

ã?

SLP(C)No. 3714 OF 2000
ITEM No.203

Court No. 1

SECTION IVB
A/N MATTER

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

Petition(s) for Special Leave to Appeal (Civil) No.3714/2000

(From the judgement and order dated 14/02/2000 in RA 28/2000
in CWP 18023/99 of The HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH)

BHAVNIT SINGH BHUTTAR

Petitioner (s)

VERSUS

CENTRAL BOARD OF SECONDARY EDU. & ORS.

Respondent (s)

(With Appln(s). for permission to place addl. documents on record
and permission to take on record rejoinder affidavit and with
prayer for interim relief) (For Final Disposal)
With

SLP(C)No.3226/2000

(With prayer for interim relief) (For final disposal)

Date : 27/07/2001 These Petitions were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE K.G. BALAKRISHNAN
HON'BLE MR. BRIJESH KUMAR

For Petitioner (s)

Ms. S. Janani, Adv.

For Respondent (s)

Mr. T.C. Sharma, Adv.

UPON hearing counsel the Court made the following
O R D E R

.....L.....I.....J
.SP2

Leave granted.
The appeals are disposed of in terms of the
signed order. No costs.

.SP1
.....L.....T.....J

(Ajay Kr. Jain)
Court Master

(Meena Trikha)
Asstt. Registrar

(Signed order is placed on the file)

.PA
.PL58
.....L.....I.....T.....T.....T.....T.....T.....T.....J

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 4754 OF 2001@@
CC
(Arising out of S.L.P.(C) No. 3714 of 2000)

Bhavnit Singh Bhuttar ... Appellant

versus

Central Board of Secondary Education & Ors. ... Respondents

WITH

CIVIL APPEAL NO. 4753 OF 2001@@
CC
(Arising out of S.L.P.(C) No. 3226 of 2000)

O R D E R@@
CCCCCCCC

.SP2

Leave granted.

Both these appeals are being disposed of by this common order.

On being debarred to appear in the final examination of XIIth class for allegedly not clearing Chemistry paper at Class XI examination, the appellant, through his mother, filed a writ petition, being C.W.P. No. 18023/1999 in the High Court of Punjab & Haryana. That writ petition was dismissed on 24.1.2000 by the following order :-

.SP1

.....L.....I.....T.....T.....T.....T.....T.....T..J

"In response to a specific question put to learned counsel for the petitioner, she candidly admits the petitioner did not pass in the Chemistry paper of Class XI examination held in March, 1999 and further he has not cleared the same even till today. In view of the statements made by the learned counsel for the petitioner at the bar, it appears to us that the petition is misconceived and is dismissed as such."

...2/-

- 2 -

.SP2

.....L.....I.....T.....T.....T.....T.....T.....T.....T...J.

The appellant, thereafter, filed a review petition in the High Court stating that no admission had been to the effect that the concerned student had not passed his Chemistry paper of Class XI examination held in March, 1999 in the counter affidavit. The review petition was, however, dismissed observing as follows :-

.SP1

.....L.....I.....T.....T.....T.....T.....T.....T..J

"Perusal of the statement made in paragraph 3 of the said affidavit clearly brings out the admission that the petitioner has not cleared chemistry examination for class XI".

.SP2

.....L.....I.....T.....T.....T.....T.....T.....T.....T...J.

We have perused the affidavit filed by the mother of the student (appellant herein) and particularly paragraph 3 thereof. In our opinion, no such admission can be said to have been made by the deponent in the affidavit and a reading of the affidavit in its entirety shows that it has consistently been deposed that the student had never been asked to clear Chemistry paper of Class XI. In our opinion, therefore, non-suiting of the appellant on the grounds stated in the impugned orders was not at all proper. The impugned orders under the circumstances cannot be sustained and we, hereby set aside the same.

Normally, we would have been inclined to remit back the writ petition to the High Court for its fresh disposal on merits in accordance with law. We, however, find that the appellant by virtue of an order made by this Court was permitted to appear in Class XII examination of the Central Board of Secondary Education (for short 'C.B.S.E.'). We are ...3/-

- 3 -

further informed by learned counsel appearing for the respondent-school as well as the C.B.S.E. that the appellant has since been declared successful in Class XII examination, conducted by the C.B.S.E. but his result has been declared provisionally on account of the pendency of the special leave@@
CCCCCCCCCCCC
petitions in this Court.

In the peculiar facts and circumstances of the case with a view to do complete justice between the parties, we do not think it proper at this stage to remit the matter to the High Court for fresh hearing of the writ petition.

We, therefore, direct that the result of the appellant of Class XII examination conducted by the C.B.S.E. which has been declared provisionally should be now declared@@
CCCCCCCCCCCC

as the final result.@@
CCCCC

We, however, wish to clarify that we are not expressing any opinion on the factual or legal pleas raised either in the writ petition or the counter-affidavits filed by the school and the C.B.S.E.

The appeals are disposed of with the above observations. No costs.

.SP1

.....CJI.

.....J.
(K.G. BALAKRISHNAN)

.....J.
(BRIJESH KUMAR)

New Delhi,
July 27, 2001.