

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT**

**THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN**

**TUESDAY, THE 28<sup>TH</sup> DAY OF FEBRUARY 2023 / 9TH PHALGUNA, 1944**

**WP(C) NO. 14374 OF 2022**

**PETITIONER/S:**

- 1 ABDUL AZIZ NAZEER, AGED 16 YEARS  
S/O.SULAIMAN KANNU NAZEER, HAMEED NIVAS,  
POOJAPPURA, THIRUVANANTHAPURAM, PIN-695012,  
REPRESENTED BY HIS FATHER & GUARDIAN SULAIMAN  
KANNU NAZEER, RESIDING AT HAMEED NIVAS,  
POOJAPPURA, THIRUVANANTHAPURAM, PIN-695012.
- 2 SHAMIL ULIYATH, AGED 16 YEARS  
S/O.HAMZA ULIYATH, ULIYATH HOUSE, CHAMRAVATTAM,  
MALAPPURAM, PIN-676110, REPRESENTED BY HIS FATHER  
& GUARDIAN HAMZA ULIYATH, RESIDING AT ULIYATH  
HOUSE, CHAMRAVATTAM, MALAPPURAM, PIN-676110.  
BY ADVS.  
B.PREMNATH (E)  
C.MANOJ KUMAR(KAKKANAD)  
MANI GOVINDA MARAR  
SARATH M.S.

**RESPONDENT/S:**

- 1 CENTRAL BOARD OF SECONDARY EDUCATION  
SIKSHA SADAN, 17 ROUSE AVENUE, INSTITUTIONAL  
AREA, OPPOSITE BAL BHAWAN, NEAR ITO, NEW DELHI -  
110002, REPRESENTED BY ITS DIRECTOR(ACADEMICS).
- 2 REGIONAL OFFICER  
CENTRAL BOARD OF SECONDARY EDUCATION, REGIONAL  
OFFICE, BSNL RTTC CAMPUS, CTTC ADMIN. BLOCK,  
KANYAKUMARI-KOCHI-PANVEL NH-66, KAIMANAM,  
THIRUVANANTHAPURAM, PIN-695040.
- 3 CONTROLLER OF EXAMINATIONS  
CENTRAL BOARD OF SECONDARY EDUCATION, "SHIKSHA  
KENDRA", 2, COMMUNITY CENTRE, PREETH VIHAR,  
DELHI-110092.
- 4 BRIGHT CENTRAL SCHOOL  
(CBSE AFFILIATED - 931301, SCHOOL CODE : 76282)

W.P.(C). No. 14374 of 2022

MALAMEL PARAMPU, KANIYAPURAM.P.O.,  
THIRUVANANTHAPURAM, PIN-695301. REPRESENTED BY  
ITS PRINCIPAL.

BY ADVS.

Nirmal S

P.T.SEBASTIAN TOMY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR  
ADMISSION ON 28.02.2023, THE COURT ON THE SAME DAY  
DELIVERED THE FOLLOWING:

**P.V.KUNHIKRISHNAN, J.**

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W.P.(C) No. 14374 of 2022

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Dated this the 28<sup>th</sup> day of February, 2023

**JUDGMENT**

The above writ petition is filed with following prayers:

- “i. Call for the records connected with the case;*
- ii. Issue a writ in the nature of Certiorari or such other writ, order or direction quashing Exhibits P17 and Exhibit P18;*
- iii. Issue a writ in the nature of mandamus or such other writ or direction directing respondents 1 to 3 to approve the direct admission of the petitioners to the Xth Standard in the 4<sup>th</sup> respondent school, forthwith;*
- iv. Pass other appropriate orders as this Hon'ble Court deem fit and proper in the circumstances of the case.” (sic)*

2. The petitioners are standard X students in the 4<sup>th</sup> respondent School. It is the case of the petitioners that since their parents lost their job overseas due to the pandemic Covid -19 and had to relocate, they took admission in the 4<sup>th</sup> respondent school and was enrolled on 24.08.2021. It is submitted that all necessary

documents were submitted to obtain their direct admission as students to standard X. Though direct admission was granted in the first instance it was rejected on 18.04.2022 by communication to the 4<sup>th</sup> respondent. According to the petitioners, it was rejected due to the delay in submitting the necessary documents. The result is that both the petitioners were unable to write the annual examinations scheduled on from 27.04.2022. The petitioners filed this writ petition challenging Exts.P17 and P18, which are the orders passed by the Central Board of Secondary Education (CBSE).

3. Heard the counsel for the petitioners and the Standing Counsel appearing for respondents 1 to 3. I also heard the counsel appearing for the 4<sup>th</sup> respondent.

4. The petitioners challenge Exts.P17 and P18 orders. The main reason in Ext.P17 to reject the request for direct admission is extracted in paragraph 3, which is extracted here:

*“It has been observed that in-spite of receiving the application for admission on 24.08.2021 the case was not forwarded for approval for admission to the regional office in time and although the last date of submission of LOC was 09.10.2021, the candidate has not been registered in the LOC (List of Candidate) for Class X. This has also been confirmed vide Bright Public School's letter dated 29.01.2022 The date mentioned on the Admission form is 22.09.2021 however the school vide letter dated 18.03.2022 has stated that the due to clerical error wrong date on admission form was mentioned as 22.09.2021 whereas the correct date was 24.08.2021.*

*The roll number for Term-I for the said candidate is also not available in our records,,*

*Keeping in view the above, the Direct admission in Class X and candidature for Term-II examination cannot be considered at this belated stage.”*

5. Ext.P18 is also an order passed by the CBSE by which also the direct admission request is rejected. The contents in Ext.P18 is also extracted here:

*Please refer to your request vide email dated 23.03.2022, for reconsideration of direct admission of Shamil Hamza Uliyath and the direct admission request dated 30.11.2021 of Abdul Aziz for class X - 2021-22.*

*In this connection, it is informed that both the requests have been considered but not acceded to by the Competent Authority. Therefore, the requests for direct admission in class X (2021-22) are hereby rejected.*

*The candidates concerned may be informed accordingly.”*

6. When this writ petition came up for consideration before this Court on 22.04.2022, this Court passed the following order:

*“The learned Standing Counsel takes notice for respondents 1 to 3. Issue notice by special messenger to the 4th respondent.*

*2. Going by the averments in the writ petition, the petitioners name have been enrolled with the CBSE on 24.08.2021 by the school Authorities and all the necessary documents was also submitted to obtain the direct admission of the students in class X.*

*3. In view of the specific assertion made in the writ petition and in view of Ext.P1 produced along with this writ petition, there will be an interim order as prayed for.*

*It is made clear that the participation of the petitioners in the CBSE examination of class X will be strictly provisional and their results need not be published until further orders are obtained from this Court.*

*H/O”*

7. Thereafter, the petitioners wrote the examination conducted in April 2022. The result is not published so far because of the above order. It is the case of the petitioners that they were continuing with private tuition for pursuing their studies for Plus One course. The grievance of the petitioners is that unless the results are published and the petitioners are not allowed to pursue their higher studies, there will be irreparable loss to the petitioners. The Standing Counsel appearing for respondents 1 to 3 takes me through the counter affidavit, especially paragraph 8. The same is extracted hereunder:

*“8.It is respectfully submitted that Bye Law 7.3 of the examination byelaws of the CBSE deals with admission to class X:*

***7.3. Admission to Class X :***

*As the syllabus prescribed at Secondary level is of two years integrated course, no admission shall be taken in Class X directly. Provided further that admission to class X in a school shall be open only to such a student who:*

*a) has completed a regular course of study for Class IX from an institution affiliated to this Board;*

*b)has completed a regular course of study for Class IX and has obtained minimum Grade D in the five subjects (excluding the 6th additional subject) under Scholastic Area A as well as Grades in subjects under Scholastic Area B under the Continuous and Comprehensive Evaluation Scheme in class IX examination conducted by an institution affiliated to this Board and migrating from/within one city/State to another only on the transfer of the parent(s) or shifting of their families from one place to another, after procuring from the student the Report Book and the Transfer Certificate duly countersigned by the Board; and*

*c) a student who has completed a regular course of study for class IX and has passed class IX examination from an institution recognized by/affiliated to any recognized Board in India can be admitted to a school affiliated to this Board only on the transfer of the parent(s) or shifting of their families from one place to another, after procuring from the student the mark sheet and the Transfer Certificate duly countersigned by the Educational Authorities of the Board concerned*

*Notwithstanding anything contained in the rules above. Chairman shall have the powers to allow change of school for better academic performance. medical reasons etc. to avoid undue hardship to the candidate(s).*

*In case of all such admissions the schools would obtain post facto approval of the Board within one month of admission of the student.”*



8. The contention of the Standing Counsel is that in all case of admission, the school should obtain post-facto approval of the Board within one month of the admission of the student. That is not obtained. The Standing Counsel also takes me through paragraph 13 of the counter affidavit also and submitted that the petitioners have not appeared for the Term-I examinations.

9. It is an admitted fact that as per the interim order passed by this Court, the petitioners appeared for the Board examinations and the results are not published. Considering the fact that the petitioners are students and also considering the educational future of them, I think a lenient view can be taken. Accordingly, the admission of the petitioners can be regularized and the results of the petitioners can be declared, taking it as a special case. The respondents need not take it as a precedent.

Therefore, this writ petition is allowed in the following manner:

1. The order dated 22.04.2022 is made absolute.
2. Respondents 1 to 3 are directed to approve the direct admission of the petitioners to the standard X in the 4<sup>th</sup> respondent school, forthwith.
3. Respondents 1 to 3 will also declare the results of the examination wrote by the petitioners based on the interim order dated 22.04.2022, as expeditiously as possible, at any rate within one week from the date of receipt of a copy of this judgment and inform the results to the petitioners.

**sd/-**

**P.V.KUNHIKRISHNAN  
JUDGE**

das

**APPENDIX OF WP(C) 14374/2022****PETITIONER EXHIBITS**

- Exhibit P1 TRUE COPY OF THE CASE HISTORY OF THE PETITIONERS, ISSUED TO THEM BY THE ACADEMIC DIRECTOR AND THE CHAIRMAN OF THE 4TH RESPONDENT SCHOOL, DATED NIL.
- Exhibit P2 TRUE COPY OF THE TRANSFER CERTIFICATE ISSUED BY THE DAR-UL-HIJARAH NATIONAL SCHOOLS IN THE KINGDOM OF SAUDI ARABIA TO THE 1ST PETITIONER, DATED 29.04.2021.
- Exhibit P3 TRUE COPY OF THE CERTIFICATE ISSUED BY THE PRINCIPAL OF DAR-UL-HIJARAH NATIONAL SCHOOLS IN THE KINGDOM OF SAUDI ARABIA, TO THE 1ST PETITIONER, DATED NIL.
- Exhibit P4 TRUE COPY OF THE FILLED UP APPLICATION FORM OF THE 1ST PETITIONER TO THE XTH STANDARD OF THE 4TH RESPONDENT, WITH THE SIGNATURE OF THE PRINCIPAL, DATED 30.05.2021.
- Exhibit P5 TRUE COPY OF THE LETTER NO.BCS/401/24/2022 OF THE PRINCIPAL OF THE 4TH RESPONDENT TO THE 2ND RESPONDENT, DATED 01.02.2022.
- Exhibit P6 TRUE COPY OF THE LETTER NO.BCS/401/26/2022 OF THE PRINCIPAL OF THE 4TH RESPONDENT TO THE 2ND RESPONDENT, DATED 02.02.2022.
- Exhibit P7 TRUE COPY OF THE LETTER NO.BCS/401/22/2022 OF THE PRINCIPAL OF THE 4TH RESPONDENT TO THE 2ND RESPONDENT, DATED 01.02.2022.
- Exhibit P8 TRUE COPY OF THE TRANSFER CERTIFICATE ISSUED BY THE CLASS TEACHER, CO-ORDINATOR AND PRINCIPAL OF PEARL MODERN SCHOOL UNDER THE MINISTRY OF EDUCATION AND HIGHER EDUCATION, QATAR, DATED 07.10.2021.
- Exhibit P9 TRUE COPY OF THE LETTER ISSUED BY THE FATHER OF THE 2ND PETITIONER TO THE PRINCIPAL OF THE 4TH RESPONDENT, DATED NIL.

- Exhibit P10 TRUE COPY OF THE FILLED UP APPLICATION OF THE 2ND PETITIONER WITH THE COUNTER SIGNATURE OF THE PRINCIPAL OF THE 4TH RESPONDENT, DATED 22.09.2021.
- Exhibit P11 TRUE COPY OF THE LETTER ISSUED BY THE FATHER OF THE 2ND PETITIONER TO THE PRINCIPAL OF THE 4TH RESPONDENT, DATED NIL.
- Exhibit P12 TRUE COPY OF THE LETTER NO.BCS/401/16/2022 OF THE PRINCIPAL OF THE 4TH RESPONDENT TO THE 2ND RESPONDENT, DATED 06.01.2022.
- Exhibit P13 TRUE COPY OF THE LETTER NO.BCS/401/18/2022 OF THE PRINCIPAL OF THE 4TH RESPONDENT TO THE 1ST RESPONDENT, DATED 24.01.2022.
- Exhibit P14 TRUE COPY OF THE LETTER NO.BCS/401/17/2022 OF THE PRINCIPAL OF THE 4TH RESPONDENT TO THE 1S RESPONDENT, DATED 24.01.2022.
- Exhibit P15 TRUE COPY OF THE CIRCULAR NO.CBSE/CE/SPS/2021 OF THE 3RRESPONDENT TO ALL THE PRINCIPALS/HEAD OF THE INSTITUTIONS OF THE SCHOOLS AFFILIATED TO CBSE, DATED 22.11.2021.
- Exhibit P16 TRUE COPY OF THE PRESS RELEASE NO. CBSE/CE/SPS/2021 ISSUED BY THE 3RD RESPONDENT, DATED 25.11.2021.
- Exhibit P17 TRUE COPY OF THE COMMUNICATION NO. CBSE/RO/(TVPM)/EXAM./ADM-X/2022 OF THE 2ND RESPONDENT TO THE 4TH RESPONDENT, DATED 22.3.2022.
- Exhibit P18 TRUE COPY OF THE COMMUNICATION NO.CBSE/RO/TVPM/ DIRECT ADMISSION/X/2022 OF THE 2ND RESPONDENT TO THE 4TH RESPONDENT, DATED 18.04.2022.
- RESPONDENT EXHIBITS
- Exhibit R2 (a) True copy of the Circular No.Acad-51/2021 dated 05.07.2021