

GAHC010230352022



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

Case No. : WP(C)/4934/2022

ARJUN SINGH (MINOR) AND 7 ORS.
REPRESENTED BY HIS FATHER SHRI NANDALAL SINGH
P/R/A GANESH BAHWAN
KARBI NAGLONG
ORIGINAL R/O VILL-TILA BAZAR
MIKIRGAON
VTC-TARALONSU PART-1
P.O.-TERALONGSU
LANKA
DIST-HOJAI

2: SANTOSH SINGH (MINOR)
REPRESENTED BY HIS FATHER SHRI SIPAHI SINGH
P/R/A MAJH BASTI
KARBI NAGLONG
ORIGINAL R/O VILL-KARIKHANA BILL GAON
LANKA
DIST-HOJAI

3: RANJIT SINGH (MINOR)
REPRESENTED BY HIS FATHER SHRI RAJ KUMAR SINGH
R/O VILL-KARIKHANA BILL GAON
KHAIKHANA LANKA
DIST-HOJAI

4: JOYDEEP DAS (MINOR)
REPRESENTED BY HIS FATHER SHRI JAYANTA DAS
P/R/A WATIZOR NO-2
FOREST BAZAR
WEST KARBI ANGLONG

5: AMRITA KUMARI (MINOR)
REPRESENTED BY HER FATHER SHRI JAY PRAKASH BHAGAT
P/R/A MAZHBASTI

P.O.-KHERONI
WEST KARBI ANGLONG
R/O BHIMAR ALI
PDUM PUKHURI
HOJAI

6: NANDINI MALAKAR (MINOR)
REPRESENTED BY HER FATHER SHRI UMESH MALAKAR
R/O VILL-KHARIKHANA BILL GAON
KHAIKHANA
LANKA
DIST-HOJAI

7: SAURAV GHOSH (MINOR)
REPRESENTED BY HIS FATHER SHRI SAMIR RANJON GHOSH
R/O DAYANGMUKH BAZAR
DAYANGMUKH GAON
DIST-WEST KARBI ANGLONG

8: MEGHANARAYAN KEMPRI (MINOR)
REPRESENTED BY HIS FATHER SHRI NIPON KEMPRI
R/O HAJAZAGAPHER FOREST BAZAR
DIST-WEST KARBI ANGLONG
VERSUS

THE UNION OF INDIA AND 5 ORS.
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF INDIA
MINISTRY OF HUMAN RESOURCES DEVELOPMENT
NEW DELHI

2:NAVODAYA VIDYALAYA SAMITI
REPRESENTED BY THE CHAIRMAN HAVING ITS HEAD OFFICE AT B-15
INSTITUTIONAL AREA
SECTOR 62
NOIDA
PIN-201307
UTTAR PRADESH

3:THE DEPUTY COMMISSIONER (EXAM)
NAVODAYA VIDYALAYA SAMITI
MINISTRY OF EDUCATION (DEPARTMENT OF SCHOOL EDUCATION AND
LITERATURE) GOVT. OF INDIA
B.15
INSTITUTIONAL AREA
SECTOR 52
NOIDA
UP-201309
4:THE DEPUTY COMMISSIONER

REGIONAL OFFICE
NAVODAYA VIDYALAYA SAMITI
SHILONG
BRIK POUINT
TEMPLE ROAD
LOWER LACHUMIERE
SHILLONG
PIN-793001
MEGHALAYA
5:THE PRINCIPAL
JAWAHAR NAVADAYA VIDYALAYA
BAITHALANGSO
P.O.-HONGKRAM
PIN-782450
DIST-WEST KARBI ANGLONG
6:THE DEPUTY COMMISSIONER
WEST KARBI ANGLONG
CUM- CHAIRMAN
JNV
BAITHALANGSO
P.O. AND P.S.-HUMREN
DIST-WEST KARBI ANGLONG
ASSAM

Advocate for : MR. K A MAZUMDER
Advocate for : ASSTT.S.G.I. appearing for THE UNION OF INDIA AND 5 ORS.

BEFORE

HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

Dates of Hearing : **09.01.2023**

Date of Judgment : **30.03.2023**

JUDGMENT & ORDER

Heard Mr. K.A. Mazumder, learned counsel for the petitioners and Mr. G. Pegu, learned Central Government Counsel for the respondent No. 1. Also heard Ms. R. S. Choudhury, learned Standing Counsel, Navodaya Vidyalaya Samiti and Jawahar Navodaya Vidyalaya for the respondent Nos. 2 to 5 and Ms. D. Das Barman, learned Government Advocate, Assam for the respondent No. 6.

2) Petitioners herein are minors and are represented by their natural guardians. Petitioners stated that they are from Hojai District, boarder district of Karbi Anglong District and that their parents are earning their livelihood by working in Karbi Anglong district.

3) For the purpose of selection test for admission to Class-VI in Jawahar Navodaya Vidyalayas (JNVs) of the Country for the Session 2022-2023, the Navodaya Vidyalaya Samiti (NVS) issued the "Prospectus for Jawahar Navodaya Vidyalaya Selection Test-2022 (JNVST) for Admission to Class-VI". Selection Test for admission to Class-VI for the Session 2022-2023 in all the Jawahar Navodaya Vidyalayas of the Country that are under the management of the NVS was conducted by the CBSE on 30.04.2022 and the result of the said selection test was published on 06.07.2022.

4) Petitioners participated in the said JNVST-2022 for their admission to Class-VI at JNV, Baithalongso, West Karbi Anglong District and got selected in the said selection test. Inspite of their selection, the authorities of said JNV, Baithalongso, West Karbi Anglong District did not allow them to take admission in Class-VI in that Vidyalaya in terms of the letter No. F.No.1-46/2022-NVS(Exam)/3277 dated 14.03.2022 issued by the NVS stating that they are resident of outside the district of West Karbi Anglong.

5) Petitioners stated that they studied in the primary schools of Karbi Anglong district and got selected for admission to Class-VI for the Session 2022-2023 in the JNV at Baithalongso, West Karbi Anglong after a process of selection test, but the authorities of said JNV, Baithalongso, West Karbi Anglong in not allowing them to take admission in the said Vidyalaya in terms of the said letter dated 14.03.2022 of the NVS stating that the petitioners are from outside the district of West Karbi Anglong, committed illegality.

6) Being aggrieved, the petitioners have preferred this writ petition praying amongst others to set aside and quash and/or not to give effect to the said letter No. F.No.1-46/2022-NVS(Exam)/3277 dated 14.03.2022 issued by the NVS and to direct the authorities of the said JNV, Baithalongso, West Karbi Anglong District and its Principal respondent No. 5 to allow them to take admission in Class-VI on being selected for admission in said JNV, Baithalongso in terms of Clause 4.1 of the "Prospectus for JNVST-2022 for Admission to Class-VI".

7) The Court on 30.07.2022 passed an interim order directing the concerned Navodaya Vidyalaya Samiti not to fill up eight seats in Class-VI, which is still in force.

8) By filing an additional affidavit the petitioners stated that though their parents have placed (i) certificates regarding proof of their residence in the Karbi Anglong Autonomous Council issued by the Sarkari Gaon Burhas issued in the month of July-August, 2022, (ii) Land Allotment Certificates, (iii) Bank Passbooks of Langpi Dehangi Rural Bank, Kheroni Branch, Karbi Anglong, (iv) Driving Licenses issued by the DTO, Karbi Anglong, (v) House Rent Agreements, (vi) Trade Licenses issued by the Secretary, Taxation, Karbi Anglong Autonomous Council and (vii) copy of the Electricity Bills etc, to establish that they are resident of Karbi Anglong district; however, inspite of submission of all those documents, the respondents in the JNVs did not allow them to take admission in Class-VI for the Session 2022-2023.

9) Relying on the provisions of Clause 4.1 of said "Prospectus for JNVST-2022 for Admission to Class-VI", petitioners submitted that on being selected in the JNVST 2022 to Class-VI for the JNV, Baithalongso, West Karbi Anglong District they are entitled for admission in that Vidyalaya at Class-VI in the session 2022-2023. They stated that in the said Prospectus under the Heading "WHO IS ELIGIBLE For ALL CANDIDATES:" at Clause 4.1. it is provided that – *Only the candidates from the district concerned where the Jawahar Navodaya Vidyalaya has been opened are eligible to apply for admission. However, if the District where the JNV is opened is bifurcated at a later date, the old boundaries of the district are considered for the purpose of eligibility for admission into JNVST, in case a new Vidyalaya is not started in the newly bifurcated district as yet.*

10) In support of his argument on behalf of the petitioners, Mr. K. A. Mazumder, learned counsel placed reliance in the cases of *AFR A. S. Ananya Pradhan -Vs- Government of India and Others* [W.P.(C) No. 16669/2020] of the Hon'ble Orissa High Court decided on 28.08.2020 and *Aakansha Kumari -Vs- Commissioner, Navodaya* [S.B.Civil Writ Petition No. 7473/2020] of the Hon'ble Rajasthan High Court at Jodhpur decided on 28.08.2020.

11) The petitioners have filed additional affidavits and the respondents in the NVS and JNVs have also filed their affidavit as well as additional affidavit, to which the petitioners have filed their reply/rejoinder, rejecting the contention of the respondents and reiterating their statements and submission made in the writ petition and additional affidavit.

12) By filing an additional affidavit on 29.10.2022, the respondents in NVS and JNVs placed before the Court that petitioner Nos. 3, 6 and 8 are repeaters of JNVST to Class-VI for the JNV, Baithalongso, West Karbi Anglong District for the year 2022-2023 as they had appeared for such

selection test in the year 2021.

13) Thereafter, on instruction of the petitioner Nos. 3, 6 and 8, Mr. K.A. Mazumder, learned counsel on 31.10.2022 submitted before the Court that those petitioners are not willing to proceed with the matter and on their instruction, he shall not press the petition in terms of those petitioner Nos. 3, 6 and 8. It was accordingly allowed on 31.10.2022 and since then this petition proceeded for petitioners Nos. 1, 2, 4, 5 and 7 only.

14) Ms. R. S. Choudhury, learned counsel for the respondents in NVS and JNVs stated that the petitioners themselves admitted that they are resident of Hojai, which was initially a part of erstwhile Nagaon district. Later on it was carved out of said Nagaon district and acquired the status of a new district, named as Hojai district on 15.08.2015.

15) It is also stated by the respondents that JNV at Baithalongso, which is in the district of West Karbi Anglong, was established in the year 2009 and that the West Karbi Anglong district was established in the year 2016 by bifurcating it from the erstwhile Karbi Anglong district. Respondents in the NVS and JNVs also stated that since the year 2006, a JNV is in existence at Dhing in Nagaon district, the erstwhile district of Hojai.

16) It is to be noted herein that the Hojai district that was carved out of Nagaon district that was established on 15.08.2015, has again been remerged into undivided Nagaon District pursuant to an order of the State Government dated 31.12.2022.

17) Ms. Choudhury, learned counsel for the respondent authorities placed that the JNV at Dhing in the district of Nagaon and the JNV at Baithalongso in the District of West Karbi Anglong, both are situated in two different districts, which are imparting education only to the children of the respective districts.

18) It is placed that for the purpose of selection test for admission to Class-VI in JNVs of the Country for the Session 2022-2023, the NVS issued the "Prospectus for JNVST-2022 for Admission to Class-VI" where the said selection test was conducted by CBSE throughout the Country on 30th April, 2022 in one phase for all the JNVs and the result of the said selection test was declared on 06.07.2022. It is stated that in the said Prospectus all the provisions were laid down including the eligibility criteria for appearing in the selection test as well as regarding admission to Class-VI in JNVs for the Session 2022-2023 and that those were uploaded in the official website of NVS for necessary and wide publication to all.

19) As the process of selection for admission to Class-VI was done by the CBSE, therefore, JNV has no role in the admission test and selection, but after declaration of the results of such admission test conducted by the CBSE, the Principal of the concerned JNV is responsible to verify the relevant documents for admission of selected students as per the norms, procedure and provisions prescribed by the NVS as stipulated in the the concerned Prospectus.

20) Respondents stated that though the petitioners relied upon Clause 4.1 stipulated in the said Prospectus and that in the writ petition petitioners have prayed for a direction to allow them to take admission in Class VI at JNV, Baithalongso, West Karbi Anglong for the Session 2022-23 and have also challenged the letter dated 14.03.2022 alleging that on the basis of the same, the Principal of said JNV, Baithalongso refused to admit the petitioners in the said JNV; but the petitioners have misinterpreted the provisions of said Clause 4.1 as stated in the said Prospectus and that the petitioners did not mention the other relevant Clauses of the said Prospectus that are mandatory, both for the purpose of selection as well as for admission in JNVs.

21) The respondents in the NVS and JNV stated that in the said Prospectus for the JNVST, 2022 itself it is clearly stipulated that the selection in the admission test to JNV will not vest any right upon the candidates to secure admission in JNV and that such admission shall be subject to the production of relevant certificates and that for such reasons, result of the selection test is provisional in nature, until a candidate is finally admitted in the JNV, where admission after such selection is given only after verification of documents and confirmation of admission. Therefore, the candidates have been always advised to apply for their Transfer Certificate from the parent School only after their admission in the JNV concerned. Respondents stated that those provisions stipulated in the Prospectus itself indicates that after verification of the documents, if not found in conformity with the provisions prescribed in the said Prospectus, the selection committee has the authority to refuse admission of any such selected candidate.

22) It is stated on behalf of the respondents that the NVS made it mandatory to submit proof of address of the same district where the JNV is situated from the Session 2022 onwards and for that purpose the letter dated 14.03.2022 was issued by the NVS with the purpose of admission of genuine candidate as well as for the overall purpose of imparting free education to the children of the respective districts. Considering the same, a copy of the birth certificate issued by the authority concerned is mandatorily to be submitted by the provisionally selected candidate along with proof of residents of parents or the guardian like Aadhar Card of the same district, Water,

Gas Supply Bill Voter identity etc.

23) Respondents stated that though the petitioners submitted that their parents are staying in Karbi Anglong district and works therein for their livelihood, but she urged on behalf of the respondents that staying in the District of Karbi Anglong for livelihood cannot be considered as a criterion for getting admission in JNV Baithalongso of West Karbi Anglong district.

24) With regard to the petitioner No. 7, Respondents stated that on verification of his documents like his Birth Certificate, OBC Certificate and his father's Trade License, Electricity Bill & Payment Receipts, Certificate of authorised Gaon Burha etc. it was found to have been issued by the authorities concerned of West Karbi Anglong District. Therefore, the Principal of JNV, Baithalongso, West Karbi Anglong though allowed the said petitioner No.7 to take admission in Class-VI for the Session 2022-2023 in the said Vidyalaya, but his said admission awaits confirmation of the competent authority of JNVs who after verification of the documents of the petitioner No. 7, shall confirm his such admission and for that reason, said petitioner was advised not to obtain Transfer Certificate from his earlier school till such confirmation.

25) Respondents stated that since the petitioner No. 7 has placed all the relevant documents relating to him that are issued by the authorities of West Karbi Anglong District, he was found eligible for admission and accordingly he was provisionally admitted in Class-VI at JNV, Baithalongso of West Karbi Anglong district on the basis of his selection in the JNVSLT-2022, whereas the other petitioners, except the said petitioner No.7, inspite of their selection, failed to fulfill the criteria in terms of the said Prospectus of the JNVSLT-2022; therefore, they being not entitled for admission at JNV, Baithalongso of West Karbi Anglong district, their admissions in that Vidyalaya have been rejected.

26) Ms. Choudhury, learned counsel for the respondents NVS and JNVs has placed before the Court that the said JNV Scheme regarding admission in the JNVs for the Session 2022 that was applicable for all the JNVs established in different States and Union Territories of the Country including the JNVs of Assam as well as JNV, Baithalongso of West Karbi Anglong district, as provided in the Clause 4.1 of the Prospectus for JNVSLT-2022 regarding admission in the JNVs for the Session 2022, also involved in the present case, was under challenge before the Hon'ble Bombay High Court in Writ Petition No. 9310/2022 (*Ku. Shubham Vijay Patil and 24 Others -Vs- The Navodaya Vidyalaya Samiti and 2 Others*) and that the said provision was upheld by a Division Bench of the Hon'ble Bombay High Court vide Judgment dated 13.10.2022. It is also

stated by Ms. Choudhury that appeal against the said Judgment dated 13.10.2022 of the Division Bench of the Hon'ble Bombay High Court passed in Writ Petition No. 9310/2022 was preferred before the Hon'ble Supreme Court being Special Leave to Appeal (C) No. 19285/2022 by aggrieved candidates (*Shubham Vijay Patil and Others -Vs- The Navodaya Vidyalaya Samiti and Others*) and that the Hon'ble Apex Court by order dated 04.11.2022 dismissed the said appeal and thereby upheld the said JNV Scheme regarding admission in the JNVs for the Session 2022.

27) Submissions made by the learned counsels for the parties and the decisions cited by them have been duly considered.

28) The Navodaya Vidyalaya Samiti (NVS) is an autonomous organization of Ministry of Education in the Department of School Education and Literacy, Government of India, having its present Headquarters at Noida, Uttar Pradesh, registered under the Societies Registration Act, 1860. It is stated that NVS runs, manages and controls the functioning of Jawahar Navodaya Vidyalayas (JNVs) all over India through its eight Regional Offices.

29) The JNVs are fully residential co-educational Schools set with objective of providing modern quality education to talented children, predominantly from rural areas, where the students, teachers and staff live in the same campus. Most of the JNVs are set up in rural areas, far away from the district headquarters. The Teachers and the staff of JNVs are expected to exhibit exemplary moral character before the students and strict disciplinary measures are being followed to ensure high moral standard among the teachers and staff.

30) The Scheme of the JNVs are - (i) to provide good quality modern education including a strong component of culture, inculcation of values, awareness of the environment, adventure activities and physical education to the talented children predominantly from rural area; (ii) to ensure that students attain a reasonable level of competency in three languages; (iii) to promote national integration through migration of students from Hindi to Non-Hindi speaking State and vice-versa and (iv) to serve in each District as focal point for improvement in quality of School Education in general through sharing of experiences and facilities.

31) Admissions in JNVs are made through the JNV Selection Test to Class-VI and its medium of instruction is the mother tongue or regional language upto Class-VIII and thereafter, English for Mathematics and Science and Hindi for Social Science and the students of the JNVs appear for Board Examinations of the Central Board of Secondary Education. Education in the JNVs is free

including boarding and lodging, Uniform and Text Books where a sum of Rs.600/- per month is collected only from the students of class-IX to XII towards Vidyalaya Vikash Nidhi. However the students belonging to the reserved categories of SC/ST, all the girls students and the students whose family income is below poverty line (BPL) are exempted from such collection of amount. Further, in respect of wards of Government employee other than exempted category of students of Classes VI to VIII, all SC/ST students, girls students and wards of BPL families, Vikas Nidhi is charged @ Rs.1,500/- per month or actual children education allowance received by the parent per month whichever is less. However, Vidyalaya Vikash Nidhi is not less than Rs.600/- per student per month.

32) In accordance with the National Policy of Education the Government of India have established JNVs in 27 States (including Assam) and 8 Union Territories of the Country which are co-educational residential schools fully financed and administered by Government of India. The Government of India has also established 28 JNVS (27+1) in Assam including at JNV, Baithalongso of West Karbi Anglong district as co-educational residential Schools.

33) For the purpose of selection test for admission to Class-VI in JNVs of the Country for the Session 2022-2023, the Navodaya Vidyalaya Samiti (NVS) issued the "Prospectus for Jawahar Navodaya Vidyalaya Selection Test-2022 for Admission to Class-VI" where the said selection test was conducted by CBSE throughout the Country on 30th April, 2022 in one phase for all the JNVs and the result of the said selection test was declared on 06.07.2022.

34) It is seen from the said "Prospectus for Jawahar Navodaya Vidyalaya Selection Test-2022 for Admission to Class-VI" that under the heading "How to apply for JNV Selection Test - Clause 2.1 Procedure to register online for JNV Selection Test 2022" at Clause-2.1.(i), it is provided that – *Verification of proofs for residence, age, eligibility, will be done for selected candidates through the laid down procedure after the declaration of results.*

35) From the same Prospectus it is seen that under the heading "*Selection and Admission*" at Clause-3.1, amongst others, it is specifically provided that – *Selection in the test will not vest any right on the candidate to secure admission into the JNV. At the time of seeking actual admission, each selected candidate will have to produce all relevant certificates, as prescribed by the NVS. Until admission, the selection is provisional only. Candidates are advised to apply for TC from parent school only after the verification of documents and confirmation of admission by the respective JNV.*

36) In the same Prospectus at Clause-3.2 under the same heading noted above, it is provided that - *In case any dispute, the decision of NVS shall be final and binding on the candidates.*

37) In the same Prospectus at Clause-3.6 under the same heading, it is provided that -*The candidates and their parents/guardians may note that the children selected on the basis of the Test will be admitted only in JNV located in the district from where they are studying in class V and appearing for the JNVST.*

38) Further, in the same Prospectus at Clause-3.8 of the same heading, it is provided that - *Candidates applying for admission under Rural Category will have to produce a certificate to the effect that the schools(s) where candidates studied classes III, IV, and V is located in Rural Area.*

39) Similarly in the said Prospectus under the heading “WHO IS ELIGIBLE – For ALL CANDIDATES:” amongst others at Clause-4.1, it is stipulated that – *Only the candidates from the district concerned where the Jawahar Navodaya Vidyalaya has been opened are eligible to apply for admission. However, if the District where the JNV is opened is bifurcated at a later date, the old boundaries of the district are considered for the purpose of eligibility for admission into JNVST, in case a new Vidyalaya is not started in the newly bifurcated district as yet.*

40) Moreover, in the said Prospectus under the heading “DOCUMENTS TO BE SUBMITTED AFTER SELECTION”, it is stipulated that – *“The parents of the candidates who are provisionally selected for admission will have to submit following documents at the time of admission for verification –*

- i) Proof for date of birth.*
- ii) Proofs for eligibility as per the conditions of NVS (Navodaya Vidyalaya Samiti).*
- iii) For candidates seeking admission under rural quota, the parents will also have to submit a certificate from the competent authority to the effect that the child had studied in an Institution /School located in a rural area.*
- iv) Residence certificate in prescribed proforma in case of NIOS (National Institute of Open Schooling) studies only.*
- v) Any other documents required.*

41) It is seen that the petitioners in their writ petition stated that all of them are from Rural Areas. Further, in their writ petition, the petitioners at Para-3 have specifically stated that – *“ That all the petitioners are original resident of Hojai district border of Karbi Anglong District. They are living in Karbi Anglong District for their lively hood. Accordingly, they are also providing education*

to their children in Karbi Anglong which is not far away from there. There is no Jawahar Navodaya Vidyalaya in Hojai District which is a Newly created District. As per Rule 4.1 of the guideline in 2022 of the Admission Prospectus of the Jawahar Navodaya Vidyalaya petitioners are very much eligible for admission. Accordingly, petitioners applied for admission in Jawahar Navodaya Vidyalaya Baithalongso, Karbi Anglong.”

42) From the above it is seen that as per the clauses under the heading “DOCUMENTS TO BE SUBMITTED AFTER SELECTION” stipulated in the Prospectus concerned, the parents of the candidates, who are provisionally selected for admission, are required to submit the relevant documents at the time of admission for verification, amongst others the documents relating to proofs for eligibility as per the conditions of Navodaya Vidyalaya Samiti and any other documents that may be required.

43) It is already noted above that Navodaya Vidyalaya Samiti, an autonomous body under the Government of India that manages, administers and controls the Jawahar Navodaya Vidyalayas in the Country. Therefore, the NVS as provided in the Prospectus pertaining to JNVST-2022, has the right to issue any such order/letter/ communications relating to proofs for eligibility and any other documents that are required at the time of admission. In the said Prospectus for said JNVST-2022 itself, it was specified that the last date of submission of online application as 30.11.2021 and the Selection Test was scheduled on 30.04.2022.

44) It is already noted above as per the provisions stipulated in Clause 3.1 under the heading “Selection and Admission” in the said Prospectus for JNVST-2022 it is specifically provided that – selection in the test will not vest any right on the candidate to secure admission into the JNVs and each selected candidate at the time of seeking actual admission will have to produce all the relevant certificates that are prescribed by the Navodaya Vidyalaya Samiti, clarifying further that until admission, such selection is only provisional and hence, all the selected candidates were advised to apply for Transfer Certificate from their parent school only after verification of their documents and confirmation of their admission by the respective Jawahar Navodaya Vidyalaya.

45) Considering the above, the impugned letter of the Navodaya Vidyalaya Samiti under No. F.No.1-46/2022-NVS(Exam)/3277 dated 14.03.2022 asking for documents like Aadhar Card of the same district/Rent Agreement/Residence Certificate issued by the authorities concerned/ Electricity, Water, Gas Supply Bill/Voter Identity Card etc. towards submission of proof of address

and residence in the same district along with document for which the applicants had applied, being issued prior to Selection Test on 30.04.2022, without changing the rule of admission, cannot be considered to be illegal, since the Navodaya Vidyalaya Samiti has the authority, jurisdiction and power to issue any such order for production of certain documents/ certificates as the case may be that are relevant as proof of eligibility, which are required at the time of admission as provided in the said Prospectus of JNVST-2022.

46) From the Judgment dated 13.10.2022 of the Division Bench of the Hon'ble Bombay High Court It passed in the said case of *Ku. Shubham Vijay Patil and 24 Others -Vs- The Navodaya Vidyalaya Samiti and 2 Others* (Writ Petition No. 9310/2022) it is seen that the Hon'ble Court deliberated with the provisions of Clause 4.1 of the said "Prospectus for Jawahar Navodaya Vidyalaya Selection Test-2022 for Admission to Class-VI" and after considering all the relevant factors have held as follows:

"9. Clause 4.1 starts with the term 'only'. It states that 'only the candidates from the district concerned where the JNVs are opened are eligible for admission'. The word 'only' implies that the students other than the District where the JNV is situated are excluded. No other interpretation is possible. We cannot persuade ourselves to accede to the arguments of Mr. Bhavake, the learned Advocate for the Petitioners that even though the student may not be resident of the same District where the JNV is situated and if he has passed 5th standard from the district where the JNV is situated is eligible to be admitted. Such an interpretation would be against the object and the tenor of the clauses of the prospectus. The aforesaid discussion leads us to conclude that the candidates seeking admission to the JNV must satisfy the twin test (i) he must be studying in Class V in Government/Government aided or other recommended schools or B Certificate Competency Course of NIOS in the same District where the JNV is situated and (ii) he must be resident of the same district where the JNV is situated and is seeking admission.

10. In the light of the above, the Writ Petitions fail. The Writ Petitions, as such are dismissed. No costs".

47) Against the said Judgment of dismissal dated 13.10.2022 passed by the Division Bench of the Hon'ble Bombay High Court in Writ Petition No. 9310/2022, those writ petitioners as appellants preferred SLP(C) No. 19285/2022 (*Shubham Vijay Patil & Others -Vs- The Navodaya*

Vidyalaya Samiti & Others) before the Hon'ble Supreme Court. After hearing the parties, the Hon'ble Supreme Court by Order dated 04.11.2022 dismissed the said SLP(C) No. 19285/2022, without interfering with the said Judgment dated 13.10.2022 passed by the Division Bench of the Hon'ble Bombay High Court in Writ Petition No. 9310/2022, noted above.

48) It is an admitted fact that the petitioners are from Hojai District, which is in the boarders of both Karbi Anglong District as well as West Karbi Anglong District. Said Hojai District, has now been remerged into undivided Nagaon District pursuant to the order of the State Government dated 31.12.2022. There is no dispute to the fact that Hojai District was carved out of original Nagaon District on 15.08.2015.

49) It is already noted above that at Clause 4.1 of said Prospectus for JNVST-2022 for Admission to Class-VI, it is stipulated that - *Only the candidates from the district concerned where the JNV has been opened are eligible to apply for admission. However, if the District where the JNV is opened is bifurcated at a later date, the old boundaries of the district are considered for the purpose of eligibility for admission into JNVST, in case a new Vidyalaya is not started in the newly bifurcated district as yet.*

50) As the Hojai District was bifurcated in August 2015 from erstwhile Nagaon District and since new Jawahar Navodaya Vidyalaya has not yet started in the newly bifurcated district of Hojai, as such considering the old boundaries of Hojai for the purpose of eligibility for admission into Jawahar Navodaya Vidyalaya Selection Test; therefore, the Court found that as per the provisions of the second part of said Clause 4.1, it is the Jawahar Navodaya Vidyalaya at Dhing in the district of Nagaon that was established in year 2006, is the relevant Jawahar Navodaya Vidyalaya for admission pertaining to the petitioners and not the Jawahar Navodaya Vidyalaya at Baithalongso in the district of West Karbi Anglong.

51) It is well settled that procedure prescribed in the Prospectus casts an obligation on the applicants to apply in terms thereof and they cannot be heard to state later on that their cases should be accepted even if they did not adhere to the conditions prescribed therein, i.e. in the Prospectus concerned, since the applicants knowing fully well participated in the selection process.

52) It is also seen that petitioner are before the Court only when they were not considered for admission in the JNV, Baithalongso, West Karbi Anglong District though all of them were

already aware of the relevant provisions of the said Prospectus, much before participating in the JNVST-2022, following which the authorities of the concerned JNV refused to give them admission to Class-VI, inspite of their selection.

53) For the reasons above, this writ petitions, being devoid of merit stands dismissed except the case of Petitioner No.7, Saurav Ghosh, Son of Samir Ranjan Ghosh, considering the fact that the respondent authorities of Navodaya Vidyalaya Samiti and Jawahar Navodaya Vidyalaya have already allowed the said petitioner No.7 to take admission in Class-VI for the Session 2022-2023 at Jawahar Navodaya Vidyalaya, Baithalongso, West Karbi Anglong District being satisfied with the relevant documents submitted on his behalf regarding his birth certificate, OBC certificate etc., as noted above.

54) Interim order dated 30.07.2022, passed earlier in the present proceeding, stands vacated.

JUDGE

Comparing Assistant