

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO. 2569 of 2024

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR. JUSTICE ANIRUDDHA P. MAYEE

Sd/-

1	Whether Reporters of Local Papers may be allowed to see the judgment ?	No
2	To be referred to the Reporter or not ?	No
3	Whether their Lordships wish to see the fair copy of the judgment ?	No
4	Whether this case involves a substantial question of law as to the interpretation of the Constitution of India or any order made thereunder ?	No

PRANSHUL TARABHAI PANT THROUGH FATHER TARABHAI
CHANDRABHAI PANT

Versus

CENTRAL BOARD OF SECONDARY EDUCATION (CBSE) & ORS.

Appearance:

HIMANSHI R BALODI(8919) for the Petitioner(s) No. 1

MR SANDIP H MUNJYASARA(10781) for the Petitioner(s) No. 1
for the Respondent(s) No. 3

MR KV SHELAT(834) for the Respondent(s) No. 1,3

NOTICE SERVED BY DS for the Respondent(s) No. 2

CORAM:**HONOURABLE MR. JUSTICE ANIRUDDHA P. MAYEE**

Date : 19/06/2024

ORAL JUDGMENT

1. The present Special Civil Application is filed
praying for the following reliefs:-

"7(A) This Hon'ble Court may be pleased to issue a writ of mandamus and/or any other appropriate writ or orders or directions be issued to quash and set-aside impugned

communication dated 7.2.2024 issued by the Central Board of Secondary Education (CBSE) through the Delhi Public School, Gandhinagar at Annexure-A (Pg.No.17): AND

(B) This Hon'ble Court may be pleased to issue a writ of mandamus and/or any other appropriate writ or orders or directions be issued to the respondents to condone shortage of attendance of the petitioner in Class-X for academic year 2023-24; AND

(C) This Hon'ble Court may be pleased to issue a writ of mandamus and/or any other appropriate writ or orders or directions be issued to the respondents to set up in-house mechanism for identifying, counselling, caring and treating the students who are facing mental health issues and to make wide publicity of the same at regular interval; AND

(D) Cost of this Petition to be provided to the Petitioner; AND

(E) Pending admission, hearing and/or final disposal of this petition, this Hon'ble Court may be pleased to direct the Central Board of Secondary Education (CBSE) and the Delhi Public School, Gandhinagar to issue admit card to the petitioner for the upcoming Class-X Board examination scheduled to be started in general from 15.2.2024 and for the petitioner's subjects from 21.2.2024 onwards; AND

(F) Ad interim ex parte relief in terms of paragraph E) above;"

2. The brief facts leading to the filing of the present petition is that the petitioner herein is a Class 10th standard student in the respondent No.2

school. It is the case of the petitioner that for the academic year 2023-24, upcoming Class 10th Board Examination was scheduled to start from 15.2.2024. That the parents of the petitioner noticed a changed behavioral pattern in the petitioner. That the petitioner used to attend the school for some days and then was found to avoid the school. That the parents of the petitioner could not understand such change in the behaviour. Finally, it came to the knowledge of the parents that the petitioner required Psychiatric help and therefore, they decided to consult a Psychiatrist. From August 2023, the petitioner was treated by a Psychiatrist. The petitioner was diagnosed with Phobia, Anxiety and required Psychiatric help. Since the petitioner was not properly responding to the treatment regarding his mental health issues, the parents decided to go for the advance treatment and from September-October, 2023 onwards, the petitioner was given several rounds of counselling and medication at regular intervals. The petitioner was diagnosed with Mixed Depression and Anxiety as well as Impulsive Disorder. It was

also identified that one of the reasons for the petitioner's anxiety was the backlog of school work due to his absence in the school. Pursuant to his treatment and regular medication, the petitioner was found fit by treating Doctor to resume school at the end of December 2023, but, unfortunately, as soon as the pre-board examination was to start, the petitioner had another anxiety attack and had to be hospitalized from 13.1.2024 to 17.1.2024. The copies of the treatment undertaken by the petitioner have also been annexed with the present writ petition. As a result of his absence, the petitioner's parents were intimated by the school that since the petitioner's attendance was abysmally low during the academic session, the petitioner cannot appear in the Class 10th board examination to be held by the respondent No.1. The parents of the petitioner by an application requested the school to condone the shortage of attendance in the background of his health issues. The school forwarded such an application to the respondent No.1 CBSE with the assurance that the school will recommend for

condonation of attendance and try its level best that the petitioner may sit in the board examination. During this period, the petitioner was continuously undergoing Psychiatric counselling to prepare himself mentally for appearing in the Board examination. With proper medication, the petitioner started preparing for the Board examination. However, the respondent No.1 through the school vide impugned communication dated 7.2.2024 conveyed to the petitioner that the application of the petitioner for condonation of shortage of attendance had been declined and consequently, no admit card came to be issued to the petitioner for the upcoming Class 10th board examination which was scheduled to start from 21.2.2024. Since the petitioner had diligently and seriously prepared for the class 10th board examination and was trying to come out from depression, anxiety and mental health issues through medication and had gained necessary confidence to appear in the board examination, the impugned communication dated 7.2.2024 again would have the effect of demoralizing the petitioner. Hence, the

petitioner has preferred the present writ petition for the aforesaid reliefs.

3. Mr. Sandip Munjyasara, learned advocate for the petitioner submitted that the application of the petitioner for condonation of shortage of attendance in class 10th has been declined by the respondents without assigning any cogent reasons. He submits that the impugned communication is non-speaking and unreasoned. He submits that the said communication is completely in violation of various clauses of the Examination Bye-laws of the respondent No.1. He submits that the petitioner is a young boy facing mental health issues and therefore, the petitioner's absence from the school would merit special consideration and such a reason is a valid reason to condone the shortage of attendance. He submits that the respondents have not considered the seriousness of the mental health issues faced by the petitioner. He submits that the parents of the petitioner are fighting to normalize the petitioner so that he can get educated further with all encouragement which is required. He submits that the absence of the

petitioner from the school was neither willful nor deliberate and that he has sufficient cause not to attend the school. He submits that the persons who are facing mental health issues are hesitate to speak on this issue or hide such issue, but when the petitioner had chosen to face such issues, the respondents ought to have encouraged the petitioner by condoning the shortage of attendance. He submits that it is unfortunate that the respondent No.2 school as well as the respondent Nos.1 and 3 have not taken a conscious decision looking into the facts and circumstances of the petitioner's case. He submits that in fact, the shortage of attendance ought to have been condoned to encourage the petitioner so that he can study further and overcome his fears. He submits that the fact the petitioner is undergoing mental health issues is not disputed by the respondents and therefore, ought to have condoned such shortage of attendance only to encourage the petitioner to pursue his study. He submits that it was utmost necessary for the petitioner to appear in the class 10th board examination because he was facing

mental health issues and non-issuance of the admit card for the board examination would have given him further set back from which it would be very difficult to recover at such a young age. He submits that the decision of the CBSE not to issue admit card will have an effect of putting off the petitioner from taking education which is very important for him to survive in life. He submits that instead of encouraging the students, the respondents are demoralizing them by not properly appreciating the case at hand. He submits that because of his mental health issues, he was afraid of taking the challenge of the examination, but in the present case, after proper medication and counselling, the petitioner is ready and willing to take part in board examination and instead of supporting and encouraging the petitioner, the respondents have chosen not to issue the admit card to him. He submits that this Court under Article 226 of the Constitution of India may exercise its discretion in favour of the petitioner as the petitioner's career and life is at stake and also since the right to education is a fundamental

right under the Constitution of India. He submits that if the discretion is not exercised in favour of the petitioner then irreparable loss would be caused to the petitioner which cannot be compensated.

4. *Per contra*, Mr. K.V.Shelat, learned advocate appearing for the respondent Nos.1 to 3 submitted, at the outset, that as the respondent No.2 school having regard to the shortage of percentage of attendance had not recommended the case to the respondent Nos.1 and 3 for exercising their jurisdiction under Rule 14 of the Rules and therefore, the present respondents cannot exercise any such discretion in absence of the same. He submits that as per the Rules, the students to be eligible for class 10th board examination have to complete regular course of studies as defined in bye-laws No.13 of the Examination Bye-laws which stipulates atleast 75% of the attendance in the classes held counting from the date when teaching commences for class 10th upto the preceding month in which the class 10th board examination commences. He submits that the Rules also provide that the heads of the institutions shall not allow any student to

appear in the examination unless such candidate fulfills the attendance as per the Rules. It is submitted that in the present case, the petitioner was irregular in attending the school through out the 10th standard academic year. He had secured only 31% attendance which is much short of the mandatory requirement of 75%. He submits that the respondent No.2 school had already intimated the shortage of attendance and its consequences to the parents of the petitioner. The respondent No.2 school has further forwarded the request of the parents for condonation of shortage of attendance to the respondent No.3. However, it did not recommend the condonation for shortage of attendance. It is submitted that in this background, the impugned communication dated 7.2.2024 came to be issued denying the admit card to the petitioner. Learned advocate submits that Rule 14(iv) of the Examination Bye-laws stipulates the valid reasons for recommending the case of the candidate with attendance less than the prescribed percentage. He submits that in the present case, the petitioner does not fall in any of the specified criteria.

Therefore also, his shortage of attendance cannot be condoned. He submits that the petitioner is not eligible to appear in the examination in view of the shortage of attendance which was only 30.68%. He submits that only on 6.1.2024, the petitioner had, for the first time, submitted certain medical records to the CBSE through respondent No.2 school showing that he was not well on the dates when he had not attended the classes. The said medical documents were examined by the respondent Nos.1 and 3 and it was noticed that the petitioner was suffering from Phobia and mental health issues. However, the certificate dated 30.12.2023 shows that he is fit to resume his school work and thereafter, was given treatment for depression and anxiety. He submitted that except for a few days of admission to the hospital for dealing with the anxiety attacks, the petitioner was at home. Only after examining all these facts, the respondent Nos.1 and 3 have exercised their discretion under Rule 14 of the Examination Bye-laws and held that the petitioner is not eligible to appear in the class 10th board examination. He submitted that if such students

who are having such low percentage of attendance and who are not fulfilling the regular course of study would affect the quality of education which is one of the mandatory mandates of the Board. He submits that in the present case, the respondent Nos.1 and 3 have properly exercised their jurisdiction regarding condonation of shortage of attendance considering the object thereof and more so in the background that the respondent No.2 school had not recommended any condonation for shortage of attendance. In support of his contention, learned advocate for the respondents has relied upon the following authorities:-

"i. Regional officer CBSE vs Ku Sheena peethambaran Reported in 2003 (7) SCC 719.

ii. G. Sreenivasan vs Principal Regional Engineering College reported in AIR 2000 ORI 56/1999 SCC Online ORI 58.

iii. State of Maharashtra vs Vikas Sahebrao Roundale reported in (1992) 4 SCC 435.

iv. Central Board of Secondary Education vs Nikhil Gulati reported in (1998) 3 SCC 5.

v. Mahatma Gandhi University vs Gis Jose reported in (2008) 17 SCC 611.

vi. Yash Yadav Vs CBSE reported in MANU/DE/1887/2020.

vii. Yash Yadav vs CBSE reported in 2020 SCC online Del 1890."

5. Despite service of notice, the respondent No.2 school has not entered appearance and has chosen not to appear in the present proceedings.

6. Heard learned advocates for the petitioner and the respondents and perused the documents on record.

7. At the outset, certain facts are required to be noted before proceeding to deal with the issue in question.

8. This Court, by order dated 14.2.2024, was pleased to pass following order:-

"1. Heard learned Advocate Mr. Sandip Munjyasara with learned Advocate Ms.Himanshi Balodi on behalf of the petitioner. At the request of this Court, learned Advocate Mr. K. V. Shelat has appeared for respondent no.1.

2. Learned Advocate Mr. Sandip Munjyasara tenders a draft amendment. The same is granted. Amendment to be granted during course of the day.

3. Considering the submissions made by learned Advocate for the petitioner it would appear that the petitioner who is studying in standard 10 at respondent no. 2-School, has not been granted condonation of attendance by the Chairman of the respondent no.1 herein and whereas as

a result of which, the petitioner would be denied permission to appear in the Standard 10th Board examination for the year 2024 which is to commence from tomorrow.

4. Considering the submissions it would further appear that in exceptional circumstances, the Chairman of the respondent Board is empowered to condone the shortage of attendance and whereas the exceptional circumstance as per the extant policy, includes prolonged illness and whereas it has been contended by learned Advocate for the petitioner that the petitioner was suffering from certain psychiatric illnesses certificates of treatments also having been produced on record.

5. Considering the submissions prima facie it would appear that the case of the present petitioner required to be treated as an exceptional circumstance and the attendance was required to be condoned.

6. Having regard to such prima facie observations, issue Notice to the respondents returnable on 18.03.2024. Learned Advocate Mr. Shelat waives service of notice on behalf of respondent no.1.

7. By way of ad-interim relief it is directed that the respondents no. 1 and 3 shall ensure that the petitioner is permitted to appear in the Standard 10 Board Examination 2024 and whereas it is further observed that the permission to appear is subject to further orders that may be passed in the present petition and whereas it is also directed that result of the petitioner shall be kept in a seal cover and which would be opened upon order passed by this Court in that regard.

Direct service for respondents no. 2 and 3 is permitted today. The petitioner is permitted to serve respondent no. 3 through E-mail as well as through Speed

Post.

Registry to also show name of learned Advocate Ms. Himanshi Balodi for the petitioner."

9. Pursuant thereto, the respondent Nos.1 and 3 contested such ad-interim order and preferred Letters Patent Appeal No.202 of 2024 which came to be dismissed. That thereafter, the petitioner appeared in the Class 10 Board Examination.

10. That thereafter, on 15.5.2024 this Court was pleased to pass the following order:-

"1. Heard learned advocates for the respective parties.

2. It is the contention of the learned advocate for the petitioner that the result of the petitioner for standard 10th has been declared on 13.05.2024 and pursuant to the previous order passed by this Court on 14.02.2024, the result of the petitioner was directed to be kept in a sealed cover which was to be opened after this Court passes the order. Learned advocate for the petitioner has further submitted that the respondent No.1 may be directed to open the sealed cover even in the absence of the petitioner and may declare the result of the petitioner as soon as possible so that the future course of action can be decided by the petitioner.

3. Per contra, learned advocate Mr. K.V. Shelat for the respondent No.1 submits that the result of the petitioner has been declared on 13.05.2024 and as per the direction of this Court, the result of the petitioner has been kept in a sealed cover. It is further submitted that though

the petitioner was not entitled to appear in the exam, however, the respondent No.1 permitted the petitioner to appear in the exam as per the order of this Court. It is further submitted that once the result of the petitioner is declared before this Court, the petitioner might claim equity upon that ground.

4. Be that as it may be, without entering into the merits of the case and the contentions of the respective parties, the respondent No.1 is hereby directed to open the sealed cover and declare the result of the petitioner on 21.05.2024 before this Court by way of an affidavit.

5. It is made clear that upon declaration of the result, the petitioner shall not claim any equity by claiming eligibility of getting admission in the standard 11th on the ground of clearance of the standard 10th result as the contentions of both the parties are addressed on merits.

6. It is further made clear that this Court has not gone into the merits and demerits of the case while passing this order. All the rights and contentions of the respective parties are kept open.

Stand over to 21.05.2024. Direct Service Today is permitted through Speed Post as well as through E-mail."

11. Accordingly, affidavit-in-reply dated 18.5.2024 came to be filed along with the result of the petitioner. The result shows that the petitioner has failed in the subject of Mathematics and in the additional subject of Computer Application. However,

out of six subjects, the petitioner has successfully cleared four subjects.

12. Further, the mark sheet shows that the petitioner is entitled to appear in the supplementary examination which is yet to be notified. That in the meantime, the petitioner has also applied for re-evaluation of his marks for the two subjects in which he has been declared as fail.

13. This Court on 4.6.2024 passed the following order:-

"1. In present petition filed under Articles 14, 19, 21 and 226 of the Constitution of India, the petitioner has prayed, inter alia, that:-

"A) This Hon'ble Court may be pleased to issue a writ of mandamus and/or any other appropriate writ or orders or directions be issued to quash and set-aside impugned communication dated 7.2.2024 issued by the Central Board of Secondary Education (CBSC) through the Delhi Public School, Gandhinagar at Annexure-A (Pg. No.17); AND

B) This Hon'ble Court may be pleased to issue a writ of mandamus and/or any other appropriate writ or orders or directions be issued to the respondents to condone shortage of attendance of the petitioner in Class-X for academic year 2023-24; AND

C) This Hon'ble Court may be pleased to issue a writ of mandamus and/or any other appropriate writ or orders or directions be issued to the respondents to

setup inhouse mechanism for identifying, counselling, caring and treating the students who are facing mental health issues and to make wide publicity of the same at regular interval; AND

D) Cost of this Petition to be provided to the Petitioner; AND

E) Pending admission, hearing and/or final disposal of this Petition, this Hon'ble Court may be pleased to direct the Central Board of Secondary Education (CBSE) and the Delhi Public School, Gandhinagar to issue admit card to the petitioner for the upcoming Class-X Board examination scheduled to be started in general from 15.2.2024 and for the petitioner's subjects from 21.2.2024 onwards; AND

F) Ad interim exparte relief in terms of paragraph E) above;

G) This Hon'ble Court may be pleased to Grant such other and further relief(s) as deemed fit in the interest of justice and equity."

2. It appears that this Court, on 14.2.2024 issued notice to the respondents. In response thereto, the respondents have declared the result of the petitioner wherein, the petitioner was failed in two subjects. Therefore, the petitioner seeks that he may be allowed to make application for reassessment of his marks in two subjects.

3. Today, Mr. K.V. Shelat, learned Counsel for the respondent Nos. 1 and 3 has placed a copy of the circular dated 13.5.2024 of Central Board of Secondary Education wherein it is stated that the candidate can apply online for verification of marks from 20.5.2024 to 24.5.2024 for which, the candidate has to pay fees of Rs.500/- per subject and on receipt of such application, if the candidate wants to get photocopy of the answerbooks then

he may apply online from 4.6.2024 to 5.6.2024 and for that also the candidate has to pay fees of Rs.500/- per answerbook and then for re-evaluation of the marks, the candidate has to apply online from 9.6.2024 to 10.6.2024 and for each question, the candidate has to pay fees of Rs.100/-.

4. Considering the fact that the petitioner was failed in two subjects and if he wants to apply for re-evaluation, he may be allowed to apply online/offline. If he is not allowed to apply online / offline than atleast he may be allowed to apply for reevaluation of the marks for which the date is declared as 9.6.2024 to 10.6.2024 and for the same, he has to pay fees of Rs.100/- for each subject in which he was declared as failed.

5. So in case the petitioner is unable to get satisfactory answer, he may apply and appear in the re-examination for these two subjects, which is going to be held in the month of July 2024, subject to outcome of the present petition.

6. The copy of circular dated 13.5.2024 of Central Board of Secondary Education produced by Mr. K.V. Shelat, learned Counsel for the respondent Nos. 1 and 3 is taken on record.

7. Direct service Today is permitted. The petitioner is also permitted to serve the concerned respondents through E-mail as well as through Speed Post."

14. The fact situation as on today is that when the matter is finally heard, the petitioner has appeared in the class 10th board examination on the basis of the interim orders passed by this Court whereby he

has cleared four subjects out of total six subjects he had appeared for. The mark sheet as placed on record by way of affidavit by the respondent Nos.1 and 3 shows that he is eligible to appear for the supplementary examination. Further, this Court has granted him liberty to apply for re-evaluation of the marks in the subjects in which he has failed and that he may apply and appear in the supplementary examination of the two subjects, subject to the outcome of the present petition.

15. At this stage, it would be pertinent to mention the scope of power under Article 226 of the Constitution of India. It is well settled that the said power is discretionary and supervisory in nature. This extraordinary power in the writ jurisdiction has to be exercised to forward the cause of substantial justice, to set right miscarriage of justice or where there has been flagrant violation of law. Further, this power has to be exercised to protect the citizen from violation of any law. However, as a word of caution, this discretionary power has to be exercised judiciously, leaving it to

the discretion of the Court. Such exercise of power has to be equitable and to balance the equities in all given cases. The Court has to also keep in mind the balancing of the competing interests in the case.

16. The relevant Rule for condonation of attendance reads as under:-

"14 Rules for Condonation of Shortage of Attendances:

(i) If a candidate's attendance falls short of the prescribed percentage, the Head of the School may submit his name to the Board provisionally. If the candidate is still short of the required percentage of attendance within three weeks of the commencement of the examination, the Head of the institution shall report the case to the regional Officer concerned immediately. If in the opinion of the Head of the institution, the candidate deserves special consideration, he may submit his recommendation to the Regional Officer concerned not later than three weeks before the commencement of the examination for condonation of shortage in attendances by the Chairman, CBSE, who may issue orders as he may deem proper. The Head of the School, in his letter requesting for condonation of shortage in attendance should give the maximum possible attendance by a student counted from the day of commencement of teaching of classes X (beginning of the session) upto the 1st of the month preceding the month in which the examination of the Board commences, attendance by the Candidate in question during the aforesaid period & the percentage of attendance by such candidate during the aforesaid period.

(ii) Shortage upto 15% only may be condoned by the Chairman. Cases of candidates with attendance below 60% in Class-X shall not be considered and Class-XII, as the case may be, shall be considered for condonation of shortage of attendance by the Chairman only in exceptional circumstances created on medical grounds, such as candidate suffering from serious diseases like Cancer, AIDS, T.B. or any other disease or injury requiring long period of hospitalization.

(iii) The Principal shall refer a case of shortage within the above prescribed limit of condonation to the Board, either with the recommendations or with valid reasons for not recommending the case.

(iv) The following may be considered valid reasons for recommending the case of the candidates with attendance less than the prescribed percentage :-

(a) Prolonged illness.

(b) Loss of father/mother or some other such incident leading to his absence from the school and meriting special consideration.

(c) Any other reason of similar serious nature.

(d) Authorised participation in sponsored tournaments and Sports' meet of not less than inter school level and at NCC/NSS Camps including the days of journeys for such participation shall be counted as full attendance."

17. Similar issue had also arisen before the High Courts of Calcutta, Bombay and Delhi. The consistent view of the said High Courts has been that Rule 14(ii) has to be given an expansive interpretation and since having a Pan India application, it is all the more necessary that there has to be uniformity in law. The power under Rule 14(ii) in respect of condonation of shortage of attendance below 60% has to be exercised only in exceptional circumstances created on medical grounds. This Bye-law is merely indicative and not exhaustive and may not only refer to a life threatening situation or serious hospitalization.

18. What has to be seen is whether such disease/illness has the effect of disabling a student from attending the school and the regular classes. If the effect of such disease is preventing the student from attending the school, then the Bye-law 14 has to be interpreted to consider the situation as an exceptional one for condonation of shortage of attendance. In the present case, though it is stated by the respondent Nos.1 to 3 that the medical papers of the petitioner has been perused and taken into consideration while rejecting the application for condonation of shortage of attendance, this Court is of the opinion that the same has not been considered in the true perspective and also in the background of correct interpretation of Rule 14 of the Rules. It seems that the respondent Nos.1 to 3 have mechanically rejected the application of the petitioner for condonation of shortage of attendance on the ground that firstly, the school has not made any recommendation for such condonation and secondly, that the student was only hospitalized for a very short period of time. This itself shows that the

respondent Nos.1 and 3 have not appreciated the nature of illness which the petitioner was suffering from and which was the material aspect to be considered for condonation of shortage of attendance.

19. Various studies have now been undertaken by National and International bodies in respect of depression amongst the students and its association with the perceived academic environment, living arrangements and personal issues. In the present case, it is not disputed that the petitioner was suffering from mental health issues, particularly anxiety and phobia. Each individual student experiences various stress. Some may cope with these challenges while others may not be able to do so. The personal capacity of an individual plays an important role in management of such issues. Students who are able to cope with such stress of learning or academic environment can experience such mental health issues which can be dangerous and life threatening. Further, it is also important to take note that most of the schools lack the facility of counselling in India. With the increased academic demands, the student in

present times are more susceptible to such mental health issues. Such issues have detrimental impact on a student psychologically and emotionally and thereby affects his academic performance. A student's psychological set up is also the result of the demands of the present day school life where they have to compete at a very high level, have to match the excessive expectations of the teacher, overload of the academic work and burden of examinations. There may be cases where the students are not able to cope up with such a situation.

20. As is seen from the affidavit-in-reply, the respondent Nos.1 to 3 have not dealt with the case as an exceptional circumstance created due to medical grounds. In the present case, the ailment undergone by the petitioner student was definitely serious enough to prompt a situation for such long absence and since the list of ailments is illustrative and not exhaustive, sub-rule 4(c) of the Bye-laws states that "*any other reason of similar serious nature*". In the present case, the respondent Nos.1 to 3 authorities ought to have certainly considered the

case of the petitioner as an exceptional case when the material placed on record shows that the shortage of attendance was for a particular reason of illness and was beyond the control of the student and his parents. This Court is of the opinion that the respondent authorities are bound to ensure that by exercise of the powers, the academic career of the students is not damaged and they are not deprived from pursuing their academic career and that they should be given an opportunity to prove themselves in the examinations. Denial of condonation of delay of shortage in the percentage of attendance, without valid reasons would result in loss of one academic year for any student and looking at the case of the petitioner, it can also be said that the decision of the respondent Nos.1 and 3 would also damage the petitioner by loss in his confidence and aggravating his Phobia and anxiety. The respondent authorities were expected to take into account all the relevant factors while considering the application of the petitioner for condonation of shortage of attendance. Mere technicality of the school of not recommending

condonation of shortage of attendance should not also come in the way of the respondent Nos.1 and 3 to ensure that the opportunity is to be granted to a student in the academic career and to educate him. It is sad to note that the respondent No.2 school has also not been supportive in this case and coming to the rescue of the petitioner who is their student and who ought to have been given proper opportunity to appear in the examination to boost his confidence and save his academic career.

The authorities relied upon by the learned advocate appearing for the respondent Nos.1 to 3 in support of his arguments are distinguishable and hence cannot be made applicable in the facts and circumstances of the present case.

21. Further, in the present case, by interim orders of this Court, the petitioner has been allowed to appear in the board examination and he has also sincerely attempted the Class 10th Board Examination despite coping with his illness, the petitioner ought to be given an opportunity to try and save his academic year, which is not detrimental to any

interest of the respondents. Further, it would be unjust and unfair to put the petitioner at a disadvantageous situation at this stage.

22. In view of the aforesaid observations, this Court finds that the petitioner is eligible for condonation of shortage of attendance and his case is covered within expressions "*exceptional circumstances created on medical grounds*" in Rule 14(ii) and "*any other reason of similar serious nature*" in Rule 14(iv) (c) of the Examination Bye-Laws.

Accordingly, the shortage of attendance of the petitioner for the academic year 2023-24 is condoned as per Rule 14 of the Examination Bye-laws of CBSE.

The impugned communication dated 7.2.2024 issued by the respondents is accordingly set aside.

The petitioner is to be treated as validly appeared in the Class 10th Board Examination and the respondents are directed to declare the result of the petitioner. He will further be entitled to all the benefits which will follow thereafter.

The present Special Civil Application is accordingly allowed.

No order as to costs.

KAUSHIK D. CHAUHAN

Sd/-
(ANIRUDDHA P. MAYEE, J.)