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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Decided on: 20th February, 2023*

+ W.P.(C) 1924/2023 & CM APPL. 7343/2023, 7344/2023

ESHITA BASHIST THROUGH HER FATHER DINESH
SINGH

..... Petitioner

Through: Mr. Harsh Tikoo, Mr. Manish
Kumar Kashyap, Advocates
(M:9602048748,email:krlawoff
ice@gmail.com)

versus

THE COUNCIL FOR THE INDIAN SCHOOL CERTIFICATE
EXAMINATIONS & ANR.

..... Respondents

Through: Mr. Shoumendu Mukherji, Ms.
Megha Sharma, Ms. Akanksha
Gupta, Advocates for R-1
(M:9910733947)
Mr. Kanwaljit Singh, Advocate
with Mr. Srinjoy Ghosh, School
representative (M:6395261308)

CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

[Physical Hearing/ Hybrid Hearing]

MINI PUSHKARNA, J. (ORAL):

1. The present writ petition has been filed with prayer for direction to the respondents to allow registration of the petitioner girl candidate for the Indian School Certificate Examination (ISC).
2. Petitioner is a student of Hopetown Girls School in Dehradun. She has been studying in the said school since the year 2018. It is the case of the petitioner that she was eligible for admission to Class 11th as she duly cleared her Secondary Examination in 2022. It is

submitted that due to financial constraints, parents of the petitioner were not able to deposit the fees on time. Thus, petitioner has not been registered for Class 12th Board Examination to be conducted in the year 2024. Further, the petitioner is not being allowed to sit for Class 11th school examination, which would lead to loss of her academic year.

3. Pursuant to the notice issued, Mr. Kanwaljit Singh, Advocate has appeared on behalf of respondent School. He submits that school has full sympathy with the girl child, however, since school in question is an unaided private school, in the absence of the school fees being paid by parents of petitioner, the school has not registered the student for Board Examinations of Class 12th of ISC Examination to be held in 2024. He further submits that the petitioner student has been in arrears of fees intermittently since the year 2018. He further submits that all the amounts that were paid on behalf of the petitioner have been adjusted against the arrears of the school fees. Thus, he submits on instructions from the Administrative Officer of the school, who is present in the court, that an amount of only approximately Rs. 1 Lakh has been paid towards the current academic session.

4. Ld. counsel for respondent No.2 school further submits that the fees of the school is Rs.7,50,000/- per annum, out of which only Rs.1,18,189/- has been paid to the school for the current academic session, after adjusting all the amounts that have been paid by father of the petitioner. Thus, it is submitted that fees of Rs. 6,10,000/- is due and payable by the petitioner to the School.

5. This Court has put a query to the ld. counsel appearing for respondent No.2 School that in case upto date fees is paid, whether the

school would consider the case of the petitioner in a compassionate manner for allowing her to sit for examination and further steps could be taken for registering her for class 12th Board Exams. .

6. Ld. counsel for respondent No.2 on instructions submits that in case the student clears the arrears of fees amounting to Rs. 6,10,000/- for the current academic session expeditiously, then school may consider her case compassionately.

7. Ld. counsel appearing for respondent No.1, i.e., The council For The Indian School Certificate Examinations has drawn the attention of this Court to the Indian School Certificate Examination Regulations. He draws the attention of this Court to Regulation 'E' which deals with conditions of Entry, wherein it is stipulated that minimum of 75% attendance each year of the two year course at school(s) affiliated to the Council and registered for the ISC Examination is necessary.

8. On the other hand, Id. Counsel for the petitioner submits that the Chief Executive and Secretary of respondent No.1 Council have authority to condone shortage of attendance. He refers to Regulation F (iii), wherein shortage of attendance below 60% can be condoned in exceptional circumstances i.e. unforeseen and special circumstances.

9. Considering the extraordinary circumstances of the present case, wherein the girl child was unable to attend the school due to the dispute with the school as regards the payment of school fees and the fact that despite various requests the girl child was not allowed to attend the school, it is directed that in case the petitioner clears the arrears of fees for the current academic session amounting to Rs.

6,10,000/- within a period of 10 days from today, respondent No.2, School shall forward the case of the petitioner to the respondent No.1 for registration of the petitioner for Board Examinations. The school shall further take steps for seeking condonation of shortage of attendance from the Council owing to extraordinary circumstances of the present case.

10. On the petitioner depositing the up to date school fees for the current academic session within a period of 10 days, the School is directed to send the appropriate application with necessary recommendations to the respondent No.1 expeditiously.

11. If the directions passed by this Court are duly complied by the petitioner, the respondent No.2 School shall allow the petitioner to sit for Class 11th Examinations.

12. The school may also make necessary arrangements for allowing the petitioner to take internal examinations of Class 11 before the end of current academic session.

13. The petitioner is further directed to make regular payment of fees to the respondent No.2 School in future.

14. Any order/direction passed by this Court may not be construed as extending any concession to the petitioner in payment of fees to the respondent No.2, School, which is a private unaided school.

15. With the aforesaid directions, the present writ petition is disposed of along with all pending applications.

MINI PUSHKARNA, J

FEBRUARY 20, 2023/au