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ORISSA HIGH COURT : CUTTACK

WP(C) No.31318 of 2025

An application under Articles 226 & 227 of the Constitution of India.

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Miss. Barsha Ranee Behera (minor) represented through her father guardian, Sri Shravan Kumar Behera.

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Petitioner.

-VERSUS-

Central Board of Secondary Education, New Delhi represented through its Chairman, CBSE Integrated Office Complex, New Delhi & Others

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Opposite Parties.

Counsel appeared for the parties:

For the Petitioner : Mr. Kunal Kumar Swain, Advocate

For the Opposite Parties : Mr. D.P. Nanda, Senior Advocate.
Mr. T. Pattanayak, Adv.
(For the CBSE)

P R E S E N T:

**HONOURABLE
MR. JUSTICE ANANDA CHANDRA BEHERA**



Date of Hearing : 11.02.2026 :: Date of Judgment : 26.02.2026

JUDGMENT

ANANDA CHANDRA BEHERA, J.—

1. This writ petition under Articles 226 and 227 of the Constitution of India, 1950 has been filed by the petitioner praying for quashing the impugned memorandum dated 08.10.2025 (Annexure-10) issued by the Under Secretary (Confidential), Central Board of Secondary Education, Regional Office, Bhubaneswar (Opp. Party No.3) and for issuance of necessary directions to the Opp. Parties to publish the result of the petitioner, in respect of her Senior School Certificate Examination (Class-XII) within a stipulated time and to pass such other order/orders or direction/directions as the Courts deems fit and proper in order to give complete relief to the petitioner.

2. The case of the petitioner is that, she petitioner was a regular student of Class-XII of Odisha Adarsha Vidyalaya, Bandupali in the District of Bargarh. She (petitioner) appeared her Senior School Certificate Examination, 2025 (Class-XII) under the Central Board of Secondary Education in Padampur



Public School Centre as a regular student on the basis of the admit card vide Annexure-1 issued to her by the CBSE (Opp. Party No.1). Though, in the said examination, she petitioner had done extremely well, but her result in the website was published on dated 13.05.2025 in Annexure-2 reflecting as R.L., (Result Later, Your result is under preparation and it will be declared soon). Subsequent thereto, the mark Statement-cum-Certificate of the petitioner was communicated to her as per Annexure-3 through Adarsha Vidyalaya, Bandupali without awarding any mark to her in any subject indicating that, UNM (Unfair Means). So, she (petitioner) sought for information from the Odisha Adarsha Vidyalaya, Bandupali under The Right to Information Act, 2005 regarding the cause of withholding her result. In response to the same, the Principal Odisha Adarsha Vidyalaya, Bandupali wrote a letter on dated 31.05.2025 to the Opp. Party No.2 (Regional Director, Central Board of Secondary Education, Regional Office, Bhubaneswar). The Opp. Party No.2 answered to the same through Annexure-4 series stating that, as the results of the petitioner in two subjects i.e. Chemistry (Subject Code: 043)



and English (Subject Code: 301 were cancelled on the ground of adoption of unfair means (UFM) during examination, as most of her answers in Multiple Choice Questions (MCQs) in Chemistry subjects and the answers in question Nos.12 & 13 in English Subject were similar with several other adjacent students of the centre, therefore, as per Paragraph No.5(e) of the Annexure-4 of their Bye-Laws, the result of the petitioner in all subjects have been cancelled.

To which, the petitioner challenged by filing WPC No.16697/2025 praying for quashing the cancellation of her result and to direct the Opp. Parties to publish her result. The said Writ Petition vide WPC No.16697/2025 of the petitioner was decided analogously with other writ petitions by this Court and the Judgment thereof was passed on dated 15.09.2025 as per Annexure-7, wherein the C.B.S.E (Opp. Party No.1) was directed to make an enquiry in terms of Bye-Laws 36 of the CBSE after giving reasonable opportunity of participation to the petitioner stipulating the outer limit of that enquiry within two weeks keeping all the contentions of the parties open.



In pursuance to the said analogous Judgment passed on dated 15.09.2025 in WPC No.16697/2025 along with other WPCs vide Annexure-7 by this Court, the CBSE (Opp. Party No.1) conducted an enquiry into the matter through its UFM Sub-Committee and during the course of that enquiry, the UFM Sub-Committee of the CBSE supplied a printed format to the petitioner asking her 18 questions in the form of *yes or no* such as **i)** *whether she has adopted unfair means or not*, **ii)** *what is the name of her principal* **iii)** *Do you know the invigilators etc.*

Out of the said 18 questions, the above 3 questions were not related to the subjects in question and 6 questions were asked to the petitioner in respect of various subjects such as: Physics, English, Chemistry, Mathematics, Economics and Biology and most of the questions were not related to the subjects i.e. Chemistry and English, in respect of which, there was allegation of malpractice against the petitioner.

3. Thereafter, a copy of the memorandum dated 08.10.2025 vide Annexure10 was issued by the Under Secretary (Confidential), Central Board of Secondary Education,



Bhubaneswar (Opp. Party No.3) on behalf of Opp. Party No.1 (CBSE) to the petitioner informing her that:

You are found indulged in Unfair Means activity under Rule 36.2(vi) & (viii) of the Examination Bye-Laws.

Accordingly, as per Rule 36.3(v) of the Examination Bye-Laws of the Board, your result of Main Examination 2025 is hereby cancelled in the subject(s) (i.e. O43-Chemistry & 301-English CORE), wherein you were found indulged in Unfair Means activity and you will be permitted to appear in the examination next year i.e. 2026 subject to meeting of other eligibility criterias under failure category.

4. As per the writ petition of the petitioner, though, the result of almost all candidates of the same centre has been published, except few like the petitioner and the result of the petitioner has been cancelled by the Opp. Parties clandestinely taking a discriminating attitude towards her (petitioner), for which, the above memorandum dated 08.10.2025 (Annexure-10), i.e. the cancellation of the entire result of the petitioner alleging malpractice in two subjects i.e. Chemistry and English on the ground of giving similar answers with other adjacent students in that centre cannot be sustainable under law.



Therefore, the petitioner challenged the said Annexure-10 by filing this Writ Petition under Articles 226 & 227 of the Constitution of India on the ground that,

when the results of other students of the same centre have been published by the Opp. Parties and when no incriminating material has been seized from the petitioner relating to the adoption of any malpractice by her and when neither the Principal, nor the centre superintendent or the invigilators of that centre have made any allegation against the petitioner regarding the adoption of any malpractice and when the answers in the question of Chemistry subject were in Multiple Choice form and when the teachers of the same school have taught all the students similarly in all subjects, then, on the ground of similarity in the answers of the petitioner in Chemistry and in two questions in English with other students cannot be the basis for terming her (petitioner) that, she had adopted malpractice during examination. For which, the above alleged allegations against the petitioner being baseless, the same are liable to be quashed.



5. The Opp. Party Nos.1 and 2 submitted their counter challenging the Writ Petition of the petitioner taking their stands that,

“the CCTV footages of both the Examination Centres was sought by them for confirmation about the alleged Unfair Means, but, the CCTV footage after 11.30 A.M. of the examination centre were not made available in the centres, though, all the examination centres were instructed to install CCTV for the fairness of the examinations and preserve CCTV recordings till two months after the result declaration.

Although the Principals of the Examination Centres, Centre Superintendents, Observers and few Invigilators were called to appear before the UFM Sub-Committee during enquiry, but there was total lack of cooperation by the said officials. So, it is held and considered that the above abnormalities are not possible without the active involvement of the candidates.

As per Clause No. 36.3 (v) of the Examination Bye Laws of the Board, the Board has the right to cancel the result of all subjects of a student, if the Board is satisfied about the use of unfair means in a paper or papers. Rule 36.3 (v) does not compel cancellation of result of all candidates, the Board has discretion to impose proportionate punishment.

In the present matter, keeping in view the findings of the expert which showed abnormal patterns across certain candidates; indicating possible use of UFM, the decision taken by the Board was lawful.

Out of Total 1185 candidates in both the Centres, 885 candidates were considered having used UFM wherein



502 students allowed to appear in Supplementary Examination 2025 and 383 students (44 candidates of Class-X and 339 candidates of Class-XII) were allowed to appear in the Main Examination 2026. Out of 502 candidates (who were placed to appear in Supplementary Exam 2025 in the order), 459 candidates were declared pass either in Main Exam 2025 or Supplementary Exam 2025.

Under the CBSE more than 46 lakh students will be appearing in Class X and Class XII Examinations in 2026 from India and 26 countries abroad and if such activities are left unattended and without apt punishment to all involved, ensuring a fair conduct of examination will only become a dream. Hence, strict action is the need of the hour.

As per Office Order dated 26.05.2025 asked to the Odisha Adarsha Vidyalaya Sangathan to initiate disciplinary action against the involved Principal and invigilators of the concerned examination centres. In response thereof, the Odisha Adarsha Vidyalaya Sangatha, has informed that an enquiry in the matter is presently being conducted. Copies of the Memorandum, Article of Charges and the Memos of Evidence and List of Witnesses of the Disciplinary Authority of the Odisha Adarsha Vidyalaya Sangatha against erring/ delinquent officials are ANNEXURE - D/ 1 Series.

The Central Board of Secondary Education (CBSE), vide Notice dated 12.09.2025, has issued a show cause notice to Padampur Public School, Bargarh, Odisha about its disaffiliation.

So, for the above reasons, the writ petition filed by the petitioner is to be dismissed against them (Opp. Parties).”



6. I have already heard from the learned counsel for the petitioner, the learned Senior Counsel Mr. D.P. Nanda and the learned counsel Mr. T. Pattanayak for the Opp. Party Nos.1 & 2.

7. In support of the averments made in the Writ Petition, the learned counsel for the petitioner relied upon the following decisions:

I. **Board of Secondary Education, Odisha and Another Vs.**

Gayatri Hota and Others:2001(I) OLR 398

II. **Rajesh Kumar and Another Vs. The Institute of Engineers**

(India): C.A. No.5057 of 1997 decided on 25.07.1997

III. **Vanshika Yadav Vs. Union of India & Others: (2024) 9**

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8. As per the rival submissions of the learned counsels of both the sides on the basis of the writ petition, counter and rejoinder, the crux of this writ petition is that,

“whether the impugned memorandum dated 08.10.2025 Annexure-10 issued by the C.B.S.E. (Opp. Party No.3) regarding the cancellation of the result of Senior School Certificate Examination, 2025 (Class-XII) of the petitioner alleging her indulgence in adopting unfair means during examination in two subjects i.e. Chemistry & English giving similar answers in some



questions thereof with other students in the same centre is sustainable under law?”

9. It is the undisputed case of the parties that,

“neither the centre, in which the petitioner was appearing examination was scratched on the ground of mal practice nor there was any report from the principal, centre superintendent, invigilators or any flying squad about any mal practice by any students including the petitioner in the said centre or any incriminating material was found from the possession of the petitioner or from the examination hall.

The result of Senior School Certificate Examination, 2025 (Class-XII) of the said centre, in which the petitioner was appearing has not been cancelled except the petitioner along with some other students, but the result of all other students were duly published. Much after the evaluation of the answer sheets of the petitioner, the final result of the petitioner was initially withheld in the finally published list indicating as R.L. (Result Later, Your result is under preparation and it will be declared soon) and subsequently her result was cancelled stating about the similarity in answers in some multiple choice questions in chemistry and similarity in answers in question Nos.12 and 13 in English subjects with other students of that centre.

As per the report of the UFM Sub-Committee of the CBSE, as the petitioner could not answer some of the questions put to her during enquiry by the members of that UFM Sub-Committee, then, on application of Rule 36.2 (vi) & (viii) of the examination Bye-Laws of the CBSE, her result of 2025 has been cancelled.”

10. It is the specific/definite plea of the Opp. Party Nos.1 and 2 in Para No.9 of their counter that,



“all the examination centres were instructed by the CBSE (Opp. Party No.1) to install CCTV for the fairness of the examinations and to preserve the CCTV recording till two months after the declaration of the result, but the same has not been followed. The principals of the examination centres, centre superintendents and invigilators, those were called to appear before the UFM

11. The above pleas of the Opp. Party Nos.1 and 2 in their counter supported with an affidavit is going to show that, the principals of the examination centres, centre superintendents and invigilators being the agents of the Opp. Party No.1 (CBSE), they have not acted as per the directions of their principal i.e. Opp. Party No.1 (CBSE) for conducting the examinations, in the manner, they were instructed to conduct.

12. When the CBSE (Opp. Party No.1) published the final result of all the students of the same examination centre except the petitioner and some other few students forgiving/condoning the negligent acts of their agents i.e. principals, centre superintendents and invigilators of the said centre in conducting the examination, then, at this juncture, the Opp. Party Nos.1 and 2 should not have cancelled the result of the petitioner alleging adoption of malpractice against



her in respect of two subjects i.e. Chemistry and English on the basis of inference, surmises and conjectures without any direct evidence/material.

So, the above conduct of the Opp. Party Nos.1 and 2 i.e. the adoption of pick and choose method in publishing the final result of all the students except the petitioner along with some other few students without any direct evidence or material is not free from discrimination, which is ultimately affecting the right to equality guaranteed under Article 14 of the Constitution of India, 1950.

When there is no authentic/concrete legal proof before the UFM Sub-Committee to reach in a definite conclusion that, the petitioner had adopted malpractice during examination in respect of some answers in two subjects i.e. Chemistry and English, then, at this juncture, the cancellation of the result of the petitioner as per Annexure-10 on the basis of asking some questions to the petitioner during enquiry by UFM Sub-Committee Members cannot be sustainable under law.

Because, the aforesaid decision of the Members of the



UFM-Sub-Committee is on presumption, conjectures and surmises without any legal basis.

On this aspect, the propositions of law has already been clarified in the ratio of the following decisions:

(A) In a case between **Board of Secondary Education, Orissa, Cuttack Vs. Gayatri Hota and Others reported in 2001 (I) OLR 398** that, malpractice in examination and cancellation of results—Results of some examinees were withheld for taking recourse of malpractice in examination—Out of them some were exonerated and the result of the petitioners were cancelled as decided by the examination committee—Neither the centre superintendent nor or from any other quarter, there was complaint of malpractice. There was possibility of some similarity in answers as the questions were objective in nature and those were short questions. On the basis of suspicion, a positive decision cannot be arrived at.

(B) In a case between **Rajesh Kumar and Another Vs. The Institute of Engineers (India) decided in Civil Appeal No.5057 of 1997 (SC) on 25.07.1997** that, results of some candidates withheld for adopting unfair means and malpractices in the examinations. Explanations of examinees not accepted—Results of the said examinees cancelled—Suit by two of the said examinees before Civil Court—When the matter came before the High Court, it directed the Institute to redecide the matter—This time the Institute adopted a new technique to test the ability of the examinees and decided the matter against them—Held, the orders of the Institute in cancelling the results of the appellants' examinations and disqualifying them for two succeeding examinations were in excess of jurisdiction and are quashed. The Institute should declare the result of the examinees forthwith.



(C) In a case between **Chairman, J & K State Board of Education Vrs. Feyaz Ahmed Malik & Others reported in AIR 2000 SC 1039** that, matters concerning campus discipline of educational institutions and conduct of examinations, the duty is primarily vested in the authorities in-charge of the institution, and in such matters Court should not try to substitute its own views in place of the concerned authorities nor thrust its views on them.

(D) In a case between **Harish Chandra Tewari & others Vs. The Board of H.S. & Another reported in AIR 1981 (All.) 144** that, the Hon'ble Division Bench did not accept the charge of copying solely on the ground that, the answers of the true translation given by the examinees remarkably tallied with one another and also held that, similarity in some of the answers in the two answer books in question was not proper, there being no direct evidence that, any one observed the petitioner using unfair means during the course of the examination. Cancellation of result quashed.

(E) In the cases between **Basanta Kumar Pradhan & Others Vs. State of Orissa & Others reported in 2011 (1) OJR 868** that, there was allegation of malpractice—which was challenged before the High Court—Held, the examination committee should have sufficient materials to come to a conclusion that, there was malpractice and it cannot base their decisions on presumption, conjectures and surmises, as no incriminating materials were found from the possession of any particular student nor were found from the examination halls as would be from the report of the flying squad. Held, the decisions of the Examination Committee to award '00' marks to the petitioner in History Paper-1 of Higher Secondary +2 Examination, 2009 cannot be sustained. (Para Nos.5 to 7)



13. Here in this matter at hand, when the result of the examination of all the students of the same centre, in which the petitioner had appeared has already been published in due time, but when the result of the petitioner along with some other few students has been cancelled on the ground of her indulgence in malpractice in some questions in two subjects during examination alleging similar answers with other students and when neither the principal nor the centre superintendent or the invigilators of the examination centre had alleged any allegation regarding adoption of any malpractice by the petitioner during examination and when as per law, the conduct of examinations is primarily vested in the authorities in charge of the institution at the time of conducting examination and when there was no allegation regarding the adoption of any malpractice by the petitioner during examination by the in-charge of the examination centre, who was vested with all powers and authorities to conduct the examination and when the result of the petitioner has been cancelled due to giving incorrect answers in some questions of the members of the UFM Sub-Committee, then,



at this juncture, by applying the principles of law enunciated in the ratio of the aforesaid decisions, the cancellation of result of the Senior School Certificate Examination (Class-XII), 2025 of the petitioner on the basis of inference, presumptions, conjectures and surmises without any direct evidence or material is not sustainable under law.

Therefore, there is justification under law for making interference with the impugned memorandum dated 08.10.2025 (Annexure-10) issued by the Under Secretary (Confidential), Central Board of Secondary Education, Regional Office, Bhubaneswar (Opp. Party No.3) through this writ petition filed by the petitioner. For which, the Annexure-10 is liable to be quashed.

14. As such, there is merit in the writ petition filed by the petitioner. The same is to be allowed.

The impugned memorandum dated 08.10.2025 (Annexure-10) issued by the Opp. Party No.3 is quashed.

15. All the Opp. Parties are jointly and severally directed to publish the result of the Senior School Certificate Examination (Class-XII) of the petitioner 2025 within a week



from the date of this Judgment and to communicate the result of the petitioner as well as its consequential certificates and mark sheets as per the rules immediately after publication of her result.

16. As such, this writ petition filed by the petitioner is disposed of finally.

(ANANDA CHANDRA BEHERA)
JUDGE

High Court of Orissa, Cuttack
The 26.02. 2026// Rati Ranjan Nayak
Sr. Stenographer