the result of the petitioner along with the other students for Class 10th examination of the year 2021 and submitted the same to respondents no.2 and 3-Board. It is further submitted that the roll number of the petitioner was 17164511 and although the result of all the students was declared on 30.07.2021 but with respect to the petitioner, it was stated as result late / RL and after due enquiry, the petitioner learnt that her marks have been interchanged with one Riya daughter of Anil by the school, while submitting the result to respondents no.2 and 3-Board. It is stated that Riya daughter of Anil bearing roll no.17164515 was not studying in respondent no.4-school in July 2021 and had already left the school in the year 2020 and the school leaving certificate dated 22.09.2020 (Annexure P-3) had already been issued to her and she had passed her 10th standard examination from the Board of School Education Haryana (Bhiwani) in the examination conducted by the said Board in July 2021 bearing roll no.1021228723 and a certificate to said effect has been annexed as Annexure P-4. It is further stated that a perusal of the marksheet (Annexure P-1) which is stated to be that of the petitioner i.e., Riya daughter of Indersen shows that in all theory papers, zero marks have been given and that since the petitioner had been regularly giving the internal examination and had been attending the classes, thus, the question of her getting zero marks in all the theory exams does not arise. It is submitted that a perusal of the marksheet Annexure P-2 of Riya daughter of Anil would show that in the theory papers the said Riya had obtained marks raising from 13 to 42 and the said fact is not possible as the said Riya had already left the school in September 2020. It is further submitted that the result of the petitioner was declared on 24.08.2021 and since then the petitioner has been pursuing her case with respondent no.4-

school and had requested the school to request the respondent-Board to rectify the said mistake and was informed by the school that various representations were submitted by the school to the CBSE starting from 02.09.2021. Learned counsel for the petitioner has also made a specific reference to the representation dated 02.02.2022 (Annexure P-5) which has been received by the CBSE on 11.05.2022 in which it has been specifically stated by the school that the mistake had occurred at the school's end and the school had sought an apology for the said mistake. Learned counsel for the petitioner has further submitted that the said error is further apparent from the record as a perusal of Annexures P-1 and P-2 would show that both the certificates bear the photograph of the petitioner only and not Riya daughter of Anil and has submitted that when no action was taken, the petitioner filed CWP-2583-2023 which was decided vide order dated 09.02.2023 (Annexure P-15) and the respondent-Board was directed to consider the representation dated 02.02.2022 (Annexure P-5) within a period of 10 days from the date of receipt of the certified copy of that order and in pursuance of said order, respondents no.2 and 3 had considered the case of the petitioner and had rejected the same vide order dated 17.02.2023 (Annexure P-16) and in the said order, it was observed that under the notification issued by the CBSE, it was open to seek revision of result by making a request online to "School Request Submission for Resolution (SRSR)" and since no such request was made by the school within the prescribed time, thus, the request of the petitioner was rejected. Learned counsel for the petitioner has submitted that the last date for making the said request was 16.08.2021 and since the result of the petitioner was declared on 24.08.2021, thus, it was not possible to move an application prior to the said date. It is also submitted that it is only the school who had

to submit the said request and there is no right of an individual to make the said request directly and the school had been informing the petitioner that they had forwarded her case to the Board. It is stated that in the present case, it is proved beyond doubt that the marks of the petitioner have been interchanged with that of Riya daughter of Anil and the same has happened on account of the fault of the school for which the petitioner should not be made to suffer and on account of the said fault, the future of the petitioner has been put in jeopardy. It is further stated that the petitioner has passed 11th examination but is not permitted to give 12th examination on account of the said mistake of the school and has further submitted that in case the necessary relief is not granted to the petitioner, then her future would be completely jeopardized. A prayer thus, has been made that the present petition be allowed.

3. Learned counsel appearing for respondents no.2 and 3-Board has submitted that in accordance with the judgment of the Hon'ble Supreme Court in WP civil no.522 of 2021 titled as "Ms. Mamta Sharma vs. CBSE" the Board had issued the policy for tabulation of marks for Class XII examination 2020-21. Learned counsel for respondents no.2 and 3-Board has referred to notification dated 01.05.2021 (Annexure P-17) specifically Clause 7 to show that the Result Committee was constituted which comprised of a Principal and 7 teachers for finalizing the result and out of the 7 teachers, 5 teachers belonged to the same school whereas 2 teachers were from the neighbouring schools. Further reference has been made to the circular dated 08.08.2021 to highlight the fact that the present dispute is Type-3 dispute covered under Clause 1 (b) and the modalities to address Type-3 dispute is mentioned under Clause 4 (b). It is submitted that the only information received by the CBSE from the school was Annexure P-5 and

since no request was received from the school within the time limit, thus, the plea of the petitioner was not entertained. It is further submitted that the Board has given the result on the basis of the marks which have been forwarded by the Committee constituted by the school and thus, mistake, if any, is only at the end of the school and the same is not remotely at the end of the Board. Learned counsel for respondents no.2-3-Board has further submitted that the Board has been unnecessarily dragged into the litigation and if the documents annexed by the petitioner are taken into consideration, then also it is the school which is proved to be at fault and not the Board and thus, the school should be saddled with the litigation costs to be paid to the Board.

4. Learned State counsel has submitted that they are only a formal party.

5. The respondent no.4-school was also issued notice and in spite of service, neither anyone has appeared on behalf of the school nor any written statement has been filed on their behalf to rebut the pleas raised in the petition.

6. This Court has heard learned counsel for the parties and has gone through the paper book.

7. A perusal of the school record would show that there were two Riya studying in respondent no.4-school. One Riya is Riya daughter of Indersen who is the present petitioner and other Riya is daughter of Anil, who as per the document Annexure P-3 had left the school on 22.09.2020 and has subsequently joined Government High School Baghanki (G.G.N.) and had passed her 10th class examination in June, 2021 from Board of School Education Bhiwani (Haryana) vide Roll no.1021228723 which fact is apparent from a perusal of Annexure P-4 which is the certificate issued

by the Govt. High School Baghanki (G.G.N.). The school in the letter dated 02.02.2022 which was received by the CBSE Board on 11.05.2022 has clearly admitted its mistake. The contents of Annexure P-5 are reproduced hereinebelow:-

“SHAHEED AMAR SINGH PUBLIC SCHOOL

Learning for change

NH-8, Near Toll Tax Complex, Bilaspur, Gurgaon (HR)

Web: www.sasps.in, E-mail: principal@sasps.in

M:-9310301717

S.No.: SASPS/2021-22/Gen/58

02.02.2022

*ASSISTANT SECRETARY, A B CELL (CONFIDENTIAL)
CENTRAL BOARD OF SECONDARY EDUCATION
REGIONAL OFFICE,
SECTOR-5, PANCHKULA
HARYANA, 134152*

Sub:- Correction in the Result AISSE 2021 in Respect of Roll No.17164511 Riya D/o Indersen.

Dear Sir/Madam,

Please refer to E-mail dated 02.09.2021 pertaining to our request for cancellation of the result of Roll No.17164515 Riya D/o Shri Anil and upload the same marks/result in the Marks statement cum certificate of Roll No.17164511 Riya D/o Indersen. It is clarified that:-

- 1. Riya D/o Shri Anil left the school in 2020 after passing her IX class. Her SLC No. 206/2020 dated 22.09.2020 was issued (copy enclosed)*
- 2. Her name could not be deleted from LOC of class X due to shortage of office staff owing to lockdown. We apologize for this mistake.*
- 3. While preparing the result there was again lockdown and the Result Committee faced the dilemma of "This Riya and That Riya". While uploading of marks only the candidate name was visible and the result was interchanged due to misunderstanding of telephonic conversation with the class Incharge.*
- 4. Riya D/o Anil got admission in Govt. Girls Sr. Sec. School Baghanki, and passed her X class in June -July 2021 from Board of School Education Bhiwani(Haryana) vide Roll No.1021228723. Certificate from the Headmaster of the school in this regard is enclosed.*
- 5. We once again apologize for this mistake and request your good office to cancel the result of the roll no 17164515 Riya D/o Anil and furnish this result in*

favour of roll No.17164511 Riya D/o Indersen.

Thanking You,

Encl:-

- 1. Marks Statement cum certificates of both Riya's (Photocopy)*
- 2. Copy of SLC of Riya D/O Anil*
- 3. Certificate from the Headmaster of the concerned School."*

The said document has been admittedly received by the CBSE Board. A perusal of the said document would show that the school by writing to the Board had prayed for correction in the result of the petitioner and in the said representation, it was specifically submitted that Riya daughter of Anil had left the school after passing Class 9th examination and school leaving certificate no.206/2020 dated 22.09.2020 was enclosed but her name was inadvertently not deleted from the list of candidates of Class 10th due to shortage of office staff for which the school sought an apology. It is further specifically stated that while uploading the marks, since the name of the petitioner and the other Riya was same, thus, on account of misunderstanding the result was wrongly inter changed while uploading. It is stated that Riya daughter of Anil had got admission in Government Girls Senior Secondary School Baghanki and passed her 10th class in June-July 2021 from Board of School Education Bhiwani (Haryana) vide roll no.1021228723 and the certificate in support of the same has also been annexed and a prayer was made that the result of the present petitioner be rectified. From the above document, it is apparent that it was on account of the fault of respondent no.4-school that the marks which were to be given to the petitioner were wrongly recorded in the mark sheet of Riya daughter of Anil and were forwarded to the CBSE Board. The said fact is further substantiated from a bare perusal of Annexures P-1 and P-2. Annexure P-1 is the mark sheet of Riya daughter of Indersen, i.e., the petitioner and in all

theory examinations i.e., English Lng & Lit., Hindi Course-A, Mathematics Standard, Science, Social Science and Additional subject of Hindustani Music (vocal), the marks obtained have been shown as zero. The petitioner was a bonafide candidate and has been studying in the school and admittedly been giving her periodic test, unit test, mid term examination etc. and thus, her getting zero marks in every theory paper as per the result which was prepared by the Result Committee of the school, on the basis of said periodic test, unit test, half yearly / mid term examination etc. is beyond comprehension as per the notification of the CBSE. On the other hand, a perusal of Annexure P-2 which is stated to be the mark sheet of Riya daughter of Anil who had already left the school in the year 2020 as has been detailed hereinabove, is stated to have secured the following marks in theory examination i.e., 39 in English Lng. & Lit., 42 in Hindi Course-A, 25 in Mathematics Standard, 31 in Science, 42 in Social Science and 13 in Hindustani Music (vocal). It is inconceivable as to how a student who as per the school record, has already left and joined another school, could get the said marks. From the above said facts and also the documents on record, it is apparent that the marks to which the petitioner Riya daughter of Indersen was entitled, have been mentioned in Annexure P-2.

8. The prayer of the petitioner has been rejected primarily on the ground that the revision of the result was not sought by making an online request before the School Request Submission for Resolution within time. It is not in dispute that the last date for submission of the said dispute was 16.08.2021. It is the case of the petitioner which stands prima facie proved from the document Annexure P-1 that her result, which was in the first instance shown as result late, was declared on 24.08.2021 and was, thus subsequent to the last date. A perusal of Clause 1(b) (Annexure P-18)

(Page-63) relied upon by the learned counsel for the CBSE Board would also show that the dispute regarding wrong computation / uploading of result was also to be raised by the Result Committee which as per Clause 7 of Annexure P-17 (page 47) was constituted by the school and consisted of the Principal and 7 teachers including 5 teachers of the school and 2 teachers of neighbouring school and thus, it was not in the hand of the petitioner to have made the said online request but it was for the school to make the said request. It is the case of the petitioner that she had been repeatedly going to the school and the school had informed her that they had forwarded her case to the CBSE Board. The letter dated 02.02.2022 (Annexure P-5) written by the School to the Board has been duly received by the Board although the same was after lapse of time but the said lapse could not be attributed to the petitioner. The petitioner is stated to have cleared her 11th class examination and could not give 12th class examination on account of the mistake of the school and in case the necessary directions are not passed in favour of the petitioner, then her future would be jeopardized. Although in the present case, there is no fault on the part of CBSE as they had declared the result which was forwarded by the Result Committee of the school but in view of the above said facts and circumstances, the impugned order (Annexure P-16) deserves to be set aside.

9. Keeping in view the above said facts and circumstances, the present petition is allowed and the impugned order dated 17.02.2023 (Annexure P-16) is set aside and respondents no.2 and 3-Board is directed to issue a fresh mark sheet-cum-certificate for the secondary education examination 2021 in favour of the petitioner after incorporating the marks which have been mentioned in the certificate (Annexure P-2) as

expeditiously as possible, preferably within a period of 4 weeks.

10. Before parting with this order, it would be relevant to note that on account of the mistake made by the school not only the petitioner has suffered but even the respondent-Board had to suffer litigation expenses in the present case without there being any fault on their account. The casual approach of the school is further apparent from the fact that in spite of service, they have not chosen to appear to assist the Court and the averments made in the present petition, thus, have not been rebutted by them. The forwarding of the marks of a student who had already left the school i.e., Riya daughter of Anil even as per the record of the school would also show the negligence on the part of the school. Learned counsel for the petitioner has submitted that it is only the future of the petitioner that the petitioner is concerned with and although the petitioner has suffered grave loss on account of loss of time on account of the mistake by the respondent no.4 school but would not want any compensation from the school and on the other hand, learned counsel for respondents no.2 and 3 has submitted that they have been dragged into unnecessary litigation and accordingly, this Court imposes costs of Rs.30,000/- on respondent no.4-school and directs respondent no.4 to deposit the said amount of Rs.30,000/- within a period of six weeks from today with respondent no.3-Board and produce the receipt of the same before the Deputy Commissioner, Gurugram.

11. In case respondent no.4 does not deposit the said costs of Rs.30,000/- within the aforeasid period and does not produce the receipt of the same before the Deputy Commissioner, Gurugram, then the Deputy Commissioner, Gurugram is directed to proceed against respondent no.4-school for recovery of the said amount of Rs.30,000/- as arrears of land revenue and recovering to further hand over the same to respondent no.3-

Board.

12. The State through Deputy Commissioner, Gurugram is directed to serve a copy of the present order to respondent no.4-school. The petitioner would also bring the present order to the notice to respondent no.4-school as expeditiously as possible.

13. Registry is directed to forward the copy of the present order to the Deputy Commissner, Gurugram and respondent no.4-School for necessary compliance.

(VIKAS BAHL)
JUDGE

December 02, 2023.

Davinder Kumar

Whether speaking / reasoned	Yes/No
Whether reportable	Yes/No