

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

Date of decision: 13th July, 2010.

+ W.P.(C) No.4315/2010

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MASTER ADITYA GAUR (MINOR) Petitioner
Through: Mr. Ashok Aggarwal and Mr. J.B.
Prakash, Advocates.

Versus

RAJKIYA PRATIBHA VIKAS VIDYALAYA
NO.1 & ORS Respondents
Through: Ms. Zubeda Begum with Ms. Sana
Ansari, Advocates for R-1 and 2.
Ms. Maninder Acharya, Advocate for
University.
Ms. Harsh Kumari for CIE
Experimental Basic School/R-4.

CORAM :-
HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

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| 1. | Whether reporters of Local papers may
be allowed to see the judgment? | No |
| 2. | To be referred to the reporter or not? | No |
| 3. | Whether the judgment should be reported
in the Digest? | No |

RAJIV SAHAI ENDLAW, J.

1. The petitioner seeks a direction to the respondent no.1 (Rajkiya Pratibha Vikas Vidyalaya No.1) run by the respondent no.2 (Government of NCT of Delhi) to consider the case of the petitioner for grant of admission in Class IX for the academic year 2010-2011.

2. The petitioner is a student of the respondent no.4 School (CIE Experimental Basic School) run by the respondent no.3 Delhi University. The said University School is till Class VIII only. The petitioner passed his Class VIII examination from the University School in the academic year 2009-2010 and applied for admission test to the R.P.V.V. School. The eligibility for registration and admission test to R.P.V.V. School advertised by the said school is as under:

“Students should have studied continuously for two years in Delhi Government/ Government aided / NDMC/ MCD / Delhi Cantonment Board Schools in immediate preceding years and should have obtained at least 60% marks in class V/VIII.”

3. The petitioner has passed the Class VIII Examination with more than 60% marks and is thus eligible on that ground. The petitioner also appeared in the written test held by R.P.V.V. School and the name of the petitioner was shown at serial No.13 of the list of the selected candidates exhibited by the R.P.V.V. School. However, notwithstanding the same, R.P.V.V. School refused to admit the petitioner on the ground that the University School from which the petitioner had passed his Class VIII examination was neither a Delhi Government nor Government aided nor NDMC nor MCD nor Delhi Cantonment Board School. Aggrieved from the said decision of R.P.V.V. School, the present petition was filed.

4. Notice of the petition was issued. The counsel for the University School has stated that the University School is funded entirely by the Delhi University and which in turn gets its grants from the University Grants Commission. It is stated that though under the Delhi School Education Act, 1973 the University School is classified as an unaided school but instead of aid being provided to the University School directly by the Government, it is being provided indirectly through the University Grants Commission. The counsel for the University School has supported the case of the petitioner contending that the students of the University School ought to be entitled to admission in R.P.V.V. School.

5. The counsel for the R.P.V.V. School has opposed the petition. It is stated that the Delhi Government, Government aided /NDMC/MCD/Delhi Cantonment Board Schools are catering to the children belonging to weaker sections of the society; that the Government is appointing best teachers for its schools in order to prepare students from Government schools to excel in studies; those children of such schools who show result and capability are given further concentrated attention in R.P.V.V. School to bring them to the level to compete with public school children in open competition examinations. It is pleaded that the aim of R.P.V.V. School is to prepare Government School children for higher academic achievements, excellence in sports, success in competitive examinations and all round development of their personality. The counsel argues that it is with such motive that the

admission criteria to R.P.V.V. School has been prescribed and limited to those children who in the two years preceding their admission have studied in Delhi Government/Government aided / NDMC/ MCD/ Delhi Cantonment Board Schools.

6. In view of the aforesaid contention of the counsel for R.P.V.V. School, this Court to satisfy itself that the petitioner did not belong to economically strong strata and who could afford to study in a public school rather than blocking a seat in the R.P.V.V. School directed the father of the petitioner to file an affidavit in this regard. An affidavit has been filed from which it is found that the petitioner belongs to the economically weaker section of the society. The University School itself is a school attached to the Central Institution of Education of the University of Delhi and which Institute is imparting training for teachers. The University School appears to have been set up to provide practical training to the students of Central Institution of Education. The fee structure of the University School as well as economic strata of the society whose children were studying in the University Schools was inquired from the counsel for the University School. The counsel informed that the University School does not charge any fee and the children of the weak economic strata of the society are generally enrolled in the University School.

7. In the aforesaid conspectus, the exclusion by the R.P.V.V. School of the University School while laying down the eligibility criteria for admission is not found to have any rational nexus to the purpose/objective sought to be achieved. If the purpose/objective is to train in excellence those students who are not able to afford public schools then the University School is found to be no different from the Delhi Government / Government aided / NDMC / MCD/Delhi Cantonment Board Schools and also fulfills the criteria. In fact the counsel for the RPVV School states that if the petitioner is admitted for two years in a Government School and for which he is entitled, after two years he will be eligible for admission to R.P.V.V. School. It is also contended that the petitioner has not challenged the Notification dated 16th June, 2010 of the Directorate of Education of Government of NCT of Delhi prescribing such eligibility criteria for admission to R.P.V.V. School. A copy of the said Notification has been filed alongwith the counter affidavit of the R.P.V.V. School.

8. The petitioner has challenged the eligibility criteria prescribed by the R.P.V.V. School and has rather pleaded and contended that he is covered by the said eligibility criteria and that the eligibility criteria is being wrongly interpreted by the school authorities. The Notification referred to is in fact in the context of clause (p) of Section 2 of the Right of Children to Free and Compulsory Education Act, 2009 and merely records the eligibility criteria for admission to the school. It is thus not as if the eligibility criteria has

been shown to be prescribed by any Statute or Rule. Once it is established that there is no distinction between the Government or Government aided School and the University School, the exclusion by the R.P.V.V. School of the University School from the list of schools, students whereof are eligible for admission to R.P.V.V. School is found to be arbitrary and discriminatory and cannot be sustained.

9. The petition therefore succeeds. The respondents no. 1 and 2 i.e. R.P.V.V. School are directed to, within one week of today, and subject to the petitioner and his parents complying with all the necessary formalities, admit the petition to the respondent no.1 R.P.V.V. School.

The petition is disposed of. No order as to costs.

**RAJIV SAHAI ENDLAW
(JUDGE)**

13th July, 2010
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(Corrected and released on 20th July, 2010)