



CWP-5677-2023 (O&M)

-1-

236

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

**CWP-5677-2023 (O&M)
Date of Decision: 30.09.2024**

Yash Vardhan

..... Petitioner

Versus

Central Board of Secondary Education and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Sumit S. Bairagi, Advocate,
for the petitioner.

Mr. Beant Singh Seemar Advocate,
for respondent No.1-CBSE.

Mr. Shyam Singh Chokar, Advocate,
for respondent No.2.

JASGURPREET SINGH PURI, J. (ORAL)

1. The present writ petition has been filed under Article 226/227 of the Constitution of India for issuance of an appropriate writ, order or direction especially in the nature of *mandamus* directing respondent No.1 to consider the genuine request made by the petitioner through respondent No.2 and to modify the final result (Annexure P-6) of the petitioner declared by respondent No.1 by adding Internal Assessment marks of Term-I/Semester-I for Class XII Session 2021-22 with further prayer that during the pendency of the present petition respondent No.1 may be ordered or directed to send the DMC of the petitioner with Internal Assessment of Term-I as all the required documents have been sent on 08.09.2022 and 13.09.2022.

**CWP-5677-2023 (O&M)****-2-**

2. The brief facts of the present case are that the petitioner was a student of Class XII in respondent No.2 i.e. SKS International Gurukul, Near NIT, Kirmach Road, Kurukshetra, Haryana and was to appear in the Board Exams of Class-XII for the Academic Session 2021-22. Since the country was facing Covid-19 Pandemic, during that period the CBSE decided to split the year into two parts i.e. Term-I and Term-II. While the petitioner was in Term-I, he had to take the examination of both theory and practical. So far as the examination for the theory is concerned, the same is not in dispute in the present case, but it is only the practical examination for Term-I which is the subject matter of the present case. When a student takes the practical examination, then the School on the basis of the same has to make an Internal Assessment and thereafter has to send the Internal Assessment Report to CBSE which is respondent No.1 in the present case. However, in the present case, the School did not send the Internal Assessment Report of the petitioner for Term-I Exam by the scheduled date and his marks were therefore not added in the Final Result.

3. Learned counsel appearing on behalf of the petitioner submitted that the petitioner is a sports person and is a national level Cricket player. He further submitted that the petitioner had participated in the Haryana Men's U-19 Team for Cooch Behar Trophy 2021-22 organized by the Board of Control for Cricket in India and the said tournament was scheduled to be held from 29.11.2021 to 30.12.2021 at Vizag. The petitioner along with his team had assembled on 21.11.2021 and thereafter they went to mandatory quarantine in the team hotel at the venue. In this regard, the learned counsel for the petitioner has referred to the Certificate issued by the Haryana

**CWP-5677-2023 (O&M)****-3-**

Cricket Association dated 26.11.2021 (Annexure P-3) wherein the details have been mentioned. He further submitted that at the time when the petitioner was out of station to participate in National Level Cricket Tournament and was representing the State of Haryana, the School had conducted the practical examinations and consequently during that period the petitioner could not appear in the practical examination. In this way, since he had not appeared for the practical examination his Internal Assessment Report was not sent by the School to the CBSE before the scheduled date resulting in CBSE not including the Internal Assessment Marks in the Final Result.

4. Learned counsel for the petitioner has referred to Annexure P-1 which is a Notification issued by CBSE on 06.11.2021 pertaining to the schedule of the Examination for Term-I and Term-II and while referring to the aforesaid Notification under the heading of Practical/Internal Assessment/Project Work be completed as per the circular No.CBSE/DIR (ACAD)/51/2021 dated 05.07.2021 issued by the CBSE in such a manner that all marks are uploaded on the link provided by CBSE latest by 23.12.2021 and in case the Practical/Internal Assessment/Project Work marks are not uploaded by the schools upto 23.12.2021, then the CBSE will take further action which is so stated in the aforesaid Notification and in this way, the last date fixed by CBSE was 23.12.2021, but the School did not send the Internal Assessment Report to CBSE because the petitioner did not take the practical examination since he was representing the State of Haryana at the National Level Cricket Tournament. Learned counsel referred to Annexure P-2 as well, which is a letter written by CBSE to the

**CWP-5677-2023 (O&M)****-4-**

Principal/Head of all the Schools dated 09.11.2021 wherein it has been so provided that the students participating in the National/International Sports events duly recognized by the Sports Authority of India subject to the condition of production of a letter issued by Sports Authority of India in this regard and it has also been provided that the schools will need to send application to the concerned Regional Office with the recommendation of the Sports Authority of India and Homi Bhaba Centre for Science Education respectively as stated in circulars dated 19.07.2019 and 13.02.2020 and the information and request from the candidates through schools should reach to the CBSE latest by 25.11.2021. While referring to the aforesaid letter, he submitted that the aforesaid letter was issued to promote the spirit of sports in the country and for facilitating participation of students in International Olympiads and the purpose for granting the benefit to the students was to encourage and inculcate the spirit of sports in the students to participate at the higher level. Learned counsel for the petitioner further submitted that since the petitioner was representing the State of Haryana and was a student of the School, the School was duly informed with regard to his participation although there is no document on the record to show that any written communication was sent by him to the school because there was no such requirement raised by the School in this regard and it was well within the knowledge of the School that the petitioner is representing the State of Haryana at the National Level Cricket Tournament.

5. Learned counsel for the petitioner further referred to a Circular issued vide Annexure P-4 wherein it is so provided in Clause (4) that in case the students missed their exams due to COVID or because of participation in

**CWP-5677-2023 (O&M)****-5-**

National/International Sports/Olympiads etc. no performance of Term-I examinations has been communicated. However, their performance will be assessed based on performance in Term-II examination. He submitted that in pursuance of the aforesaid Circular, the performance of the petitioner in Term-II was to be considered for the purpose of granting Internal Assessment Marks for Term-I but respondent No.1-CBSE failed to do the same. It has been further provided in the aforesaid Circular that the Result of Class-XII will be declared only after Term-II examination wherein the candidates will be placed in the Essential Repeat/Compartment/Pass category etc. Clause (14) provides for Online Dispute Redressal Mechanism for Term-I examinations for the dispute pertaining to the Students' Term-I Examinations and the last date fixed was 31.03.2022.

6. Learned counsel for the petitioner has also referred to Annexure P-7 which is a letter written by the Principal of the School to the Regional Officer, CBSE in which he had written that the petitioner did not appear in Term-I Examination and he was in Vishakhapatnam to play National Cricket for Cooch Behar Trophy Under-19 for Haryana from 29.11.2021 to 30.12.2021 and therefore, his Internal Assessment for Term-I was not sent. It has also been stated by the Principal in the aforesaid letter that this has happened due to negligence on the part of the School and therefore, he requested the CBSE to allow the School to send the Term-I Internal Assessment Marks of the petitioner but the same was done in the month of July, 2022 after the practical examination of the petitioner was conducted. He further submitted that thereafter in the Internal Assessment Marks of Term-I, total of 65 marks were sent to the CBSE by the School vide letter

**CWP-5677-2023 (O&M)****-6-**

dated 28.07.2022 which is a part of Annexure P-7.

7. Learned counsel for the petitioner further submitted that it was the duty of the School and rather it has been so admitted by the School in the aforesaid Annexure P-7 by issuing a letter to the CBSE that the Internal Assessment Marks could not have been sent because the petitioner was participating at the National Level Cricket Tournament and therefore, the rights of the petitioner could not have been affected because of the negligence on the part of the School. He submitted that even otherwise also so far as the respondent-CBSE is concerned, it is the policy of CBSE itself which is clear from the aforesaid letter (Annexure P-2) that CBSE always promotes the spirit of sports in the country and in this way the time schedule fixed by CBSE was a strict schedule and it was not because of the mistake of the petitioner but because of the negligence on the part of the School that they did not send the information to CBSE in terms of Para 5 of Annexure P-2. So far as CBSE is concerned, once the reason as to why the petitioner did not take the practical examination came to the knowledge of CBSE even after the cut off date, it was the duty of CBSE to have ignored the technicality of the aforesaid schedule so far as the present petitioner was concerned and ought to have added the marks of Internal Assessment of Term-I to the aggregate of final marks.

8. Learned counsel for the petitioner further submitted that now when the Final Result of Class-XII has been declared, the petitioner is shown to have got 52% marks without adding of the Term-I Internal Assessment marks and in case Term-I Internal Assessment Marks which has been sent now i.e. on 28.07.2022 vide Annexure P-7, after the petitioner

**CWP-5677-2023 (O&M)****-7-**

actually took the exam in July, 2022 then his percentage will increase to a larger extent and he will pass Class-XII exam in 1st Division, which will promote his career. He also submitted that for any student the marks of Class-XII are very crucial for taking advance classes or admission for higher studies and considering the aforesaid circumstances, a direction may be issued to the respondent-CBSE to add the aforesaid marks which were later on sent to them by the School for the purpose of his Final Result by issuance of a modified Result Card to the petitioner.

9. On the other hand, learned counsel for respondent No.1-CBSE submitted that there was no fault of CBSE because in terms of the Notification (Annexure P-1) and the Circulars (Annexures P-2 & P-4) specific time schedule was fixed, regarding which, CBSE was bound and could not have extended the time for one student. He further submitted that so far as the marks of the petitioner for Term-I are concerned, it was the duty of the School to have informed to the CBSE that in view of the participation of the petitioner in the National Level Cricket Tournament, he could not take the practical examination. The CBSE could not consider the Internal Assessment Marks of Term-II for the purpose of assessing Term-I, since the School never informed the CBSE to do the same. He also submitted that rather Online Dispute Redressal Mechanism for Term-I examinations was provided vide Annexure P-4 for which the last date was 31.03.2022 yet the School or the student did not inform CBSE with regard to the same and therefore, it was not the fault of the CBSE to have not granted the marks of Internal Assessment because the Internal Assessment Marks for Term-I was sent to CBSE by the School in the month of July, 2022 vide Annexure P-7

**CWP-5677-2023 (O&M)****-8-**

which the CBSE had not taken into consideration because it was after the cut off date. He further submitted that not only this, even the aforesaid marks were sent after the declaration of Final Result and therefore, CBSE could not have altered the Final Result of the petitioner.

10. Learned counsel for respondent No.2-School submitted that there was no fault of the School because the petitioner did not apprise the School as to whether he was participating in the National Level Cricket Tournament by representing the State of Haryana and since the petitioner absented himself in practical examination for Term-I, they could not have sent the Internal Assessment to the CBSE and that was the reason as to why his marks were not counted. He further submitted that it was only after the aforesaid cut off date i.e. 31.03.2022 as provided in Annexure P-4 that on the representation of the petitioner, he was again told to take the practical examination for Term-I in which he got total of 65 marks as per Annexure P-7 and which was sent to the CBSE in July, 2022 but CBSE did not consider the same. He also submitted that it was because of the fault of the petitioner that his Internal Assessment Marks for Term-I were not assessed therefore, now at the most, CBSE can be directed to include the aforesaid marks in the Final Result but no fault can be found on the part of the School.

11. I have heard the learned counsels for the parties.

12. The issue involved in the present case is as to whether the Internal Assessment Marks for Term-I of the petitioner can be included in the Final Result at this stage or not. Before proceeding further relevant portion of Notification, Circulars and Certificate referred to by the learned counsel for the petitioner need to be reproduced as under:-

***“Annexure P-1******CENTRAL BOARD OF SECONDARY EDUCATION****(An Autonomous Organisation under the Ministry of Education Govt. of India)****CBSE/CE/EXAM-2021/******Dated: 06.11.2021******Notification******xx******xx******xx******xx******Practical/Internal Assessment/Project***

- *Practical/ Internal Assessment/Project work be completed as per the circular no. CBSE/DIR (ACAD)/51/2021 dated July 05, 2021 issued by the CBSE in such a manner that all marks are uploaded on the link provided by CBSE latest by 23.12.2021.*
- *Schools can hold Practical Internal Assessment/ Project work latest by 23.12.2021 and marks can only be uploaded on the same day Practical/Internal Assessment/Project work is held.*
- *In case, marks are not uploaded by the schools upto 23.12.02021, CBSE will take further action as given under:-*
 - (i) Result may be declared without taking into consideration Term-I Practical/IA/Project Marks.*
 - (ii) Result may be declared based on the performance of Term-II. only.*
 - (iii) A fine as deemed fit by the Competent Authority of the CBSE and upto Rs. 50,000/- may be imposed for considering the marks submitted by the schools after last date.*
 - (iv) Action to withdraw affiliation may be initiated.*
 - (v) No external examiner will be appointed in Term-I examination by the CBSE. Schools have to complete the practical assessment with concerned school teacher(s).*
 - (vi) Schools will use their own Answer books and preserve them safely.”*



CWP-5677-2023 (O&M)

-10-

“Annexure P-2**CENTRAL BOARD OF SECONDARY EDUCATION***(An Autonomous Organisation under the Ministry of Education Govt. of India)***CBSE/COORD/SPORTS/2021-22/****Dated: 09.11.2021**

To
The Principal/Head of all Schools
Affiliated to CBSE
(Through CBSE website)

Subject: Students participating in International/National sports events and International Olympiads-reg

Madam/Sir,

To promote the spirit of sports in the country and for facilitating participation of students in international Olympiads, CBSE had decided that in case of the students appearing in the Board's Examination are participating in National/International sports events recognized by Sports Authority of India and International Olympiads, the examinations for such students will be conducted at a later stage by CBSE.

In session 2021-22, as the examination would be conducted in two terms i.e. Term-1 and Term-2, it has therefore been decided that:

(1) No separate/special examination will be conducted for Term-I for session 2021-22.

(2) In case, dates of events, including the dates of journey, are coinciding with the Board's Examinations and students are not able to appear in Term-I examination their result will be declared based on Term-II Examination. It may be understood that the performance of the candidate in theory examination of Term-I examination will be calculated on the basis of performance in theory portion of Term-II examinations.

(3) The decision of preparing result on the basis of Term-II examination will be applicable in the following cases:

a. Students participating in the National/International sports events duly recognized by the Sports Authority of India subject to the condition of production of a letter



issued by Sports Authority of India in this regard.

b. Students participating in the International Olympiads duly recognized by the Homi Bhaba Centre for Science Education subject to the condition of production of a letter issued by Homi Bhaba Centre for Science Education in this regard.

c. Students who have tested positive for CORONA during the schedule of conduct of examinations subject to production of test report and recommendation from a registered medical practitioner.

(4) However, to ensure genuinity of the cases it is desired that the same process as communicated earlier vide circulars dated 19.07.2019 and 13.02.2020 need to be followed by the candidate concerned and the school.

(5) The schools will need to send application to the concerned Regional Office with the recommendation of the Sports Authority of India and Homi Bhaba Centre for Science Education respectively as stated in circulars dated 19.07.2019 and 13.02.2020.

(6) The information and request from the candidates through schools should reach to the CBSE latest by 25th November, 2021.

(7) The Regional Officers after receipt of such requests shall ensure the genuineness of requests and documents received with such requests and send confirmation to the schools. The data of all such cases roll number and school wise shall be maintained by the Regional Offices for updation in result of Term-I.

*Sd/-
Controller of Examination*

Copy to Web admin with the request to upload on CBSE website”

**“Annexure P-4****CENTRAL BOARD OF SECONDARY EDUCATION***(An autonomous Organisation under the Ministry of Education Govt. of India)*

CBSE/CE/2021/

Dated: 19.03.2022

CIRCULAR***Subject: Performance of the students of Class-XII in Term-I Exams-reg***

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(4) In case, the students missed their exams due to COVID or because of participation in National/International Sports/Olympiads etc. no performance of Term-I examinations has been communicated. However, their performance will be assessed based on performance in Term-II examinations in accordance with circular no.CBSE/Coord/Sports/2021-22 dated 09.11.2021.

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(8) Result of Class-XII will be declared only after Term-II examinations wherein the candidate will be placed in the Essential Repeat/Compartment/Pass category etc.

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(14) Online Dispute Redressal Mechanism for Term-I examinations is made available with immediate effect. Students can send the disputes to their school and schools can send the combined dispute to the CBSE. Online Dispute Redressal Mechanism facility will be available till 31.03.2022. However, disputes will be decided alongwith the verification schedule after the declaration of the Term-II result.

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13. Apart from the above, the Certificate issued by the Haryana Cricket Association dated 26.11.2021 (Annexure P-3) is also reproduced as



CWP-5677-2023 (O&M)

-13-

under:-

“Annexure P-3***HARYANA CRICKET ASSOCIATION***
CH. BANSI LAL CRICKET STADIM LAHLI (ROHTAK)**Dated: 26.11.2021*****To Whomsoever It May Concern***

It is certified that Mr. Yash Vardhan S/o Sh. Naresh Kumar has been selected to represnt Haryana Men's U-19 Team for Cooch Behar Trophy 2021-22 Organized by The Board of Control for Cricket in India.

The matches of the above said tournament is Scheduled from 29-11-2021 to 30-12-2021 at Vizag. The team assembled on 21st November 2021 and went to Mandatory Quarantine in the team hotel at the venue.

His behaviour on and off the field is satisfactory.

(Anuj Sharma)
Manager, Administration
Haryana Cricket Association”

14. The letter which was issued by the Principal of the School to the CBSE dated 28.07.2022 which is a part of Annexure P-7 is also reproduced under:-

“Affiliation No. 531231

SKS INTERNATIONAL GURUKUL

Affiliated with CBSE, New Delhi
Near NIT, Kirmach Road, Kurukshetra-136119 (Haryana)
Contacts: +91-94160-73605

Ref. No. SKS/IG/2022/797

Dated 28.07.2022

To
The Regional Officer
Central Board of School Education
Sector-5, Panchkula



CWP-5677-2023 (O&M)

-14-

*Subject: Request Regarding Internal Assessment of Term
-1 Session 2021-22*

Respected/Sir/Madam,

*It is to inform you that student **Yash Vardhan S/o Sh. Naresh Kumar Class 12th Arts CBSE Roll No. 17669068** was not present in Term-1 Examination. He was in Vishakhapatnam to play National Cricket for Cooch Behar Trophy under 19 for Haryana from 29.11.2021 to 30.12.2021. So, we did not send his Internal Assessment of Term-1.*

This happen due to the negligence on the part of the School.

*So, I request you to allow us to send his **Term-1 Internal Assessment Marks.***

*Principal
SKS International Gurukul
KIRMACH (Kurukshetra).”*

15. The sequence of the aforesaid facts and circumstances would show that when the petitioner was in Class-XII and in Term-I he had represented the State of Haryana in Haryana Men's U-19 Team for Cooch Behar Trophy 2021-22 organized by the Board of Control of Cricket in India. The aforesaid Certificate issued by the Haryana Cricket Association (Annexure P-3) is not disputed by any of the parties. In another words, factually, it is not disputed that the petitioner in fact participated in the aforesaid tournament. A perusal of the Circular issued by CBSE (Annexure P-2) would show that it is a policy of CBSE to encourage and promote the spirit of the sports in the country and for facilitating participation of students in International Olympiads etc. In another words, the CBSE always wants the student of this country to inculcate the spirit of sports and to participate effectively at various National and International levels. However, it is only

**CWP-5677-2023 (O&M)****-15-**

because of the time schedule which was fixed by CBSE for sending of the Internal Assessment Marks that his marks have not been added. It is not in dispute that at the time when the petitioner was participating at the National Level, practical examination for Term-I was being conducted in the School and therefore, the petitioner could not have taken the aforesaid practical examination. This factual aspect has not been disputed by the learned counsels for the respondents. However, in such like eventualities, CBSE had issued Notification and Circular vide Annexures P-1 & P-4 stating that in case due to Covid Pandemic or participation in National Level Sports Event or because of any such reason the student is not able to appear in the Internal Assessment for Term-I exam, the Assessment can be made after considering Term-II for the purpose of assessing Term-I Internal Assessment. However, the difficulty which arose in the present case was that the School did not send the Internal Assessment Marks for Term-I to CBSE nor did it inform the CBSE that petitioner has participated in a National Level Sports event. It is the argument of the learned counsel for the respondent-School that the petitioner did not inform them with regard to the same.

16. So far as the argument raised by the learned counsel for the respondent-School that the petitioner did not inform the School with regard to his participation in the National Level Cricket Tournament is concerned, the same does not seem to be probable and logical. When a student of the School is participating and representing the State of Haryana in the National Level Cricket Tournament, then it is not possible that the School does not have the knowledge with regard to the same. Not only this, the letter written by the Principal of the School to CBSE on 28.07.2022 vide Annexure P-7

**CWP-5677-2023 (O&M)****-16-**

stated that the petitioner had participated in National Level Cricket Tournament from 29.11.2021 to 30.12.2021 due to which Internal Assessment could not be sent and this had happened due to negligence on the part of the School. In another words, the School has admitted its negligence by writing a letter to CBSE.

17. So far as CBSE is concerned, they have taken a tough stand that because of the technical reason since the School did not provide the Internal Assessment Marks before the scheduled date, the Assessment could not be given to the student. This Court is of the considered view that in the present case, both the CBSE and the School are at fault. Firstly, so far as the School is concerned, the Principal of the School has admitted in the letter vide Annexure P-7 that it was negligence on the part of the School. This Court would rather presume on the basis of the aforesaid negligence being so admitted by the School that it was well within the knowledge of the School that the petitioner was participating in a National Level Tournament. It can be again reiterated that it is not possible that the School did not know that their own student of Class-XII is representing the State of Haryana at the National Level Tournament. Therefore, at the first instance, the mistake/negligence occurred at the end of the School. Thereafter, when the Internal Assessment Marks was finally sent to CBSE in the month of July, 2022 by which the petitioner in fact again appeared before the School for practical examination in the month of July, 2022 and total of 65 marks were given to the petitioner, then the CBSE took a tough stand that because of the schedule and after the declaration of the result, the same could not be added.

The CBSE also acted in a hyper technical manner. Instead of taking any

**CWP-5677-2023 (O&M)****-17-**

action against the School as to why the School had not informed the CBSE that Internal Assessment of the petitioner could not be sent due to his participation in National Level Sports event, the CBSE rather targeted the student by not granting the marks. A sympathetic and holistic view ought to have been taken by the CBSE not only in the interest of the student but also in the light of Annexure P-2 wherein the CBSE has rather written a letter to the Principals of all the schools that various relaxations can be granted to promote the spirit of sports in the country.

18. This Court is of the considered view that mere technical objection taken by CBSE on the basis of the Notification or the Circulars cannot deprive the petitioner from getting the marks for Internal Assessment which have now been assessed in the month of July, 2022. The overall actions of both the respondents i.e. CBSE and the School have adversely affected the career of a student, who is a sportsman and who represented the State of Haryana at the National Level and without his fault has been deprived only because of the technical objection taken by CBSE.

19. In view of the aforesaid facts and circumstances, the present petition is allowed. The respondent-CBSE is hereby directed to rectify the Final Result of the petitioner after adding the marks of Internal Assessment for Term-I and to issue a fresh Marks Statement-cum-Certificate for Senior School Certificate Examination, 2022 to the petitioner within a period of two months from today.

30.09.2024*Bhumika***(JASGURPREET SINGH PURI)****JUDGE**

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|-------------------------------|--------|
| 1. Whether speaking/reasoned: | Yes/No |
| 2. Whether reportable: | Yes/No |