

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

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Date of decision: 13th January, 2012.

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LPA No.23/2012

MASTER NAVNEET SINGH (MINOR) & ORS. Appellants

Through: Mr. Ashok Aggarwal, Mr. Sandeep
Garg & Mr. Sudhir Aggarwal,
Advocates

Versus

GOVT. OF NCT OF DELHI & ORS. Respondents

Through: Ms. Zubeda Begum & Ms. Sana
Ansari, Adv. for R-1 to 4.
Mr. Atul Kumar, Adv. for R-5.

AND

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LPA No.24/2012

MASTER VISHAL (MINOR) & ORS. Appellants

Through: Mr. Ashok Aggarwal, Mr. Sandeep
Garg & Mr. Sudhir Aggarwal,
Advocates

Versus

GOVT. OF NCT OF DELHI & ORS. Respondents

Through: Ms. Ashutosh Shahi for Ms. Sonia
Arora, Adv. for R-1 to 4.
Mr. Atul Kumar, Adv. for R-5.

CORAM :-

HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

JUDGMENT

RAJIV SAHAI ENDLAW, J.

1. These appeals are preferred against the common judgment dated 12th December, 2011 of the Learned Single Judge dismissing W.P.(C) No. 4504/2011 & W.P.(C) No. 4938/2011 preferred by appellants in these two

appeals. The said writ petitions were filed seeking to restrain Rajkiya Pratibha Vikas Vidhyalaya (RPVV) from cancelling the admissions of the appellants in standard XIth in the Science stream. Vide *ad interim* orders in the writ petitions it was directed that the appellants shall continue to be in the same course in which they were admitted and shall be permitted to attend the classes.

2. The Learned Single Judge has in the impugned judgment found that the appellants had not been admitted to the Science stream in standard XIth and had falsely so claimed in the writ petitions. It was further found that appellants did not meet the eligibility criteria laid down by the respondent RPVV for joining the Science stream and had thus been allocated the Commerce stream as per the said eligibility criteria. We may notice that it is not the case of the appellants that the said eligibility criteria, on the basis where of it is contended, that they are not eligible to join the Science stream, has not been uniformly applied by the respondent RPVV. The Learned Single Judge relying on the dicta of the Division Bench of this Court in ***M.I. Hussain v. N. Singh*** AIR 2006 Delhi 86 followed subsequently in ***Ankit Kumar v. Summer Fields School*** 2010 VII AD (Delhi) 752 laying down that the Courts could not interfere in the policy decision laid down by the schools setting the standards and that availability of vacant seats in a particular school was no reason to claim admission thereto if otherwise not eligible, held the appellants to be not eligible for the Science stream in the respondent RPVV and hence dismissed the petition. However, since under the interim order in the writ petitions the appellants had continued to attend the classes in the Science stream from the commencement of the session in

July, 2011 till the dismissal of the writ petitions on 12th December, 2011, the Learned Single Judge has secured the interest of appellants by providing that the attendance of the appellants in the Science stream shall be computed as their attendance in the Commerce stream and also the marks/grades obtained by them in the internal assessments till now in the Science stream shall be taken into consideration while tabulating their results at the end of the Class XIth. The respondent RPVV has further been directed to hold special classes to enable the appellants to catch up with the rest of the students in the Commerce stream.

3. The counsel for the appellants has raised only one contention before us. He has invited our attention to the circulars issued by the Govt. of NCT of Delhi regarding allocation of various streams to the students in standard XIth and has contended that as per the said circulars the appellants are eligible for the Science stream and are being wrongfully denied the same.

4. We find no merit in the aforesaid contention. The school in question though a government school, is a class in itself and follows its own norms which are different from the norms applicable to the other government schools. RPVVs maintain a much higher standard, akin to that in private schools, with the best of the teaching talent and the students' talent being assigned to the said schools. The RPVVs have evolved their own method for getting best talent amongst students keeping in mind their academic capability in pursuing the stream desired by them and their potential to achieve it. We re-emphasize that it is expressly pleaded in the additional affidavit on behalf of the respondent RPVV before the Learned Single Judge that the eligibility criteria has been uniformly applied in all RPVVs and the

same is not controverted by the appellants. It is further the case of the respondent RPVV in the said additional affidavit that any deviation in criteria will vitiate the whole process and jeopardize the standard of RPVVs and the whole cause of establishing the RPVVs.

5. It is well established that the different schools are entitled in law to lay down their own criteria for admission to different streams and are not bound to follow the same criteria as prevalent in another school. Clearly the appellants, as per the criteria laid down for the RPVVs, are not eligible for admission to or pursue the Science stream. Rather, we find the appellants to have pursued the Science stream till the dismissal of the writ petitions by making a false representation before the Learned Single Judge that they had been admitted to the Science stream and which admission was being sought to be cancelled. The appellants have failed to establish the said case before the Learned Single Judge and no error is found in the said finding.

6. The counsel for the appellants has also argued that the appellants have the requisite grade in the result of Xth class prescribed as minimum for the Science stream but the RPVVs are treating the same as a lower grade owing to a asterisk being appended thereto. It is contended that the asterisk merely indicates the grade to be an upgraded one owing to the introduction of the comprehensive continuous evaluation system. It is argued that once the appellants have the requisite grade, even if after upgradation in accordance with the guidelines therefor laid down, the appellants cannot be treated as having a lower grade.

7. Again, the RPVVs having taken a decision to treat such upgraded grade as a lower one, the same is a matter of policy with which this Court will not interfere.

8. The counsel for the respondents appearing on advance notice has also placed before us documents to show that the appellants, while pursuing the Science stream under the interim orders of the Learned Single Judge have fared poorly and are unable to cope with the standards required therefor. We have perused the said documents and find merit in the said contention also. The insistence for continuance of the appellants in the Science stream inspite of their being not able to cope therewith appears to be an aspiration of the parents of the appellants and not found to be in the interest of the appellants. The appellants being aware that they were continuing in the Science stream under the interim orders of the Court, ought to have put in their best and achieved the best of which they are capable of. However, it appears that the appellants do not have an aptitude for Science and if permitted to continue therein, may even end up wasting an academic year. We, thus for the aforesaid subsequent development, are additionally of the opinion that it is not in the interest of the appellants also to continue in the Science stream at least in the RPVVs which endeavour to achieve higher standards of excellence than prevalent in the other government schools.

9. The counsel for the appellants, at this stage, has stated that since the appellants are eligible for Science stream in the other government, non-RPVV schools, they should be transferred thereto.

10. The counsel for the respondents under instructions states that subject to availability of seats in the Science stream, the appellants shall be transferred to the other government non- RPVV schools.

11. Thus while dismissing these appeals, we direct the respondents to within one month of today intimate to the appellants the other government non- RPVV schools in the vicinity of the residences of the appellants where seats in class XIth Science Stream may be available and the appellants, if so desirous, would be transferred to the said schools with benefit of attendance and evaluation done till now. However, if no seats are available or if the appellants do not seek to avail thereof, they shall continue in the respondent RPVV but in the Commerce stream and in accordance with the directions of the Learned Single Judge.

No order as to costs.

RAJIV SAHAI ENDLAW, J

ACTING CHIEF JUSTICE

JANUARY 13, 2012

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