

SYNOPSIS AND LIST OF DATES

The petitioners before this Hon'ble Court happen to be the parents of their wards who have appeared/appearing in Class XII Board examination conducting by the CBSE. The petitioners by virtue of the instant writ petition under Article 32 of the Constitution prays interalia for quashing of CBSE notification dated 18.5.20 by which it has decided to hold the remaining examination of CBSE Board (Class XII) ranging from 1.7.20 till 15.7.20.

That the instant writ petition would not only demonstrate the rising concern of the safety of millions of students who would be exposed to COVID-19 pandemic if they were to appear in the said examinations. The said petition would also demonstrate the extent of discriminatory and arbitrariness conduct of the respondent/CBSE in issuing the notification for holding of the remaining examination and that too in the month of July, 2020 wherein as per the AIIMS data, the said COVID-19 pandemic would be at its peak.

To highlight the said grim situation, it would be pertinent to mention herein at this juncture that on 25.5.20, the respondent/Ministry of Human Resource and Development had announced about the conducting of the aforesaid exams for X and XII class students in almost 15,000 exam centres as against 3,000 centres which were used earlier. Ensuring proper cleanliness and safety standards as prescribed by the concerned Government in COVID-19 situation in those 15,000 exam centres spreading over length and breadth of the country including rural sectors would not only be risking health and life of children but also would be an exercise in futility and an eyewash.

This situation coupled with the fact that cases in India are rising dramatically and as on date there are almost 3,00,000 cases of COVID-19 patients. Moreover, even if it is to be assumed that 50% of the cases are asymptomatic then, the said students appearing for these exams could also be potential carriers themselves posing a great risk to the other family members and themselves. Moreover, to assume that the students in the month of July where the temperature touches almost 45°C and

humidity around with students wearing gloves and masks sitting in examination centres for 4 hours at stretch would be a task which would be completely hazardous to everyone.

So far as the discrimination and arbitrariness in conducting such examinations is concerned, it would be pertinent to mention herein that many professional Institutes/Schools considering the said grim situation have cancelled their examinations. For eg. the University of Delhi has cancelled their first year and second year undergraduate examination by stating that the same is not feasible during COVID-19 times. Similarly, even the premier institutes like IIT across the country has also cancelled all its exams including those of final year students because of the said situation. The State of Maharashtra has also cancelled all University exams including their final year examinations.

So far the schooling levels are concerned the amount of discrimination can be gauged from the fact that the Maharashtra Government has written to the CBSE wherein they have conveyed its inability to conduct

CBSE examinations. So far the Maharashtra State Board are concerned the same has been cancelled.

Recently two other States i.e. Tamil Nadu as well Telangana are considering cancelling their Board examinations whereas the State of Chhattisgarh has also already cancelled their State Board examination.

Moreover, the respondent/CBSE considering the gravity of this pandemic has themselves cancelled the examinations of Class X and XII for its 250 odd schools which are situated abroad and has adopted criteria in awarding marks on the basis of either Practical exams conducted or internal assessment marks. It is highly regretful that the respondents herein have no genuine concern about putting the lives at peril of all the students pan India and have no explanation whatsoever in insisting upon holding the said examination in India.

The third aspect in the said writ petition is the practical difficulties in conducting the said examination which can be demonstrated by the fact that as per the guidelines issued by the Government of India and respective State

Governments, many Red zones/Containments areas have been earmarked so as to deny any movement of persons. Moreover, the Ministry of Home Affairs has also vide its circular dated 20.5.20 has clearly stipulated that no examination would be permitted in the said Containment zone. Meaning thereby, if an examination centre falls in that Containment Zone, the students would not be permitted to appear in the said proposed exams and if a student has to come from a Containment zone for appearing in the said examination, he/she will not be permitted to move out from the said Containment Zone. It is unfortunate that the respondent/CBSE is completely silent on these practical difficulties.

Moreover, it is also not practical possible for every parents to afford a private vehicle to send their wards to appear in the examination at different examination centres and by hiring a public transport, the risk of contamination would be the highest.

The petitioners herein who are distressed parents has not filed the instant writ petition pointing out only the above-mentioned startling facts and life threatening problems

but also with this Hon'ble Court's kind permission have some suggestions so that moralities would be worked out in this unusual pandemic situations:-

1. As done by the respondent/CBSE in its other 250 schools abroad, various State Boards in other States, the examination scheduled to be conducted in July, 2020 should be cancelled and the marks could be allotted on the basis of internal assessment.
2. That under the aegis of CBSE itself all the remaining subjects for which the exams have to be conducted have a inbuilt mechanism of internal assessment and for that remaining paper the same can be awarded; or
3. The exams which are already held (majority of the subjects), the average of those marks could be calculated and can be added up with the remaining paper which marks can be assessed by internal assessment.

Thus, the instant writ petition under Article 32 of the Constitution seeking in the nature of Certiorari and Mandamus seeking quashing of the CBSE Notification

dated 18.5.20 and for the time being immediate stay of the said Notification till the petition is decided finally.

The brief facts of the case are:-

08.11.2019 The respondent/CBSE came out with a Notification directing all the Schools affiliated to CBSE wherein they specified that in almost all the 67 subjects the concerned subjects must contain Theory and Practical/Internal Assessment Components.

10.04.2020 The CBSE directed all its schools while considering the said pandemic situation to promote students of Grade IX and XI to the respective next grades on the basis of the school based assessments.

It also decided while its press release dated 1.4.20 that not to hold anymore exams for the students of Class X and XII schools which is located outside India.

- 18.05.2020 The Controller of Examinations, CBSE/respondent No.1 herein came out with a Notification wherein they issued the Date Sheet with regard to Class XII examination to be conducted from 1.7.20.
- 20.05.2020 The MHA also came out with a circular issued guidelines to various states informing about the Government decision specifying that no examination would be permitted in those centres which fall in the Containment zones.
- 25.05.2020 The Respondent/HRD Ministry identified almost 15,000 examination centres pan India for conducting of CBSE examination. In the said press release it was also stated that previously the said exams were held only in 3,000 exam centres because of COVID-19 situation it was decided to hold examinations over 15,000 exam centres.

09.06.2020 That as on date almost 2.70 lacs cases have been confirmed in India with approximately 7500 reportable deaths.

10.06.2020 The petitioners before this Hon'ble Court happen to be the parents of their wards who have appeared/appearing in Class XII Board examination conducting by the CBSE. The petitioners by virtue of the instant writ petition under Article 32 of the Constitution prays interalia for quashing of CBSE notification dated 18.5.20 by which it has decided to hold the remaining examination of CBSE Board (Class XII) ranging from 1.7.20 till 15.7.20.

That the instant writ petition would not only demonstrate the rising concern of the safety of millions of students who would be exposed to COVID-19 pandemic if they were to appear in the said examinations. The said petition would also demonstrate the extent of discriminatory and arbitrariness conduct of

the respondent/CBSE in issuing the notification for holding of the remaining examination and that too in the month of July, 2020 wherein as per the AIIMS data, the said COVID-19 pandemic would be at its peak.

The petitioners herein who are distressed parents has not filed the instant writ petition pointing out only the above-mentioned startling facts and life threatening problems but also with this Hon'ble Court's kind permission have some suggestions so that moralities would be worked out in this unusual pandemic situations:-

1. As done by the respondent/CBSE in its other 250 schools abroad, various State Boards in other States, the examination scheduled to be conducted in July, 2020 should be cancelled and the marks could be allotted on the basis of internal assessment.

2. That under the aegis of CBSE itself all the remaining subjects for which the exams have to be conducted have a inbuilt mechanism of internal assessment and for that remaining paper the same can be awarded; or
3. The exams which are already held (majority of the subjects), the average of those marks could be calculated and can be added up with the remaining paper which marks can be assessed by internal assessment.

Thus, the instant writ petition under Article 32 of the Constitution seeking in the nature of Certiorari and Mandamus seeking quashing of the CBSE Notification dated 18.5.20 and for the time being immediate stay of the said Notification till the petition is decided finally.

4. Sunitha
D/o Mr. P. Gopala Krishnan,

---Petitioners

Versus

1. Central Board of School Education
Through Chairperson,
Shiksha Kendra,
2, Community Centre,
Preet Vihar,
Delhi-110092

2. Ministry of Human Resource Development,
Department of Higher Education
Through its Secretary,
Shastri Bhawan,
New Delhi-110001

---Respondents

TO
THE HON'BLE CHIEF JUSTICE
OF INDIA AND HIS COMPANION
JUSTICES OF THIS HON'BLE COURT

THE HUMBLE PETITION OF THE
PETITIONERS ABOVE NAMED

MOST RESPECTFULLY SHOWETH:

1. That the petitioner through this writ petition under Art.32 of the Constitution seeking in the nature of Certiorari and Mandamus seeking quashing of the CBSE Notification dated 18.5.20 and for the time being immediate stay of the said Notification till the petition is decided finally.

2. The petitioners before this Hon'ble Court happen to be the parents of their wards who have appeared/appearing in Class XII Board examination conducting by the CBSE. The petitioners by virtue of the instant writ petition under Article 32 of the Constitution prays interalia for quashing of CBSE notification dated 18.5.20 by which it has decided to hold the remaining examination of CBSE Board (Class XII) ranging from 1.7.20 till 15.7.20.

3. FACTS OF THE CASE

- A. That on 8.11.19 the respondent/CBSE came out with a Notification directing all the Schools affiliated to CBSE wherein they specified that in almost all the 67 subjects the concerned subjects must contain Theory and

Practical/Internal Assessment Components. A copy of the Notification including the list dated 8.11.19 is hereby attached as **Annexure P/1**

B. That on 10.4.20 the CBSE directed all its schools while considering the said pandemic situation to promote students of Grade IX and XI to the respective next grades on the basis of the school based assessments.

C. It also decided while its press release dated 1.4.20 that not to hold anymore exams for the students of Class X and XII schools which is located outside India. A Copy of CBSE Clarification dated 10.4.20 is hereby attached as **Annexure P/2**

D. That on 18.5.20 the Controller of Examinations, CBSE/respondent No.1 herein came out with a Notification wherein they issued the Date Sheet with regard to Class XII examination to be conducted from 1.7.20. A Copy of the Notification/Date Sheet issued on 18.5.20 is hereby attached as **Annexure P/3**

E. On 20.5.20 the MHA also came out with a circular issued guidelines to various states informing about the

Government decision specifying that no examination would be permitted in those centres which fall in the Containment zones. A Copy of the clarification dated 20.5.20 is hereby attached as **Annexure P/4**

F. That on 25.5.20 the Respondent/HRD Ministry identified almost 15,000 examination centres pan India for conducting of CBSE examination. In the said press release it was also stated that previously the said exams were held only in 3,000 exam centres because of COVID-19 situation it was decided to hold examinations over 15,000 exam centres. A Copy of the Press Release dated 25.5.20 is hereby attached as **Annexure P/5**

G. That on 9.6.20 as on date almost 2.70 lacs cases have been confirmed in India with approximately 7500 reportable deaths.

H. The petitioners before this Hon'ble Court happen to be the parents of their wards who have appeared/appearing in Class XII Board examination conducting by the CBSE. The petitioners by virtue of the instant writ petition under Article 32 of the Constitution prays interalia for quashing

of CBSE notification dated 18.5.20 by which it has decided to hold the remaining examination of CBSE Board (Class XII) ranging from 1.7.20 till 15.7.20.

- I. That the instant writ petition would not only demonstrate the rising concern of the safety of millions of students who would be exposed to COVID-19 pandemic if they were to appear in the said examinations. The said petition would also demonstrate the extent of discriminatory and arbitrariness conduct of the respondent/CBSE in issuing the notification for holding of the remaining examination and that too in the month of July, 2020 wherein as per the AIIMS data, the said COVID-19 pandemic would be at its peak.

- J. The petitioners herein who are distressed parents has not filed the instant writ petition pointing out only the above-mentioned startling facts and life threatening problems but also with this Hon'ble Court's kind permission have some suggestions so that moralities would be worked out in this unusual pandemic situations:-
 1. As done by the respondent/CBSE in its other 250 schools abroad, various State Boards in other

States, the examination scheduled to be conducted in July, 2020 should be cancelled and the marks could be allotted on the basis of internal assessment.

2. That under the aegis of CBSE itself all the remaining subjects for which the exams have to be conducted have a inbuilt mechanism of internal assessment and for that remaining paper the same can be awarded; or
3. The exams which are already held (majority of the subjects), the average of those marks could be calculated and can be added up with the remaining paper which marks can be assessed by internal assessment.

J. Thus, the instant writ petition under Article 32 of the Constitution seeking in the nature of Certiorari and Mandamus seeking quashing of the CBSE Notification dated 18.5.20 and for the time being immediate stay of the said Notification till the petition is decided finally.

3. That the petitioner is filing the instant Writ Petition on the following amongst other:-

G R O U N D S

- A. BECAUSE the petitioners before this Hon'ble Court happen to be the parents of their wards who have appeared/appearing in Class XII Board examination conducting by the CBSE. The petitioners by virtue of the instant writ petition under Article 32 of the Constitution prays interalia for quashing of CBSE notification dated 18.5.20 by which it has decided to hold the remaining examination of CBSE Board (Class XII) ranging from 1.7.20 till 15.7.20.
- B. BECAUSE the instant writ petition would not only demonstrate the rising concern of the safety of millions of students who would be exposed to COVID-19 pandemic if they were to appear in the said examinations. The said petition would also demonstrate the extent of discriminatory and arbitrariness conduct of the respondent/CBSE in issuing the notification for holding of the remaining

examination and that too in the month of July, 2020 wherein as per the AIIMS data, the said COVID-19 pandemic would be at its peak.

C. BECAUSE to highlight the said grim situation, it would be pertinent to mention herein at this juncture that on 25.5.20, the respondent/Ministry of Human Resource and Development had announced about the conducting of the aforesaid exams for X and XII class students in almost 15,000 exam centres as against 3,000 centres which were used earlier. Ensuring proper cleanliness and safety standards as prescribed by the concerned Government in COVID-19 situation in those 15,000 exam centres spreading over length and breadth of the country including rural sectors would not only be risking health and life of children but also would be an exercise in futility and an eyewash.

D. BECAUSE this situation coupled with the fact that cases in India are rising dramatically and as on date there are almost 3,00,000 cases of COVID-19 patients. Moreover, even if it is to be assumed that 50% of the

cases are asymptomatic then, the said students appearing for these exams could also be potential carriers themselves posing a great risk to the other family members and themselves. Moreover, to assume that the students in the month of July where the temperature touches almost 45°C and humidity around with students wearing gloves and masks sitting in examination centres for 4 hours at stretch would be a task which would be completely hazardous to everyone.

E. BECAUSE so far as the discrimination and arbitrariness in conducting such examinations is concerned, it would be pertinent to mention herein that many professional Institutes/Schools considering the said grim situation have cancelled their examinations. For eg. the University of Delhi has cancelled their first year and second year undergraduate examination by stating that the same is not feasible during COVID-19 times. Similarly, even the premier institutes like IIT across the country has also cancelled all its exams including those of final year students because of the said situation. The State of Maharashtra has also

cancelled all University exams including their final year examinations.

F. BECAUSE so far the schooling levels are concerned the amount of discrimination can be gauged from the fact that the Maharashtra Government has written to the CBSE wherein they have conveyed its inability to conduct CBSE examinations. So far the Maharashtra State Board are concerned the same has been cancelled.

G. BECAUSE recently two other States i.e. Tamil Nadu as well Telangana are considering cancelling their Board examinations whereas the State of Chhattisgarh has also already cancelled their State Board examination.

H. BECAUSE the respondent/CBSE considering the gravity of this pandemic has themselves cancelled the examinations of Class X and XII for its 250 odd schools which are situated abroad and has adopted criteria in awarding marks on the basis of either Practical exams conducted or internal assessment

marks. It is highly regretful that the respondents herein have no genuine concern about putting the lives at peril of all the students pan India and have no explanation whatsoever in insisting upon holding the said examination in India.

- I. BECAUSE the third aspect in the said writ petition is the practical difficulties in conducting the said examination which can be demonstrated by the fact that as per the guidelines issued by the Government of India and respective State Governments, many Red zones/Containments areas have been earmarked so as to deny any movement of persons. Moreover, the Ministry of Home Affairs has also vide its circular dated 20.5.20 has clearly stipulated that no examination would be permitted in the said Containment zone. Meaning thereby, if an examination centre falls in that Containment Zone, the students would not be permitted to appear in the said proposed exams and if a student has to come from a Containment zone for appearing in the said examination, he/she will not be permitted to move out from the said Containment Zone. It is unfortunate

that the respondent/CBSE is completely silent on these practical difficulties.

J. BECAUSE it is also not practical possible for every parents to afford a private vehicle to send their wards to appear in the examination at different examination centres and by hiring a public transport, the risk of contamination would be the highest.

K. BECAUSE the petitioners herein who are distressed parents has not filed the instant writ petition pointing out only the above-mentioned startling facts and life threatening problems but also with this Hon'ble Court's kind permission have some suggestions so that moralities would be worked out in this unusual pandemic situations:-

1. As done by the respondent/CBSE in its other 250 schools abroad, various State Boards in other States, the examination scheduled to be conducted in July, 2020 should be cancelled and the marks could be allotted on the basis of internal assessment.

2. That under the aegis of CBSE itself all the remaining subjects for which the exams have to be conducted have an inbuilt mechanism of internal assessment and for that remaining paper the same can be awarded; or
3. The exams which are already held (majority of the subjects), the average of those marks could be calculated and can be added up with the remaining paper which marks can be assessed by internal assessment.

L. BECAUSE the instant writ petition under Article 32 of the Constitution seeking in the nature of Certiorari and Mandamus seeking quashing of the CBSE Notification dated 18.5.20 and for the time being immediate stay of the said Notification till the petition is decided finally.

4. The petitioners have not filed any similar writ petition before in this Hon'ble Court or any of the High Court praying for similar relief.

PRAYER

In the light of the abovementioned facts and circumstances, the petitioner through this instant petition prays before this Hon'ble Court as under:-

- a) Issue a writ/order or direction in the nature of Certiorari for quashing of the CBSE Notification/Date Sheet dated 18.5.20, whereby it has notified the holding of the exams commencing from 1.7.20;
- b) direct the respondent/CBSE to declare the results on the basis of examination already conducted and to calculate it on an average basis with the internal assessment marks of the remaining subject; and
- c) Pass any such further order(s)/directions as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

DRAWN & FILED BY:-

DRAWN ON:- 09.06.20
FILED ON: - 10.06.20

[RISHI MALHOTRA]
Advocate for the petitioners

**IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION**

I.A. NO. OF 2020

IN

WRIT PETITION (CIVIL) NO. OF 2020

IN THE MATTER OF:

Col. Amit Bathla & Ors. ---Petitioners

Versus

Central Board of School Education & Anr. ---Respondents

APPLICATION FOR STAY

**TO
THE HON'BLE CHIEF JUSTICE
OF INDIA AND HIS COMPANION
JUSTICES OF THIS HON'BLE COURT**

**THE HUMBLE PETITION OF THE
PETITIONER ABOVE NAMED**

MOST RESPECTFULLY SHOWETH:

1. That the petitioner through this writ petition under Art.32 of the Constitution seeking in the nature of Certiorari and Mandamus seeking quashing of the CBSE Notification dated 18.5.20 and for the time being immediate stay of the said Notification till the petition is decided finally.
2. That the respondent/CBSE vide its notification dated 18.5.20 has issued Date Sheet for conducting examination commencing from 1.7.20.
3. That the petitioners interalia prays that during the pendency of the instant writ petition, the said Notification should be stayed otherwise, the petition would become infructuous.

PRAYER

In the light of the abovementioned facts and circumstances, the petitioner through this instant petition prays before this Hon'ble Court as under:-

- a) Stay the CBSE Notification/Date Sheet dated 18.5.20, whereby it has notified the holding of the exams commencing from 1.7.20;
- b) Pass any such further order(s)/directions as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

DRAWN & FILED BY:-

[RISHI MALHOTRA]
Advocate for the petitioners

FILED ON: - 10.06.20