

GAHC010046202023



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : Review.Pet./33/2023

NAVODAYA VIDYALAYA SAMITI AND 2 ORS.
REPRESENTED BY THE COMMISSIONER 124C, SHASTRI BHAWAN, NEW
DELHI, PIN-110001

2: THE DEPUTY COMMISSIONER
REGIONAL OFFICE
NAVODAYA VIDYALAYA SAMITI SHILONG
BARIK POINT, TEMPLE ROAD
LOWER LACHUMIERE
SHILLONG
PIN-793001, MEGHALAYA

3: THE PRINCIPAL
JAWAHAR NAVADAYA VIDYALAYA
KAMRUP, RANGIA
P.O- JAMTOLA
DIST- KAMRUP (R)
ASSAM, PIN-78136

VERSUS

ARFAN AZAM AND ANR.
REP. BY HIS NATURAL GUARDIAN (FATHER) MONTAZ ALI. PERMANENT
R/O- VILL- BELTARI, P.O- RANIGANJ, P.S- SAPATGRAM, PIN-783345, DIST-
DHUBRI, ASSAM, PRESENTLY RESIDING AT- VILL GOROIMARI,
TUKRAPARA, P.O- AND P.S- CHHAYGAON, PIN-781123, DIST- KAMRUP (R),
ASSAM

2: THE UNION OF INDIA
REPRESENTED BY THE SECRETARY TO THE GOVERNMENT OF INDIA
MINISTRY OF EDUCATION
NEW DELHI, PIN-11000

Advocate for the Petitioner : MR T DAS
Advocate for the Respondent : DY.S.G.I.

BEFORE
HONOURABLE MR. JUSTICE LANUSUNGKUM JAMIR

:: ORDER ::

21-03-2023

Heard Ms. R.S. Chowdhury, learned counsel representing the review petitioners, and Mr. S. Alim, learned counsel representing the opposite party No. 1.

By this review application, the review petitioners, i.e., Navodaya Vidyalaya Samiti is praying for review of the order dated 06-02-2023, passed in WP(C) No. 5429/2022, on the ground that this Court, while giving direction to the review petitioners to admit the respondent No. 1/writ petitioner, in Class-IX for the sessions 2022-23 in the Jawahar Navodaya Vidyalaya, Kamrup, Rangia, the review petitioner had failed to apprise this Court with regard to the scheme of the Navodaya Vidyalaya, wherein at Clause-8 it is provided that the basis of admission to Navodaya Vidyalayas will be a test conducted in the concerned district, in which all children who have studied in, and passed Class-V from, any of the recognized schools of any Tehsil/Block in that district would be eligible to appear.

The learned counsel for the review petitioner submits that the Prospects-cum-Application form for admission test in Jawahar Navodaya Vidyalaya in Class-IX for the sessions 2022-23 provides at Clause-5 that online applications may be submitted through NVS Headquarters Website and the last date to apply for Class-IX Lateral Entry Test is 31st October, 2021.

She also draws the attention of this Court to Clause-8.1 of the Prospectus-cum-Application, which provides that only those candidates who are studying in Class-VIII during the Academic Session 2021-22 in one of the Government/ Government recognized schools of the district where the Jawahar Navodaya Vidyalaya is functioning and where admission is sought, are eligible.

She submits that these facts could not be brought to the notice of this Court and, therefore, as the son of the respondent No. 1/writ petitioner does not belong to the same district, he is not eligible for admission to Class-IX under the Lateral Entry Scheme at the Navodaya Vidyalaya, Kamrup, Rangia.

The learned counsel for the review petitioner has also drawn the attention of this Court to the judgment and order dated 13-10-2022, passed by the High Court of Judicature at Bombay in WP(C) No. 9310 of 2022, in a similar case, held that the candidate seeking admission in Jawahar Navodaya Vidyalaya must satisfy the twin test, (i) he must be studying in Class-V in Government/Government aided or other recommended schools; and (ii) he must be resident of the same district where the Jawahar Navodaya Vidyalaya is situated and is seeking admission.

The said judgment was appealed before the Hon'ble Supreme Court, which was dismissed on 04-11-2022, however, by making it clear that the debarment qua, the petitioner(s) is seeking for admission, will not apply in the given facts of the case for the next year to work out the equities.

After hearing the parties and on consideration of the materials available on record as well as the judgment of the Bombay High Court and that of the Supreme Court, this Court is of the considered opinion that the respondent No. 1, who is represented by his father, is waiting for admission for a long period of time and, therefore, I see no reason to review the order dated 06-02-2023, passed in WP(C) No. 5429/2022. However, it is made clear that the said order shall not be a precedent for other cases in future; the same shall be treated as judgment in personam.

The review petition is disposed of accordingly.

JUDGE

Comparing Assistant