



2024 : DHC : 194



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

+ W.P.(C) 12124/2023

OJAS SATYAWALI THROUGH HIS MOTHER

BHAWNA PATHAK

..... Petitioner

Through: Mr. Arkaneil Bhaumik and Mr.
Shashwat Kabi, Advocates for Dr. Amit
George, Advocate

versus

DIRECTORATE OF EDUCATION & ANR. Respondents

Through: Mr. Utkarsh Singh, Advocate
for Mr. Santosh Kumar Tripathi, Standing
Counsel (Civil) GNCTD for DoE.

CORAM:

HON'BLE MR. JUSTICE C.HARI SHANKAR

JUDGMENT (ORAL)

09.01.2024

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1. The petitioner is a 7 year old boy belonging to the Economically Weaker Sections (EWS) startum of society. His parents applied for admission of the Petitioner under the EWS category in the Class I for the 2023-2024 Academic Session. Dwarka International School (the Respondent School) – herein was selected as the most preferred school of choice in the application.

2. Computerized draw of lots was conducted on 14 March 2023. As per the results which were released online, the petitioner succeeded in securing admission to the respondent- School.

3. The Directorate of Education (DoE), by circular dated 14 March



2023 required the successful applicants to approach the School allotted to them. The writ petition avers that the petitioner made continuous efforts to get himself admitted in the respondent-School but that the respondent-School was unwilling to admit the petitioner. In these circumstances, the petitioner approached this Court by means of the present writ petition, praying for issuance of a writ of mandamus, commanding the respondent-School to admit the petitioner in Class 1.

4. When this writ petition had come up for hearing before this Court on 15 September 2023, the contention of Mr. Gautam who appeared on behalf of the respondent-School was that there was a discrepancy in the address furnished in the application made by the petitioner to the DoE, and the actual residential address of the Petitioner. Incidentally, the difference is only that in the registration form, the residential address of the petitioner was shown as “H.No.59/60 Ground Floor Block Mandir Wali Gali behind Dwarka Sector-3 petrol pump Rajapuri, Uttam Nagar.” Whereas, in the Aadhar card of the petitioner, the address is reflected as “Plot No.59/60, Ground Floor Block M Mandir Wali Gali, Raja Puri, behind Dwarka Sector 3 Petrol Pump, Uttam Nagar, D.K. Mohan Garden, West Delhi, Delhi-110059”.

5. It was sought to be contended by Mr. Gautam that, on 15 September 2023, a spot verification had been conducted by the respondent-School and that the Petitioner was not found residing at the above address stated in the Aadhar card, and that, when they spoke to his mother, she stated that she was residing elsewhere.



6. This Court, in its order dated 15 September 2023, took note of the judgment of a Co-ordinate Bench in ***Rameshwar Jha v. Richmond Global School¹***, which held in para 123 thus :

“123. It is high time that the judiciary reaches the people and not wait for the people to reach out to the judiciary, as the poor kids are being forced in the instant set of petitions to knock the doors of the Court for availing their Fundamental Right to Education. In view of the aforesaid analysis as well as to alleviate and ameliorate the miserable state of affairs as prevalent in the NCT of Delhi *qua* implementation of the RTE Act at elementary education level, it is pertinent to exercise the powers of this Court under Article 226 of the Constitution to issue directions to the DoE for ensuring admission to the poor children belonging to weaker sections. It is accordingly directed as under:

- a. All the schools within the meaning of Section 2(n) of the RTE Act shall ensure that the provisions of the Act as interpreted herein shall be given effect in letter as well as in spirit;
- b. All such schools as aforementioned shall also ensure that no student, belonging to ‘Weaker Sections’ as defined in the RTE Act and recommended by the DoE for being admitted in an Academic Session, shall be denied admission or treated with conduct that is unwelcoming of them on any pretext whatsoever including that of suspicion of credentials;
- c. Any exemption/waiver if required by the schools under the provisions of the RTE Act, in the most exceptional and unforeseen circumstances, can be availed by making such request to the DoE as per the scheme as delineated below:
 - i. The Application must be made within one week of recommendation and the notification of admission of a particular student under the ‘weaker section’ quota to the neighborhood school.
 - ii. The said Application must state the reasons and circumstances under which the limited liberty or onetime limited exemption is being sought, or in any format as the DoE may deem fit including other details therein in addition to the reasons for the request.

¹ 2022 SCC OnLine Del 4438



iii. Upon receiving the said Application, the DoE shall give an opportunity of hearing to the concerned school within a week and decide the said application within a week thereafter, upon ascertaining that the prayers and reasons asserted therein are *bona fide* and stand the test of most exceptional circumstances and accordingly to its satisfaction, if deemed fit, grant a one-time limited exemption to the concerned school.

iv. It is, however, made clear that no such exemption would be granted at the cost of causing prejudice to the admission of the child and shall only be passed after admitting the child, who would otherwise be aggrieved, to an alternate school that is in the closest neighborhood.

d. The DoE shall exercise its powers under the Act and Rules to ensure that the provisions are duly complied with;

e. The DoE shall ensure that all the students shortlisted and notified to be admitted in a neighborhood school shall be admitted at the earliest within one month or within the period prescribed by the appropriate authority subject to the provisions of the Act;

f. In case of erring schools, the DoE shall issue strict directions as may be necessary to ensure the implementation of the RTE Act in a time-bound manner;

g. The DoE shall not hesitate in initiating the process of de-recognition of the schools which have been found to be indulging in any acts/omissions in contravention of the RTE Act and the Delhi RTE Rules.”

7. In view of the above position, this Court, on 15 September 2023, directed the Respondent School to grant the petitioner admission in Class I in the EWS/DG/CWSN category for the 2023-2024 academic session.

8. In compliance thereof, the Petitioner stands admitted to Class I of the respondent-School.



9. Respondent No.1/DoE has filed a counter-affidavit stating that the DoE was satisfied about the credentials of the petitioner and that it has no objection to the petitioner being granted admission in the respondent-School.

10. In light of the decision of the Coordinate Bench in *Rameshwar Jha*, the Court cannot sit over the decision of the DoE and itself conduct a verification regarding the petitioner's credentials. The authority to grant admission to EWS/DG/CWSN category has been conferred on DoE. It is the DoE which is required to carry out requisite verification and satisfy itself that child in question is entitled to preferential admission under the said category. If the DoE is satisfied on that count, the respondent-School cannot refuse admission to the child. It has to be borne in mind that, ultimately it is the child welfare which is paramount, and the law cannot countenance a situation in which, despite the DoE having found the child entitled to admission, the School refuses admission to child.

11. The respondent-School has not chosen to file any response to this petition. The matter was listed yesterday and adjourned for today in order to enable the respondent-School to appear if it so chooses. The respondent-School has, however, chosen to remain absent.

12. Apparently, the respondent-School has also no objection to continuing with the petitioner on its rolls.

13. In view of the aforesaid, this writ petition is allowed by making absolute the order dated 15 September 2023. The petitioner shall



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continue to receive education in the respondent-School in the EWS/DG/CWSN category in accordance with law.

14. The admission of the petitioner shall stand regularized accordingly.

15. This writ petition is allowed in the aforesaid terms.

C.HARI SHANKAR, J

JANUARY 9, 2024

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Click here to check corrigendum, if any