(2016) 09 DEL CK 0169

In the Delhi High Court

Case No : Writ Petition (C) 6709 of 2016 and CM APPL. No. 27494 of 2016.

Deeksha Madaan through her father and natural guardian, Sh. Arun Madaan - Petitioner @HASH Directorate of Education and Others

Date of Decision : 15-09-2016

Acts Referred:

Constitution of India, 1950 — Article 226
Delhi School Education Rules, 1973 — Rule 41

Citation : (2016) 9 ADDelhi 334

Hon'ble Judges : Sanjeev Sachdeva, J.

Bench : Single Bench

Advocate : Ms. Sonali Malhotra with Mr. Amit Sanduja, Advocate, for the Petitioners; Mr. Amit Singh, Advocate, for the Respondents; GNCTD with Sh. Sanjiv Mathur, L.A.-DOE, Zone XIII, for the Respondents Nos. 1 and 3; Mr. Sunil Gupta, Sr. Advocate with Mr. Vedanta Va

Final Decision : Disposed Off

Judgement

Sanjeev Sachdeva, J. - The Petitioners seek a mandamus thereby directing the Respondent 1 & 3/Directorate of Education to take action against the Respondent no. 2/school for not adhering to the norms and instructions regarding assessment, evaluation and promotion of students from Class I to IX and Class XI issued by the Directorate of Education under Rule 41 of Delhi School Education rules, 1973 (hereinafter referred to as "the Rules") and for directing the Respondent/School to have the accountancy paper of the Petitioners rechecked and revaluated from some independent agency and a further mandamus directing the Respondent/School to promote the Petitioners to class XII.

2. The petitioners appeared in the final examinations of class XI for the academic session 2015 - 2016, which were held during 08.03.2016 to 21.03.2016.

3. The result of the final examination was declared on 31.03.2016. The Petitioner/ Deeksha Madaan (in WP(C) 6709/2016) in her accountancy paper secured 18.5 % marks in the final examination. Her cumulative score for the accountancy

paper was 23.1%. The Petitioner/Aditya Munjal (in WP(C) 6717/2016) in his accountancy paper secured 24% marks in the final examination. His cumulative score for the accountancy paper was 27.8%.

4. The compartment examination for the accountancy paper was held on 04.04.2016 and the petitioner appeared in the same. The Petitioner/Deeksha Madaan in the compartmental accountancy paper secured 23.3% marks. The Petitioner/Aditya Munjal in the compartmental accountancy paper secured 30% marks.

5. Since the passing marks are 33%, the petitioners have been declared failed and have been detained in class XI. Common grounds of challenge have been raised by the petitioners in their respective petitions except that in the case of Aditya Munjal an additional ground has been raised.

6. It is contended that the Respondent/School has not adhered to the binding Circular No. F.DE/Sch/Promotion Rules/9/2001/18663- 20963 dated 08.09.2001 issued by the Respondent no. 1/Directorate of Education with regard to assessment, evaluation and promotion of students from Class I to Class IX and Class XI, which instructions were issued under Rule 41 of the Rules, which empowers the Administrator to issue detailed instructions on the advice of the Advisory Board regarding assessment, evaluation and promotion of students from one class to another.

7. It is contended that the Respondent/School has not complied with Instruction 37 of the said circular, which mandates that all recognised unaided schools are required to comply with the said instructions and no dilution of the criteria prescribed is permissible under any circumstances. It further stipulates that if any recognised unaided school desires to have more stringent criteria than those prescribed in these instructions, then it has to obtain prior approval of the Director of Education and request for such approval has to reach the Office of the Director of Education by 30th April of the session. It is contended that if the Respondent School was adopting any stringent criteria, after approval of the Director of Education, it was obliged to bring it to the notice of the students and parents, immediately on commencement of the session.

8. It is contended on behalf of the petitioners that the Respondent school has violated instructions 32 by holding the compartment examination on 04.04.2016 in contravention to the said instruction, which mandates the holding of the compartment examination in the last week of April. Additionally on behalf of the petitioner Aditya Munjal, it is contended that the respondent School has violated instructions 29, 31 and 35 with regard to award of grace marks.

9. It is contended that Instruction 32 stipulates that the compartment examination is to be held in the last week of April before the summer vacations. It is contended that the Compartment examination for the accountancy paper was held on 04.04.2016 within 4 days of the declaration of the result of the main examination on 31.03.2016, which gave the students only 3 days to prepare.

10. It is further contended that the Respondent/School, in setting the question paper, violated the norm of the CBSE for the academic year 2015-2016 which stipulates:

20% of the paper - SIMPLE 55 % of the paper ? AVERAGE 20 % of the paper - High Order Thinking Skills ["HOTS"] 05 % of the paper - EVALUATION.

11. It is contended that the compartment examination was violative of the above mentioned norms as the break-up of marking scheme of the compartment examination conducted by the Respondent no. 2 consisted of around 60 - 65% High Order Thinking Skills [HOTS] questions. The final term paper and the compartment examination consisted of a question from the chapter, "fundamentals of partnership", which according to the prescribed syllabus of CBSE belongs to class 12. It was given a weightage of 10 marks in the compartment examination.

12. It is contended that the compartment examination was extremely lengthy and calculations were much above the standard of Class XI and was more difficult than the actual final term paper.

13. It is further contended that with great difficulty the guide/mentor of the Petitioner was allowed to see the answer scripts attempted by the Petitioner. It is submitted that the Respondent/school has under-marked many of the answers and have not given a single mark in certain questions, which were attempted. It is contended that the same is against the basic principles of marking, as in the accountancy examination, even though the answers may not be absolutely correct, yet the marks are to be given for steps and for entries in various accounts such bank account, cash account, Trial Balance, Profit and Loss Account and Balance Sheet etc.

14. Additionally on behalf of the Petitioner/Aditya Munjal, it is submitted that the Respondent/School has violated the Instructions of the Respondent/Directorate of Education and has not given the Petitioner five grace marks, which would have taken his cumulative score to 32.8. The petitioner, in computing the 33% of the marks, would then be entitled to the benefit of a fraction in terms of Instruction 29 and thus would have been eligible for promotion. It is contended that the Respondent School had to take into account the cumulative/overall score of class XI in the accountancy subject for the purpose of award of grace marks whereas the school only took into account the marks of the final examination.

15. It is contended that the Respondent/School instead of giving grace marks to the petitioner coerced him to appear in the compartment examination. The petitioner having no choice appeared in the same.

16. The Respondent No. 1/Directorate of Education in its counter affidavit has contended that the Directorate by Circular No. F.DE/Sch/Promotion Rules/9/2001/18663-20963 dated 08.09.2001 has laid down instructions to schools with regard to assessment, evaluation and promotion of students from

Class I to Class IX and Class XI. It is contended that the schools have to follow the policies and regulations and the Instructions and the compartment examination has to be conducted as per the rules and regulations.

17. Per contra, it is contended, on behalf of the Respondent/School that it is not mandatory to hold the compartment examination in the last week of April. It is contended that the school reserves the right to conduct the Examination at any time before 30th of April. It is contended that even in all the Government schools the compartment examination is being conducted before the last week of April.

18. It is further contended that the new session for class XII was to commence from 11th of April 2016 and Parents usually request the school to conduct the compartment examination before the commencement of the new classes, so that the children placed under compartment do not lag behind. It is contended that in the past also the compartment examination was held in the first week of April after declaration of result on 31st of March.

19. It is contended that the date for the Compartment Examination was shared with the parents in writing and they consented to the same, without raising any objections. The parent undertook to ensure that the child would prepare well and take the exam on the scheduled date.

20. It is contended that another girl child who belongs to Economically Weaker Section background coming from SOS Village, Bawana was unable to undertake Examination due to circumstantial factors not under the control of the child and she was allowed to take the test on a later date as per the request of her Guardian. It is contended that if the parents of the petitioners had requested the school for a change of date of the Compartment examination, the school would have accepted it. However, no such request was made.

21. It is contended that the children having taken the compartment examination, without any protest and having been unable to clear the same, cannot now be permitted to challenge the same on the ground that sufficient time was not granted. Reliance is placed on the decision of the Supreme Court in G. Sarana (Dr.) v. University Of Lucknow (1976) 3 SCC 585.

22. With regard to the criteria for setting of the accountancy question paper, for the final examination as also the compartment examination, it is contended that the school follows the criteria prescribed by CBSE. It is submitted that 20% of the paper is simple, 60% of the paper average and 20% of the paper is High Order skills. It is submitted that the CBSE has suggested Question Paper design for Accountancy, as a guideline for the Schools and the Question Paper both the comprehensive as well as the Compartment Examination of Accountancy were neither difficult nor long and they were based on the same guidelines suggested in Question Paper design by CBSE.

23. With regard to the inclusion of the topic of fundamental of partnership, it is contended that the said chapter is taken towards the end of the academic year of

Class XI and subsequently, the chapter is also taken up in the beginning of the Class XII syllabus. It is contended that nothing that was not part of the Class XI syllabus was part of the compartment examination question paper.

24. It is contended that in so far as the issue of setting of the question paper is concerned, it is purely subjective and cannot be challenged.

25. It is submitted that the petitioners had been getting less marks in the accountancy paper from the first term itself and the respondent school has exercised extreme transparency by giving timely information to the parents about the low performance of the petitioners and also showed all the records along with the answer scripts. The parents were made aware of the minimum marks required for qualifying and for sitting in compartment examination as also the criteria for award of grace marks. The parents of the petitioners gave an undertaking that they would fill in the deficiency by providing maximum help through available sources to ensure that the petitioners get good marks in the related subjects, to enable them to clear the Class XI Examination, as per the structural level of Examination and Promotion Pattern discussed by School as also displayed on the School and Directorate of Education Web-site.

26. It is contended that the petitioner Deeksha Madaan scored only 18.5% in the final/comprehensive examination in the accountancy subject [Theory + Practical] with a cumulative overall score of 23.1%. The petitioner Aditya Munjal scored only 24% in the final/comprehensive examination in the accountancy subject [Theory + Practical] with a cumulative overall score of 27.8%. Since they did not get the minimum pass, marks of 33% they were asked to appear in the compartment paper.

27. It is contended that in terms of Instruction 35, grace marks could have been awarded to Petitioner Aditya Munjal, if he had secured 25% marks at the comprehensive test. He only had 24% at the comprehensive examination and thus no grace marks could be awarded. It is contended that no grace marks can be awarded to a student taking the compartment examination.

28. It is contended that an opportunity was given to the petitioners to appear in the compartment exam on 04/04/2016 for which no objections were raised. The result for compartment exams was declared on 11th April 2016 and the same was intimated to the petitioner on 11th April 2016. Immediately, after knowing the result of the compartment exam, the petitioner Aditya Munjal along with his parent approached the school on 12th April 2016 for verification of the result and the answer sheet. On the same day itself, the petitioner was shown the answer sheets for which neither the petitioner nor the parents had raised any objection for the result. It is contended that after a lapse of 3 months the petitioner has approached this Hon''ble Court.

29. It is contended that a Writ Petition is not maintainable in educational matters. Reliance is placed on the decision of the Supreme Court In Maharashtra State Board of Secondary and Higher Secondary Education v. Paritosh Bhupesh

Kumar Sheth (1984) 4 SCC 27 and Medical Council of India Versus Sarang (2001) 8 SCC 427 to contend that in matters of academic standards courts should not normally interfere or interpret rules and such matters should be left to experts in the field.

30. It is contended that the circular dated 08.09.2001 has been issued under Rule 41 of the Rules and Rule 41 empowers the administrator to issue instructions regarding assessment, evaluation and promotion. It is contended though the heading of the rule includes the word "examination" but from the main body of the rule, the word "examination" is missing and as such under Instruction 37, a school has only to obtain prior approval of the Director of Education to have more stringent criteria of assessment, evaluation or promotion. It is contended that "examination" is not within the scope of rule 41 and the instruction 32 with regards to holding the compartment examination in last week of April before summer vacation is outside the jurisdiction of the Administrator and is wholly advisory, directory and non-binding in nature on the school.

31. It is contended that "examination" has been deliberately omitted and left out of the Administrator''s power as the subject of "examination" is a matter of internal detail and as a matter of universal practise left to the management of school. It is contended that private unaided institutions have to be accorded maximum autonomy in the day-to-day administration.

32. To resolve the controversy, it would be expedient to examine the relevant rules as also the relevant instructions issued under rule 41. Rule 41 of the Rules stipulates as under:

41. Examination, assessment, evaluation, promotion, etc. (1) The Administrator shall, on the advice of the Advisory Board, Issue detailed instructions regarding assessment, evaluation and promotion of students from one class to another.

(2) He may also issue instructions for programmed learning and informal system of education.

33. The relevant Instructions contained in the Circular dated 08.09.2011 read as under:

29. Promotion Rules For Class IV To XI: In order to be declared "passed" at the end of the session, a student must secure at least 33% marks in each of the following subjects studied by him/her during the session subject to the condition that he/she secures 33% marks separately in theory and practical portion also. The promotion is also subject to the condition that a minimum of 25% marks should be secured in the comprehensive test. In computing 33% of the marks, the benefit of a fraction will go to the credit of the student and as such a student shall be declared "passed" and he/she shall be promoted to the next higher class.

Provided that ???.

31. Promotion Rules for Classes IX & XI: A student not eligible to be declared "passed" shall be declared "promoted" at the end of the session of a class provided he/she is entitled for grace marks as admissible under Instruction 35 of these rules.

32. Compartment Examination: A student who is eligible to take the comprehensive test In order to be declared "passed" can be declared eligible for appearing at the "compartment examination", provided he/she has obtained at least 20% in one falling subject in class XI and in not more than two falling subject(s) in classes IV to IX. In case the candidate gets at least 15% of marks in falling subject/subjects (not more than two in classes IV to IX), he should get at least 40% marks in aggregate in the remaining subjects in order to become eligible for the compartment examination. Such a student shall be eligible to appear in the subject(s) at a subsequent examination to be held in the last week of April before the summer vacation and to be known as the "Compartment Examination". If the student secures in the subject(s) in which he/she has taken the compartment examination, at least 33% marks disregarding the terminal test marks, he/she shall be declared successful in the compartment examination and promoted to the next higher class.

35. Grace Marks for classes IX & XI: Grace marks upto a maximum of 10 in all, shall be awarded to a student to reach the minimum required 33% of marks in each of the subject(s), subject to the condition that a minimum of 25% of marks shall be secured in each subject at the comprehensive test as per rule, 29 to make him eligible for promotion, provided he/she does not require more than 5 marks in a subject to come upto the minimum required of 33% of marks in that subject.

However, no grace marks shall be awarded to a student taking the compartment examination.

37. All Recognised unaided schools are required to comply with these instructions and no dilution of the criteria prescribed is permissible under any circumstances. If, however, a recognised Unaided school desires to have more stringent criteria than those prescribed in these instructions, it can do so provided it has sought and obtained the prior approval of the Director of Education. All such requests must reach the Office of the Director of Education by 30th April of the session at the latest.

38. All schools, Government, Recognised Unaided and Aided shall bring these instructions to the notice of the student and their parents/guardians immediately on the commencement of the session and, in any case, by 15th of April.

34. In terms of instruction 29 to be declared "passed" at the end of the session, a student has to secure at least 33% marks in each of the subjects studied by him/her during the session subject to the condition that he/she secures 33% marks separately in theory and practical portion also. The promotion has also been made subject to the condition that a minimum of 25% marks are secured in

the comprehensive test. While computing 33% of the marks, the benefit of a fraction is to be given to the credit of the student.

35. Instruction 31 stipulates that a student not eligible to be declared "passed" shall be declared "promoted" at the end of the session of a class provided he/she is entitled for grace marks as admissible under instruction 35 of these rules.

36. Instruction 35 lays down that grace marks upto a maximum of 10 in all can be awarded to a student to reach the minimum required 33% of marks in each of the subject(s). To be entitled to promotion on the basis of grace marks, a student has to secure a minimum of 25% of marks in each subject at the comprehensive test as per rule, 29, provided he/she does not require more than 5 marks in a subject to come upto the minimum required of 33% of marks In that subject. No grace marks can be awarded to a student taking the compartment examination.

37. Instruction 32 dealing with Compartment Examination stipulates that for a student to be eligible to take the compartment examination, he/she has to obtain at least 20% marks in one falling subject in class XI. In case the candidate gets at least 15% marks in falling subject, he should get at least 40% marks in aggregate in the remaining subjects in order to become eligible for the compartment examination.

38. Instruction 32 further stipulates that such a student would be eligible to appear in the subject, at a subsequent examination to be held in the last week of April before the summer vacation and to be known as the "Compartment Examination". The student to be declared successful in the compartment examination and promoted to the next higher class has to secure at least 33% marks in the compartment examination disregarding the terminal test marks.

39. Instruction 37 mandates that all Recognised unaided schools are required to comply with these instructions and no dilution of the criteria prescribed is permissible under any circumstances. If, a recognised Unaided school desires to have more stringent criteria than those prescribed in the said instructions then it can do so only after obtaining the prior approval of the Director of Education. Request for obtaining prior approval has to reach the office of the Director of Education by 30th of April of the session at the latest.

40. Instruction 38 mandates all schools, Government, Recognised Unaided and Aided to bring the instructions to the notice of the students and their parents/ guardians immediately on the commencement of the session and, in any case, by 15th of April.

41. In so far as the contention of the petitioners, that the Respondent/School violated the norm of the CBSE for the academic year 2015-2016 in setting of the question paper of accountancy for the final as well as the compartment paper, is concerned, I find no merit in the same. The respondent school has categorically stated that the school follows the criteria prescribed by CBSE. The Question Papers design for Accountancy, were based on the guideline suggested by CBSE.

Nothing to the contrary has been pointed out by the petitioners. Furthermore, it would be a pure subjective assessment of the question paper, which a court in exercise of jurisdiction under article 226 of the Constitution of India, would refrain from doing.

42. With regard to the contention of the petitioners regarding inclusion of the questions from the chapter "Fundamentals of Partnership", the respondent/ school has categorically averred that the said chapter is taken towards the end of the academic year of Class XI and subsequently, the chapter is also taken up in the beginning of the Class XII syllabus. It is contended that nothing that was not part of the Class XI syllabus was part of the compartment examination question paper. Nothing has been placed on record by the petitioners, to the contrary, so this contention is not sustainable.

43. With regard to the marking scheme of the answers, once again I am of the view that the contention of the petitioners is without any merit. It would be a subjective assessment. Petitioners have failed to show any material that the school has under marked the answers or that the assessment of the answer sheets is incorrect in any manner.

44. Now coming to the contention of the Petitioner/Aditya Munjal, that he should have been given five grace marks, which would have eventually taken his cumulative score to 32.8 and he would have been entitled to the benefit of the fraction in terms of Instruction 29 and thus would have secured 33% marks and would have been eligible for promotion.

45. To be declared passed in the accountancy paper, the Petitioner/Aditya Munjal had to secure at least 33% marks in the said paper during the session (one year). He should have had at least 33% in the cumulative score (cumulative of all tests/examination held during the year). He should also have had secured a minimum of 25% in the comprehensive examination (Final examination). In accountancy subject, Petitioner/Aditya Munjal had 27.8% in the cumulative examination but only 24% in the comprehensive examination.

46. In terms of instruction 35 to be entitled to five grace marks, Petitioner/Aditya Munjal required at least 25% in the comprehensive examination but he only had 24% marks. If he had 25% in comprehensive examination and 27.8 % in cumulative he would have been entitled to five grace marks which would have taken his score to 32.8% and then he would have further got the benefit of the fraction which would have rounded off his score to 33%. However, that is not the case. He has only 24% marks in the comprehensive examination and thus cannot claim the benefit of grace marks.

47. The benefit of grace marks has not been claimed by the Petitioner Deeksha Madaan, and rightly so, as her cumulative score is 23.1% and her comprehensive marks are 18.5%.

48. Now coming to the contention of the petitioner with regard to violation of

Instruction 32 by the Respondent/School by holding the compartment examination on 04.04.2016 and not in the last week of April before the summer vacations.

49. Instruction 4 of the Circular dated 08.09.2001 stipulates that the annual result must be declared by the last working day of the month of March. In compliance of the said instruction, the result of the final examination was declared by the Respondent/school on 31.03.2016.

50. The Compartment examination for the accountancy paper was held on 04.04.2016 within 4 days of the declaration of the result of the main examination on 31.03.2016.

51. Instruction 32 stipulates that the compartment examination is to be held in the last week of April before the summer vacation. Since the instructions stipulate that the result of the final examination has to be announced by the last working day of the month of March and the compartment examination is to be held in last week of April, the rationale behind the instructions is apparent. Normally a student who is not able to obtain requisite marks in the final examination would be a weak student and to expect a weak student to prepare for a comprehensive compartment examination in three days would be unreasonable. By following the dates of declaration of the result of the final examination on last day of March and holding the Compartment Examination in last week of April, such weak students would get reasonable amount of time to prepare for the compartment examination. Expecting a student, who consistently performed badly throughout the year, to be able to prepare within three days is unreasonable. If the instructions are followed the weak student would get reasonable time to focus on and prepare the subject. The Respondent/school could not have curtailed/reduced the period of preparation stipulated by the instructions for the compartment examinations.

52. The contention of the Respondent/school that the parents of the petitioners had not protested to the holding of the compartment examination on 04.04.2016 and having taken the compartment examination, the petitioners cannot be permitted to challenge the same, is not sustainable. The letter/undertaking got signed by the Respondent/school does not show that any choice was given to the parents about the date of the examination. It was like a "take it or leave it" offer. A parent who is informed that his/her child has not cleared the final examination and may lose a year, would have no option but to accept the offer of the compartment examination which is scheduled immediately after four days.

53. It was for the Respondent/school to have ensured compliance with the instructions of the Directorate of Education and that a weak student gets reasonable time to prepare for the compartment examination so that a whole academic year of the student is not wasted. Merely because the school has in the past also held the compartment examination in the first week of April and the parents did not protest about the date is of no consequence as there can be no

estopple against statute. When the Directorate of Education has issued instructions, which have to be complied with, the school even with the concurrence of the parents cannot contravene the same. More so when the parents have no option but to toe the line of the school.

54. The contention of the Respondent/school, that because the Word ''Examination'' is absent from the body of Rule 41 of the Rules, the 08.09.2001 Circular can only operate with regard to assessment, evaluation and promotion and not with regard to examination, is not sustainable. Assessment, evaluation and promotion cannot be disjointed from examination. Assessment, evaluation and promotion of a student can only happen through the process of examination. It is only through the process of examination that the performance of a student can be assessed and evaluated and thereafter the student promoted. All four go hand in hand. It cannot be held that the circular would be mandatory and binding in so far as assessment, evaluation and promotion is concerned but merely directory with regard to examination. Merely because the word ''examination'' is missing from the main body of Rule 41, though present in the heading, would not make any difference. Any instruction with regard to assessment, evaluation and promotion would presuppose the involvement of an examination process, as they cannot be separated from each other.

55. Further, rule 43 of the Rules provide a residuary power to the Administrator to issue instructions in the interest of school education in Delhi in relation to any matter, not covered by the rules, as he may deem fit. Even if, it is assumed that ''examination'' is not covered by Rule 41, the Administrator is empowered under Rule 43 to issue such instruction. Looked at from any angle, the instructions are binding on the Respondent school and they should have adhered to the same.

56. The decision in the case of G. Sarana (DR.) (Supra) relied upon by the Respondent/school, to contend that the children having taken the compartment examination without any protest cannot now be permitted to challenge the same on the ground that sufficient time was not granted, is not applicable in the facts of the present case. The said case pertained to selection for the post of Professor of Anthropology. After being unsuccessful in the selection, the petitioner therein sought to challenge the constitution of the selection committee on the ground of bias. In these circumstances, the Supreme Court held that having submitted to the jurisdiction of the selection committee, the petitioner could not be permitted to challenge the constitution of the committee. In the present case, the petitioners did not have any choice but to agree to the date of the compartment examination. It cannot be said that the Petitioners voluntarily agreed to the date. Furthermore, the factual matrix of the present case is completely different.

57. The reliance placed by the Respondent/school on the decision of the Supreme Court in Maharashtra State Board Of Secondary And Higher Secondary Education (Supra) And Medical Council of India v. Sarang (Supra) to contend that in matters of academic standards courts should not normally interfere or interpret rules and such matters should be left to the experts in the field is also

misplaced. The present is not a case where this court is seeking to interfere with the decision of experts or to interpret the rules contrary to what is stipulated by experts but it is a case where the rules framed by experts (Directorate of Education) is being violated by the Respondent/school.

58. The Circular dated 08.09.2001 has been issued by the Director of Education on the advice of the Delhi School Education Advisory Board, which comprises of experts in the field. The circular has been made applicable to all Government and Recognised Aided and Unaided Schools in the National Capital Territory of Delhi. The circular lays down a uniform policy for all students studying in Government and recognised aided and unaided schools in the National Capital Territory of Delhi. The petitioners re merely seeking compliance of the circular which has been issued on the advice of the experts in the field.

59. The Respondent/school is admittedly following the circular in all other respects. The Respondent/school is thus estopped from contended that the circular is merely directory and not binding in so far as the date of holding of the compartment examination is concerned.

60. The contention of the Respondent/school, that the petitioners are not entitled to any relief as they failed to disclose about the fact that the parents were kept informed by the school about the consistent poor performance of the petitioners and also that they had signed the undertaking and accepted the date of the compartment examination as 04.04.2016 without protest, is unsustainable. The said facts are not material for the purposes of deciding whether the circular is binding on the respondent/school or not. Further, it has already been held, herein above that the respondent/school cannot rely on the principles of estopple.

61. In view of the above, it is held that the Respondent/school faulted in not holding the compartment examination in accordance with the Circular dated 08.09.2001. The result of the compartment examination of the petitioners is thus quashed. The Respondent/school is directed to hold the compartment examination of the petitioners in the accountancy paper immediately after two weeks. The result shall be declared within one week thereafter. In case the petitioners obtain the qualifying 33% marks in the compartment examination, they shall be promoted to class XII. The interim order dated 24.08.2016, permitting the petitioners to provisionally attend class XII, shall continue to operate till the declaration of the result of the compartment examination. It is clarified that this decision shall have no bearing on the result of the other students who had appeared and qualified in the Compartment examination. The writ petitions are disposed of in the above terms. No costs.

