

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

Civil Writ Petition No.1741 of 2008

Date of decision: March 18, 2008

Seema and others

... Petitioners

Versus

Central Board of Secondary Education and others

... Respondents

**CORAM: HON'BLE MR. JUSTICE ASHUTOSH MOHUNTA
HON'BLE MR. JUSTICE KANWALJIT SINGH AHLUWALIA**

Present: Mr. Jagbir Malik, Advocate for the petitioners.
Mr. Harsh Aggarwal, Advocate for respondent Nos. 1 to 3.

KANWALJIT SINGH AHLUWALIA, J.

In March, 2006, petitioners had undertaken matriculation examination conducted by the Board of School Education Haryana, Bhiwani. Petitioners had got compartment in two papers. After declaration of the matriculation result, they got themselves admitted with respondent No.4, i.e., Happy Evergreen Senior Secondary School, Dulana Road, Mahendergarh in 11th class and deposited their registration fees.

In November, 2006, petitioners had taken their supplementary examination and passed the subjects in which they had got compartment. Petitioners attended their 11 class and they were declared pass. Thereafter, they got their admission in the 12th class. They had attended more than 75 per cent requisite lectures in the school. They were not allowed to appear by the Central Board of Secondary Education on the ground that though they had appeared in 10th examination in March, 2006,

they have passed their compartment papers after November, 2006. Therefore, they could not be given admission in the 11th class by the respondent No.4, i.e. Happy Evergreen Senior Secondary School, Dulana Road, Mahendergarh, which is affiliated to the Central Board of Secondary Education. A similar controversy was raised in **CWP No.58 of 2007 titled as Dheeraj Arora vs. Central Board of Secondary Education and another** (Annexure P-18) to the admission of the petitioners to that writ petition, who had taken admission in 11th class like present petitioners. This Court passed the following order:

"We feel that objection raised is totally unreasonable. As per Rule 42 Sub Rule (vi) of Bye-Laws of CBSE, a student is eligible to get admission in class XI, even if, he got compartment in Class X. It is further provided that admission shall be provisional and if the student fails to pass the subject, in which, he got compartment, at the first chance, given to him, then his admission shall be deemed to have been cancelled. The above said Rule reads thus:-

'42. Compartment Examination for Secondary/ Senior School Certificate Examination.

xxx	xxx	xxx	xxx
xxx	सत्यमेव जयते	xxx	xxx

(vi) The candidate who is placed in compartment in the Secondary School Education (Class X) shall be admitted provisionally to Class XI till he takes in first chance compartmental examination to be held in July/ August of that year. His/ her admission shall be treated as cancelled if he/ she fails to pass at the first chance compartment examination.'

We feel that in view of the provision of Rule 42 (vii) quoted above admission was rightly granted to the petitioner in Class XI, as it is also not in dispute that in the first available chance, provided by the Board, the petitioner had appeared and passed out the compartment subject i.e. Mathematics, in which, he was declared fail. In view of this, we feel that order

(ANNEXURE P-5) cannot be sustained, accordingly, it is quashed.

Under interim orders passed by this Court, the petitioner had appeared in the examination for Class 10+2, his appearance stands regularized and the Board is directed to declare his result.

Disposed of.”

Since the petitioners were also allowed to appear in the examination by this Court on 6th February, 2008, we have no reason to differ with the judgment rendered by this Court in Annexure P-18. Therefore, we direct that petitioners, who appeared in examination for class 10+2 under the interim order passed by this Court, their admission shall stand regularized and Central Board of Secondary Education will declare their result. Mr. Harsh Aggarwal appearing for the Board has stated that even though hardship has been caused to the students, it was the fault of respondent No.4 (School), who ought not to have given admission to the petitioners in 11th class in May 2006.

We have no doubt that the respondent Board, to which the School is affiliated, through its regulatory mechanism, will take the School to task in case any breach has been committed. With these observations, present writ petition is disposed off.

[Kanwaljit Singh Ahluwalia]
Judge

[Ashutosh Mohunta]
Judge

March 18, 2008.
rps