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

Judgment reserved on:21.01.2026
Judgment pronounced on: 05.02.2026

\+ **W.P. (C) 15086/2025 & C.M. APPL. 62060/2025**

PRABHROOP KAUR KAPOOR & ORS. ....Petitioners

Through: Mr. Rajshekhar Rao, Sr. Adv. With Mr. Karan Nambiar, Mr. Lzafeer Ahmad B F, Mr. Abeer Malik, Mr. Shubham Arun, Advs.

versus

UNION OF INDIA & ANR. ....Respondents

Through: Mr. Sahaj Garg, SPC for Respondent No.1, Ms. Manisha Singh, Adv. for Respondent No. 2

CORAM:
HON'BLE MR. JUSTICE JASMEET SINGH

JUDGMENT

1. The present writ petition has been filed by the petitioners under Article 226 of the Constitution of India seeking to set aside the notifications dated 04.09.2025 and 15.09.2025 issued by the respondent No. 2.

FACTUAL BACKGROUND

2. The petitioners are students who have successfully completed their Class

XII Board Examinations in 2025 with the schools affiliated to the respondent No. 2.

3. The respondent No. 1 is the ministry which serves as the controlling authority of the respondent No. 2. The respondent No. 2, Central Board of Secondary Education ("***CBSE***") is responsible for conducting Class X and Class XII board exams inter alia designing and renewing curriculum.

4. The examinations conducted by the CBSE are governed by Examination Bye Laws, 1995 ("***Bye Laws***"). These Bye Laws are amended from time to time to cater to the needs of changing time. One of such amendment came in the year 2013 inserting Clause No. 43(i) thereby allowing the students to appear in an Additional Subject as a private candidate within six years of passing of the Class XII board examination. In the year 2021, this time limit to appear in an Additional Subject by a private candidate was reduced to two years.

5. Subsequent to passing the examination in the year 2025, the petitioners decided to take a gap year to prepare for an Additional Subject, i.e. the sixth subject to enhance their career prospects and to fulfil the eligibility criteria which mandate the requirement of such Additional Subject.

6. The petitioners dedicated a full academic year to prepare for the examination of the said subject with the expectation that the option to register would still be available to them as per the prevailing policy of CBSE. However, CBSE on 04.09.2025 issued a public notification for 2026 examination which eliminated the option of "Additional Subject" category for private candidates who had already graduated. The corresponding online registration portal which was opened by the CBSE on 09.09.2025 confirmed the said change in the examination policy.

7. The petitioner No. 1 sought clarity regarding the same and sent a detailed representation to CBSE *via* email dated 12.09.2025. The removal of Additional Subject category was brought to the attention of CBSE and it was further urged to reconsider the said decision to remove such category. The petitioner No. 1 received the reply to her representation from CBSE on the same day itself which stated that:-

a) the CBSE primarily provides education through "Face to Face mode."

b) the students must have minimum 75% attendance to be eligible for examination in a subject

c) there was a requirement of continuous internal assessment in all subjects for which marks were awarded towards the final result.

d) classes X and XII are a two-year programme implying that subject must be studied in full duration.

8. On 15.09.2025, CBSE finally issued a formal public notification on its website, reiterating the same justification provided in the email to the petitioner No. 1. The notice additionally mentioned that the student not fulfilling the above criteria shall not be eligible for examination in Additional Subjects in board examinations as a private candidate. The notification further drew a clear distinction between CBSE and National Institute of Open Schooling ("***NIOS***").

9. The petitioners are, thus, aggrieved by the impugned notifications dated 04.09.2025 and 15.09.2025, which render the said decision of removal of "Additional Subject" option, applicable to them, thereby, allegedly extinguishing the prospect of admission to higher education programme that requires a specific combination of subjects. Therefore, the present petition.

SUBMISSIONS ON BEHALF OF THE PETITIONER

10. Mr. Raj Shekhar Rao, learned senior counsel appearing for the petitioners, prays for the quashing of impugned notifications dated 04.09.2025 and 15.09.2025 issued by the CBSE in so far as it does not provide for the registration for Additional Subject to private candidates. He further seeks direction by this court to direct CBSE to permit private candidates to register for Additional Subject category so that the prospect of pursuing higher education programme that requires specific combination of subjects remains open with the petitioners.

11. He submits that the policy changes to discontinue the Additional Subject facility was taken in December, 2024. However, the same was neither notified to the public nor reflected in the examination Bye Laws on the official website. By failing to communicate the same CBSE denied the petitioners the opportunity to make an informed decision thereby trapping them into forfeiting their college seat to take a drop year based on the existing norm.

12. He further submits that the CBSE Bye Laws operate as law and judicial scrutiny cannot be undermined by giving them artificial colour. These Bye Laws are sole governing body of rules that govern their examination. Therefore, since Bye Laws have force of laws any amendment must be promulgated in a suitable manner in order to make it effective. Thus, it will only take effect from the date of such publication. Reliance is placed on ***Jigya Yadav v CBSE,***[1] and ***B.K. Srinivasan v. State of Karnataka***[2].

13. He states that by supressing such crucial change CBSE have misled the

[1](2021) 7 SCC 535.
[2](1987) 1 SCC 658.

students into believing that the existing norms continued. This induced the students to undertake a drop year which will now be a waste for no fault of the petitioners.

14. Learned Senior counsel states that even though the decision to discontinue the "Additional subject" facility is an administrative one, the same creates a substantive disqualification for students who passed Class XII in 2024-2025 and entered their drop year in April, 2025 based on the choice they made in Class XI in 2023-24. A policy change cannot be applied retrospectively to extinguish the rights of students who already acted upon the decade long policy of CBSE. Reliance was placed on ***Anushka Rengunthwar v. Union of India***[3].

15. It is also stated that the change is hit by the Doctrine of Legitimate Expectation, fostered by a decade of consistent practice upon which the petitioners irrevocably altered their academic and professional trajectory. Reliance is placed on ***Rakesh Kumar v. Union of India***[4]**.**

16. He argues that the decision suffers from manifest arbitrariness inasmuch as it creates an unreasonable classification between similarly situated candidates of private candidates without any intelligible differentia or rational nexus. He points out that under the existing examination Bye Laws a candidate is expressly permitted to appear for an Additional Subject within a period of two years from the date of passing of Class XII examination, this two year window constituted a legitimate option available to all candidates at the time of passing the examination. The change in examination rules creates an absurdity as, for instance, a

[3](2023) 11 SCC 209.
[4]2017:DHC:2798-DB

student belonging to the batch of 2024 who opts for Additional Subject was duly allowed to take the Additional Subject examination in the 2025 examination. However, any student of the same who *bona fide* relied on the rule and waited for the second year to appear for the Additional Subject has now been arbitrarily debarred from doing so. Therefore, such *ex facie* differential treatment of the students from the same batch is violative of Article 14 of the Constitution of India.

17. He further points out that that the said policy operates retrospectively and penalises students for exercising a valid and lawful option which was available for the second year. A right once granted cannot be curtailed mid-way, retrospectively and without any prior notice. The impugned policy lacks fairness as on one hand it permits re-examination or improvement examination but on the other hand it prohibits academic advancement by way of Additional Subject. Such an approach by CBSE is not only arbitrary but also unreasonable.

18. Learned senior counsel further submits that in the year 2023, when the CBSE withdrew the eligibility of female students residing in the Delhi/NCR region and candidates belonging to the category of students with special needs from appearing as Private Candidates, a conscious and equitable decision was taken to incorporate a sunset clause. The said clause protected students already within the system by providing advance notice to the next batch and deferring the operation of the withdrawal by one academic year. In stark contrast, the present policy change has been implemented abruptly, without any transitional safeguard or prior notice, thereby adversely affecting students who had already structured their academic choices and future plans in reliance upon the existing Bye

Laws. This clearly demonstrates non-application of mind and complete disregard to welfare and legitimate expectations of students who are within the system.

19. It is further stated that CBSE's contention that the petitioners may alternatively appear through the NIOS is illusory and does not consider the prevailing realties of the education system. The leading institutions including University of Delhi and admissions through Joint Entrance Examination (JEE) assess the candidate's eligibility on the basis of one consolidated marksheet issued by one recognised board. The split marksheet issued by CBSE and NIOS renders the candidate ineligible under the subject specific eligibility criteria prescribed by such institutions. This will defeat the very purpose of the petitioner taking the drop year and thus the petitioners will be compelled to reappear for a minimum of five subjects a fresh.

SUBMISSIONS ON BEHALF OF THE RESPONDENT

20. *Per Contra,* Ms. Manisha Singh, learned counsel for CBSE, at the outset submits that the petition is not maintainable in law and is liable to be dismissed. She states that the relief sought by the petitioners is in violation of the provisions of the examination Bye Laws of CBSE. The Bye Laws do not permit such Additional Subjects being offered to a private candidate in the case where they have not studied the said subject regularly for two years in class IX-X or XI-XII.

21. She further states that the petitioners do not possess any vested right to opt for or appear in Additional Subjects which they have not studied regularly. Earlier such students were permitted to opt for the Additional Subject in terms of provisions of examination Bye Laws which permitted

the same. In the absence of such provision, due to the amendment in Bye Laws, there remains no such provision which enables the petitioner to claim any legal right to opt for Additional Subject as a private candidate. She states that admittedly there is no challenge to the amendment itself.

22. It is stated that it the well settled in law that the Doctrine of Legitimate Expectation does not apply where there is a change or discontinuance of policy. Once a policy is amended or withdrawn in accordance with law, no vested or enforceable right survives in favour of those who may have benefited under the earlier policy. The petitioners, therefore, cannot claim continuation of a benefit merely on the basis that such benefit was available under the previous policy regime.

23. She states that the Hon'ble Supreme Court in catena of judgments has held that no relief can be granted on the basis of Doctrine of Legitimate Expectation where there is a change in policy, provided such change is within the authority's competence and is in furtherance of public interest. In support, reliance is placed upon ***Madras City Wine Merchants Association and Ors. v. State of T.N. &Ors.***[5]*and* ***Jiwesh Kumar v. Union of India***[6]**.**

24. She states that the petitioners themselves have acknowledged, in paragraph L of the grounds in the Writ Petition, that the CBSE could restrict or prevent candidates from appearing in an Additional Subject only by way of an amendment to the Examination Bye Laws. Pursuant to the recommendations of the Examination Committee, and upon ratification and approval by the Governing Body, the provision permitting

[5](1994) 5 SCC 509.
[6]2024 SCC OnLine Del 2858.

candidates to opt for an Additional Subject for the first time as private candidates has been done away with. Consequently, the grievance sought to be raised by the petitioners does not survive.

25. It is further submitted that the impugned policy has been uniformly applied by CBSE across the country without any exception. No special or preferential treatment has been granted to any candidate. The petitioners, therefore, cannot claim any special right in their favour when all similarly situated students have been treated alike.

26. Without prejudice to the aforesaid submissions, she states that, in any event, no prejudice has been caused to the petitioners on account of the said policy change. Any student who has passed Class X or Class XII continues to have the option of offering and appearing in an Additional Subject through the NIOS. The petitioners' right to pursue further education or a new course, therefore, remains unaffected.

27. She also submits that the eligibility criteria for competitive and professional examinations such as NEET and JEE are prescribed by the respective examining and admitting authorities and not by CBSE. Thus, CBSE cannot be compelled to continue a policy contrary to its Examination Bye Laws merely on account of perceived downstream consequences in such examinations. Moreover, the eligibility norms for the said professional courses uniformly require a candidate to have regularly studied Biology or Mathematics, as the case may be, for a continuous period of two years, along with the requisite practical training. These mandatory conditions are admittedly not satisfied where a student seeks to appear in an Additional Subject from the CBSE for the first time as a private candidate. Such candidates, therefore, do not meet the

prescribed eligibility criteria for the said examinations.

28. Lastly, she states that in matters involving educational policy, it is settled that Courts ordinarily exercise restraint and refrain from interfering, as such decisions are best left to expert bodies possessing the requisite domain knowledge. Educational policies are not static in nature and are required to evolve in response to changing academic needs, requirements, and dynamics. In support of this submission, reliance is placed upon the judgment of the Hon'ble Supreme Court in ***All India Council for Technical Education v. Surinder Kumar Dhawan &Ors.***[7]

ANALYSIS AND FINDINGS

29. I have considered the rival submissions advanced by the learned counselsfor the parties and perused the material on record.

Whether notification amending the Clause No. 43 (i) was notified in accordance with law so as to be made applicable to the petitioners

30. At the outset, it would be relevant to examine the legal status of the Examination Bye Laws framed by the CBSE. The Hon'ble Supreme Court in ***Jigya Yadav (supra)***, unequivocally held that the CBSE Bye Laws are statutory in character, having binding force and regulating the rights of students. Once framed, they operate as law. Relevant paragraphs from the said judgment read as under:-

> *"117. Reverting to the CBSE Examination Bye-laws, the same are couched in the form of a code. They provide for all essential aspects relating to formal education of a student including admission, examination, migration, transfer, curriculum, fee for various services, issuance of verified*

[7](2009) 11 SCC 726.

certificates, modifications in certificates, etc. This bye-laws, therefore, bind the parties and are duly enforceable in a court of law, even by way of writ remedies as we have seen in the present batch of petitions.

118. To put it differently, the bye-laws of the Board have the force of law and must be regarded as such for all legal purposes. It would serve no meaningful purpose to hold these authoritative set of rules originating from an instrumentality of the State as mere contractual terms despite there being overwhelming public interest in their just application.

119. The argument that bye-laws of the Board are contractual elements as CBSE is a registered society unbacked by a statute cannot be accepted for at least four reasons — first, CBSE is not a private corporate body. It is a juristic person and a "State" within the meaning of Article 12, which in itself warrants its amenability to the courts including constitutional writ courts; second, the functions performed by the CBSE Board are public functions and not private functions; third, the test of "force of law" takes within its sweep the nature of rule, its authoritative impact on the subjects, nature of function performed by the rule-making body, the origin of the body, the binding value of the rules, existence of any competing set of rules and fourth, absence of statute does not automatically render the rules to be contractual terms, as already observed.

120. As in the ultimate analysis, the bye-laws operate as law,

the scrutiny of this Court cannot be undermined by giving them an artificial colour. For a student enrolled with the CBSE, there is no other body of rules but the subject bye-laws for dealing with all significant aspects of her education. By now it is an established tenet that even body corporates, cooperative societies, registered societies, etc. can be declared as instrumentalities of the State, for the only reason that the outer form of organisation must not be allowed to defeat the ultimate constitutional goal of protection of fundamental rights as and when they suffer at the hands of the State, directly or indirectly. The Court ought to intervene with circumspection even when the public body derives its authority from a government resolution.

31. Also, the Hon'ble Supreme Court in ***B.K. Srinivasan (supra)*** has held that subordinate legislation, to be effective, must be duly promulgated and made known to the public. A rule or regulation, though validly made, does not acquire enforceability unless it is published or notified in a manner reasonably capable of coming to the knowledge of those affected by it. Relevant paragraphs from the said judgment are extracted below:-

"15. There can be no doubt about the proposition that where a law, whether parliamentary or subordinate, demands compliance, those that are governed must be notified directly and reliably of the law and all changes and additions made to it by various processes. Whether law is viewed from the standpoint of the "conscientious good man" seeking to abide by the law or from the stand point of Justice Holmes's

"unconscientious bad man" seeking to avoid the law, law must be known, that is to say, it must be so made that it can be known. We know that delegated or subordinate legislation is all-pervasive and that there is hardly any field of activity where governance by delegated or subordinate legislative powers is not as important if not more important, than governance by parliamentary legislation. But unlike parliamentary legislation which is publicly made, delegated or subordinate legislation is often made unobtrusively in the chambers of a Minister, a Secretary to the Government or other official dignitary. It is, therefore, necessary that subordinate legislation, in order to take effect, must be published or promulgated in some suitable manner, whether such publication or promulgation is prescribed by the parent statute or not. It will then take effect from the date of such publication or promulgation. Where the parent statute prescribes the mode of publication or promulgation that mode must be followed. Where the parent statute is silent, but the subordinate legislation itself prescribes the manner of publication, such a mode of publication may be sufficient, if reasonable. If the subordinate legislation does not prescribe the mode of publication or if the subordinate legislation prescribes a plainly unreasonable mode of publication, it will take effect only when it is published through the customarily recognised official channel, namely, the Official Gazette or some other reasonable mode of publication. There may be

subordinate legislation which is concerned with a few individuals or is confined to small local areas. In such cases publication or promulgation by other means may be sufficient [Narayana Reddy v. State of A.P., (1969) 1 Andh WR 77].”

32. Thus, it would be apposite to conclude from the above that the CBSE Bye Laws shall have the force of law. The Bye Laws should be notified in a manner prescribed by law, if there is no procedure prescribed by law then the same should be notified through recognised mode of publication.

33. The subordinate legislation has to be enacted by due process. In case of CBSE, an amendment of the Examination Bye Laws of has to be firstly passed by the Examination Committee. Thereafter, subsequent to the approval of Governing Body, the same is to be notified in the public domain. Any amendment to examination Bye Laws is notified by a circular on the website of CBSE.

34. In the present case, CBSE on Affidavit has stated that the minutes of the 140th meeting of the Governing Body had been published on the website of CBSE since 26.12.2024. Thus, the amendment was notified in the manner prescribed by law.

35. The publication of minutes of the meeting cannot be construed as notification of amendment of Bye Laws. The same is an internal document and will have no validity until it is put in the public that too through the procedure prescribed by law. Prior amendments in Bye Laws, subsequent to the decision taken by the Governing Body, were duly notified on the website of CBSE.

36. The publication in the present case was only done on 04.09.2025 for the first time by deleting the clause which enabled the students to appear as a

private candidate. Thereafter, further reasoning was notified only on 15.09.2025. The petitioners qualified the Class XII examination much before the said notification i.e. on 13.05.2025, when the results were published. By the time the amendment was notified the petitioners had already made the decision to take a drop year.

37. Thus, in my considered opinion, the amendment was unjustly applied to the petitioners without prior intimation. No reasonable person would be expected to go through the minutes of the meeting of the Governing Body to list down the decisions taken by the Governing Body. Any amendment to the CBSE Bye Laws, particularly one which withdraws a benefit or creates a disqualification, must not only be formally incorporated in the Bye Laws, but also be adequately notified in advance so as to enable affected candidates to regulate their conduct accordingly. The same shall also apply prospectively, i.e from and after the date of notification dated 04.09.2025. Change in policy cannot be made to apply retrospectively particularly when the same works in the detriment of the beneficiaries.

Doctrine of Legitimate Expectation

38. During the course of arguments, a submission was advanced by the learned senior counsel for the petitioner, that the facility to appear as a private candidate existed for more than a decade. Even after 2021 amendment in the said policy, the facility remained for two years. It is the petitioner's case that due to the existing practice the petitioner had legitimate expectations that the they would be allowed to avail the said facility in the year 2025-26.

39. In this regard, it would be relevant to discuss the Hon'ble Supreme Court's decision in ***Army Welfare Education Society v. Sunil Kumar***

Sharma[8]**,** wherein the essentials for the Doctrine of Legitimate Expectation were reiterated. The relevant paragraphs from the aforesaid judgment read as under:

> *"60. Before parting with the matter, we deem it necessary to answer the aforesaid submission of the respondents. This Court in Union of India v. Hindustan Development Corpn. [Union of India v. Hindustan Development Corpn., (1993) 3 SCC 499] enunciated that the doctrine of legitimate expectation is a creature of public law aimed at combating arbitrariness in executive action by public authorities….*
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> *61. In Ram Pravesh Singh v. State of Bihar [Ram Pravesh Singh v. State of Bihar, (2006) 8 SCC 381 : 2006 SCC (L&S) 1986], this Court explained the doctrine of legitimate expectation in detail as follows: (SCC pp. 390-391, para 15)*
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> > *"15. What is legitimate expectation? Obviously, it is not a legal right. It is an expectation of a benefit, relief or remedy, that may ordinarily flow from a promise or established practice. The term "established practice" refers to a regular, consistent, predictable and certain conduct, process or activity of the decision-making authority. The expectation should be legitimate, that is, reasonable, logical and valid. Any expectation which is based on sporadic or casual or random acts, or which is unreasonable, illogical or invalid cannot be a legitimate expectation. Not being a right, it is not enforceable as*

[8](2024) 16 SCC 598.

such. It is a concept fashioned by the courts, for judicial review of administrative action. It is procedural in character based on the requirement of a higher degree of fairness in administrative action, as a consequence of the promise made, or practice established. In short, a person can be said to have a "legitimate expectation" of a particular treatment, if any representation or promise is made by an authority, either expressly or impliedly, or if the regular and consistent past practice of the authority gives room for such expectation in the normal course. As a ground for relief, the efficacy of the doctrine is rather weak as its slot is just above "fairness in action" but far below "promissory estoppel". It may only entitle an expectant: (a) to an opportunity to show cause before the expectation is dashed; or (b) to an explanation as to the cause for denial. In appropriate cases, the courts may grant a direction requiring the authority to follow the promised procedure or established practice. A legitimate expectation, even when made out, does not always entitle the expectant to a relief. Public interest, change in policy, conduct of the expectant or any other valid or bona fide reason given by the decision-maker, may be sufficient to negative the "legitimate expectation". The doctrine of legitimate expectation based on established practice (as contrasted from legitimate expectation based on a promise), can be invoked only by someone who has

dealings or transactions or negotiations with an authority, on which such established practice has a bearing, or by someone who has a recognised legal relationship with the authority. A total stranger unconnected with the authority or a person who had no previous dealings with the authority and who has not entered into any transaction or negotiations with the authority, cannot invoke the doctrine of legitimate expectation, merely on the ground that the authority has a general obligation to act fairly."

....

63. A reading of the aforesaid decisions brings forth the following features regarding the doctrine of legitimate expectation:

63.1.First, legitimate expectation must be based on a right as opposed to a mere hope, wish or anticipation;

63.2.Secondly, legitimate expectation must arise either from an express or implied promise; or a consistent past practice or custom followed by an authority in its dealings;

63.3.Thirdly, expectation which is based on sporadic or casual or random acts, or which is unreasonable, illogical or invalid cannot be treated as a legitimate expectation

63.4.Fourthly, legitimate expectation operates in relation to both substantive and procedural matters;

63.5.Fifthly, legitimate expectation operates in the realm of public law, that is, a plea of legitimate action can be taken

only when a public authority breaches a promise or deviates from a consistent past practice, without any reasonable basis.

63.6.Sixthly, a plea of legitimate expectation based on past practice can only be taken by someone who has dealings, or negotiations with a public authority. It cannot be invoked by a total stranger to the authority merely on the ground that the authority has a duty to act fairly generally."

40. CBSE, constituted under the Government of India Resolution dated 01.07.1929, is the central authority responsible for conducting public examinations at the secondary and senior secondary levels. In discharging functions of a public nature which have a direct impact on the right to education, CBSE performs public duties and therefore falls within the definition of "State" under Article 12 of the Constitution of India. In the present case, a clear and enforceable right was created by the insertion of Clause No. 43(i) in the Bye Laws, which expressly permitted students to appear for an Additional Subject as private candidates. Initially, this facility was available for a period of six years from the date of passing the Class XII examination, which was later reduced to two years by an amendment in 2021. The petitioners' claim of legitimate expectation is, thus, based on a specific right conferred by the Bye Laws and not on a mere hope or assumption. The examination notifications issued by CBSE for the years 2022, 2023 and 2024 further reflects a consistent practice of allowing candidates to avail this facility. Clause No. 43(i) of CBSE Examination Bye Laws reads as under:-

43. Additional Subject(s):

(i) A candidate who has obtained minimum Grade D in at

least five subjects (excluding the 6th additional subject) under Scholastic Area A as per the Scheme of Studies and a Qualifying Certificate/Grade sheet cum Certificate of Performance at the Secondary School Examination/passed the Senior School Certificate Examination of the Board may offer an additional subject as a private candidate provided the additional subject is provided in the Scheme of Studies and is offered within six years of passing the examination of the Board. No exemption from time limit will be given after six years. Facility to appear in additional subject will be available at the main examination only.

41. The said period of six years to appear for an Additional Subject was subsequently reduced to two years *vide* circular dated 16.03.2021 which reads as under:-

As per Examination Bye-Laws, a candidate who has passed Boards' Examination can apply for additional subject from the list of subjects within 06 years of passing the examination. However, candidate cannot apply for an additional subject involving practical work. As per approval of the Examination Committee in its meeting held on 15th December 2020 and approval of the minutes in the Governing Body meeting of the Board on 23rd December, 2020, the period for applying for additional subject(s) has been reduced from 06 years to 02 years only after passing the examination. This rule will be effective from the 2021 examinations.

42. Even though, CBSE, in the given case, may have reasonable basis to

review and modify its examination framework, including the adoption of an integrated system of assessment including regular face to face mode of classroom and internal assessments, such considerations do not justify a deviation from the past consistent practice insofar as the petitioners are concerned. The petitioners acted in accordance with the existing Bye Laws and the consistent past practice of CBSE and, therefore, had a legitimate expectation that after passing Class XII examination on 13.05.2025 the right to appear as private candidates for the Additional Subject examination, would be available to the petitioners and similarly placed students like in the immediately preceding years. The sudden withdrawal of this facility, without prior notice or any transitional provision, does not meet the standards of fairness required of administrative action.

43. The justification advanced by CBSE for discontinuing the facility is the adoption of an integrated system of education and assessment, which emphasizes face-to-face mode of course and continuous internal assessment. While such a policy consideration may be relevant for students who are presently enrolled or who seek to pursue a subject for the first time within the regular school system, the same rationale does not reasonably apply to the petitioners, who had already passed their Class XII examinations and were governed by the existing Bye Laws at the time of taking a conscious academic decision to pursue an Additional Subject as private candidates. The petitioners acquired the right to appear for the Additional Subject at the time when the petitioners qualified the Class XII examination. The then unamended Clause No. 43 (i) of Bye Laws, which was available in public domain, bestowed right upon the

petitioners and in furtherance, the petitioners took a conscious decision to take a gap year to enhance career prospects. The petitioners cannot be penalised by retrospective application of a Bye Laws. The petitioners became eligible to appear as a private candidate for the Additional Subject examination right after passing Class XII examination as per the Bye Laws which were in the public domain at that time. The amendment to Clause No. 43 (i) of Bye Laws was only in the Minutes of the Meeting of the Governing Body dated 26.12.2024 and public notice was issued only issued for the first time on 04.09.2025 and thereafter, on 15.09.2025.

44. Reliance placed on ***Madras City Wine Merchants Association (supra)*** by CBSE to contend that in case of change in policy, question of legitimate expectation would not arise. The judgement is binding on this Court but the facts in the present case are distinguishable. As per the facts of ***Madras City Wine Merchants Association (supra)***, the licence was granted for one year with a clause for renewal subject to payment of increased privilege amount as may be fixed by the state government in that respect. The bar licensee in the said case could apply for renewal 30 days before the expiry of the licence. The decision to not renew the licence was taken much before any licensee could apply for renewal. Thus, the question of legitimate expectation did not arise. The right was not conferred already but was subject to payment of required fee. In the present case, the right has already been conferred to the petitioners back in May, 2025. Thereafter, the petitioners took the conscious decision to take a gap year because they were conferred with the right already. Subsequently, the right was withdrawn in September, 2025 by which time the petitioners had already altered their position.

45. The judgment of ***Jiwesh Kumar (supra)*** is also distinguishable on facts. As per the facts of the said case, the petitioners therein, were at the relevant time were still pursing the course when the requirement for National Exit Test was introduced in the curriculum to grant licence to practice as registered medical practitioners. The same policy was not made applicable to the students who had already been graduated and obtained medical degrees. Therefore, the only students within the ambit of the said policy change were those who had not obtained the degree in question when the policy change was implemented. Thus, there was no question of policy change being hit by legitimate expectation. This is in stark contrast to the facts of the present case. The petitioners, herein, had already passed the Class XII examination and were issued the grade sheets and much after that the policy change was notified and implemented. When the petitioners cleared their Class XII examination i.e. in May, 2025 they had the benefit of two year window to take Additional Subject as per Clause No. 43 (i) of Bye Laws, which was taken away retrospectively in September, 2025.

46. The petitioners constitute a limited category of students who had already acted upon the prevailing policy. Denying the facility results in serious and irreversible prejudice to the petitioners, who have already invested an academic year in preparation based on a legitimate expectation.

47. The law laid down in ***Surender Kumar Dhawan (supra)*** is also binding upon this Court that in questions of education policy and academic matters the Courts are to refrain from interfering. However, the said judgement also holds that if any provision or principle of law is to be interpreted, applied or enforced with reference to or connected with

education, the Courts are required to step in.[9] This Court is neither required to nor is going into the legality, justifiability or the basis which has prompted/ necessitated the amendment to the examination policy. However, this court, in the present case, is concerned with interpretation, application and enforcement of amendment to Clause No. 43 (i) of Bye Laws only to the graduates of Class XII of 2025 batch, which is working to the detriment of the petitioner and is seeking to retrospectively withdraw a valuable vested right. The applicability was abrupt and thus, when the actions are arbitrary and unreasonable, it is imperative to intervene in such a case.

48. CBSE's submission that no prejudice is caused since students may appear through NIOS does not cut much ice. The petitioners have demonstrated, *prima facie*, that several universities and competitive examination authorities insist upon a consolidated marksheet from a single recognised board. The option of NIOS, therefore, cannot be treated as a real or equivalent alternative, particularly where it compels students to repeat multiple subjects afresh.

49. CBSE, being the principal national body entrusted with regulating secondary and senior secondary education, cannot absolve itself of responsibility to ensure coherence of rules of senior secondary education with the rules the competitive of examination in this country. Education system in India is intertwined in such a manner that senior secondary education is not an isolated stage but forms the foundation upon which higher and professional education is built. The structure of higher education admissions in the country is intrinsically linked to the subjects

[9]Supra n. 7, Paragraph No. 13.

studied and examinations taken in Class XII.

50. Eligibility criteria for professional courses are framed with reference to specific subject combinations at the senior secondary stage. For instance, admission to medical courses through NEET mandates the study of Physics, Chemistry, and Biology at the Class XII level, while engineering admissions require Physics, Chemistry, and Mathematics.

51. These requirements presuppose that such subjects have been pursued as part of an integrated academic curriculum under a recognised Board. In this context, directing the students who have already passed Class XII under CBSE to seek recourse through NIOS disrupts the continuity of their academic record and undermines the coherence of the education system itself. In such a case the student would have to undergo the examination of all 5 subjects, which can never be a viable option.

CONCLUSION

52. While the CBSE undoubtedly possesses the authority to amend its Bye Laws, such power must be exercised in a fair and prospective manner. A policy change which was not notified in the manner prescribed by law, which creates a disqualification, without prior notice or transitional protection and which adversely affects students who have already altered their position and taken a gap year, cannot be sustained. The impugned notifications, insofar as they apply to the petitioners who passed Class XII in 2025 and acted upon the existing Bye Laws, suffer from arbitrariness, violate the Doctrine of Legitimate Expectation, and fail to meet the mandate of Article 14 of the Constitution of India.

53. For the said reasons, the present writ petition is allowed and CBSE is directed to take steps within 3 working days to make necessary

arrangements for registration of petitioners for Additional Subject examination for the petitioners.

54. Needless to say, this judgment is being passed in the light of peculiar facts of the present case wherein the students are graduates of Class XII of the 2025 Batch.

55. The petition is disposed of along with pending applications, if any.

56. The documents handed over in the Court are taken on record.

JASMEET SINGH, J.

FEBRUARY 5, 2026/(MU)