

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 5TH DAY OF MARCH, 2026

PRESENT

THE HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE

AND

THE HON'BLE MR. JUSTICE C.M. POONACHA

WRIT APPEAL NO. 1532 OF 2025 (EDN-RES)

BETWEEN:

1. CENTRAL BOARD OF
SECONDARY EDUCATION
NO.XG28 XF5, CHANDRA
LAYOUT EXTN., IIND STAGE,
GNANA BHARATHI MAIN ROAD,
NAAGARBHAVI,
BENGALURU 560 072.
REP. BY ITS REGIONAL OFFICER
2. THE CONTROLLER OF EXAMINATION
CENTRAL BOARD OF
SECONDARY EDUCATION (CBSE)
COMMUNITY CENTRE,
PREET VIHAR,
NEW DELHI 110 092



...APPELLANTS

(BY SRI. ANANDITHA REDDY, ADVOCATE)

AND:

1. DONTI SAATHVIK REDDY
S/O DONTI SRINATH REDDY,
AGED ABOUT 18 YEARS,
R/AT NO. 118, 2 MAIN ROAD,
RAKESH FANTASY GARDEN,
ASTER 307, KASTURINAGAR,
BENGALURU 560 043.

2. NEW BALDWIN INTERNATIONAL SCHOOL
SY.NO.128, OLD MADRAS ROAD,
MANDUR, BUDIGERE,
BENGALURU 560 049,
REP. BY ITS PRINCIPAL.

...RESPONDENTS

(BY SRI. RAJESWARA P N, ADVOCATE FOR C/R1)

THIS WRIT APPEAL IS FILED U/S 4 OF THE KARNATAKA HIGH COURT ACT PRAYING TO ALLOW THE PRESENT APPEAL BY SETTING ASIDE THE IMPUGNED ORDER DATED 23/08/2025 PASSED BY THE LEARNED SINGLE JUDGE IN WP NO.16511/2025.

THIS APPEAL HAVING BEEN HEARD AND RESERVED FOR JUDGMENT, COMING ON FOR PRONOUNCEMENT THIS DAY, JUDGMENT WAS PRONOUNCED AS UNDER:

CORAM: HON'BLE MR. VIBHU BAKHRU ,CHIEF JUSTICE
and
HON'BLE MR. JUSTICE C.M. POONACHA

CAV JUDGMENT

(PER: HON'BLE MR. JUSTICE C.M. POONACHA)

1. The present intra Court appeal is filed by the Central Board of Secondary Examination [**CBSE**] and its Controller of Examination calling, in question the order dated 23.08.2025 passed in WP No.16511/2025 (EDN-RES) [**impugned order**]. The learned Single Judge had allowed the writ petition filed by the first

respondent-writ petitioner and set aside the impugned order/communication dated 28.05.2025 whereunder CBSE had communicated to respondent No.2 - institution, that due to the writ petitioner having been found to have used Unfair Means [**UFM**] a penalty under Category - 3, i.e., cancellation of the current as well as next year's examination in all subjects was imposed.

2. The relevant facts in nutshell leading to the present appeal are that respondent No.1 - writ petitioner was a student of respondent No.2 - institution pursuing his 12th standard. The petitioner opted for the subjects Physical Education, Physics, Chemistry, Mathematics and English. The Class 12 examination commenced from 17.02.2025 and concluded on 11.03.2025. The examination center for the petitioner was Shri Ram Global School, Bommenahalli, Bangalore KK, which was stated to be 23 kms. away from the petitioner's residence. On the first day of the examination, which was for the subject, Physical Education, about 25 minutes after the commencement of the examination, the invigilator noticed a mobile phone in the petitioner's pocket and the said matter was reported to the observer at the center. Immediately, the mobile phone was seized and a fresh question paper and answer script was given to the petitioner to complete the

examination. But, after the said incident, the petitioner was permitted to write the other papers.

3. After the conclusion of the examinations, the petitioner was called for an enquiry on 09.04.2025. In the enquiry, the petitioner sought to explain the incident by stating that he had arrived late to the examination center and he went into the classroom in a hurry, unmindful of the fact that the mobile phone was in his pocket. That the mobile phone being in the pocket went unnoticed even when the petitioner was frisked before entering the classroom. It is also further sought to be explained that there was no material pertaining to the examination in the mobile phones, which aspect was verified by the committee and no incriminating material pertaining to the examination was found. The committee recommended the punishment to the petitioner under Category - 3, consequent to which CBSE passed the impugned order dated 28.05.2025 which was the subject matter of challenge before the learned Single Judge. It is pertinent to notice the reliefs sought for in the writ petition is as under:

"a) Strike down Category-3 (New) in the unfair means categorization guidelines issued by the CBSE as per their communication bearing No.CBSE/Coord/2025 dated 20.01.2025 or in the alternative read down the said categorization extending the benefit of doubt to be given to the

students against whom no evidence is available to testify the foul intents on their part; (Annexure-B)

b)ISSUE a Writ of Certiorari quashing the Order bearing No.CBSE/RO/BLR/UFM-XII/2025 dated 28.05.2025 passed by the Respondent No.1 (Annexure-A);

c) ISSUE a Writ of Mandamus directing the Respondents authorities to consider the Petitioner's representation dated 02.06.2025 (Annexure-E) and announce his results in respect of the Class-XII examination for the academic year 2024-25 as per his Admit Card No.DD034513 and

d) Pass such other orders as this Hon'ble Court deems fit to pass under the facts and circumstances of the case, in the interest of justice and equity."

4. The learned Single Judge held that the case of the writ petitioner was similar to the case of **Shuchi Mishra Vs. Joint Secretary, Department of School Education and Literacy and Others**¹, and held that a similar benefit ought to be given to the petitioner. Accordingly, the learned Single Judge allowed the petition and granted the reliefs. The relevant portions of the impugned order of the learned Single Judge are as under:

"9. It is noticeable that in almost identical circumstances, where the student carried mobile phone into the examination hall and there was no allegation of the student being caught looking at the mobile phone or using the mobile phone, the Co-ordinate bench held in the case of **Shuchi Mishra** (supra), where the extant regulation of the CBSE had fallen to consideration, that when tender minds commit a mistake, they cannot be treated with iron gloves; the penalty order

¹ 2020(6) Kar.L.J.586

arguably may answer the requirement of letter of law but certainly falls short of standards of justice and fairness. It was noticed that the committee which conducted the enquiry did not find any incriminating material in the mobile phone pertaining to the paper/subject of the day. In the present case too, there is no material placed before this Court at the hands of the respondents or the disclosure of any such information found at the hands of the committee. It is also noticeable that the Hon'ble Division Bench, in W.A.No.686/2020, dated 04.03.2021, held that it is true that Bye-law 36.1 provides for the punishment for using unfair means. However, it was held that the respondent Board has not been able to make out a case that the student has used the mobile phone while giving the examination, therefore, this Court can safely arrive at a conclusion that the student was negligent in carrying a mobile phone to the examination centre, but as the mobile phone was not used at all, the punishment awarded has rightly been set aside by the learned Single Judge. The respondent - CBSE has accepted the orders passed in the case of **Shuchi Mishra** (supra).

10. The learned counsel for the petitioner is also right in contending that in Category-I, Clause 1.5, the guidelines allowed benefit of doubt to be given to such students against whom no evidence is available to testify to foul intents on their parts even when the student is found possessing copying material (hard copy etc.), but have not used the same. Although, a challenge is raised to Category-III (new), on the ground of discrimination when compared to Category-I, nevertheless, as rightly submitted by the learned counsel for the petitioner, it would suffice to read down the said categorization, extending the benefit of doubt to the petitioner.

11. In that view of the matter, this Court is of the considered opinion that the petitioner herein should also get similar benefit, on parity, with that of **Shuchi Mishra** (supra).

12. Consequently, the writ petition is allowed. The impugned order at Annexure-A dated 28.05.2025 is hereby quashed and set aside. The respondents are hereby directed to announce the results of all the papers written by the petitioner and issue the statement of marks and the certificate to the petitioner, as expeditiously as possible and at any rate within a period of one week from the date of receipt of a copy of this order.

Ordered accordingly.

13. Pending Interlocutory Application stands disposed of."

5. It is the contention of the appellants that as per the relevant Bye-Laws, the possession of the mobile phone falls under "Unfair Means Category - 3" and the stipulated penalty was the cancellation of current as well as next year's examination in full with the student being entitled to take the examination in all subjects thereafter. It is contented that the petitioner having admittedly carried the mobile phone, the imposition of punishment by CBSE was just and proper. Further, CBSE sought to distinguish the case of **Shuchi Mishra** (supra) from the facts of the present case.

6. Per contra, the learned counsel for respondent No.1 justified the order of the learned Single Judge.

7. Before considering the contentions put forth by the parties, it is relevant to notice the relevant Bye-Laws.

8. CBSE was constituted under the Government Resolution dated 01.07.1929. Clause 18 of the Government Resolution empowered the Board to make Bye-Laws consistent with the Government Resolution. The Examination Bye-Laws of CBSE

were made effective from 31.01.1995. Bye-Law No.36 stipulates

the Rules for UFM. Bye-Law No.36.1[iv] reads as under:-

"(iv) If during the course of examination, a candidate is found indulging in any of the following, he/she shall be deemed to have used unfair means at the examinations, and as such his/her result shall not be declared but shall be marked as UNFAIR MEANS (UFM.):

(a) having in possession papers, books, notes or any other material or information relevant to the examination in the paper concerned;

(b) giving or receiving assistance directly or indirectly of any kind or attempting to do so;

(c) writing questions or answers on any material other than the answer book given by the Centre Superintendent for writing answers;

(d) tearing of any page of the answer book or supplementary answer book etc.;

(e) contacting or communicating or trying to do so with any person, other than the Examination Staff, during the examination time in the examination centre;

(f) taking away the answer book out of the examination hall/room;

(g) using or attempting to use any other undesirable method or means in connection with the examination;

(h) smuggling out Question Paper or its part; or smuggling out answer book/supplementary answer sheet or part thereof; and

(i) threatening any of the officials connected with the conduct of the examinations or threatening of any of the candidates."

9. Bye-Law No.36.1(v) stipulates the punishment for a candidate found guilty of using unfair means. The said Bye-Law No.36.1(v) reads as under:-

"(v) A candidate found guilty of any of the unfair means mentioned at (iv) above:-

(a) may be disqualified by the Board from the examination in that year (i.e. his/her examination for that year may be cancelled;

(b) may further be debarred from appearing at any examination of the Board for a period which may extend upto five years; and

(c) in serious cases, may permanently be debarred from taking any examination of the Board."

10. Bye-Law No.36.1(iv) stipulates that having possession of papers, books, notes or any other material or information relevant to the examination, shall be declared as UFM. Sub-clause (g) also stipulates attempting to use any undesirable method also constitutes UFM. The punishments for the UFM's detailed in Bye-Law No.36.1(iv) are set out in Bye-Law No.36.1(v).

11. Regulations 36(iv) of the examination Bye-Law relating to unfair means were amended pursuant to the decision of the examination committee held on 06.02.2018, which was approved by the governing body on 17.12.2018. The relevant extract of the amended Rule No.36(v) is as under:-

Existing Rule 36(iv)	Amended Rule 36(v)
	a) Having in possession any item or article which has been prohibited in examination centre or may be used for unfair practices including any stationery item, communication device, accessories, eatable items, ornaments or any other material or information relevant or not relevant to the examination in the paper concerned;

	(n) Use or attempted use of any electronic device after entering the examination center;

12. Bye-Law No. 34.4 of the Regulations stipulates that the Controller of Examinations, with the approval of the Chairman can issue guidelines for adherence by Centre Superintendents, Deputy Superintendents and Assistant Superintendents. Accordingly, vide communication dt. 09.02.2024, the Controller of Examinations of CBSE, issued Guidelines, whereunder, the procedure and the rules for dealing with UFM cases were stipulated. UFM cases were demarcated into 5 categories and punishments were stipulated for each Category. Category - 3.4 pertains to the use of electronic devices other than mobile phone and is relevant for the present case. The relevant extract of the said Category - 3.4 is as follows:

"3.4. Possession, use or attempted use of any electronic device (other than Mobile Phone), which can be used as communication device, after entering the examination centre.

Supported by report of invigilator/checking staff."

13. The punishments stipulated for UFM stipulated in Category

- 3 is as under:-

"Cancellation of current as well as next year's examination in all subjects.
Shall have to take the examination in all subjects thereafter."

14. It is noticed that the guidelines which have categorised the cases of UFM into 5 categories, Category - 3.4 specifically stipulates that "possession, use or attempt to use of any electronic device other than mobile phones" would be a UFM and the punishment for the Category - 3 is cancellation of the current as well as the next year's examination in all subjects.

15. In the 139th Governing Body Meeting of CBSE held on 24.06.2024, the recommendation of the Examination Committee to modify the existing guidelines in respect of the use of mobile phones during Board examination was examined and ratified by the Governing Body. The relevant extract of the proposal which was ratified is as under:

"Background

The Committee members were informed that the rules formulated by CBSE for dealing with Unfair Means cases and Imposition of penalties prescribed following penalties for the under mentioned act of Unfair Means:

Act of Unfair Means:	Penalties
Category 1- Having copying material (hard copy and Mobile Phone etc.) in his/her possession but did not use it, Supported by report of invigilator/checking staff	Cancellation of current examination in the Concerned subject. Shall be allowed to take of the examination in that subject in the Compartment examination, if otherwise eligible. The benefit of doubt shall be given to such student against whom no evidence is available to testify to the foul intents on their part.
Category 3- Possession, Use or attempted use of any electronic device (other than mobile phone), which can be in used as communication device, after entering the examination centre. Supported by report of invigilator/checking staff	Cancellation of current as well as next year's examination in full subjects. Shall have to take the examination in full subjects thereafter.

As per the above provisions copying material (chit etc.) and mobile phone etc. have been given equal status and placed under category 1 with fewer quanta of penalties, whereas use of other electronic devices has been placed under category 3 with more severe penalties. This distinction in quantum of penalties vis-à-vis mobile phone/electronic device seems unreasonable. It is pertinent to mention that mobile phone is an electronic device used for communicating i.e. used for sending and receiving photo copy, picture etc. If a mobile is found in possession of a candidate during the examination, in such cases, there is a high degree

of risk involved on leakage of question papers and sabotage of examination.

The risk can be managed by placing mobile phone and other electronic devices on equal footing and same type of penalty may be prescribed for possession or use of both the devices during examination.

The members were informed that possession or use of mobile phone and other electronic device shall be put in same category 3 with same severe penalties of cancellation of current as well as next year's examination in full subjects. The candidate shall have to take the examination in full subjects thereafter. Before examination, Public Notice in newspaper may be given.

The Examination Committee agreed to modify penalties under UFM category as proposed. Parents should ensure that the child shall not bring mobile phone at examination centre.

Decision

The Governing body ratified the recommendations of Examination Committee."

16. The amendments to Bye-Law No.36.1(iv) of the Examination Bye-Laws, which were approved by the governing body on 17.12.2018 stipulated that "use or the attempted to use of any electronic device after entering the examination centre" would be a UFM. In the General Body Meeting held on 24.06.2024, the rules formulated for dealing with UFM cases and imposition of penalties were modified whereunder, Category - 1 contemplated "having copying material (hard copy and mobile phones, etc.,) in

his/her possession but, did not use it, supported by a report of the invigilator/checking staff". The said Category - 1 act would incur a penalty of cancellation of current examination in the concerned subject and the candidate shall be allowed to take the examination in that subject in the compartment examination, if otherwise eligible. It was further specifically stipulated that "benefit of doubt" shall be given to such student against whom no evidence is available to testify the foul intent on their part. In the said modification, Category - 3 stipulated "possession, use or attempt to use of any electronic device (other than mobile phone)". The minutes of the said meeting would indicate that copying material like chit, etc., and mobile phone have been given equal status under Category - 1 with a fewer quantum of penalties, whereas use of other electronic devices have been placed under Category - 3 with more severe penalties. It was felt that the distinction in the quantum of penalties vis-à-vis mobile phones/electronic devices seems unreasonable. Since mobile phone is an electronic device, which can be used for communicating and it involved a high degree of risk of leakage of question papers and sabotaging of the examination, mobile phone and other electronic devices were placed on equal footage and were put in Category - 3 with severe

penalties of cancellation of the current as well as next year's examination in all/full subjects.

17. A communication dated 20.01.2025 was addressed by CBSE to various institutions whereunder, the newly added provisions of the UFM Rules were highlighted which is as under:

Act of Unfair Means	Implemented Penalties
Category-3 (New) (i) Possession, Use or attempted use of any Electronic Device (including Mobile Phone), which can be in used as communication device, after entering the Examination Centre. Supported by report of Invigilator/Checking staff (ii) Students indulging in spreading rumours affecting smooth conduct of examinations.	Cancellation of current as well as next year's examination in full subjects and shall eligible to write/have/take the Examination in Full Subjects thereafter.

18. In the communication dated 20.01.2025 which pertains to the date of the incident in question, "possession, use or attempt to use (including mobile phones)....." was stipulated in Category - 3 and penalty to be imposed was cancellation of the current as well as the next year's examination in all/full subjections.

19. In the present case, the relevant extract of the report of the committee which had enquired into the incident pertains to the petitioner, is as under:-

1	Bengaluru	12 18622034 BL-A 0523413 BL-A 0523475 DONTHI SAATVIK REDDY DONTHI SRINATH REDDY DONTHI SINDHURA 048/PHYSICAL EDUCATION 17/02/2025 831323/SHRI RAM GLOBAL SCHOOL BOMMENAHALLI BANGALORE 45551/NEW BALDWIN INT RESI SCHOOL MANDUR BANGALORE	Brief of incident: Student was caught with a mobile phone in the examination hall by the invigilator. The mobile was found after the candidate went for Washroom. Student was not copying with the help of mobile phone. Details of Examination Centre and Student School are as under: Centre No: 831323 - Shri Ram Global School Bommanahalli Bangalore. School No: 45551 - New Baldwin Int. Res. School Mandur Bangalore. Evidence collected: Mobile Phone, Statement of Invigilators, Statement of Observer, Statement of Student and Report of CS. Student's statement before committee: Candidate agreed that he was in the possession of the Mobile when the invigilators caught him. The mobile was available with him but he didn't use for copying. Observations of committee: The Committee interacted with the above Candidate and inquired into the matter and came into conclusion that, though the Candidate had the Mobile during the Examination, but there is no proof that he has used the same for the purpose of	Para 3.4 under clause 6.4 of Centre Guidelines.
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			<u>copying/malpractice. As per Candidate's submission he had the Mobile with him by mistake. The Subject Expert inspected the Mobile phone in person and reported on dated: 04.04.2025 that no relevant material pertaining to the subject was found. Again, in the report of Centre Superintendent on the day of Examination i.e., 17.02.2025, it is evident that the Candidate didn't copy any answers in the Answer Book from the Mobile. The Committee is under the impression that the Candidate has not copied anything from the mobile in the Answer Book.</u>	
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(emphasis supplied)

20. In the Writ Petition, the petitioner had sought for striking down of Category - 3 (New) as mentioned in the communication dated 20.01.2025 as being an unfair means of categorisation guidelines. In the alternative, it was sought that the same be read down to expand the benefit of doubt to be given to the student against whom no evidence is available to testify to the foul intent on their part.

21. The learned Single Judge had accepted the contention of the writ petitioner that in Category - 1, clause 1.5, the guidelines allowed benefit of doubt to be given to students against whom no

evidence is available to testify to foul intents on their part even when the student is found possessing copying material. That the stipulations contained in Category - 3 are to be read down to extend the benefit of doubt as provided in Category - 1. The learned Single Judge also granted the relief to the writ petitioner on the ground of parity, having regard to the judgment of another learned Single Judge in ***Shuchi Mishra*** (supra).

22. It is pertinent to note that the judgment of the learned Single Judge in the case of ***Shuchi Mishra*** (supra) was challenged by CBSE before a Coordinate Bench of this Court being Writ Appeal No.686/2020. The said writ appeal was dismissed by judgment dated 04.03.2021. In the said appeal, it was held that it was not made out that the student was using the mobile phone while giving the examination. Further, it was noticed that "mere possession of a mobile that too when the student has not taken it inside the examination room, will not make the student liable for punishment under the bye-laws".

23. The case of ***Shuchi Mishra*** (supra) pertains to a fact situation wherein, the student had "unmindfully carried her mobile phone to the examination hall, which was voluntarily handed over to the invigilator before the commencement of the examination". It

was held that the student had used unfair means and her exam in the subject of Biology was cancelled. The learned Single Judge while noticing Bye-Law No.36.1(iv) and 36.1(v) of the Regulations set aside the order of CBSE imposing the punishment. It is pertinent to note that the incident in the case of ***Shuchi Mishra*** (*supra*) occurred on 14.03.2020 prior to the guidelines whereunder, the procedure and rules for dealing with UFM were issued on 09.02.2024. As on the date when ***Shuchi Mishra*** (*supra*) was decided, the categorization of cases of UFM in the five different categories was not available. Hence, it cannot be stated that the writ petitioner is entitled to the relief sought for in the writ petition by virtue of parity.

24. With regard to the relief sought for by the writ petitioner in the writ petition to either strike down Category - 3 of the UFM guidelines or the said categorisation be read down to extend the benefit of doubt to students against whom no evidence is available, the said aspect was the subject matter of discussion in the 139th meeting of the Governing Body held on 24.06.2024 (the relevant extract of which has been noticed at para 15 *supra*). In the said meeting, the aspect of a student being in possession of copying material including mobile phones, but not using the same,

being prescribed in Category - 1 with a lenient punishment, while the use of electronic devices which was prescribed in Category - 3 with a more stringent punishment was noticed and discussed. The General Body accepted the recommendation made by the Examination Committee, which opined that the distinction in the quantum of penalties vis-à-vis mobile phones/electronic devices was unreasonable. This was due to the fact that the mobile phone is an electronic device used for communicating and if a mobile phone is found in possession of a candidate during the examination, there is a high degree of risk involved in leakage of question papers and sabotaging of examinations.

25. CBSE has contented that the guidelines with regard to UFM have also been communicated to students and in the Admission Card issued by CBSE to the students for the examinations, the instructions are set out, which specifically stipulate that "mobile and other communication devices are not allowed inside the examination center".

26. In this context, the observations of the Committee (which has been extracted at para 19 herein above) indicate that the Committee had opined that the candidate had not copied anything from the mobile in the answer sheet. Pursuant to the decision of

the Governing Body in the 139th Meeting held on 24.06.2024, even the possession of the mobile phone has been stipulated as a Category - 3 offence.

27. The thrust of the case of the petitioner is that there is no material on record to indicate that the petitioner had used the mobile phone.

28. The learned counsel for the writ petitioner also states that it has been specifically averred in the writ petition that the petitioner is a meritorious student having secured 92% in CBSE 10th Board Exam in the Academic Year 2022-2023. That the petitioner has been declared successful in the IIT - JEE Advanced Examination published on 02.06.2025. It was also pointed out that specific averments were made in the writ petition that the invigilator found the phone in the pocket of the student 25 minutes into the examination and after the seizure of the phone and no incriminating material having been found in the phone, the petitioner was given a fresh question paper and answer sheet and was permitted to write the examination. That the petitioner wrote and completed the examination in 1 hour 40 minutes, although the allotted time was 3 hours, as 1 hour 20 minutes was spent in enquiry, checking and observing all other formalities. It was also pointed out that the

petitioner was also permitted to take all other examinations. That the said factual aspects have not been contested by CBSE either in the statement of objections filed before the learned Single Judge or in the memorandum of appeal.

29. In the statement of objections filed before the learned Single Judge it is stated that after the report of the incident in question from the Examination Centre, respondent Nos.1 and 3 in the writ petition (CBSE and the Controller of Examination) constituted an Unfair Means Committee comprising of four members i.e., Principal as well as the Deputy Commissioner of Kendriya Vidyalaya Sangathan as also the Regional Officer and the Under Secretary of CBSE, Regional Office, Bengaluru. It is further stated that based on the observations of the Committee, the petitioner was placed in Category - 3. It is further stated that the penalty under Category - 3 is cancellation of the current as well as next year's examination in full and eligible to write/have the right to take examinations in full thereafter. It was also averred that the penalty is imposed in accordance with clause 36.1(v)(a) and (b).

30. It is forthcoming that after the petitioner appeared before the Committee constituted by CBSE, CBSE by its communication dated 28.05.2026 (which is impugned in the writ petition) intimated

respondent No.2/institution regarding the enquiry conducted as well as the punishment imposed. By the said communication, it is stated that pursuant to that report of the Committee, the competent authority has placed the case of the petitioner under UFM Category - 3 and imposed a penalty of cancellation of current as well as the next year's examination in all subjects and allowing the petitioner to be eligible to take the examination in all subjects thereafter. Hence, it is clear that the punishment imposed is in terms of the punishment stipulated under Category - 3 pursuant to the procedure and rules laid down by the Controller of Examinations for dealing with UFM. Although, CBSE has stated in its statement of objections that the penalty is imposed in accordance with clause 36.1(v)(a) and (b) of the Examination Bye-Laws, 1995, the impugned communication does not refer to the Examination Bye-Laws.

31. The learned counsel for the writ petitioner is justified in contending that the factual matrix points to a situation wherein, the mobile phone has not been used by the petitioner. However, the relief sought for in the writ petition, which has been granted by the learned Single Judge of reading down the categorization to expand the benefit of doubt to be given to the student against whom no

evidence is available to testify the foul play, is not liable to be granted. This is in view of the aspect regarding the specific circumstance of a student having copying material (including mobile phone), which was mentioned in Category - I with a lenient view, whereas the use of mobile phone/electronic device was mentioned in Category - 3 with a severe penalty, was the subject matter of discussion in 139th General Body Meeting of CBSE held on 24.06.2024. The General Body Meeting accepted the recommendation of the Examination Committee to modify the existing guidelines. As a result of the same, even mere possession of a mobile phone has been mentioned in Category - 3, which prescribes a stringent penalty, which has been done in the present case. The said aspect having been proposed, discussed and ratified by an expert body, this Court, substituting its opinion with that of the expert body does not arise. The question of reading down an aspect which has been specifically removed from Category - 1 and inserted in Category - 3 by an expert body is not liable to be interfered with/diluted by this Court in proceedings under Article 226 of the Constitution of India.

32. The fervent plea put forth by the learned counsel for the writ petitioner not to interfere with the impugned order granting the

reliefs sought for in the writ petition, is not liable to be accepted having regard to the ratification made in the 139th General Body Meeting of CBSE on 24.06.2024 as has been noticed above.

33. In view of the aforementioned discussion, the contention put forth by CBSE in the present appeal is required to be accepted.

34. Accordingly, the above appeal is allowed and the impugned order is set aside.

35. All pending applications are also disposed of.

**Sd/-
(VIBHU BAKHRU)
CHIEF JUSTICE**

**Sd/-
(C.M. POONACHA)
JUDGE**

Vmb/BS/nd