

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION
(PUBLIC INTEREST LITIGATION)
I.A. NO. _____ OF 2020 IN
WRIT PETITION (CIVIL) NO. ____ OF 2020

IN THE MATTER OF:

1. Mamta Sharma

...Petitioner

VERSUS

1. Central Board of Secondary Education

Through its Chairman

Shiksha Kendra-2, Community Centre,

Preet Vihar

Delhi

...Respondent No. 1

2. The Council for the Indian School Certificate Examinations

Through Chief Executive and Secretary

Pragati House,

3rd Floor, 47-48 Nehru Place,

New Delhi

...Respondent No. 2

3. Union of India

Through its Secretary

Ministry of Human Resource Development,

Shastri Bhawan

C-Wing, Dr. Rajendra Prasad Road,

New Delhi

...Respondent No. 3

AND IN THE MATTER OF:

1. Tony Joseph

....Applicant

APPLICATION FOR INTERVENTION

To,

Hon'ble The Chief Justice
Of India and His Companion
Judges of the Hon'ble Supreme
Court of India

The Humble Petition of the
Applicant above named

MOST RESPECTFULLY SHEWETH:

1. The Applicant is a Mathematics Teacher who has been teaching in Class XII for the last fifteen years in CBSE affiliated school in Idduki district of Kerala. The Applicant is deeply concerned with the ongoing discussion to cancel the class XII exam.
2. That the Applicant, is directly affected by the subject matter, as he teaches in Class XII and many of his students have utilized the study period after December for preparation of Board Exams and is hence directly affected by the subject matter in the above captioned Writ Petition and the orders

which may be passed therein. Hence this application for intervention.

3. The petition has sought directions to cancel the examination of class XII and devise an objective methodology to declare the result of Class XII within a specific timeframe. The petition has also sought directions for setting aside the notification dated 14.04.2021, 16.04.2021 and 19.04.2021 issued by Respondent no. 1 and 2.

BRIEF FACTS

4. That the Applicant no.1 is a mathematics teacher of class XII and is concerned about the future of his students due to the ongoing discussions to cancel the Board Examinations.
5. The Class XII Board exams are the most integral exam in the life of a student. The class XII exam is a career defining and more importantly the admission to higher education institutions hinges on the result of this exam.
6. That a Class XII and Class X cannot be placed at the same pedestal, because the significance of class X has dwindled with the passage of time. The Class XII board exams on the other hand have only gained more prominence.
7. That every year Class XII CBSE and ICSE exams were conducted in the month of March-April. This year the Respondents had decided to conduct the Class XII exams in the month of April-May 2021 due to the pandemic situation. The revised date sheet of the exams was published by the Respondent No.1 on 04.03.2021. A true copy of the date sheet published by Respondent No.1 is filed herewith as **ANNEXURE A-1 (Page Nos. 11 to 14)**.

8. That it is also relevant to mention that the Respondent no.1 through its circulars/notifications till the month of March 2021 was giving the clear indication that Class XII board exams will be conducted as per schedule. The Respondent no.1 had also issued a circular dated 16.03.2021 to all the Principals/Heads of institutions permitting change of examination centres/Practical Centre. The true copy of the circular dated 16.03.2021 is filed herewith as **ANNEXURE A-2** (Page Nos. **15 to 17**)
9. That the Respondent on the next day of the issuance of the circular mentioned in the foregoing para, issued another circular dated 17.03.2021 to all the Principals /Heads of institutions for conducting practicals in 3 shifts. The true copy of the circular dated 17.03.2021 is filed herewith as **ANNEXURE A-3** (Page No. **18**).
10. That the above circulars/notifications show that respondents have all the way long showed interest in conducting the Class XII board exams. The respondents have till date not given even a faint indication of scrapping the board exams.
11. That it is only after seeing the rapid surge in Covid-19 cases in the month of April that the Respondent no.1 vide notification dated 14.04.2021, decided to postpone Class XII board exams. It is though interesting to note that the said notification does state that the situation will be reviewed on 1st June 2021 by the Board, and the details of the same will be shared subsequently.
12. That there are now media reports suggesting that the Respondents will be scrapping the Class XII board exams

and students will be marked on the basis of the internal assessment and exams conducted by the school. It appears as if an atmosphere for cancellation of the exams is being created in order to create pressure on the respondents to take the decision of cancelling the exam. The instant petition and other social media petitions by some students is an attempt to strengthen that atmosphere.

13. That it is pertinent to mention herein that a there is big section of educationists and heads of institutions apart from students and teachers are in favour of conducting exams. It is worth noting that the former chairperson of CBSE, Mr. Ashok Ganguly has made the below mentioned remark and the same is part of the news published in Times of India on 14.05.2021. Mr. Ganguly said and we quote – “It is expected that the situation that will definitely improve in the coming days and we can conduct the class XII exam sometime in the month of July. The summative exam is essential because it is the end of school education and we don’t have any credible formative assessment in place. Earlier, we had continuous comprehensive and comprehensive evaluation which was subsequently discontinued”.

14. That it is further submitted that in the same news, another educationist, Mr. K.R. Venugopal, Vice-Chancellor, Bangalore University and Mr. Anand Bhalerao, Principal and Dean, College of Engineering, Bharati Vidyapeeth Deemed University, Pune, are also of the view that exams should not be cancelled, and should be conducted by using digital mediums.

15. That the above educationists and host of others are also of the view that a delay of three to four months in life means nothing to a person in the long run, and therefore exams must be conducted. The True copy of the news report published on Times of India on 14.05.2021 on the issue of scrapping of Class XII board exams is filed herewith as **ANNEXURE A-4** (Page Nos. **19** to **21**). The statement of Mr. Ashok Ganguly is also mentioned in the news report published in India.com on 14.05.2021 and the true copy of the same is filed herewith as **ANNEXURE A-5** (Page Nos. **22** to **23**).
16. That it is submitted that cancelling the exams will cause injustice to the hardworking students who worked hard for the board exams. Furthermore, the parameter for marking students should be based on an exam conducted now instead of an exam that was conducted back in December 2020.
17. That it is submitted that Respondents themselves had geared up for conducting the Boards and the circulars released as late as in the month of March indicate to that aspect. Hence, a decision to scrap the exam will be totally prejudicial to the interest of lakhs of Class XII students.
18. That it is also submitted that marking students on the basis of internal assessment and internal online exams conducted by schools will be totally unfair on the students as in the entire academic year 2020-21 hardly any teacher has seen a student physically.
19. That it is also submitted that scrapping of exam will be unfair to the large section of hardworking students and their parents who have used the study leave period from January onwards

as a period for continuous revisions. It is also important to note that many parents have shelled more than the school fees on private tuition fees in the last few months for improving the performance of their children in the board exams.

20. That it is submitted the PIL filed is premature as the Respondents are yet to sit for a review of the situation. It may not be out of place to also mention that there are also expert reports which state that this second wave will show a downward curve in the coming weeks if not days. In view of the same, it is better to review the situation and accordingly decide to either postpone the exam for a few months or else conduct online exams sitting at home. The students anyhow were attending classes at home and all the internal exams were conducted sitting at their homes only, so it is not an impossible task to conduct online board exams if need be.

21. That the intervention application is being moved bonafide and in the interests of justice.

22. That the Applicant submits that the outcome of the above mentioned Writ proceedings shall affect the Applicants both directly and substantially. Impleadment and the Applicant's participation in the matter, *inter alia*, by placing all necessary and appropriate facts before this Hon'ble Court, shall materially affect the outcome of these proceedings. That the facts of this case makes the impleadment of the Applicants both just and proper. The same is, in fact, necessary to secure the ends of justice. Although permitting such impleading may cause no harm to the Petitioner, declining it shall cause both grave and irreparable prejudice and harm to the Applicants.

PRAYER

In these premises, it is most respectfully prayed that this Hon'ble Court may graciously be pleased to:

- a) Grant liberty to the Applicant to intervene in the above captioned Writ Petition, and;
- b) make such other order(s) or pass such further direction(s) as this Hon'ble Court may deem fit and proper.

AND FOR THIS ACT OF KINDNESS AND JUSTICE, THE APPLICANTS, AS IN DUTY BOUND, SHALL EVER PRAY.

DRAWN BY:- ROBIN RAJU
DEEPA JOSEPH &
ANJU JOSEPH

FILED BY:

JOSE ABRAHAM
ADVOCATE FOR THE APPLICANT

Dated: 18.05.2021
New Delhi