

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 29<sup>TH</sup> DAY OF MAY, 2012

BEFORE

THE HON'BLE MR. JUSTICE ASHOK B. HINCHIGERI

WRIT PETITION No.16578/2012 (EDN-EX)

BETWEEN:

Sri G.N.Kantharaju,  
S/o Niranjanmurthy,  
Aged about 16 years,  
R/o Gudigondanahalli,  
Tiptur Taluk, Tumkur District,  
Minor, Rep.by his mother and  
natural guardian Smt.Leelvathi.

...Petitioner

(By Kum.Renuka.1 for G.R.Prakash, Advocates)

AND:

1. State of Karnataka,  
Rep.by its Secretary to Education Department,  
Vidhana Soudha, Bangalore - 560 001.
2. The Karnataka Secondary Education,  
Examination Board,  
Malleswaram Circle, Bangalore - 560 003.  
Rep, by its Secretary.
3. The Head Master,  
SVP Combined Pre-University College,  
B.H.Road, Tiptur - 572 202.

... Respondents

(By Sri R.Omkumar, AGA)

This writ petition is filed under Articles 226 and 227 of the Constitution of India praying to set aside the order dated

21.5.2012 vide Annexure-D issued by Karnataka Secondary Education Examination Board Bangalore and etc.

This writ petition coming on for preliminary hearing this day, the Court made the following:

**ORDER**

Sri R.Omkumar, the learned Additional Government Advocate is directed to take notice for the respondents.

2. The petitioner, a student of SSLC, was not permitted to appear for the examination conducted in April 2012 on account of shortage of attendance. He had filed W.P.No.10114/2012 seeking a direction to the respondents to permit him to appear for the said examination. But, by the time he approached this Court, the SSLC examinations had got over. This Court, by its order, dated 17.4.2012 disposed of the said writ petition with the following order:

*"However, some candidates, who had similar problem of shortage of attendance were permitted to appear as private fresh candidates in the last examination. The petitioner could not get such a relief on account of the delay on his part in approaching this Court. I therefore deem it just to direct the respondent No.2 to consider the case of the petitioner for permission to appear for the supplementary examination, if the petitioner makes an application for the same within one week from today."*

**ABH**

3. Pursuant to the petitioner making the application, the respondent No.2 has passed the order, dated 21.5.2012 turning down the petitioner's request to appear for the supplementary examination on the ground that he has not appeared for the annual examination conducted in April 2012.

4. Sri R.Omkumar, the learned Additional Government Advocate appearing for the respondents fairly submits that the impugned order is passed without noticing the provisions contained in the Karnataka Secondary Education Examination Board First Regulations, 1966. He read out Regulation Nos.38, 39, 40 and 42. They are extracted hereinbelow:

**"38. Conditions of eligibility to appear as an ex-school candidate for the examination.** – No person shall be eligible to appear for the examination as an ex-school candidate unless he has registered himself as an ex-school candidate in a recognised High School after paying the prescribed fee for such registration and sent his application through such school.

**39. Conditions of eligibility to appear as a private candidate for the examination.**– Save as otherwise provided in Regulation 40, a candidate will be eligible to appear for the examination as a private candidate in any year only if he.-

ABH

- (i) completes eighteen years of age on the 1<sup>st</sup> day of March of that year where the examination is to be held during March and on the 1<sup>st</sup> day of September of that year where the examination is to be held during September;
- (ii) has passed the primary VII Standard examination conducted by or under the authority of the Department of Public Instruction or an examination considered by the Board as equivalent to the Primary VII Standard examination; and a period of not less than four complete years from the date of passing such examination will have elapsed on the 1<sup>st</sup> day of March of that year where the examination is to be held in March, or on the 1<sup>st</sup> day of September of that year where the examination is to be held in September;
- (iii) has not attended any recognised High School at any time during the period of hundred and eighty days immediately before the 1<sup>st</sup> day of March of that year where the examination is to be held in March and before the 1<sup>st</sup> day of September of that year where the examination is to be held in September.

**40. Special conditions of eligibility to appear as a private candidate.**-Notwithstanding anything contained in Regulation 39, but subject to the provisions of Regulation 42.-

**ABH**

- (i) any male person who completes twenty years or any female person who completes 18 years of age during the year in which he/she wishes to appear for the examination, on the first day of March of that year where the examination is to be held during March, or on the first day of September where the examination is to be held during September as the case may be;
- (ii) women candidates who have undergone the two-year condensed course conducted under the auspices of the Central Social Welfare Board, New Delhi, before the last date prescribed for sending applications for the examination;
- (iii) physically handicapped persons shall be eligible to appear as private candidates.

**42. Ineligibility of candidates who has passed an equivalent or higher examination.**-Notwithstanding anything contained in Regulations 39 and 40, no person who has passed any examination recognised as equivalent to or higher than the Mysore Secondary School Leaving Certificate Examination conducted by the Board, shall be eligible to appear for the examination as a private candidate."

5. He submits that 18 years of age in Regulation 39(i) and 40(i) is subsequently amended by reducing the same to 15 years of age.

ABH

6. The petitioner's request is turned down citing only one reason, that is, as per the notification, dated 16.5.2012, the one who does not appear for the annual examination, is not entitled to appear for the supplementary examination. In view of the Regulations extracted hereinabove, I do not find any justificatory reason for passing the impugned order. The impugned order is quashed. The respondents are directed to permit the petitioner to appear for the forthcoming supplementary examination of SSLC. The petitioner shall observe all the formalities, which the respondents may prescribe.

7. This petition is accordingly disposed of. No order as to costs.

**Sd/-  
JUDGE**

MD