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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 10063/2020

NILKANTH DAS AND ORS. Petitioners

Through: Mr. N.K. Sahoo, Advocate

versus

CBSE AND ORS. Respondents

Through: Mr. Ashok Kumar, Advocate
for R-1 and R-3

CORAM:

HON'BLE MR. JUSTICE C.HARI SHANKAR

JUDGMENT (ORAL)

05.01.2024

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1. This one of those unfortunate cases in which the Court regrets that it has to rule from the head and not from the heart.

2. The facts are brief.

3. Petitioner 2 Miloni Das ("Miloni" hereinafter) was a student of the Indian School (hereinafter "the school") at Muscat, Oman, affiliated to the Central Board of Secondary Education (CBSE). She entered Class X in 2019 and passed out of Class X in 2020. Petitioner 2's contention is that she has been a student, who has been maxing in her papers throughout. Petitioner 1 Nilakantha Das is the father of Petitioner 2.

4. On 15 July 2020, the CBSE announced the final examination results of Class X. On perusing the results, the petitioners noticed that



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Miloni was awarded only 18 marks out of 20 in internal assessment in the Social Studies paper though she scored 20 out of 20 in all other subjects. This appears to have provoked the petitioners to contact the school, claiming that Miloni ought to have been awarded 20 on 20 in internal assessment for her Social Studies paper as she had been awarded 20 marks out of 20 in internal assessment for all other subjects.

5. How Miloni presumed that she had scored 20 on 20 in the internal assessment of her Social Studies paper, and not 18 on 20, is not immediately forthcoming from the writ petition. However, that may not be a matter of concern as the school apparently acknowledged its mistake. On 16 July 2020 itself, the school addressed a communication to the CBSE, stating that it had erroneously uploaded the internal assessment marks of seven students – including Miloni – as 18 out of 20 instead of 20 out of 20. As such, the school requested the CBSE to carry out the necessary corrections at its end.

6. The school, on 7 August 2020, addressed yet another communication to the CBSE in this regard, which reads thus:

“The Regional Director
Central Board of Secondary Education
Delhi (EAST), Patparganj, New Delhi

Date: Aug 7, 2000

Dear Sir,

Subject:- Correction in the Internal Marks of Class X, School
Code 90075, Centre No. 9033)

Greeting from Indian school Muscat!



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We would like to bring it to your kind notice that due to heavy data entry of internal marks for more than 525 students of class X from our school, By mistake the data entry staff entered a few entries wrong as compared to awarded marks of internal by the teacher. (Copy of Internal marks attached) The details are the following:

			Social Studies (087)	
Sr. No.	Roll Number	Name of Pupil	Uploaded Marks	Actual Marks
1.				
2	27108426	MILONI DAS	18	20
3				
4				
5				
6				

			Functional English (84)	
Sr. No.	Roll Number	Name of Pupil	Uploaded Marks	Actual Marks
1.				

We apologize for the mistake carried out by our staff. We are requesting you to help us in providing the correct mark for the students as it would impact the performance of the student's marks which is not their fault. Keeping the student's welfare may we request you do the needful in this regard. As the mistake is at the school end we are ready to pay the fine if any, as per CBSE rules.

Thanking you in advance for your kind consideration for understanding the issue.

With warm regards
Sd.
Dr. Rajeev Kumar Chauhan
Principal
INDIAN SCHOOL MUSCAT
School Code: 90075"



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7. On 31 August 2020, the CBSE responded to the school stating that it was not possible to accede to the request to change the internal assessment marks of the seven candidates, in respect of whom the school claimed to have committed an error, in view of Circular No. F.No. CBSE/AS(COORD)/IA/X/2020 dated 30 January 2020. The said Circular dated 30 January 2020 reads as under:

“No. CBSE/AS(COORD)/IA/X/2020

Dated: 30.01.2020

To
The Heads of Schools
affiliated to the Board.

Reg: Uploading of Marks of Internal Assessment/ Practical at Class X level w.e.f. 01.02.2020 to 15.02.2020

Madam/Sir,

The Internal Assessments/ Practicals for Class X have been conducted by the schools in the academic session 2019-2020 as stipulated in the Secondary School Curriculum. The link for uploading of the Marks will be open **w.e.f. 01.02.2020 to 15.02.2020**. All schools are, therefore, requested to upload the marks during the above said period.

Your attention is invited to Circular No. CBSE/Coord/DS/EC/2019 dated 11.10.2018 wherein you were informed that the students will have to secure overall 33% marks (both Internal Assessment/Practical and theory taken together) in each subject to be eligible to pass that subject. It should be ensured that correct marks are uploaded so as to enable the CBSE to declare correct result.

While uploading marks, schools will ensure that correct marks are uploaded as no correction in the marks will be allowed once marks are uploaded. Schools should also keep in mind maximum marks allotted for Internal Assessments/ Practicals while awarding/uploading marks as per Circular No. COORD/PTG/2019, dated 08.11.2019 available on link available



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http://cbse.nic.in/newsite/attach/UPLOAD_LIST%20F%20SUBJECTS%20HAVIG%20PRACTICAL%20PROJECT%20INTERNAL%20ASSESSES.pdf

Yours faithfully

Sd./30.01.2020

**(DR. SANYAM BHARDWAJ)
CONTROLLER OF EXAMINATIONS**

8. It would also be relevant to reproduce para 8 of Circular No. COORD/PTG/2019 dated 8 November 2019, which is cited in the Circular dated 30 January 2020 of the CBSE:

“8. Schools may accordingly upload the marks on website after Practical/Project/Internal Assessment components for Classes X & XII (as applicable). *No request from the school after uploading of marks will be accepted by the CBSE that wrong marks have been uploaded and thus the same may be corrected. Marks once uploaded will be treated as final for preparing the Board’s result.*”

9. The petitioner apparently filed an application, thereafter, under the Right to Information Act, 2005 (RTI Act), to which the CBSE responded on 10 November 2020. Apropos this response, para 21 of the writ petition avers thus:

“21. That on 10.11.2020 the CBSE sent its reply to the information sought for under RTI along with document enclosed. The reply acknowledges that the petitioner’s actual Marks 20 in place of Uploaded marks 18 for which request received for correction from the Office of School on 16.07.2020 just after declaration of result on 15.07.2020 i.e. too during interregnum period for revaluation of Theory subjects to correct the errors for any reasons. The copy of reply under RTI Act is annexed and marked as Annexure P-14.”

10. Though, according to para 21 of the writ petition, CBSE, in its response dated 10 November 2020 acknowledged that the actual internal assessment marks of Miloni in Social Studies was 20 and not



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18, no such acknowledgment is forthcoming in the communication dated 10 November 2020 from the CBSE, which reads as under:

“**CBSE/ROD/RTI/4059/2020 Dated – 10/11/2020**

Online reg. no. – CBSER/R/E/20/03729

Mr. Nilakantha Das

B-6, Kings Apartments, Plot No. 124,

VIP Colony, Nayapalli, Bhubneswar, Delhi-751015

Email-nila_das@rediffmail.com

Sub:- Information sought under RTI 2005

This is with reference to your request received in this office dated 25.10.2020, on the above subject. In this regard, the information as sought by you and the information provided are given here under:

Information sought	Information provided
I would request CBSE authorities to provide following information about my daughter MILONI DAS Class-X board exam result 2019-20. Roll No. 27108426. School No. 90075. Admit Card No. ML429033	<u>Point no.1</u> The internal marks of Social Science Subject in r/o Miloni Das is 18 out of 20
1) INTERNAL MARK on SOCIAL SCIENCE (087) subject received by CBSE from School.	<u>Point no.2</u> The information sought pertains to concerned school. You may approach directly for the same.
2) Detail distribution of the internal mark like how much she scored in periodic tests, class test, notebook submission, projects etc.	<u>Point no.3</u> The email copy sent by concerned school dated 08.08.2020 is enclosed.
3) Detailed communication sent by school to CBSE to increase the internal mark on social science subject.	<u>Point no.4</u> The letter issued by this office to the school dated 31.08.2020 is enclosed.
4) Detailed communication sent by CBSE to school rejecting the request made by school.	<u>Point no.5</u> As per Circular No. COORD/PTG/2019 dated 08.11.2019 and CBSE/AS(COORD)/IA/X/2020 dated 31.01.2020, no correction in the marks will be allowed,



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5) What are the rules/guidelines/provisions available in CBSE, if there is a mistake done by school in internal marks before/after board exam. Kindly send me the above information on my mail id.	once marks are uploaded. The link of above said circular is given below: https://cbse.nic.in/newsite/attach/UPLOADLIST%20OF%20SUBJECTS%20HAVING%20PRACTICAL_PROJECTINTERNAL%20ASSES.pdf (circular dated 08.11.2019) https://cbse.nic.in/newsite/attach/UPLOADING%20MARKS%20OF%20INTERNAL%20ASSESSMENT%20CLASS-X%20(2020).pdf (circular dated 30.11.2019)
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In case you are not satisfied with the above information, you may prefer First Appeal to the First Appellate Authority within 30 days from the date of receipt of this letter, whose particulars are given below:-

The First Appellate Authority
The Joint Secretary
Central Board of Secondary Education
PS 1-2, Institutional Area, I.P. Extn, Patparganj
Delhi-110092

Yours faithfully,

Public Information Officer”

11. As such, it is not as though the CBSE at any stage accepted the internal assessment marks of Miloni in Social Studies to be 20 and not 18.

12. As the CBSE was thus unwilling to accede to the request either of the school or of the petitioners, to revise the internal assessment marks awarded to Miloni in the Social Studies stream from 18 to 20, she has approached this Court through her father, by means of the



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present writ petition under Article 226 of the Constitution of India. The writ petition seeks a writ of mandamus directing the CBSE to correct Miloni's internal assessment marks in Social Studies for Class X in the academic year 2019-2020 from 18 to 20, along with consequential reliefs.

13. I have heard Mr. N.K. Sahoo, learned Counsel for the petitioners and Mr. Ashok Kumar, learned Counsel for the CBSE at some length.

14. Mr. Sahoo submits that there is no dispute about the fact that Miloni was, in fact, awarded 20 marks, and not 18 marks in internal assessment in Social Studies.

15. When this writ petition had initially come up before this Court, it was specifically queried of Mr. Sahoo as to whether he desired to challenge the Circulars of the CBSE, on the basis of which they had rejected the request for revision of the Social Studies internal assessment marks of Miloni. Mr. Sahoo responded in the negative.

16. On the next date of hearing, on 13 September 2021, when the matter was listed next, Mr. Sahoo sought time to cite authorities to support his submission that the decision of the CBSE deserves to be set aside even if it was in accordance with its own Circulars.

17. Before me, Mr. Sahoo submits that Miloni cannot be subjected to prejudice on account of the error committed by the school. He



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submits that there is no dispute about the fact that Miloni had, in fact, been awarded 20 instead of 18 marks in the internal assessment in Social Studies. The school had also acknowledged the error. In that view of the matter, he submits that the CBSE was not justified in adopting a rigid stance and citing its Circulars as a ground not to correct the internal assessment marks as entered on its record, blind to the adverse effect of a student's marks being wrongly reflected in the CBSE certificate. In this connection, he draws my attention to the fact that Clause 8 of the CBSE Circular dated 8 November 2019 uses the word "will" and not "shall".

18. Mr. Sahoo also places reliance to support his submission on the judgment of the Supreme Court in *Charles K. Skaria v. Dr. C. Mathew*¹ and *Dolly Chhanda v. Chairman, JEE*², specifically drawing attention to para 20 of the former and paras 7 and 8 of the later decision. He has also placed reliance on the well-known judgment of the Supreme Court in *Justice K.S. Puttaswamy v. U.O.I.*³.

19. Having heard Mr. Sahoo, while this Court empathizes with the situation in which Miloni finds herself, it is powerless to grant any relief, in the facts of the present case.

20. The Circulars dated 8 November 2019 and 30 January 2020 of the CBSE are clear and categorical. They do not allow any change in

¹ AIR 1980 SC 1230

² AIR 2004 SC 5043

³ (2017) 10 SCC 1



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the internal assessment marks for a student as uploaded by the school on the website of the CBSE. The schools have been advised to be careful while uploading the marks, as once the marks are uploaded, no correction would be allowed. This advisory finds place in both the Circulars dated 8 November 2019 and 30 January 2020 of the CBSE. Para 8 of the Circular dated 8 November 2019 specifically stipulates, in the matter of the marks relating to internal assessment in Classes X and XII, that no request from the school stating that wrong marks have been uploaded, would be entertained once the marks already stood uploaded on the CBSE's website. The marks once uploaded would be treated as final for preparing the result of the CBSE.

21. The submission of Mr. Sahoo that the Circular should be treated as merely advisory as it uses the word “will” and not “shall” is hardly acceptable in the present circumstances. The intent of the Circulars is clear and categorical. Once a school uploads the internal assessment marks of a student on the website of the CBSE, it cannot seek any correction in that regard, even if there was an error while uploading the marks.

22. In view of Mr. Sahoo's decision not to challenge the aforesaid Circulars of the CBSE, the petition is actually completely devoid of any cause of action whatsoever.

23. The reliance, by Mr. Sahoo on the decision of the Supreme Court in *Charles K. Skaria* and *Dolly Chhanda* is, in my opinion, misplaced. *Charles K. Skaria* has, in fact, been considered in *Dolly*



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Chhanda. The Court, in both these cases, was concerned with the issue of whether the candidature of the candidate in question could have been rejected merely for non-compliance with a procedural rule regarding documents which were required to be submitted by the candidate. Both the decisions answered the question in the negative.

24. That, however, is not what has happened in the present case. What is being sought is a revision of the marks which were communicated by the school to the CBSE and which, accordingly, found place in the final Exam results declared by the CBSE. It is not a case in which the error has taken place at the end of the CBSE. If that had been the position, it may still have been possible to contend that the petitioners had a legitimate grievance. The CBSE has reflected, in the results of Miloni, the marks allotted to her by the school, as communicated by the school. What the petitioners – and the school – desire is that those marks should be revised in view of the school’s admission that Miloni had actually been awarded 20 marks and not 18. The CBSE Circulars specifically proscribe any such revision.

25. The proscription, in my considered opinion, is eminently in public interest. Schools in India, as well as abroad, are affiliated to the CBSE. Utter chaos would result if schools were permitted to commit errors while uploading students’ marks on the website of the CBSE and thereafter, call upon the CBSE to correct the marks awarded at their end. The CBSE would also not be in a position to blindly accept such requests, and would, if this practice were to be allowed, have to conduct independent verifications in each such case



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to ascertain the actual marks which the candidate had been awarded. As Mr. Ashok Kumar correctly submitted, it would be debatable as to whether the CBSE would ever, in that case, be in a position to announce the final results of all students.

26. In any case, as the Circulars issued by the CBSE are not under challenge and as the decision of the CBSE is in sync with the Circulars, no sustainable grievance exists in this writ petition.

27. Though, therefore, this Court once again empathises with Miloni, it regrets its inability to come to her aid.

28. The writ petition is dismissed with no order as to costs.

C.HARI SHANKAR, J

JANUARY 5, 2024

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[Click here to check corrigendum, if any](#)