

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

Writ Petition(s)(Civil) No(s). 522/2021

MAMTA SHARMA

Petitioner(s)

VERSUS

CENTRAL BOARD OF SECONDARY EDUCATION &amp; ORS.

Respondent(s)

(FOR IA No. 65175/2021 - APPROPRIATE ORDERS/DIRECTIONS

IA No. 60315/2021 - CLARIFICATION/DIRECTION

IA No. 60122/2021 - EXEMPTION FROM FILING AFFIDAVIT

IA No. 62752/2021 - EXEMPTION FROM FILING AFFIDAVIT

IA No. 65263/2021 - EXEMPTION FROM FILING AFFIDAVIT

IA No. 60317/2021 - EXEMPTION FROM FILING AFFIDAVIT

IA No. 65255/2021 - EXEMPTION FROM FILING AFFIDAVIT

IA No. 65254/2021 - INTERVENTION APPLICATION

IA No. 65171/2021 - INTERVENTION APPLICATION

IA No. 62751/2021 - INTERVENTION APPLICATION

IA No. 62714/2021 - INTERVENTION APPLICATION

IA No. 65258/2021 - INTERVENTION APPLICATION

IA No. 60123/2021 - PERMISSION TO APPEAR AND ARGUE IN PERSON)

Date : 17-06-2021 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.M. KHANWILKAR  
HON'BLE MR. JUSTICE DINESH MAHESHWARI

For Petitioner(s) Petitioner-in-person

For Respondent(s)

UOI

Mr. K.K. Venugopal, A.G.  
Mr. Tushar Mehta, S.G.  
Mr. Gurmeet Singh Makker, AOR  
Mr. Rajat Nair, Adv.  
Mr. Ankur Talwar, Adv.  
Ms. Suhasini Sen, Adv.  
Ms. Apoorva Kurup, Adv.

CBSE

Mr. Tushar Mehta, S.G.  
Mr. Rupesh Kumar, AOR.  
Mr. Rajeev Sharma, Adv.  
Ms. Neelam Sharma, Adv.  
Ms. Pankhuri Shrivastava, Adv.  
Mr. Alekshendra Sharma, Adv.  
Mr. Pravesh Bahuguna, Adv.

ICSE Mr. J.K. Das, Sr. Adv.  
Mr. Sandeep Devashish Das, AOR  
Ms. Arushi Mishra, Adv.  
Mr. Shashwat Sarin, Adv.

62751/21 Mr. Jose Abraham, AOR  
Mr. Robin Raju, Adv.  
Mr. M.P. Srivignesh, Adv.  
Ms. Anju Joseph, Adv.  
Ms. Deepa Joseph, Adv.

65171 &65175/21 Mr. Inderjit Sinha, Adv.  
Mr. Pai Amit, AOR  
Mr. Kumar Vaibhav, Adv.  
Ms. Pankhuri Bhardwaj, Adv  
  
Dr. Charu Mathur, AOR  
Ms. Tanvi Dubey, Adv.  
Mr. Sanjay Kumar Dubey, Adv.  
Mr. Sanpreet Singh Ajmani, Adv.  
  
Mr. R. P. Gupta, AOR  
  
Mr. James P. Thomas, AOR  
Mr. Apzal Ansari, Adv.

UPON hearing the counsel the Court made the following

#### O R D E R

We have heard the learned Attorney General representing the Union of India, Mr. Tushar Mehta, learned Solicitor General representing the CBSE and Mr. J.K. Das, learned senior counsel representing the ICSE.

They have placed on record the detailed schemes formulated by the Expert Committee of the respective Boards on affidavit.

The gist of the proposed scheme propounded by the CBSE Board is appended to the affidavit as Annexure R-1/2, which is reproduced as under:

**"SUMMARY OF THE POLICY**

**FOR TABULATION OF MARKS FOR CLASS XII BOARD EXAMINATIONS 2021**

**1** (a) Due to cancellation of the Board examinations, the assessment of theory portion of 80/70/60/50/30 marks will be done by the school based on the following:

Class	Component to be evaluated	Percentage
Class XII	Marks based on Unit Test/Mid-Term/Pre-Board Exam	40 %
Class XI	Marks based on theory component of final exam	30 %
Class X	Marks based on average theory component of best three performing subjects out of main 5 subjects.	30 %

(b) The marks of Practical/Internal Assessment etc. of class-XII will be on actual basis as uploaded by the school on the CBSE portal.

(c) The total marks awarded should be in consonance with the past performance of the school in Class-XII Board Examinations.

**ASSESSMENT AND ITS COMPONENTS**

**2** Accordingly, in accordance with points above, the broad distribution of marks assigned to various components on the basis of which the final marks of every student will be computed is as follows:

	Theory Marks			Practical/ IA Marks	Total Marks		
	Class X	Class XI	Class XII	Class XII	Class X	Class XI	Class XII
	30%	30%	40%				
<b>80</b>	24	24	32	20	24	24	52
<b>70</b>	21	21	28	30	21	21	58
<b>60</b>	18	18	24	40	18	18	64
<b>50</b>	15	15	20	50	15	15	70
<b>30</b>	09	09	12	70	09	09	82

**COMPUTATION OF THEORY MARKS**

**3** (a) Class XII Theory Marks

The computation of theory marks for class XII will be based on performance in one or more Unit Test(s)/Mid-Term/Pre-Board(s) theory examination. The result committee of the school may decide weightage to be given to each exam based on the credibility and reliability of the assessment. For example, if the committee may be of the considered view that only the Pre-Board exams may be taken into consideration, then a full weightage can be given to that component. Similarly, another school Result committee may decide to give equal weightage to Pre-Board exams and Mid-Term exams.

**(b) Class XI Theory Marks**

Computation of class XI theory marks shall be on the basis of year end final theory exam in respective subjects.

**(a) Class X Theory Marks**

Computation of class X theory marks shall be based on average theory marks obtained by the student(s) in best three performing subjects out of main 5 subjects. This average will be uniformly awarded to all the class XII subjects based on theory weightage.

To facilitate ease in entering the theory marks of class X, the Board will provide the marks for the students who have appeared in CBSE class X examinations. For students of other Boards, the schools will have to enter the information based on the class X mark sheets of the students available with schools.

**4. CONSTITUTION OF RESULT COMMITTEE**

Each school shall form a Result Committee of 5 members.

**5. ASSESSMENT MODERATION OF CLASS XI AND CLASS XII COMPONENT**

As marks of class XI and class XII component will be awarded at school level, they will strictly not be comparable across schools due to the variations in the quality of question papers, the evaluation standard and processes, the mode of conduct of exams etc.

Therefore, to ensure standardisation, each school will have to internally moderate the marks to account for the school level variations by using a reliable reference standard.

(a) The historical performance of the school, in terms of the best overall performance in the previous three years' Board examination, will be taken as the reference for moderating the marks assessed by the school for 2020-2021.

(b) The subject wise marks assessed by the school for 2020-2021 should be within a range of +/- 5 marks obtained by the students in the school in the subject in the reference year. However, the overall average marks for the school assessed in 2020-2021, for all the subjects, should not exceed the overall average marks obtained by the school by 2 marks in

		the specific reference year.
	(c)	Once the Result Committee finalizes the marks on the basis of tests/exams, it has to ensure that the marks of students are aligned with the broad distribution of marks provided by the Board. It may be noted that the indicated distribution has to be followed broadly and there may be some difference in terms of number of actual students in each category of the distribution than the one indicated. However, the school subject wise and overall scores should be within the limits provided.
6		<b>Declaration of Results</b> CBSE will declare the results as per rule 59 of the Examination Bye-Laws of the Board.
7		<b>Boards Policy for Qualifying Class-XII Examination</b> In case, any student is not able to meet the qualifying criterion, he/she will be placed in "Essential Repeat" or "Compartment" Category.
8		<b>Students not satisfied with the Assessment</b> 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 as final.
9		<b>Policy for Private/Patrachar/2<sup>nd</sup> chance Compartment etc.</b> For Private, Patrachar and 2 <sup>nd</sup> chance Compartment candidates etc. Examination will be conducted by the Board as and when the conditions become conducive for conduct of such examinations. The details will be notified in due course."

Whereas, the Committee of Experts of ICSE had propounded a scheme which is somewhat different. It reads thus:

**"RATIONALE**

•The components used to arrive at the formula limited to

- (i) marks percentage in class X board examinations,
- (ii) the Project & Practical Work in the subjects,
- (iii) the performance of the candidates in the school examinations in the subjects in classes XI and XII, measured through their best marks obtained in the two years (referred to as raw marks) and
- (iv) the best performance of the school in the last six years.

• The first factor measures the general proficiency of the candidates, the next two factors measure the subject proficiency of the candidates, while the last

is a measure of the general quality of the schools the candidates are appearing from.

• To arrive at the weights, detailed analyses were performed on the data from the past board examinations from the years 2015 to 2020. • Extensive scenario analyses were done based on different subjects.”

At the outset, Mr. Vikas Singh, learned senior counsel appearing for the intervenor submitted that the decision of the CBSE and the ICSE to cancel the examination be re-visited.

After hearing learned counsel for the parties, we are of the view that this plea cannot be taken forward. For, we have already accepted the decision taken by the concerned Boards to cancel XIIth standard examination and had placed it on record on the previous date. In any case, the students, who want to appear in the examination for improvisation of their marks, will get that opportunity under the scheme. That takes care of the concern of such students represented by Mr. Vikas Singh, learned senior counsel. In other words, there is no question of reversing the earlier decision regarding cancellation of examination because no prejudice will be caused to the students as they can still appear in the optional examination to be concluded in due course.

After perusing the scheme presented by the concerned Boards, *prima facie*, we have no hesitation in accepting the same and permit the Boards to proceed on that basis. However, the scheme must incorporate two aspects, which we have pointed out during the course of arguments. The first is about providing for Dispute Resolution mechanism, in case the students apply for correction of the final result declared by the concerned Boards. The second is about the time-line to be specified for (a) declaration of the

result and (b) the date before which the optional examination will be conducted, subject to conducive situation and logistical constraints.

Learned counsel appearing for both the Boards have assured that these two aspects will be incorporated in the final scheme to be notified in due course. We permit them to do so and proceed on that basis.

As Mr. Vikas Singh, learned senior counsel wants time to examine the scheme propounded by the concerned Boards, for that limited purpose, we would defer the hearing to Monday (i.e., 21<sup>st</sup> June, 2021) but make it clear that the concerned Boards are free to notify the final scheme on the above lines and include the two suggestions given by the Court. If any further suggestion is given by Mr. Vikas Singh, learned senior counsel, that matter can be addressed appropriately.

We place on record that all other counsel appearing for the concerned students have no objection to the scheme propounded by the CBSE and the ICSE, as the case may be.

In other words, the CBSE and the ICSE will notify the final scheme incorporating the two aspects referred to above which, however, will be subject to further order to be passed on the next date of hearing on Monday (i.e., 21<sup>st</sup> June, 2021).

Accordingly, notify this matter on 21<sup>st</sup> June, 2021.

Mr. Vikas Singh, learned senior counsel assures to file a counter affidavit/suggestions in reference to the scheme propounded by the CBSE and the ICSE by tomorrow (i.e. 18<sup>th</sup> June, 2021). That be filed through online mode and copy be served on the respective

learned counsel.

Mr. J.K. Das, learned senior counsel appearing for the ICSE pointed out that there is some typographical error in para 10 of the affidavit of ICSE. In Para 10 of the affidavit, instead of 20<sup>th</sup> July, 2021, it may be read as 31<sup>st</sup> July, 2021.

(MEENAKSHI KOHLI)  
ASTT. REGISTRAR-cum-PS

(VIDYA NEGI)  
COURT MASTER