



IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE
BEFORE

HON'BLE SHRI JUSTICE VIVEK RUSIA

&

HON'BLE SHRI JUSTICE BINOD KUMAR DWIVEDI

WRIT APPEAL No. 1644 of 2025

MADHYA PRADESH BOARD OF SECONDARY EDUCATION

Versus

*PRATHAM PATIDAR MINOR THROGH NEXT FRIEND NATURAL
GUARDIAN FATHER DEVNARAYAN AND OTHERS*

Appearance:

Ms. Mini Ravindran, learned counsel for the appellant.

Shri Akhil Godha, learned counsel for respondent No.1.

WITH

WRIT APPEAL No. 1643 of 2025

MADHYA PRADESH BOARD OF SECONDARY EDUCATION

Versus

REGVED BAIRAGI AND OTHERS

Appearance:

Ms. Mini Ravindran, learned counsel for the appellant.

Shri Somesh Gobhuj, learned counsel for respondent No.1.

Reserved on : 08th July, 2025

Delivered on : 15th July, 2025

O R D E R

Per : Justice Vivek Rusia

Since the issues involved in both the writ appeals are identical in nature, with the joint request of the parties, they are analogously heard and decided by the common order. For the sake of



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convenience, the facts of Writ Appeal No.1643 of 2025 are narrated hereunder.

The appellant / Madhya Pradesh Board of Secondary Education has filed the present writ appeal under Section 2(1) of the Madhya Pradesh Uchcha Nyayalaya (Khand Nyaya Peeth Ko Appeal) Adhiniyam, 2005 challenging the order dated 22.05.2025 passed by the Writ Court, whereby W.P. No.5601 of 2025 has been allowed.

FACTS OF THE CASE

02. Respondent No.1 / writ petitioner passed the Class – XIIth Examination from Mahatma Gandhi Convent Higher Secondary School in Academic Session – 2023 – 24 which is affiliated with the Indian School Certificate Examination (ICSE). He cleared the Class – XIIth Examination with subjects English, Mathematics, Physics, Chemistry & Computer Science by securing Grade – B. Since the petitioner was not satisfied with the above grade, therefore, he was admitted to Pioneer Public Higher Secondary School (respondent No.3) affiliated with the appellant in the next Academic Session – 2024 – 25 by opting for the subjects English, Hindi, Mathematics, Physics & Chemistry. The admission form was forwarded to the Madhya Pradesh Board of Secondary Education (MPBSE) and a dummy admit card was issued.

03. After scrutiny of the documents sent by the school, MPBSE found that the writ petitioner is not entitled to take admission and appear in the examination by changing the Board, therefore, the admission of the writ petitioner was cancelled vide letter dated 27.12.2024 by the Divisional Officer of the appellant. Although this



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information was sent to respondent No.3, but the same was not communicated to the writ petitioner.

04. Later on when the admit card was not issued by the appellant to the writ petitioner to appear in the final examination, he approached the Writ Court seeking direction to the appellant herein to issue an admit card / examination ticket of Roll No.24505930 for upcoming XIIth Board Examination which is scheduled from 25.02.2025. By way of interim relief, the writ petitioner was permitted to appear in the examination which shall be subject to the final disposal of the writ petition. Thereafter, the writ petitioner's result was also directed to be declared subject to the final disposal of the writ petition.

05. The appellant / Board filed a reply to the writ petition by submitting that the admission had already been cancelled vide letter dated 27.12.2024 which the writ petitioner suppressed in the writ petition. On merit, it was submitted that MPBSE is a statutory body constituted under Section 3 of the Madhya Pradesh Madhyamik Shiksha Adhiniyam, 1965 (in short 'the Adhiniyam'). Section 28 confers power to the Board to make regulations for carrying into the effect provision of the Act. The Board framed a Regulation known as the Madhya Pradesh Board of Secondary Education Regulation, 1965 (in short 'the Regulation') and issued guidelines for examination and directions for submitting online applications for every year in every session. As per Regulation 212, the candidate can re-appear in the next examination of Higher Secondary and Intermediate Examination to improve their division as a regular and private candidate in the same subjects, but it is not permissible for the students of the other



Board to appear in the same examination of the school affiliated from MPBSE because no students possess two certificates of two different examinations of the same class.

06. It is further submitted that under Guideline 2.9, it was the duty of the principal to scrutinize the documents of newly admitted students before giving admission.

07. However, the School has filed a reply in support of the writ petitioner.

08. After hearing learned counsel for the parties, the Writ Court has allowed the writ petition solely on the ground that the writ petitioner *bonafidely* disclosed the fact regarding passing of the XIIth Examination in earlier sessions from the ICSE Board and no objection was raised by any of the parties. The school has been found responsible for this situation, hence, a cost of Rs.5,000/- has been imposed. The Board has been directed to issue a mark-sheet to the writ petitioner with an endorsement that it is a Grade Improvement Examination. Hence, the present writ appeal is before this Court.

SUBMISSION OF APPELLANT

09. Ms. Mini Ravindran, learned counsel appearing for the appellant submits that as per Section 8 of the Madhyamik Shiksha Adhiniyam, 1965, the Board has the power to prescribe courses of instructions to make regulations to conduct examination amongst other powers as prescribed under the Adhiniyam. The admission guidelines and examination guidelines are prepared for each academic session by the Board of Secondary Education. The instruction of the Board in the shape of the Examination Guideline of 2024 – 25 is formulated in exercise of such power and they are



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having statutory force under the Adhiniyam. Regulation No.199 of the Regulation prescribes that detailed information regarding the examination of the Board will be given in the prospectus of examination which shall be issued annually by the Secretary of the Board. In pursuance thereof, the Board of Secondary Education has declared the examination guidelines for the Academic Session – 2024 – 25.

10. Ms Mini Ravindran, learned counsel submitted that Regulation No.122 prescribes that students after passing an examination from the Board which has been recognized by the Board of Secondary Education as equivalent to its High School Examination can seek admission in Class – XIIth Examination, Higher Secondary Examination within the jurisdiction of the Board and at the time of admission should submit their eligibility certificate signed by the Secretary of the Board and make such fees as may be applicable in the manner. It is further submitted that as per Regulation 200, the Board shall also issue instruction in respect of admission of students in recognized institutions for migration of students as may be deemed necessary lying out the procedure of examination prescribing appropriate forms and register thereof. This regulation also prescribes the last date of admission and institution, or the school is required to submit the list of admitted students in Class – IXth, Xth, XIth & XIIth to the Board and the District Education Officer in the required format.

11. It is further submitted by Ms. Ravindran, learned counsel that the Board has also prescribed guidelines, a bare perusal of guidelines 6.4 shows that the improvement of the division shall be permissible for the examination undertaken from the same board.



12. Ms. Ravindran, learned counsel has further contended that a bare perusal of the mark-sheet submitted by the writ petitioner and the subjects in which he again undertook examination in Class – XII goes to show that there is a clear change of subjects as in the earlier examination, the writ petitioner appeared for Class – XIIth Examination in English, Mathematics, Physics, Chemistry & Computer Science, whereas in the subsequent Class – XIIth Examination conducted by the M.P. Board of Secondary Education, the writ petitioner undertook examination in English, Hindi, Mathematics, Physics & Chemistry, meaning thereby, there is a change in the subject as in the subsequent examination, computer science was also one of the subjects in which writ petitioner did not appear in the second attempt of Class – XIIth Examination. Hence, there is a clear violation of the provisions of Regulation and Guideline No.15.1.

13. It is further submitted that Clause 15.3 of the Guidelines prescribes that the student shall not be allowed to appear in the examination for improvement of division if he has passed earlier examination from any other State or any other Board. In the present case, the writ petitioner passed the examination from the ICSE Board and now he has appeared in the examination conducted by the MPBSE which is impermissible.

14. In support of the aforesaid contentions, learned counsel has placed reliance upon couple of judgments delivered by the Division Bench of this Court in the cases of *Sarla (Ku.) v/s The State of Madhya Pradesh reported in 1992 (II) M.P. Weekly Notes 293* & *Bhanu Pratap Singh Moury Minor Through Mother & Natural*



Guardian Smt. Madhu Bala v/s Central Board of Secondary Education (Writ Petition No.1565 of 2016), in which is similar circumstance, this Court declined to issue mark-sheet to the petitioner therein and it is submitted that the Writ Court has failed to follow the aforesaid judgments. Hence, the order passed by the Writ Court be set aside and the writ appeal be allowed.

SUBMISSION OF RESPONDENT / WRIT PETITIONER

15. Shri Akhil Godha, learned counsel appearing for the respondent / writ petitioner submitted that in the admission form submitted to the school, the writ petitioner disclosed that he had passed the Class – XIIth Examination in the last session from ICSE Board, therefore, he did not suppress any fact. He also uploaded the qualifying examination mark-sheet and after due verification of the mark sheet, the Board granted permission by issuing a dummy admit card. Now the writ petitioner has studied the entire session, hence, he is liable to get the mark-sheet. He undertakes that that he will not use the earlier mark-sheet issued by the ICSE Board in any of the examinations or admission for higher studies. He is ready to surrender the said mark-sheet with the Board. However, the Board has been directed to make a mention in the mark-sheet about passing of examination from the ICSE Board, therefore, no prejudice is going to be caused to the Board by issuing a mark-sheet to the writ petitioner.

16. In support of the aforesaid contention, Shri Godha, learned counsel has placed reliance upon judgments delivered in the cases of ***Krishnan v/s Kurukshetra University reported in 1976 (1) SCC 311***, ***Sanatan Gauda v/s Berhampur University reported in 1990 (3)***



SCC 23 and Naiffa v/s Central Board of Secondary Education, New Delhi reported in AIR 1992 Madras 52 and a prayer has been made that the writ appeal be dismissed.

OUR APPRECIATION & CONCLUSION

17. The appellant / Board has been constituted under the Adhiniyam to give affiliation to the schools for admission and examination in Class – Xth to XIIth and for the purpose of examination and submission of online application, the guidelines for the Academic Sessions – 2024 – 25 were issued. Clause – 2.2 & 2.3 of the Guidelines are reproduced below:-

"2.2. अन्य राज्य अन्य मण्डलों से उत्तीर्ण अथवा अनुत्तीर्ण छात्र मण्डल से सम्बद्धता प्राप्त संस्थानों में प्रवेशित (कक्षा 9^{वीं}, 10^{वीं}, 11^{वीं} एवं 12^{वीं}) छात्रों के ऑनलाईन नमंकन फार्म/प्रवेश सूची/परीक्षा अभ्येदन फार्म के साथ प्रवेश प्रक्रिया में उल्लेखनीय पात्रता दस्तावेजों की स्वप्रमाणित प्रति संस्था प्राचार्य संस्था में सुरक्षित जमा रखेंगे।

2.3. अन्य राज्य / अन्य बोर्ड के छात्रों के लिये यह सुनिश्चित करना संस्था प्राचार्य अभिभक्त एवं छात्र का होगा कि निर्धारित तिथियों में सम्स्त दस्तावेजों को अपलोड कर दिया गया है यदि कोई दस्तावेज अपलोड करने से रह गया हो तो ऐसे दस्तावेज परीक्षा फार्म भरने हेतु निर्धारित अवधि में अपलोड किये जा सकेंगे। अतः परीक्षा हेतु अपलोड किये गये दस्तावेज के अतिरिक्त कोई भी मैन्युवरी दस्तावेज मन्थ नहीं किये जायेंगे।"

18. The students who have a domicile of another State and passed or failed from the examination conducted by the Board may take admitted to Class – IXth, Xth, XIth & XIIth by submitting an online form.

19. The Clause 14 of the Guidelines is reproduced below :-

"14. अन्य राज्य/मण्डलों के छात्रों का मध्यप्रदेश के मान्यता प्राप्त विद्यालयों में प्रवेश (मण्डल विनियम की कण्डिका 122)

समकक्षता प्राप्त अन्य राज्य/अन्य बोर्ड के छात्र क्रमशः 8^{वीं}, 9^{वीं}, 10^{वीं} एवं 11^{वीं} की परीक्षा वर्ष 2023 में उत्तीर्ण/अनुत्तीर्ण अथवा वर्ष 2023 कक्षा 12^{वीं} अनुत्तीर्ण हो, यथास्थिति कक्षा 9^{वीं}, 10^{वीं}, 11^{वीं} एवं 12^{वीं} कक्षा में सीधे अस्थाई प्रवेश ले सकेंगे। ऐसे समस्त परीक्षार्थियों के परीक्षा आवेदन-पत्र/नामांकन आवेदन-पत्र के साथ पात्रता दस्तावेज संस्था में जमा करना अनिवार्य होगा। संस्था प्राचार्य का यह दायित्व होगा कि, परीक्षा आवेदन-पत्र भरने के पूर्व सुनिश्चित करें की छात्र मण्डल के ग्राह्यता



विनियम अनुसार प्रवेश एवं परीक्षा में सम्मिलित होने हेतु पात्र है।''

20. The aforesaid provision has not been brought to the notice of the Writ Court which specifically deals with the admission of the students who have passed or failed different States or Board. As per this Clause, the students who have failed or passed in Class – IXth, Xth and XIth in the 2023 Examination may get admission in IXth, Xth, XIth and XIIth directly, but for the students who have failed XIIth Examination in the year 2023 can also take admission in Class – XIIth but who have passed Class – XIIth Examination cannot take admission in XIIth of any school affiliated from the appellant / Board. All were required to submit an eligibility certificate along with an application form and it is the responsibility of the Principal of the school to make sure that he is eligible to appear in the examination as per the rules and regulations of the Board. The aforesaid Clause 14 has been framed under Clause 122 of the Mandal Regulation. Therefore, the students of Class – XIIth who have failed from other States or Boards can be admitted in Class – XIIth not those who have passed the XIIth examination.

21. In the present case, the petitioner had cleared/passed Class – XIIth from the ICSE Board, therefore, he was not eligible to take admission in Class – XIIth again in respondent No. 3 affiliated with MPBSE. This clause has not been considered by the Writ Court while allowing the writ petition on compassionate grounds.

22. Clause 15.2 of the Guidelines specifically bars that the students who have passed the examination from another State or Board shall not be given admission in MPBSE for improvement of grade. Clause 2.9 specifically provides for the responsibility of the



Principal to verify the documents at the time of admission and if at a later stage he was found ineligible, the entire responsibility will be on the Principal and the admission will be cancelled.

23. For ready reference, Regulation 122 is also reproduced below:-

"Students who, after passing an examination from a Board or University which has been recognised by the Board as equivalent to its High School Examination, seek admission to Class XI of Higher Secondary School within the jurisdiction of Board, shall at the time of admission, be required by the Principals of the Colleges or Schools to which they seek admission to produce an Eligibility Certified signed by the Secretary of the Board and make payment of a fee Rs. 5. Application for such a certified should be made to the Secondary on a printed form to be obtained from the office of the Secretary."

[Emphasis Supplied]

24. In the cases of *Bhanu Pratap Singh Moury & Sarla (supra)*, the Division Bench of this Court had considered Regulation 212 of the Board and held that *the facility to appear in the second examination for improving the division is provided only to those students who have passed earlier examination from the MPBSE*. In the case of *Bhanu Pratap Singh Moury (supra)*, the Division Bench has held that *if the candidates improve his division in his attempt, his provisional certificate shall be deposited in the Board and a fresh certificate shall be issued and this is possible only if the Board are same*. The petitioner therein was a regular student of CBSE and has been held not to appear in Class – XIIth Examination conducted by the Board. The Writ Court discarded the aforesaid two judgments only on the ground that in those two cases, the petitioners therein suppressed the fact of passing of examination and in the present case the petitioner did not suppress. It is correct that the writ petitioner



herein did not suppress the fact of passing XIIth from other board, but permissibility under the Rules & Regulations under which MPBSE functions is required to be examined by the Court while granting the relief. When the Rules & Regulations do not permit certain things to be done, the Writ Court cannot issue a writ in the nature of mandamus directing the statutory authority to act contrary to the law as a special case.

25. It is also not correct that the Board did not raise any objection at the time of issuance of the dummy card. It is specifically stated by the Board in reply that the writ petitioner was issued a dummy admit card i.e. provisional card and when this fact came to the knowledge in December 2024, the school was informed about the cancellation of the admission. It was the duty of the principal to inform the writ petitioner about the cancellation of the admit card. In the Board Examination, lacs of students are admitted, and the Board takes time to verify to documents of each and every student manually. Before the examination, the Board had cancelled the admission of the writ petitioner.

26. Apart from that, it is not a case of exceptional circumstances where the students can be permitted to appear in the examination by changing the Board. The writ petitioner secured 'B' Grade in XIIth Examination, Session – 2023 – 24 through ICSE. During the course of the hearing, Ms. Ravindran, learned counsel showed the mark-sheet of the current session 2024 – 25 of the writ petitioner, in which he passed the examination with IInd division. There is hardly improvement of one or two marks. It is not a case of a meritorious student who is unable to get admission in any prestigious institution



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for further studies because of less marks in Class – XIIth (ICSE). He passed the earlier examination with a 'B' Grade and now this time is passed in IInd division. Therefore, in such circumstances, this case does not fall under the exceptional category, where the Writ Court should exercise discretionary power to issue a writ of mandamus to the Board to give a mark-sheet contrary to the law.

27. In view of the foregoing discussion, the impugned order dated 22.05.2025 passed by the Writ Court in Writ Petition Nos.5601 of 2025 & 6592 of 2025 deserves to be and is hereby set aside.

28. With the aforesaid, both the Writ Appeals stand allowed and both the Writ Petitions stand dismissed.

Let a photocopy of this order be kept in the connected writ appeal also.

(VIVEK RUSIA)
J U D G E

(BINOD KUMAR DWIVEDI)
J U D G E

Ravi