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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 13336/2025**
ANUBHAV GUPTA(MINOR) THROUGH SUBASH KUMAR
GUPTAPetitioner

Through: Ms. Shruti Munjal, Legal Aid
Counsel

versus

KENDRIYA VIDYALAYA SANGATHAN AND ORS

.....Respondents

Through: Mr. S. Rajappa, Adv., Mr. R.
Gowrishankar, Adv. and Ms. G. Dhivyasri, Adv.
Mr. Santosh Kumar Rout, SC for R4

CORAM:

HON'BLE MR. JUSTICE JASMEET SINGH

ORDER

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19.01.2026

1. This is a writ petition filed under Article 226 read with Article 227 of the Constitution of India seeking the following reliefs:

“A) Issue a Writ of Certiorari quashing the order dated 3.06.2025 issued by Respondent No. 2 whereby the Petitioner has been held to be failed in Class XI and thereby in view of the Article 98 of the Kendriya Vidyalaya Sangathan Education Code has been refused promotion to Class XII and issuance of Transfer Certificate has been directed; and/or

B) Issue a Writ of Certiorari quashing the order dated 9.06.2025 issued by Respondent No. 1 to the National Commission for Protection of Child Rights refusing to provide grace marks to promote the Petitioner to class XII; and/or



C) Issue a Writ of Mandamus directing the Respondents to substitute the marks of his elective subject of "Physical Activity Trainer" with "Mathematics" in view of the Bye Law 40.1 of CBSE Examination Bye-Laws, 1995 and the law laid down in W.P. (C) No. 10836 of 2023, Aryan Kumar (Minor) Through Father Ravinder Kumar Versus Kendriya Vidyalaya & Ors. by this Hon'ble Court; and/or

D) Issue a Writ of Mandamus directing the Respondents to promote the Petitioner Class XII in the Respondent No. 2 and the Petitioner be permitted to join as a student on an immediate basis”

2. The brief facts of the case are that the petitioner is aged about 17 years and a student of Class XI, at PM Shri Kendriya Vidyalaya NFC, Vigyan Vihar, Near Vivek Vihar Police Station, Delhi – 110092. The petitioner is a student of Science stream, he appeared for annual examination of class XI but could not clear the mathematics paper. Subsequently, he was offered compartment and he duly appeared in the supplementary examination for which the marksheet is reproduced as under:



पीएम श्री केन्द्रीय विद्यालय एन.एफ.सी. विज्ञान विहार (प्रथम पाली)															
PM SHRI KENDRIYA VIDYALAYA NFC VIGYAN VIHAR (1st SHIFT)															
DELHI															
प्रगति पत्रक / REPORT CARD															
शैक्षिक वर्ष / ACADEMIC SESSION : 2024-25															
KV CODE : 3429															
UOSE CODE : 7048922103															
AFFILIATION NO : 2700025															
STUDENT'S NAME : ARABHAV GUPTA															
CLASS & SECTION : XI-A															
FATHER'S NAME : SUBHASH KUMAR GUPTA															
ROLL NO. : 16															
MOTHER'S NAME : RESU GUPTA															
ADMISSION NO. : 009249															
DATE OF BIRTH : 14/01/2008															
UOSE PIN : 20618490251															
APAR ID : 516975851552															
शैक्षिक क्षेत्र / Scholastic Area															
विषय / Subject	Periodic Test - I		Half Yearly Exam		Periodic Test - II		Annual Exam		Total WT of Theory	Theory Based Test	Internal Assessment/ Practical	Composite Exam		Final WT	Remark / Grade
	MM	WT	MM	WT	MM	WT	MM	WT				MM	WT		
ENGLISH	32.0	8.0	45.0	16.9	29.0	7.9	47.0	29.6	61.5	50	16			66	B2
MATHS	19.0	3.3	20.0	7.5	12.0	3.0	15.0	9.4	29.1	19	17	18	23	23	PT / E
PHYSICS	22.0	6.3	25.0	10.7	24.0	6.0	32.0	22.9	45.9	33	24			57	C1
CHEMISTRY	18.0	5.1	24.0	10.3	7.0	1.8	32.0	22.9	40.0	29	19			48	C2
CS/IT	27.0	6.8	31.0	13.6	18.0	4.5	31.0	19.4	42.3	30	23			53	C1
PHYSICAL ACTIVITY TRAINING	21.0	5.3	30.0	18.0	27.0	6.8	38.0	38.0	68.0	34	30			64	B2
गैर-शैक्षिक क्षेत्र / Co-Scholastic Area															
गतिविधि / Activities	GRADE		गतिविधि / Activities	GRADE		उपस्थिति / ATTENDANCE		अभिप्राय / Remarks							
WORK EDU.	A		ICT SKILLS	A		340/392		NEED IMPROVEMENT							
ART EDU.	A		MUSIC	A											
HEALTH EDU.	A		DISCIPLINE	A											
!!! परिणाम / RESULT !!!															
Marks Obtained in Main Subjects : 247 / 500 . Result is : Detained Twice															

Place : DELHI

दिनांक / Date : 30-04-2025

कक्षा शिक्षक

Class Teacher

निरीक्षक

Inspector

परीक्षा प्रभारी

Examiner

सहसंचालक

Coordinator

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3. Consequently on the basis of this result, the petitioner was detained from being promoted to Class XII.

4. Further, the respondent No. 1 issued an Order dated 09.06.2025, whereby it denied the request application moved by National Commission For Protection of Child Rights for promotion of the petitioner on humanitarian grounds, the operative portion of the order reads as under:



केन्द्रीय विद्यालय संगठन

केन्द्रीय विद्यालय संगठन (दिल्ली संभाग)
KENDRIYA VIDYALAYA SANGATHAN (DELHI REGION)
(शिक्षा मंत्रालय, भारत सरकार)
(MINISTRY OF EDUCATION, GOVT. OF INDIA)
पुराना जे.एन.यू. परिसर न्यू मेहरौली रोड, नई दिल्ली-110067
OLD JNU CAMPUS, NEW MEHRAULI ROAD, NEW DELHI-110067
Website: rodelhi.kvs.gov.in
Email id: ac1@kvsrodelhi.in contact no. 7428531067

F.No.19353/KVSRO DELHI/2025-26/AC-1/

Dated: 09.06.2025

The Registrar

National Commission for Protection of Child Rights (NCPCR)

Subject: - Regarding application for promotion in Class 12th in Kendriya Vidyalaya NFC Vigyan Vihar on humanitarian ground.

Ref. no.: File No.: DL-EBN80331/2025-26/NCPCR/EDU Dated 03.06.2025.

Sir,

With reference to the subject and letter no. cited above, the following points are being brought to the kind notice of your benevolent authority-

1. Master Anubhav Gupta, Ex-student of class 11 of NFC Vigyan Vihar could not secure pass marks in Mathematics subject in Annual Examination 2024-25 and in supplementary Examination-2025.
2. Master Anubhav Gupta was detained in class 11 in session 2023-24 also, as he could not secure 33% marks in more than one subject.
3. A student failing in one subject in Annual Examination is given one chance to appear in supplementary examination, which he availed during session 2024-25 but he could not secure pass marks essential to get promotion in next higher class i.e. in class 12.
4. Since Master Anubhav Gupta failed twice in same class i.e. in Class 11, he has been issued TC in compliance to Article 98 of Education code for Kendriya Vidyalayas which states that a pupil who fails twice at annual examination shall not be admitted even in special cases.
5. There is no provision of awarding grace marks on humanitarian ground or on medical ground and hence his request for promotion in class 12 could not be acceded to.

The above points are being submitted for kind consideration and necessary information.

Yours faithfully


09/06/2025

(Ghan Shyam Pandey)
Assistant Commissioner

Encl:- 1, Reply of Principal PM SHRI KV NFC Vigyan Vihar.

Copy to:-

1. The Deputy Commissioner (Acad.), KVS HQ for kind information.
2. The Deputy commissioner KVS RO Delhi for kind information.
3. Mr. Anubhav Gupta S/o Sh. Subhash Kumar Gupta/Ex. Student of KV NFC Vigyan Vihar for information.
He is hereby informed that his application for promotion in Class 12 is disposed of as per point -5 of this letter.



5. Based upon this factual situation, the petitioner was denied promotion to Class XII.

6. Ms. Munjal, learned counsel for the petitioner, draws my attention to Rule 40 of Central Board of Secondary Education (**"CBSE"**) Examination Bye-laws, 1995, which reads as under:

"40.1 Pass Criteria (Senior School Certificate Examination):

(i) A candidate will be eligible to get the Pass Certificate of the Board, if he/she gets a grade higher than E in all subjects of internal assessment unless he/she is exempted. Failing this, result of the external examination will be withheld but not for a period of more than one year.

(ii) In order to be declared as having passed the examination, a candidate shall obtain a grade higher than E (i.e. at least 33% marks) in all the five subjects of external examination in the main or at the compartmental examinations. The pass marks in each subject of external examination shall be 33%. In case of a subject involving practical work, a candidate must obtain 33% marks in theory and 33% marks in practical separately in addition to 33% marks in aggregate in order to qualify in that subject.

(iii) No overall division/distinction/aggregate shall be awarded.

(iv) In respect of a candidate offering an additional subject, the following norms shall be applied,



a. A language offered as an additional subject may replace a language in the event of a candidate failing in the same provided after replacement the candidate has English/Hindi as one of the languages.

b. An elective subject offered as an additional subject may replace one of the elective subjects offered by the candidate. It may also replace a language provided after replacement the candidate has English/Hindi as one of the languages.

c. Additional language offered at elective level may replace an elective subject provided after replacement, the number of languages offered shall not exceed two.

(v) Candidates exempted from one or more subjects of internal examination shall be eligible for appearing in external examination and result shall be declared subject to fulfilment of other conditions laid down in the Pass Criteria.

(vi) In order to be declared as having passed the Class XI Examination a candidate shall obtain 33% marks in all the subjects. The pass marks in each subject of examination shall be 33%. In case of subject involving practical work, a candidate must obtain 33% marks in theory and 33% in practical separately in addition to 33% marks in aggregate in order to qualify in that subject."

7. She further draws my attention to the judgment of this Court dated



06.11.2023 passed in **W.P.(C) 10836/2023** titled **Aryan Kumar (Minor) Through Father Ravinder Kumar versus Kendriya Vidyalaya & Ors.**, wherein this Hon'ble Court has given primacy to the CBSE Bye-laws and has concluded as under:

“49.11. As a sequitur to the above, in the opinion of this court, there can be no manner of doubt that in the event of any conflict between a bye-law framed by the CBSE and a code issued by KVS, the CBSE bye-law would prevail. In the present case, there is a clear conflict inasmuch as Article 106 of the KVS Education Code stipulates an additional criterion by which a candidate is not permitted to substitute an additional subject in place of a main subject in order to fulfill the pass criteria for Class-XI. Since Bye-Law 40.1 (iv)(b) and (vi) specifically permit such substitution, Article 106 must yield to Bye-Law 40.1(iv)(b) and (vi).

49.12. Accordingly, the Petitioner is entitled to substitute Physical Education (an elective subject taken as an additional subject) in place of Mathematics (an elective subject taken as a main subject). By doing so he would also continue to retain English as one of the main subjects. Since that is so, upon such substitution, the Petitioner would have obtained 33% marks in 05 subjects, viz. Business Studies, Accountancy, English, Economics and Physical Education in theory, in practical as well as in the aggregate - in each of the



subjects.

49.13. In the above view of the matter, the petitioner fulfils the pass criteria contained in Bye-Law 40.1 of the CBSE Examination Bye-Laws.

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50. Accordingly, the petition is allowed; thereby holding that the petitioner has fulfilled the pass criteria for Class-XI and is eligible to be promoted to Class-XII at the Kendriya Vidyalaya School, Sector- 12, Dwarka."

8. The challenge to the said judgment also failed in LPA 816/2023. Further, the Order of the Single Judge as well as the Division Bench was upheld by the Hon'ble Supreme Court in SLP. (C) No. 45413/2024 but the question of law was left open.

9. Ms. Munjal, learned counsel for the petitioner, contends that in view of the above, the petitioner is entitled to substitute the 6th subject, i.e., Physical Activity Training in place of Mathematics and the petitioner should be promoted to Class XII.

10. Mr. Rajappa, learned counsel for the respondent No. 1, vehemently opposes the petition.

11. In view of the entire conspectus enumerated hereinabove, there is no doubt, that factual situation of the petitioner are covered by the judgement of this Court dated 06.11.2023 upheld by the Division Bench and thereafter by the Hon'ble Supreme Court.

12. However, the fact troubling me today is that the petitioner wants to be promoted to Class XII and to appear in the Class XII Examination, which is scheduled to begin on 17.02.2026. Meaning thereby that at best, the



petitioner will attend classes only for a period of 1 month for the entire academic session which had commenced from April, 2025.

13. Without attending a single Class, the petitioner is seeking direction to participate in the examination for Class XII, which to my mind cannot be allowed in the factual situation of the present case, as every school has its own way and manner of teaching students.

14. The present writ petition was first listed on 01.05.2025 and the petitioner could not obtain any interim order seeking permission to attend the classes.

15. In this view of the matter, it would be unfair to permit the petitioner to attend Class XII under the aegis of respondent No. 2 school, as the respondent No. 2 school did not have access to teach the petitioner for a substantial period of time and now in such a short span of time, they will not be able to teach the petitioner in the manner in which they teach the other students.

16. For the said reasons, even though, the petitioner is covered by the judgments of this Court, in the peculiar facts of the case, the petition could not be allowed.

17. However, the petitioner has obtained admission in National Institution of Open Schooling (**“NIOS”**) with the Enrolment No. 210846253044.

18. Mr. Rajappa, who is also the standing counsel for the NIOS shall ensure that the petitioner is permitted to participate in Class XII examination through NIOS and also be permitted to take practical exams in accordance with law, subject to completion of formalities.

19. The enrolment details of the petitioner is handed over in Court today and is taken on record.



20. The petition is disposed with the aforesaid directions.

JANUARY 19, 2026/AS

JASMEET SINGH, J