

**HIGH COURT OF JUDICATURE FOR RAJASTHAN BENCH AT  
JAIPUR**

S.B. Civil Writ Petition No.22504/2017

Nirmala Girls Senior Secondary School, Bhagt Singh Colony,  
Bhimganj Mandi, Kota, Rajasthan & Another

----Petitioner

Versus

Central Board of Secondary Education

----Respondent



For Petitioner(s) : Mr.Ajeet Bhandari,  
Mr.Jitendra Mishra.

For Respondent(s) : Mr.M.S. Raghav.

**HON'BLE MR. JUSTICE ALOK SHARMA**

**Order**

**06/02/2018**

In the course of hearing of the petition Mr.Ajeet Bhandari appearing for the petitioners-school (hereinafter 'school') submitted that Clause 7.3 of the Examination Bye-Laws of Central Board of Secondary Education (CBSE) provides for migration of students from one Board to another in the discretion of the Chairman and students can even be admitted to Class-X in a school affiliated to the CBSE in situations where the students seeking migration would otherwise suffer undue hardship. He submitted that the instant case is one of students of the petitioner-school in class-X suffering undue hardship no doubt attributable to the school itself for reason of a wrong evaluation by it with regard to its prospects of being affiliated to CBSE in a switch over from its current affiliation from the Rajasthan Board of Secondary Education, Ajmer. And during the period the 52

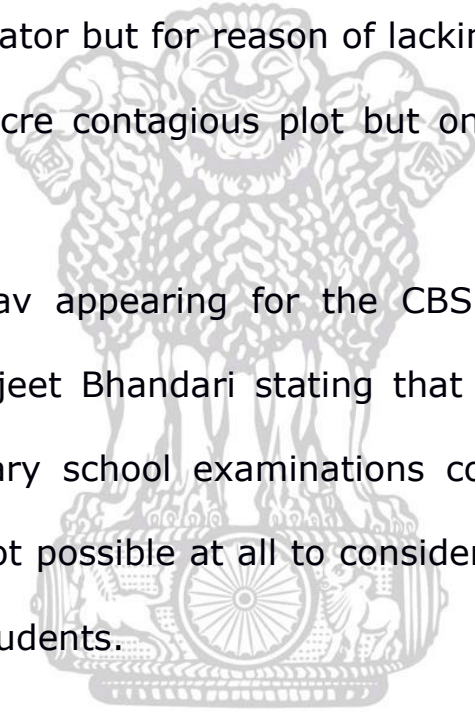
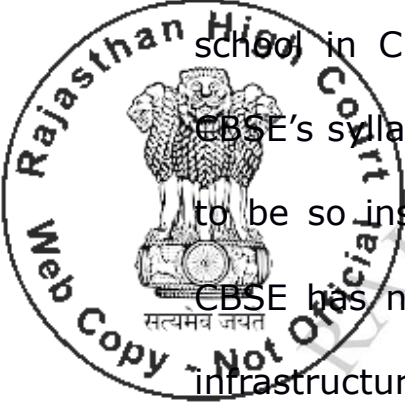
students now in Class-X were instructed in the CBSE's integrated syllabus for Class-IX and X and not RBSE's. For this infraction, he submitted the petitioner-school is willing to pay any penalty reasonably determined by this court.

Mr.Ajeet Bhandari submitted that the object of this petition is to safeguard the interest of 52 students who were admitted to the school in Class-IX in academic year 2016-17 and instructed in CBSE's syllabus and thereafter promoted to Class X and continued to be so instructed in academic year 2017-18. The affiliation by CBSE has now been denied not so much for lacking in teaching infrastructure both as to classes and faculty or for the school being a fly-by night operator but for reason of lacking play grounds and not having a 1.5 acre contiguous plot but only a 0.98 acre plot area for the school.

Mr.M.S. Raghav appearing for the CBSE has opposed the submission of Mr.Ajeet Bhandari stating that a mere one month before the secondary school examinations commencing early in March, 2018 it is not possible at all to consider any application for migration by any students.

Heard. Considered.

I have perused the CBSE's bye-laws effective 31.01.1995 Clause 7 thereof indeed provides for migration to the CBSE affiliated schools from schools affiliated to another State Government recognized Board as the RBSE, where the students of the petitioner-school are reading, indeed is. And the Chairman, CBSE has been conferred plenary powers on issues of migration and admission even into Class-X. He has the discretion which can



be exercised to eschew undue hardship to bona fide students.

Resultantly, the students of the petitioners-school, presently in Class-X are left free to make a representation to the Chairman, CBSE detailing the situation/circumstances they find themselves in and seeking his indulgence for allowing migration to a school/s affiliated to CBSE in Kota where within the CBSE permitted intake

of such schools they can be adjusted on vacancies to deliver them from a very traumatic situation of potentially losing 2 valuable years of their lives.

The Chairman, CBSE shall be free to decide the said representation in his discretion as advised within a period of one week of the receipt of the representation/s albeit taking into consideration the career of 52 apparently genuine students caught up in a rigmarole of affiliation process of CBSE and where the petitioner-school's application for CBSE affiliation has failed only for lack of requisite plot size. For this he shall be free to call for all record from the petitioner-school inter alia of the attendance of the students in issue.

Put up on February 21, 2018, as prayed.

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**(ALOK SHARMA)J.**

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