



2025:DHC:6058-DB



\$~33

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

+ LPA 466/2025 & CM APPL.44118-20/2025

MD ARAM

.....Appellant

Through: Mr. Mohd. Azam Ansari, Advocate.
versus

STATE OF NCT OF DELHI & ORS.

.....Respondents

Through: Mr. Dhruv Rohtagi with Ms. Chandrika Sachdev and Mr. Dhruv Kumar, Advocates for R-1/GNCTD/DoE.
Mr. Ashok Kumar with Ms. Chhavi Arora, Advocates for CBSE/R-2.

%

Date of Decision: 24.07.2025

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

J U D G E M E N T

TUSHAR RAO GEDELA, J: (ORAL)

1. Present Letters Patent Appeal has been filed assailing the judgement dated 09.07.2025 whereby the learned Single Judge has dismissed the underlying writ petition bearing W.P.(C)10462/2024 filed by the appellant, while upholding the result of the appellant as 'Essential Repeat' as well as the decision of the respondent/Central Board of Secondary Education (CBSE) declaring him ineligible to appear for supplementary examinations.

2. It is the case of the appellant that in the XIIth Board Examinations, he 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. The result declared by the CBSE showed 'Essential Repeat'



for the appellant. Aggrieved by the same, the appellant approached this Court by filing W.P.(C) 8619/2024, which was disposed of *vide* order dated 12.06.2024 whereby the CBSE was directed to decide the representation of the appellant. In compliance of the said directions, the CBSE considered and rejected the representation of the appellant *vide* order dated 25.06.2024. The said rejection by the CBSE was challenged by the appellant by filing the underlying writ petition, which was dismissed by the learned Single Judge *vide* impugned judgement dated 09.07.2025. Aggrieved thereof, the present appeal has been filed.

3. Mr. Mohd. Azam Ansari, learned counsel appearing for the appellant claims that the appellant could not have been declared '*Essential Repeat*' or '*Failed*' unless three permissible chances of supplementary examinations were granted to the appellant. He submits that only if the appellant fails in all 3 supplementary exams, can he be declared to be '*Essential Repeat*', however, in the present case, the appellant has been deprived of even a single chance to appear in the supplementary exam. Learned counsel, while relying upon Clause 42(ii)(a) of the CBSE's Examination Bye-Laws, claims that the appellant ought to be placed as a '*Compartment*' student and should be given all three chances of supplementary exams to clear his Board Examinations before being declared as '*Essential Repeat*'.

4. *Per contra*, learned counsel for the respondents refers to the eligibility criteria for supplementary examinations for Class XII detailed in Annexure 1 attached to the Circular dated 30.05.2024 bearing CBSE/COORD/REGULAR/SUPPL/2024 issued by the CBSE to contend that a student is not eligible to apply for supplementary exams in more than one subject, whereas the appellant has not scored passing marks for the theory



component in three subjects. Thus, the result of the appellant could not be '*Compartment*' and was rightly declared as '*Essential Repeat*'.

5. While referring to the Eligibility Criteria for Supplementary Examination-2024, learned counsel submits that as per the said criteria, regular students who appeared in Board 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. He states that since the appellant had failed in 3 subjects out of 5, the appellant could not be treated as a '*Compartment*' student and was rightly placed in the category of '*Essential Repeat*'. He also submits that the learned Single Judge has clearly considered the arguments based on Clause 40.1(i) and Clause 40.1(ii) and concluded that there is no contradiction between the two provisions. He prays that the present appeal be dismissed.

6. Having heard the learned counsel for the parties and perusing the impugned judgment as also the relevant rules on record, we find the appeal bereft of any merits.

7. The short question is as to whether the appellant would fall within the category of '*Compartment*' or in the category of '*Essential Repeat*'. It is observed from the records that the appellant had undoubtedly failed in 3 subjects out of 5 and thus falls within the category of '*Essential Repeat*'. Accordingly, as per the eligibility criteria pertaining to Class XII in terms of Annexure 1 of Circular no.CBSE/COORD/REGULAR/SUPPL/2024 dated 30.05.2024, the appellant was '*not eligible*' to participate in the supplementary examinations. It clearly provided that the students who are declared as '*Compartment*' were eligible only to appear in one subject in which they are placed in the compartment. Even if we were to apply this principle, the appellant would still not be eligible as he had failed in 3



mandatory subjects and could only appear for 1 subject in which he may have been declared compartment.

8. Learned Single Judge has rightly observed that the appellant had not obtained minimum 33% in theory in 3 out of 5 mandatory subjects and is thus not eligible for supplementary examinations. The action of the respondent CBSE in declaring the result of the appellant as '*Essential Repeat*' is thus correct and unassailable in the facts of the present case. Learned counsel for the appellant has been unable to show any rule to the contrary.

9. The reliance of learned counsel for the appellant on Clause 42(ii)(a) of the CBSE's Examination Bye-Laws is misplaced and misconceived. Clause 42 of the said Bye-Laws is in the context of "*Improvement of Performance/Compartment Examination for Secondary/Senior School Certificate Examination*". A perusal of the said Bye-Law manifests that the same is applicable only in the case of students who fall in the category of '*Compartment*' and not '*Essential Repeat*' and thus, cannot be relied upon by the appellant.

10. In addition to the above, we deem it apposite to extract the relevant portions of the impugned judgement dated 09.07.2025 to indicate the detailed discussion on the crucial merits of the matter and as to on what grounds and reasons the learned Single Judge did not agree with the submissions of the appellant. The same read thus:-

"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'."

11. We have no reason, much less any ground to take any contrary or divergent view with the one taken by the learned Single Judge and therefore, do not find any merit in the present appeal.

12. Accordingly, the present appeal being bereft of any merit stands dismissed, alongwith pending applications, without any costs.

TUSHAR RAO GEDELA, J

DEVENDRA KUMAR UPADHYAYA, CJ

JULY 24, 2025/rl