

Court No. - 10

Case :- WRIT - C No. - 26913 of 2023

Petitioner :- Ubaiza And Another

Respondent :- State Of U.P. And 4 Others

Counsel for Petitioner :- Vinod Kumar Yadav

Counsel for Respondent :- C.S.C.,Akhilesh Tripathi

Hon'ble Kshitij Shailendra,J.

1. Heard Sri Vinod Kumar Yadav, learned counsel for the petitioners, learned Standing Counsel appearing for the respondent nos.1 to 4 and Sri Akhilesh Tripathi, learned counsel for the respondent no.5.

2. Though by the previous orders passed in this case, affidavits were directed to be exchanged and learned counsel for the respondent no.5 requested for passing over of the case for few days in order to enable him to file counter affidavit, learned counsel for the petitioners submits that sine instructions have already been received by learned counsel representing respondent no.5, the matter may be decided on the basis of the same.

3. In view of the above, the Court proceeded to decide the case finally.

4. The submission of the learned counsel for the petitioners is that the name of the petitioners found place in the seat allotment result in online RTE Lottery System 2023-24 respectively at serial nos. 24 and 442. It is submitted that despite an order of the District Basic Education Officer, the respondent no.5 has not admitted the petitioner in the institution and, therefore, writ of mandamus may be issued directing the respondent-authorities to accord admission under Section 12(1) of the Right of Children to Free and Compulsory Education Act, 2009 for 2023-24.

5. Sri Akhilesh Tripathi, learned counsel for the respondent no.5, has placed instructions and certain documents which are taken on record. The instructions are to the effect that the concerned seats belong to Economically Weaker Section (EWS) and the said quota has already been fulfilled. It is also borne out from the documents placed that in relation to the EWS seats of the petitioners, an inquiry was conducted by the concerned Committee, which passed an order dated 20-07-2023 and there are also further reports indicating the petitioners' father Dilshad is having huge immovable

properties in terms of agricultural as well as residential house and his father, i.e. petitioners' grandfather, is working in Food Corporation of India and Sri Dilshad is also involved in transport business. The documents also show that petitioners' father used to reside in village Babura, but in order to get admission without any charges, he has started living in Faizullanagar.

6. Considering the stand taken in the instructions and the contents of various documents produced before this Court, the Court does not find any ground for issuing a writ of mandamus directing the respondents to accord admission under the Right of Children to Free and Compulsory Education Act, 2009 for 2023-24.

7. The writ petition has no merit and is accordingly **dismissed**.

Order Date :- 6.12.2023

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