



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.9071 OF 2024

Aradhya Arvind Singh]
R/of Anushakti Nagar, Mumbai-400094] .. **Petitioner**

Versus

1. State of Maharashtra,]
Through Department of Education]
2. Maharashtra State Board of Secondary]
and Higher Secondary Education, Mumbai]
3. The Principal,]
Pace Junior Science College, Govandi, Mumbai] .. **Respondents**

Mr. Anil D'Souza, Advocate for the Petitioner.

Ms. Tanaya Goswami, Assistant Government Pleader for the Respondent-
State of Maharashtra.

Mr. Kiran Gandhi, Advocate, i/by Little & Co., for Respondent No.2.

**CORAM : A.S. CHANDURKAR &
RAJESH S. PATIL, JJ**

DATE : 4TH JULY, 2024.

ORAL JUDGMENT : { Per A.S. Chandurkar, J. }

1. Leave granted to amend the description of respondent no.1.

Amendment be carried out forthwith.

2. **RULE.** Rule made returnable forthwith. Considering the peculiar facts of this case, service of notice on respondent no.3 is dispensed with.

3. It is the case of the petitioner that he is a bright student who has secured 85% to 93% marks in his academic career upto the 11th Standard.

When he appeared for the H.S.C. Examination in March, 2023, he was

stated to be suffering from depression and he thus secured 319 marks out of 600. Thereafter the petitioner was under treatment for the period from July, 2023 till December, 2023 for depression and anxiety. He also underwent treatment at the Bhabha Atomic Research Centre Hospital. He was diagnosed with Internet Gaming Disorder.

. Under the Regulations made by the Board of Secondary and Higher Secondary Education, betterment of marks in the Higher Secondary Examination is permissible subject to such attempt being taken in immediately next ensuing examination. This opportunity is available only once. According to the petitioner, since he was undergoing treatment from July, 2023 till December 2023, he could not participate in the aforesaid examination. On 3rd February 2024, the petitioner pursued his request with his College by seeking permission to appear for the examination that was to be conducted in March, 2024. However there was no further response and hence the petitioner has approached this Court.

4. We have heard the learned counsel for the petitioner as well as the learned counsel appearing for respondent no.2. The learned counsel for respondent no.2 by referring to the relevant Regulations and especially Clause 92.6 of the same submitted that the facility for improvement of marks was governed by the said Regulation. Since the petitioner could not appear in the examinations conducted in July 2023 and March 2024, he was precluded from seeking such improvement.

5. Having considered the said Regulations, we find that though it is necessary for the student to seek such improvement in his marks in the succeeding examination, the same has not been possible for the petitioner. The documents on record including the medical reports from the Bhabha Atomic Research Centre Hospital indicate that the petitioner was undergoing treatment for Internet Gaming Disorder at-least till the end of December, 2023. The authenticity of those documents is not doubted. The petitioner could not appear for the March, 2024 examination despite making a request to the College in that regard. In the peculiar facts of the case, we find that an opportunity deserves to be granted to the petitioner to seek improvement in his marks since he was precluded from doing so earlier for medical reasons. In our view, the medical papers substantiate the petitioner's plea that he was unable to take the said examination earlier.

6. In the interest of justice, subject to the petitioner making the requisite application seeking permission to appear in July-2024 Examination with the respondent no.3-College, coupled with payment of necessary late fees, he shall be permitted to appear in the July-2024 Examination that is to commence from 16th July 2024. Since these directions are issued in the backdrop of the petitioner's ailments and in the peculiar facts of the case, the same shall not be treated as precedent.

7. Rule is disposed of in aforesaid terms. The parties to act on authenticated copy of this order.

[RAJESH S. PATIL, J.]

[A.S. CHANDURKAR, J.]