

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17241 of 2023

1. Sameer Raj @ Sameer Raj Sinha through his Father Sri Arun Kumar Sinha, Resident of - 63,C/C, South of Post Office Building, Mohalla- Peoples Co-operative Colony,, Post Office - Loha Nagar, District- Patna.
2. Sri Arun Kumar Sinha, S/O- Late Yogeshwar Prasad Sinha, Resident of 63,C/C, South of Post Office Building Mohalla- People's Co-operative Colony,P.S-Kankarbagh, Post Office - Loha Nagar, District- Patna.

... .. Petitioner/s

Versus

1. The Union of India Through Secretary (School of Education, and Literacy), Ministry of Human Resource Department, Shastri Bhawan, New Delhi.
2. The State of Bihar through Additional Chief Secretary, Education Department, New Secretariat, Patna.
3. The Director, Secondary Education, Education Department, New Secretariat, Patna.
4. Chairman, Central Board of Secondary Education, Shiksha Kandra, 2, Community Centre, Preet Vihar, New Delhi.
5. Secretary, Central Board of Secondary Education, Shiksha Kendra,2, Community Centre, Preet Vihar, New Delhi.
6. Regional Officer, Central Board of Secondary Education, Regional Office-Ambica Complex, Behind SBI Colony, Near Brahmsthan, Sheikhpura, Bailey Road, Patna-800014.
7. B.D .Public School, Buddha Colony, Patna through its Director Mr. S.B.Rai.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Anurag Saurav
For the Respondent/CBSE: Mr.Vinay Krishna Tripathy
For the Respondent/State: Mr. Prabhakar Jha GP 27

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL JUDGMENT

Date : 11-01-2024

1. Sameer Raj @ Sameer Raj Sinha (petitioner no. 1), aged about 10 years, has filed the present writ application through his guardian / father Arun Kumar Sinha for a direction to the respondent authorities specially C.B.S.E. to permit the petitioner no. 1 to appear in the Board Examination of AISSE



(All India Secondary School Examination) 2025 and to direct the C.B.S.E. to allow / accept the registration of the petitioner no. 1 in C.B.S.E. even though the petitioner no. 1 is aged about 10 years and 10 months i.e. below 15 years of age.

2. Learned counsel for the petitioners submits that petitioner no. 1 at the age of 5 ½ year had taken admission in Class-IV at B.D. Public School, Buddha Colony, Patna in the year 2018 after passing the entrance / admission test of the School for Class – IV. The petitioner no. 1 passed Class - IV with A1 & A2 Grade in most of his subjects and was promoted to Class – V and further he passed successive examinations of Class-V, VI etc. with exceptional Grade having Grade A1 & A2. In Class - VII & VIII the petitioner no. 1 obtained 91% and 95.83 % respectively and promoted to Class - IX at the age of 9 ½ years. According to learned counsel for the petitioners, the petitioner no. 1 is exceptionally meritorious and can clear 2025 Board Examination with flying colours.

3. Learned counsel referring to examination Bye-Laws of the C.B.S.E., New Delhi especially Clause 6.1(a) (iii), submits that C.B.S.E. has no authority to prescribe the minimum and maximum age limit of students for admission and a student is required to satisfy the minimum / maximum age limit as fixed



by State / U.T. Government where the School is located. Learned counsel placed Article 291 of the Bihar Education Code (hereinafter referred to as the “Code”) and submits that it prescribes that ordinarily no child under the age of five should be admitted to a Primary or Senior Basic School. The petitioner no. 1 was admitted directly in Class -IV as such, as per Article 291, the petitioner no. 1 was admitted in primary school within the prescribed age. Referring to Article 6 (viii) of the Code, learned counsel submits that Primary School is up to Class - V and the petitioner no. 1 took admission in Class – IV at the age of 5 ½ years as such as per Article 291 of the Code the petitioner no. 1 got admitted after five years in Primary School.

4. On the other hand, Mr. Vinay Krishna Tripathi, learned counsel for the C.B.S.E. submits that argument advanced by learned counsel for the petitioners that Primary School can start from Class-IV or Class-V is preposterous inasmuch Article 6 of the Code prescribes different kind of Schools under which Primary School is defined up to Class -V which starts at Class-I. As such reading the provisions of the Code together with examination bye-laws of the C.B.S.E., a student below 05 years of age cannot be admitted in Class-I. If any student is getting admission in other than Class – I that student shall be admitted



in Class higher than Class- 1 at appropriate age starting from the age of 5 years.

5. Taking into consideration the provisions enshrined in the Code and the bye-laws of the C.B.S.E. at the time of admission in Class-IV the appropriate age of the petitioner no. 1 should have been minimum 08 years whereas the petitioner no. 1 got admission at the age of 5 ½ in Class IV i.e. below the age prescribed under the Code / Bye- Laws.

6. I have heard learned counsel for the parties and have gone through the provisions prescribed in the Code and the Bye-Laws of the C.B.S.E. Upon purposeful reading of the provisions of the Code and the Bye-Laws of the C.B.S.E., I am of the opinion that a student below the age of 05 years cannot be admitted in Class -I and if a student is getting admission above Class-I, he shall be admitted in higher class at appropriate age meaning thereby above the age of 05 years. For example, if a student is getting admission directly in Class -V, then his age should be 09 years.

7. However, Article 291 of the Code starts with the word “ordinarily” as such, the age prescribed is meant for normal circumstances. If any student is child prodigy and has exceptional merit, in that case Article 291 of the Code may not



be treated as absolute and in case of exceptional merit of a student he may be allowed to appear in the Board Examination even below the prescribed age.

8. In the present case the petitioner no. 1 though is under age but has passed examinations between Class-IV to Class-VIII with A1 & A2 Grade having scored up to 95 % marks and odd. Petitioners are claiming that the petitioner no. 1 is exceptionally good and can clear the Board Examination of Class -X to be conducted in 2025. Though minimum cut off age for getting admission is provided under the Code / Bye- Laws of the C.B.S.E. but in extraordinary situation exceptionally meritorious candidate can be allowed to appear in the Board examination even if he / she is under age. However, extraordinary intelligence / merit of such candidate can be tested by the Examining Body i.e. C.B.S.E. The permission to take the Board Examination for under age student can only be granted in exceptional circumstances for which C.B.S.E. is the best Judge.

9. Considering the aforesaid discussions and the result shown by the petitioner no. 1, in my considered opinion, the petitioners may file a representation before the Chairman of the C.B.S.E. along with all relevant papers / results of the petitioner no. 1 within a period of twenty days from today and if such a



representation is filed, the Chairman of C.B.S.E. is directed to consider the same.

10. If the petitioner no. 1 is found exceptionally meritorious and the Chairman of C.B.S.E. is satisfied, then petitioner no. 1 shall be allowed to participate in the Board Examination to be held in 2025. He may issue appropriate direction in this regard within a period of two months from the date of receipt of representation of the petitioners.

11. This writ application stands disposed with the aforesaid direction / observation.

(Anil Kumar Sinha, J)

praful/-AFR

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	17-01-2024
Transmission Date	NA

