

(2025) 07 DEL CK 0854

In the Delhi High Court

Case No : Writ Petition (C) No. 10462 Of 2024

Md Aram

APPELLANT

Vs

State Of Nct Of Delhi & Ors

RESPONDENT

Date of Decision : 09-07-2025

Acts Referred:

Citation : (2025) 07 DEL CK 0854

Hon'ble Judges : Vikas Mahajan, J

Bench : Single Bench

Advocate : Mohd. Azam Ansari, Ashok Kumar

Final Decision : Dismissed

Judgement

Vikas Mahajan, J

W.P.(C) 10462/2024 & CM APPL. 36857/2025 (for permission to appear as a private candidate in the supplementary exam)

1. The present petition has been filed by the petitioner seeking following relief:

“(A) Issue a writ of certiorari and quash and set aside CBSE order bearing reference no. CBSE /ROD/ Legal/2024/1330 dated 25.06.2024 and declare the petitioner as passed in his Class-12 Board examination as per Rule 40.1 (i) of Examination Bye Laws reproduced in Ground A of this writ petition which reads as under for kind perusal:-

(i) A candidate will be eligible to get the Pass Certificate of the Board, if he/she gets a grade higher than E in all subjects of internal assessment unless he/she is exempted. Failing this, result of the external examination will be withheld but not for a period of more than one year.

(B) Quash Rule 40.1 (ii) of Examination Bye Laws being contradictory to rule 40.1(i) reproduced above and direct respondents to declare petitioner passed in his class-12 board exam as petitioner has obtained minimum 33%

marks in all his six papers including in additional 6th subject in both theory & practical combined together and also quash their reevaluation order in History and award at least 10 marks in History as zero marks cannot be given for four attempted questions for which 12 marks claimed. Or, In the alternative

(C) Issue a writ of mandamus directing respondents to allow the petitioner to appear in compartment/supplementary exam ignoring all issues raised in this petition in order to enable the petitioner to ultimately pass his Class 12 Board Exam by writing his compartment exam & sympathetically consider the petitioner's case under exceptional circumstances on medical grounds for his mental health conditions since 2022."

2. The case set out by the petitioner in the present petition is that the petitioner passed Class X board examination with 50.5% marks in the year 2022. However, the petitioner started facing mental health issues when he was due to take his Class XII board examinations. Resultantly, the petitioner could only pass in two subjects i.e. Hindi and Political Science out of the mandatory five subjects and failed in three subjects being English, History and Geography. It is, however, stated that petitioner scored above 95% in his practical / internal assessment exams in all six subjects, including the elective/optional subject.

3. Since the petitioner had failed in three subjects, the result declared by the CBSE showed 'Essential Repeat' for the petitioner.

4. Aggrieved by the same, the petitioner filed writ petition being W.P.(C) 8619/2024, which was disposed of by this Court vide order dated 12. 06.2024 with a direction to the CBSE to treat the writ petition as representation and pass an order thereon, with liberty to the petitioner to approach this Court again if his grievance survives.

5. Subsequently, the petitioner's representation was rejected by CBSE vide impugned order dated 25.06.2024 wherein it was observed that petitioner's result is 'Essential Repeat' since he had 'Repeat in Theory' [RT] in three subjects, out of the total six subjects. It was further mentioned that petitioner cannot be permitted to appear in supplementary examination as he is not eligible for the same, nor any grace marks could be awarded to him since he had failed in three subjects out of the mandatory five subjects.

6. Mr. Mohd. Azam Ansari, learned counsel for the petitioner submits that since the petitioner had got a grade higher than 'E' (minimum 33%) in internal assessments, therefore, he is eligible to be declared as 'Pass' notwithstanding the fact that he has failed in three theory subjects i.e. English, History and Geography. To buttress his contention. He invited attention of the Court to Clause 40.1(i) of CBSE's Examination Bye-Laws, 1995 [hereinafter 'the Bye-Laws'], which inter alia provides that a candidate will be eligible to get the Pass Certificate of the Board, if he/she gets a grade higher than 'E' in all subjects of internal assessment unless he/she is exempted. He submits that the respondent / CBSE has not adverted to the said Clause 40.1(i) while passing the

impugned order.

7. He further submits that Clause 40.1(ii) provides a condition that for being declared passed in the examination, a candidate must obtain a grade higher than 'E' (i.e. at least 33% marks) in all five subjects of external examination in the main or the compartmental examinations, which is contrary to Clause 40.1(i).

8. He invites attention of the Court to Clause 3(a) of the Circular dated 30.05.2024 bearing CBSE/COORD/REGULAR/SUPPL/2024 issued by the CBSE to contend that the petitioner should not have been declared as failed unless he had been afforded three chances of compartment by the CBSE. The said clause reads thus:

"3. It is also informed to the schools that the students who appeared in session 2022-23 in full subjects (i.e. 5/6/7 as per the Scheme of Studies) either as regular students through schools affiliated to the Board or as Private Students, and their result was declared as "COMPARTMENT" and they could not pass in Compartment-2023 Exams (1st Chance) and 2024 Examinations (2nd Chance), all such students are eligible to apply only as Private Students for 3rd and last chance in Supplementary Examinations-2024.

(a) Maximum of three chances are available for a student to pass an examination if placed in the Compartment category in the Main examinations."

(b)

9. He further contends that the petitioner has been suffering from deteriorating mental health condition and thus, an alternative prayer has been made to the effect that the petitioner may be given another chance for supplementary examination on sympathetic grounds.

10. Per contra, Mr. Ashok Kumar, learned counsel appearing on behalf of CBSE invites attention of the Court to Clause 40.1 of the Bye-Laws to contend that there is no inconsistency in the sub-clauses contained therein. He submits that a reading of the clause in its entirety makes it clear that a candidate must obtain 33% marks in theory, as well as, 33% marks in practical/internal assessments separately, in addition to 33% marks in aggregate in order to qualify in a particular subject.

11. He further invites attention of the Court to the impugned order dated 25.06.2024 to submit that since petitioner had failed in theory exams of three subjects, therefore, the overall result of the petitioner was declared as 'Essential Repeat'.

12. He refers to the eligibility criteria for supplementary examination for Class XII detailed in Annexure 1 attached to the aforesaid Circular dated 30.05.2024 to contend that a student is not eligible to apply for supplementary exams in more than one subject, whereas the petitioner has not scored passing marks for the theory component in three subjects.

13. He further contends that the petitioner had also filed an application being CM APPL. 7605/2025 in the present writ petition seeking direction to the respondent to allow the petitioner to appear in the three subjects i.e. English, History and Geography and/or entire six subjects again in Class-XII Annual Board Exam commencing from 15 Feb 2025. The said application was dismissed and against such dismissal, the petitioner preferred an appeal being LPA 113/2025, which also came to be dismissed by the Division Bench vide order dated 14.02.2025.

14. I have given my thoughtful consideration to the submissions of the learned counsel for the parties.

15. It is the case of the petitioner that he appeared in Board Examinations for Class-XII in six subjects viz.- (i) English Core, (ii) Hindi Elective, (iii) History, (iv) Political Science, (v) Geography, and (vi) Physical Education (additional subject).

16. It is an admitted case of the petitioner that out of the five mandatory subjects, he could pass only in two subjects i.e. (i) Hindi Elective and (ii) Political Science, whereas, he failed in three subjects i.e. (i) English Core, (ii) History and (iii) Geography.

17. The result of the petitioner issued by the respondent/CBSE for Senior School Certification Examination (Class-XII)-2024 is as under:

18. The first contention of the learned counsel for the petitioner is that petitioner has got grades higher than 'E' in the internal assessment of all the subjects, therefore, he is eligible to get the Pass Certificate from the Board, irrespective of petitioner not having obtained minimum qualifying marks in theory. This contention is predicated on Clause 40.1(i) of the Examination Bye-laws, which reads as under:

"A candidate will be eligible to get the Pass Certificate of the Board, if he/she gets a grade higher than E in all subjects of internal assessment unless he/she is exempted. Failing this, result of the external examination will be withheld but not for a period of more than one year."

(emphasis supplied)

19. It is further the contention of the learned counsel for the petitioner that Clause 40.1(ii) of the Bye-laws is contradictory to the above quoted Clause 40.1(i) of the Bye-laws. Therefore, it is also apposite to reproduce Clause 40.1(ii) which reads as under:

"In order to be declared as having passed the examination, a candidate shall obtain a grade higher than E (i.e. at least 33% marks) in all the five subjects of external examination in the main or at the compartmental examinations. The pass marks in each subject of external examination shall be 33%. In case of a subject involving practical work a candidate must obtain 33% marks in theory and 33% marks in practical separately in addition to 33% marks in aggregate in order to qualify in that subject."

(emphasis supplied)

20. A perusal of Clauses 40.1(i) & (ii) in the light of the above quoted mark sheet issued by the respondent/CBSE suggests that apart from the theory exam, or external examination, for the subjects, each subject has another component of assessment being either a practical, internal assessment or a project.

21. Clause 40.1(i) deals with the subjects having a component of internal assessment and provides that a candidate will be eligible to get the Pass Certificate of the Board, if he/she gets a grade higher than 'E' in all subjects of internal assessment, which means that a candidate has to separately pass in the internal assessment of all the subjects with a grade higher than 'E', threshold for which is 33% of the maximum marks for the said component.

22. Likewise, Clause 40.1(ii) deals with the subjects involving practical work. It provides that a candidate must obtain 33% marks in practical separately, besides 33% in theory, in addition to 33% marks in aggregate in order to qualify in that subject. The said Clause further provides that in order to be declared as having passed the examination, a candidate shall obtain a grade higher than E (i.e. at least 33% marks) in all the five subjects of external examination in the main or at the compartmental examinations.

23. From a conjoint reading of sub-clauses (i) and (ii) of Clause 40.1 of the Bye-laws, it is clear that a candidate has to separately pass in theory as well as in practical/internal assessment. Merely getting a grade higher than 'E' (i.e. at least 33% marks) in the internal assessment, without obtaining minimum 33% marks in theory, will not make a candidate eligible for obtaining pass certificate from the respondent/CBSE. The interpretation of Clause 40.1(i) put forth by the petitioner's counsel is thus, misconceived and does not stand to reason, nor is Clause 40.1(ii) contrary to Clause 40.1(i) of the Bye-laws. In fact, Clauses 40.1(i) cannot sensibly be read in isolation, it will have to be read in conjunction with Clause 40.1(ii) so as to provide purposeful meaning to it.

24. Insofar as Mr. Ansari's submission that the petitioner is entitled to be given chance to take compartment examination is concerned, it will be apposite to refer to the Eligibility Criteria for Supplementary Examination-2024 for Class XII mentioned in Annexure 1 of the Circular dated 30. 05.2024 placed on record along with the short counter-affidavit, relevant part of which is as under:

“

ELIGIBILITY CRITERIA: CLASS XII

(A)

Regular students who appeared in Board's Examinations 2024 through schools affiliated to the Board and declared as COMPARTMENT are eligible to apply only in one subject in which they are placed in the Compartment. OR

(B)

Regular students who appeared in Board's Examinations 2024 through schools affiliated to the Board with 6 subjects and placed in COMPARTMENT in two subjects are eligible to apply in any one of the two subjects in which placed in the Compartment. OR

"

25. The above eligibility criteria evidently provides that where a candidate has appeared for Class-XII Examination-2024 for only the mandatory subjects and has been declared as compartment, he/she would be eligible to apply for supplementary examination only in one subject in which he/she has been placed in compartment. It is further provided that where a candidate with six subjects has been placed in compartment in two of the subjects, then he/she is again eligible to apply for supplementary examination only in any one of the two subjects in which he/she is placed in compartment. Meaning thereby, a candidate is eligible to apply for supplementary examination only in one subject and not more than that.

26. As noted above, petitioner has not obtained minimum 33% marks in theory in three mandatory subjects, therefore, he is not eligible for supplementary examination. Thus, the respondent/CBSE has rightly declared his result as 'Essential Repeat'.

27. As regard the submission that petitioner was suffering from a mental health condition and thus, he should be given a chance for supplementary examination on sympathetic grounds, suffice it to say that no provision has been shown by Mr. Ansari, either in the Examination Bye-Laws or otherwise, which allows relaxation of eligibility criteria for taking supplementary examination for Class-XII on medical grounds. This Court cannot issue mandamus to the respondent/CBSE contrary to its Examination Bye-laws.

28. In view of above, there is no merit in the petition.

29. The present petition is dismissed, along with the pending applications.

30. The dates already fixed i.e. 17.07.2025 and 28.10.2025 stand cancelled.