



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 5626 OF 2024

Purva Mahesh Rakh Minor UG
of her father Mahesh Sampatrao Rakh .. Petitioner

Versus

The Union of India and others .. Respondents

Shri Shivprasad G. Jadhavar and Shri Arun V. Rakh, Advocates
for the Petitioner.

Shri R. R. Bangar, Standing Counsel for the Respondent No. 1.

Shri Swapnil Joshi, Advocate for the Respondent Nos. 2 and 3.

Shri M. M. Joshi, Advocate for the Respondent No. 4.

**CORAM : MANGESH S. PATIL AND
SHAILESH P. BRAHME, JJ.**

DATE : 18 JUNE 2024.

FINAL ORDER (Per Shailesh P. Brahme, J.) :-

. Heard both the sides finally at the admission stage,
considering urgency expressed by the petitioner.

2. Petitioner is a minor student who appeared for 10th
standard examination conducted in the month of February 2024.
She is seeking direction to decide her representation dated
10.06.2024 submitted to the respondent No. 2/Central Board of
Secondary Education (hereinafter referred as to the 'C.B.S.C.
Board' for the sake of brevity and convenience) with a further
direction to permit her to appear for compartmental examination
to be conducted in the month of July 2024.

3. Petitioner appeared for 10th standard examination conducted by the respondent No. 2/C.B.S.C. Board held in the month of February 2024. Due to illness she was required to be hospitalized and she was unable to appear in the examination except for subject Hindi. In the result sheet she was declared to be absent except in respect of subject Hindi. She is anxious to appear for the compartmental examination, the schedule of which is declared by Circular dated 30.05.2024. She is not permitted to submit examination form for the compartmental examination for the remaining subjects. Hence she has made representation on 10.06.2024, which is also not considered by the respondents.

4. Learned counsel for the petitioner submits that as per Annexure – 1 to Circular dated 30.05.2024, petitioner is entitled to appear for the remaining subjects at the compartmental examination. She was hospitalized and she is equipped with medical papers to show her illness. On the sympathetic ground the respondents should have permitted her to appear for compartmental examination. Reliance is placed on the judgment dated 25.08.2011 delivered by the Delhi High Court in the matter of **Master Mohammad Akram Khan Vs. Jamia Senior Secondary School and others in Writ Petition (C) No. 3270 of 2011**.

5. Learned counsel for respondent Nos. 2 and 3 Mr. Swapnil Joshi tenders on record affidavit in reply. He would submit that representation dated 10.06.2024 has been rejected and duly

communicated through email to the petitioner on 11.06.2024. He would submit that there is legal impediment of circular dated 30.05.2024 for not permitting the petitioner to appear for the examination. He would refer to Rule 42(ii)(b) to buttress that petitioner will have to appear for all subjects at the examination to be held in the subsequent year.

6. We have considered submissions of the parties. Provision contained in Annexure 1 of Circular dated 30.05.2024 under caption Eligibility Criteria : Class X shows that if the result of a student is declared as Compartment, then he is eligible to appear for maximum two subjects. We do not find any provision in the policy framed by the respondent No. 2/C.B.S.C. Board to permit a student to appear for compartmental examination for more than two subjects. In the present matter, petitioner could clear only subject Hindi. She was unable to appear for remaining four subjects. There is no policy of the board to permit a student if he/she is unable to appear for the examination on medical ground. In absence of policy, this Court while exercising jurisdiction under Article 226 of the Constitution of India cannot direct the authorities to permit the petitioner to appear for compartmental examination for more than two subjects.

7. Learned counsel for the petitioner would vehemently submit that hardship would be caused in dragging the petitioner to appear for all the subjects in the examination to be held in the next year. He would try to persuade us that petitioner was absent for remaining four subjects, which is not a declaration as

Compartmental. We have not been shown any provision or the policy of the respondents to accept these submissions. The situation which is faced by the petitioner is not contemplated and no provision is made by way of any policy or the rules. But that would not empower this Court to issue directions either on the ground of equity or sympathy. The respondent No. 2/C.B.S.C. Board has considered and rejected the representation.

8. The judgment cited by the petitioner rendered by the Delhi High Court is distinguishable on facts. In that matter petitioner was unable to appear for subject English due to illness. For subject Mathematics he was declared to have been failed. In the marks statement he was shown to have been failed in English as well as Mathematics. The facts were governed by Rule 7 framed by the Board, which in turn provided for leave of a student on medical ground. It further provided that a student who was unable to appear on medical ground in one or more subjects should be allowed to take test in the subject at the compartmental examination. The case in hand is not regulated by the Rule 7. No policy in the form of rule has been shown to us to permit the petitioner to appear for compartment examination for more than two subjects. We are not persuaded by the judgment cited by the petitioner.

9. For the reasons recorded above, writ petition fails. It is dismissed.

[SHAILESH P. BRAHME, J.] [MANGESH S. PATIL, J.]