

2022 LiveLaw (SC) 27

IN THE SUPREME COURT OF INDIA

A.M. KHANWILKAR; C.T. RAVIKUMAR, JJ.

Writ Petition(s)(Civil) No(s). 1214/2021; 07-01-2022

SUKRITI & ORS. *VERSUS* CENTRAL BOARD OF SECONDARY EDUCATION & ANR.

Central Board of Secondary Education - CBSE shall provide an option to the candidate to accept the better of the two marks obtained in the subject for final declaration of his/her results - Clause 28 to the extent – “As per this policy, marks secured in later examination will be considered final”. This condition stands effaced from the policy.

For Petitioner(s) Ms. Mamta Sharma, Adv. Ms. Vagisha Nandini, Adv. Mr. Pradeep Gupta, Adv. Mr. Alok Kumar, Adv. Mr. Sandeep Malik, Adv. Mr. Ravi Prakash, AOR

For Respondent(s) Ms. Aishwarya Bhati, ASG Ms. Seema Bengani, Adv. Mr. Sanjay Kumar Tyagi, Adv. Mr. Om Prakash Sinha, Adv. Ms. Chinmayee Chandra, Adv. Mr. G.S. Makker, AOR Mr. Rupesh Kumar, AOR Ms. Neelam Sharma, Adv. Ms. Pankhuri Shrivastava, Adv. Mr. Ravi Prakash, AOR

ORDER

W.P.(C) No.1214/2021

Heard the learned counsel for the parties.

The limited grievance in this petition is about the provision made in the scheme (vide Notification dated 17.06.2021) propounded by the Central Board of Secondary Education (CBSE), which provides in Clause 28, as follows: -

...”28. Students not satisfied with the Assessment

Students who are not satisfied with the assessment, done based on the policy will be given an opportunity to appear in examinations to be conducted by the board when conditions are conducive for holding the examinations. *As per this policy, marks scored in later examination will be considered final.*

(emphasis supplied in italics)

As per this policy, marks secured in later examination shall be considered as final.

The grievance is that this condition has been inserted in departure to the earlier schemes where the better of the two marks obtained by the candidate in the subject was to be considered for final declaration of results.

The CBSE except reiterating its plea that this is a policy decision of the CBSE, has not given any justification for such a departure. Sans any justification, it must follow that the impugned stipulation is manifestly arbitrary and irrational.

The fact that the policy was required to be adopted because of the extra-ordinary and challenging situation faced by the students concerned during the relevant period

owing to pandemic, itself justifies making a provision which would be more beneficial to the students.

As a result, we have no hesitation in striking down the condition specified in Clause 28 to the extent – “As per this policy, marks secured in later examination will be considered final”. This condition stands effaced from the policy. In other words, the CBSE shall provide option to the candidate to accept the better of the two marks obtained in the subject for final declaration of his/her results.

The writ petition stands disposed of in the above terms.

Pending applications shall stand disposed of.

No order as to costs.

W.P.(C) No. 1170/2021

Issue notice, returnable on 31.01.2022.

Dasti, in addition, is permitted.

Mr. Rupesh Kumar, learned counsel waives notice for respondent No.1 - CBSE.

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