



CWP-2755-2025

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

(225)

CWP-2755-2025

Date of Decision : February 07, 2025

Khwaish Aggarwal**.. Petitioner****Versus****The Central Board of Secondary Education and others****.. Respondents****CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI**

Present: Ms. Twinkle Verma, Advocate and
Ms. Navneet Kaur, Advocate, for the petitioner.

Mr. B.S. Seemar, Advocate, for respondents No. 1 to 3.

HARSIMRAN SINGH SETHI J. (ORAL)

1. In the present writ petition, the petitioner has sought quashing of order dated 09.01.2025 (Annexure P-16) issued by respondent No.3 vide which the application for correction in the date of birth of the petitioner in her matriculation mark-sheet- cum- certificate has been declined along with a prayer that direction be issued to the respondents to change petitioner's date of birth in the said certificate from 22.12.2006 to 11.04.2007 in view of the date of birth certificate dated 24.02.2009 (Annexure P-1) as well as in view of the rectification of the correct date of birth in school record by the school authorities.

2. As per the averments made in the petition and the facts which have come on record, at the time when the petitioner was born, her parents

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were residing in Jalandhar and thereafter, shifted to Ferozepur. During the period when the parents of the petitioner were residing in Ferozepur, there was a matrimonial dispute and the mother of the petitioner was to move to her parental house in Nagpur along with the petitioner and during the said time got prepared a birth certificate through a Mediator wherein, the date of birth of petitioner was mistakenly recorded as 22.12.2006. Given the fact that now that at the said time, the mother of the petitioner was in Nagpur and as claimed by her under stress owing to matriculation dispute, she could not get the same date of birth corrected from appropriate authorities and as the petitioner was required to be admitted in a school at the said time, the mother of the petitioner used the same certificate wherein, wrong date of birth was recorded for the purpose of admission in the school in the State of Maharashtra. Subsequently, the parents of the petitioner reconciled and the mother of the petitioner along with her shifted back to Chandigarh and since the date of birth at the school in the State of Maharashtra was initially recorded as 22.12.2006, the transfer certificate issued at the time of leaving the school in the State of Maharashtra also depicted petitioner's date of birth as 22.12.2006 which was then also recorded in the record of school authorities in Chandigarh wherein, the petitioner then continued her studies. Thereafter, the petitioner changed her school to Carmel Convent School, Sector-9, Chandigarh wherein also, the same date of birth i.e. 22.12.2006 continued.

3. During this while, the parents of the petitioner got issued a correct birth certificate as per the medical records of the concerned hospital.

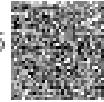
The said birth certificate was got issued on 24.12.2009 which has been

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appended with the present petition as Annexure P-1 wherein, the date of birth of petitioner, who was then named as Tamanna Aggarwal, is shown as 11.04.2007. Further, in the year 2012, the parents of the petitioner got her name changed from Tamanna Aggarwal to Khwaish Aggarwal after fulfilling all the requisite formalities necessary for the same.

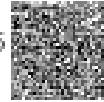
4. Since the petitioner had to appear in matriculation examination in the year 2023 therefore, keeping in view the same fact, the parents of the petitioner approached the school authorities for getting recorded the correct date of birth as per the date of birth certificate dated 24.12.2009 (Annexure P-1) which depicted petitioner's previous name vide application dated 24.09.2022 and the same application was kept pending by school authorities and no action qua the same was taken and in the interregnum, the petitioner appeared for matriculation examination in the year 2023 and cleared the same and was issued the matriculation certificate appended with the present petition as Annexure P-8 wherein, the date of birth of the petitioner was mentioned as 22.12.2006 as the school authorities had not taken any action on the application of the parents till the said time.

5. Thereafter, the parents of the petitioner got issued an updated birth certificate which showed petitioner's changed name i.e. Khwaish Aggarwal which was issued by Chief Registrar (Birth and Death), Punjab issued on 04.11.2024, appended with the present petition as Annexure P-12 and again pursued the school authorities with the same so as to get the correct date of birth recorded in the school records and for getting the same rectified in the matriculation certificate-cum-mark sheet of petitioner (Annexure P-8).

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6. The school authorities then taking into consideration the updated birth certificate with the petitioner's changed name i.e. 04.11.2024 made correction in its record qua petitioner's date of birth and after the said procedure an application was made with respondent no. 1 for the change in date of birth as per updated school records by the petitioner through school authorities which application was rejected vide impugned order dated 09.01.2025 (Annexure P-16) which has been impugned in the present petition.

7. It has been argued by learned counsel for the petitioner that once competent authority i.e. Registrar (Birth and Death), Punjab has issued the birth certificate with the corrected date of birth in the year 2009 which was further updated with the changed name of the petitioner in the year 2024 and after the requisite corrections in the record of school authorities qua the same, there was no occasion to deny the correction in the matriculation certificate of the petitioner. Learned counsel further argues that the right of the petitioner to have correct particulars recorded in her official documents is independent of any mistakes done by the parents of the petitioner and for the same the petitioner's right to identity cannot be allowed to suffer and further petitioner will be made to suffer through unnecessary issues at the level of documents everywhere be it taking admissions in other institutions, applying for jobs, passport and like documents. Further it has been contended that the difference in the incorrect and correct date of birth is of less than 5 months and as the petitioner is still in school, if the change is made to the same it will not be case that the same will open any lucrative avenues for her and that the purpose of the said

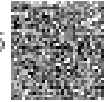
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exercise is to save the petitioner from avoidable trouble at all later stages of life wherein the said anomaly in her documentation will work against her.

8. Upon notice of motion, the respondents have filed the reply wherein, the respondents have stated that once, a particular certificate was issued in favour of the petitioner describing her date of birth as 22.12.2006, which certificate has not only been used in Punjab but also when the petitioner got admission in the State of Maharashtra in Nagpur, merely that upon coming back to Chandigarh, the same has been changed by the Registrar (Birth and Death) changing her date of birth from 22.12.2006 to 11.04.2007, this is not a simple case of date of change of birth hence, it is not a case of the correction of the date of birth but amounts to change of date of birth, which cannot be accepted in the facts and circumstances of the present case and the claim of the petitioner has rightly been declined by the authorities concerned which order may kindly be upheld.

9. I have heard learned counsel for the parties and have gone through the record with their able assistance.

10. While deciding the present case, the rights and interest of the petitioner have to be kept in mind independent of certain acts which are attributable to the parents of the petitioner which may not be in conformity with law, especially qua getting issued a date of birth certificate of a different date from Ferozepur by not disclosing correct facts either mistakenly or deliberately, as against the date of birth on which the petitioner places reliance on strength of the latest birth certificate and the corrections made by competent school authorities in school records qua the same.

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11. The argument though can be accepted that the mother of the petitioner was acting in the interest of the petitioner only when she got issued the birth certificate at ferozepur wherein wrong particulars came to be recorded either on her account or otherwise which was done so that the petitioner may not face difficulty in getting admission as the parents of petitioner during the said time were embroiled in matrimonial dispute and mother was in the process of moving back to her parental house in State of Maharashtra. The mother of the petitioner should have been more careful in getting correct particulars recorded in such documents, rather than getting the same processed through a third party. The said action mother of the petitioner shall be seen independent of her rights and should not cause prejudice to the petitioner for all times to come.

12. It is a settled principle of law that a minor should not be prejudiced due to any incorrect action taken by the parents though at the said given point of time, the mother was trying to safeguard the interest of the petitioner, who was toddler. The said intended safeguard is now coming in the way of the petitioner to get her correct date of birth mentioned in her testimonial so that she does not face any prejudice in the rest of her life.

13. It is a conceded fact that in the year 2009, the competent authority i.e. Registrar (Birth and Death), Punjab has given a certificate describing her date of birth as 11.04.2007. Thereafter, the name of the petitioner was also changed from Tamanna Aggarwal to Khwaish Aggarwal which application was also accepted by the competent authority while giving her the certificate, copy of which has been appended as Annexure P-12 with the writ petition. Once, the competent authority with the State of

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Punjab has already corrected the name as well as date of birth qua the petitioner, the other authorities are also under an obligation to look into the said aspect so that the child does not face a dilemma qua the said aspect having two different names and two different date of birth in her testimonial which is going to create problem for all times to come.

14. The respondent-School received an application prior to the date when the petitioner was to appear in the matriculation examination so as to correct her date of birth from 22.12.2006 to 11.04.2007. The said application was kept pending till the petitioner appeared in the matriculation examination wherein, her date of birth was forwarded as 22.12.2006 instead of 11.04.2007, which came to be recorded by respondent No.1 keeping in view the record which was available with them at the time when the petitioner appeared in the matriculation examination hence, upto this stage, there is no irregularity on the part of respondent No.1 to describe the date of birth in the matriculation examination as 22.12.2006.

15. Once, the State of Punjab changed the name of the petitioner as well as her date of birth from 22.12.2006 to 11.04.2007 and from Tamanna Aggarwal to Khwaish Aggarwal vide Annexure P-12 and the same was accepted by the school authorities vide Annexure P-5, the school authorities forwarded the claim of the petitioner for the correction of the date of birth of the petitioner, unless and until there is misconduct or a mischief was being played by the petitioner, the request submitted by the school should have been accepted but the same was declined only on the ground that the change of the date of birth was not due to typographical error but the same was the change of the date of birth, which is not permissible.



16. The question of law on this issue came up for consideration before the Hon'ble Supreme Court of India in **Civil Appeal No.3905 of 2011 titled as Jigya Yadav (Minor) (Through Guardian/Father Hari Singh) vs. C.B.S.E (Central Board of Secondary Education) and others decided on 03.06.2021**. While considering all these facts, following relevant observation has been recorded:

“135. The overriding state interest, as per the Board, to retain this stringency is nothing but efficiency of administration. Administrative efficiency, despite being a crucial concern, has not been and cannot be elevated to a standard that it is used to justify nonperformance of essential functions by an instrumentality of the State. To use administrative efficiency to make it practically impossible for a student to alter her identity in the Board certificates, no matter how urgent and important it is, would be highly disproportionate and can in no manner be termed as a reasonable restriction. Reasonableness would demand a proper balance between a student's right to be identified in the official (public) records in manner of her choice and the Board's argument of administrative efficiency. To sustain this balance, it would be open to the Board to limit the number of times such alterations could be permitted including subject to availability of the old records preserved by it as per the extant regulations. But to say that post the publication of examination results and issuance of certificates, there can be no way to alter the record would be a case of total prohibition and not a reasonable restraint.

139. As regards the argument of misuse, no doubt, there are instances of misuse of provisions that permit change of identity in criminal matters. However, mere possibility of abuse cannot deter the Board from fulfilling their essential functions. A possibility of abuse cannot be used to deny legitimate rights to citizens. The balance simply does not tilt in favour of such a



proposition. The course of law cannot choose to change its stream merely because there are apprehensions of abuse on the way. The Board's concern 45 for short, "UIDAI" is only to regulate and maintain efficient educational standards. It is not a penal authority. If any of the provisions of Byelaws are subjected to misuse or abuse by anyone, the Board would be well within its rights to approach the appropriate body for necessary penal or civil action. As a nodal agency made for a specific public purpose, CBSE can only use its means and resources to put proper safeguards in place while performing its functions. More so, when it is not even the job of the Board to verify anything, as changes are made after grant of permission by a Court of law. There is involvement of judicial application of mind. The Board only has to give effect to the Court order granting permission, as and when it is so pronounced irrespective of publication of examination results in earlier point of time.

142. The concerned Byelaw has been framed on the assumption that there can be no situation wherein a legitimate need for change of name could arise for a student after publication of results. It is presumed that only typographical/factual errors could come in the certificates and they can be corrected using the provision for corrections. The presumption, we must note, is erroneous, absurd and distances itself from the social realities. There can be numerous circumstances wherein change of name could be a legitimate requirement and keeping the ultimate goal of preserving the standard of education in mind, the Board must provide for a reasonable opportunity to effect such changes.

178. The next issue for consideration is whether it is proper for the High Courts to issue mandamus to the CBSE for correction of certificates in complete contravention of the Byelaws, without examining the validity of the Byelaws. For issuing such directions, reliance has been placed upon Subin Mohammed,

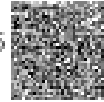


wherein the Court noted that the case does not involve correction of a typographical nature, as permissible in the Byelaws, but went on to uphold the right of the student to apply for changes on the basis of statutory certificate. It observed thus:

“37. Therefore, we have to proceed on the basis that the bye law of CBSE cannot be applied to the fact situation. But to reconcile the date of birth entry in the mark sheet with that of the entry in the statutory certificate, the candidates should not be left without any remedy. Their right to approach the Court for redressing their grievance cannot be ruled out.”

193.3 Indeed, it would be open to the CBSE to reject the application in the event the period for preservation of official records under the extant regulations had expired and no record of the candidate concerned is traceable or can be reconstructed. In the case of subsequent amendment of school records, that may occur due to different reasons including because of choice exercised by the candidate regarding change of name. To put it differently, request for recording of correction in the certificate issued by the CBSE to bring it in line with the school records of the incumbent need not be limited to application made prior to publication of examination results of the CBSE.

194. As regards request for “change” of particulars in the certificate issued by the CBSE, it presupposes that the particulars intended to be recorded in the CBSE certificate are not consistent with the school records. Such a request could be made in two different situations. The first is on the basis of public documents like Birth Certificate, Aadhaar Card/Election Card, etc. and to incorporate change in the CBSE certificate consistent therewith. The second possibility is when the request for change is due to the acquired name by choice at a later point of time. That change need not be backed by public documents pertaining to the candidate.”



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17. A bare perusal of above reproduction would show that even if, there is inconsistency with the original certificate issued by the CBSE with the school record, the CBSE must insist for supporting public documents which have presumptive value. In the present case, the certificates which have been issued by the Government of Punjab, copies of which have been appended as Annexure P-5 and P-12 have been issued by the competent authority within the Government of Punjab and has to be given due status as the same has been relied upon by the petitioner for the purpose of having her date of birth corrected in her matriculation mark-sheet-cum- certificate and the same being of latest dates carry presumptive value in favour of the petitioner.

18. Further, on the basis of the said certificate issued by the Government of Punjab, the school authorities have corrected their record and once the school authorities have corrected their record, the CBSE should have accepted the said claim of the petitioner especially when there is no indication of any mischief being played by the petitioner. In the absence of any mischief, the balance tilts in favour of the child so that the child does not suffer any prejudice in rest of her life as any inconsistency in the date of birth in an individual's matriculation certificate vis.a.vis his/her date of birth certificate is bound to create various hurdles in different stages of life be that of for issuance of other official documents such as driving licence, passport and also in case of an individual's employment.

19. Learned counsel for the respondents has placed reliance upon the finding recorded in paragraph 170 to 173 of ***Jigyada Yadav's case (supra)***.

The same are as under:



“170. The first is where the incumbent wants “correction” in the certificate issued by the CBSE to be made consistent with the particulars mentioned in the school records. As we have held there is no reason for the CBSE to turn down such request or attach any precondition except reasonable period of limitation and keeping in mind the period for which the CBSE has to maintain its record under the extant regulations. While doing so, it can certainly insist for compliance of other conditions by the incumbent, such as, to file sworn affidavit making necessary declaration and to indemnify the CBSE from any claim against it by third party because of such correction. The CBSE would be justified in insisting for surrender/return of the original certificate (or duplicate original certificate, as the case may be) issued by it for replacing it with the fresh certificate to be issued after carrying out necessary corrections with caption/annotation against the changes carried out and the date of such correction. It may retain the original entries as it is except in respect of correction of name effected in exercise of right to be forgotten. The fresh certificate may also contain disclaimer that the CBSE cannot be held responsible for the genuineness of the school records produced by the incumbent in support of the request to record correction in the original CBSE certificate. The CBSE can also insist for reasonable prescribed fees to be paid by the incumbent in lieu of administrative expenses for issuing fresh certificate. At the same time, the CBSE cannot impose precondition of applying for correction consistent with the school records only before publication of results. Such a condition, as we have held, would be unreasonable and excessive. We repeat that if the application for recording correction is based on the school records as it obtained at the time of publication of results and issue of certificate by the CBSE, it will be open to CBSE to provide for reasonable limitation period within which the



application for recording correction in certificate issued by it may be entertained by it. However, if the request for recording change is based on changed school records post the publication of results and issue of certificate by the CBSE, the candidate would be entitled to apply for recording such a change within the reasonable limitation period prescribed by the CBSE. In this situation, the candidate cannot claim that she had no knowledge about the change recorded in the school records because such a change would occur obviously at her instance. If she makes such application for correction of the school records, she is expected to apply to the CBSE immediately after the school records are modified and which ought to be done within a reasonable time. Indeed, it would be open to the CBSE to reject the application in the event the period for preservation of official records under the extant regulations had expired and no record of the candidate concerned is traceable or can be reconstructed. In the case of subsequent amendment of school records, that may occur due to different reasons including because of choice exercised by the candidate regarding change of name. To put it differently, request for recording of correction in the certificate issued by the CBSE to bring it in line with the school records of the incumbent need not be limited to application made prior to publication of examination results of the CBSE.

171. As regards request for “change” of particulars in the certificate issued by the CBSE, it presupposes that the particulars intended to be recorded in the CBSE certificate are not consistent with the school records. Such a request could be made in two different situations. The first is on the basis of public documents like Birth Certificate, Aadhaar Card/Election Card, etc. and to incorporate change in the CBSE certificate consistent therewith. The second possibility is when the request for change is due to the acquired name by choice at a later point of time. That change need not be backed



by public documents pertaining to the candidate.

(a) Reverting to the first category, as noted earlier, there is a legal presumption in relation to the public documents as envisaged in the 1872 Act. Such public documents, therefore, cannot be ignored by the CBSE. Taking note of those documents, the CBSE may entertain the request for recording change in the certificate issued by it. This, however, need not be unconditional, but subject to certain reasonable conditions to be fulfilled by the applicant as may be prescribed by the CBSE, such as, of furnishing sworn affidavit containing declaration and to indemnify the CBSE and upon payment of prescribed fees in lieu of administrative expenses. The CBSE may also insist for issuing Public Notice and publication in the Official Gazette before recording the change in the fresh certificate to be issued by it upon surrender/return of the original certificate (or duplicate original certificate, as the case may be) by the applicant. The fresh certificate may contain disclaimer and caption/annotation against the original entry (except in respect of change of name effected in exercise of right to be forgotten) indicating the date on which change has been recorded and the basis thereof. In other words, the fresh certificate may retain original particulars while recording the change along with caption/annotation [referred to above](#) (except in respect of change of name effected in exercise of right to be forgotten).

(b) However, in the latter situation where the change is to be effected on the basis of new acquired name without any supporting school record or public document, that request may be entertained upon insisting for prior permission/declaration by a Court of law in that regard and publication in the Official Gazette including surrender/return of original certificate (or duplicate original certificate, as the case may be) issued by CBSE and upon payment of prescribed fees. The fresh certificate as in other situations [referred to](#)



above, retain the original entry (except in respect of change of name effected in exercise of right to be forgotten) and to insert caption/annotation indicating the date on which it has been recorded and other details including disclaimer of CBSE. This is so because the CBSE is not required to adjudicate nor has the mechanism to verify the correctness of the claim of the applicant.

172. In light of the above, in exercise of our plenary jurisdiction, we direct the CBSE to process the applications for correction or change, as the case may be, in the certificate issued by it in the respective cases under consideration. Even other pending applications and future applications for such request be processed on the same lines and in particular the conclusion and directions recorded hitherto in paragraphs 170 and 171, as may be applicable, until amendment of relevant Byelaws. Additionally, the CBSE shall take immediate steps to amend its relevant Byelaws so as to incorporate the stated mechanism for recording correction or change, as the case may be, in the certificates already issued or to be issued by it.

173. Accordingly, we dispose of the cases before us with directions to the CBSE as noted in paragraphs 170 to 172 above. No order as to costs.”

20. Learned counsel for the respondents submits that in case there is inconsistency with the public document/statutory document with the school record, the statutory/public document should be given benefit and in the present case, there is a dispute between the statutory documents which have been issued in favour of the petitioner as one document describe the date of birth of the petitioner as 22.12.2006 though the other document describe the same as 11.04.2007 hence, the dilemma of the CBSE is to rely on which such statutory document to record the correct date of birth of the



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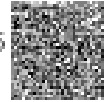
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petitioner and in the absence of two conflicting documents, the CBSE has rightly gone with the first document issued to the petitioner which was also available with the CBSE.

21. In this regard, it may be noticed that the first document which was issued by the statutory authority describing the date of birth as 22.12.2006 was not issued on the basis of the correct information as has been already admitted on behalf of the parents of the petitioner who has got the said certificate issued and given the fact that the petitioner has to bear the consequences of the same in the fitness of things equity shall dictate that respondent authority has to take into account the very latest certificates upon which the petitioner herself relies qua her date of birth. Whether or not the initial certificate got issued by parent of the petitioner was owing to a bona fide mistake or a deliberate one calls for a separate cause of action qua such parent and the same cannot be taken into account to decline the application of the petitioner made on the basis of certificates issued by competent authority.

22. As the remaining statutory documents issued by the State of Punjab, copies of which have been appended as Annexure P-1 and P-12, depict the date of birth of the petitioner and name of the petitioner correctly as Khwaish Aggarwal with the date of birth as 11.04.2007, the same should be taken into account by respondent authorities.

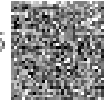
23. Further, the school authorities have also accepted the same to be genuine without there being any malice or mischief. Hence, the judgment of the Hon'ble Supreme Court of India in *Jigyada Yadav's case (supra)* should have been read in a manner to grant the relief to a candidate so as to save

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her from further prejudice in her life rather than creating troubles for her especial when the element of mischief is missing from the case of the petitioner.

24. Further once the last school in which the petitioner in enrolled before taking the matriculation exam has once corrected its records, the respondent authority cannot make it incumbent upon the petitioner to get the record of every school before the same in which she may have studied also corrected in order to secure acceptance of its application for correction of date of birth with the respondent authority.

25. Keeping in view the facts and circumstances mentioned hereinbefore, it is directed that keeping in view the date of birth certificate issued by the statutory authority in favour of the petitioner wherein her name has been updated from Tamanna Aggarwal to Khwaish Aggarwal with the date of birth as 11.04.2007 and the statutory documents qua the said change in name have also been brought on record and supplied to respondent No.1 coupled with the fact that even the school record has been amended qua the said statutory documents and the fact that no mischief which could be attributed to the petitioner herself has been pointed out by learned counsel for the respondents qua the change sought, the respondent No.1 is directed to correct the date of birth of the petitioner in the matriculation certificate Annexure P-8 as 11.04.2007 so that the petitioner can use the said date of birth in her forth coming secondary school examination which are going to start in the month of February, 2025. The school authorities are also directed to send the correct date of birth to the CBSE for the secondary school examination of the petitioner as 11.04.2007

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as they have already corrected the same in their record.

26. As the school authorities have already corrected the date of birth of the petitioner from 22.12.2006 to 11.04.2007 and now while sending her record to the CBSE for secondary examination, her date of birth has been sent as 11.04.2007 and in case, the matriculation examination is not corrected to carry the date of birth as 11.04.2007, there will be inconsistency in the 10th mark-sheet as well as in the secondary school examination mark-sheet qua the date of birth as they will be different.

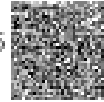
27. Therefore, it will be in the interest of justice that the petitioner i.e. the minor child is saved from further prejudice to be caused to her. Let her matriculation certificate as well as secondary school examination certificate, be issued with the date of birth as 11.04.2007 instead of 22.12.2006.

28. Let the order be complied with qua the matriculation certificate already issued within a period of four weeks and the same direction be complied with while issuing the secondary school examination mark-sheet as and when issued.

29. The present order has been passed keeping in view the special facts and circumstances of the present case, which have been noticed in the order.

30. Learned counsel for the respondents at this stage submits that the said order may be treated as a precedent in all other cases.

31. It may be noticed that in order to claim benefit of the order, the claimant have to have the same facts and circumstances which exist in the present case and in case such facts and circumstances does not exist in any

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other case, the CBSE can very well differentiate the judgment in those cases in the event the present case is being relied upon by any other claimant.

32. The present writ petition is allowed in above terms.

February 07, 2025*harsha***(HARSIMRAN SINGH SETHI)
JUDGE**

Whether speaking/reasoned : Yes

Whether reportable : Yes