

Court No. - 10

Case :- WRIT - C No. - 38342 of 2022

Petitioner :- Dipak Kumar Singh(Minor)

Respondent :- Commissioner, Jawahar Navoday Vidyalaya
Samitee, Noida And 2 Others

Counsel for Petitioner :- Shashi Ranjan Srivastava

Counsel for Respondent :- Rajesh Tripathi

Hon'ble Kshitij Shailendra,J.

1. Heard Shri Shashi Ranjan Srivastava, learned counsel for the petitioner and Shri Rajesh Tripathi, learned counsel for all the respondents.
2. By means of the present writ petition, a writ of Mandamus has been sought directing the respondents to accord admission of the petitioner in Class-VI of Jawahar Navodaya Vidyalaya, Gyanpur, Bhadohi and also to decide the petitioner's claim contained in representation dated 17.11.2022.
3. Counter and rejoinder affidavits have been exchanged between the parties and, therefore, the writ petition is being finally decided.
4. The personal affidavit of petitioner's father filed in pursuance of the order dated 18.08.2023 states that the petitioner has not taken admission in class VI in any other institution on account of his claim under consideration before this Court.
5. On merits, the submission of learned counsel for the petitioner is that whereas the petitioner fulfilled all the requirements, the respondents have not admitted him in Class VI.
6. Shri Rajesh Tripathi, learned counsel for the respondents, while

referring to the counter affidavit, submits that the eligibility norms have been prescribed for according admission in Jawahar Navodaya Vidyalaya and as per Clause 4.1, only those candidates are eligible to apply for admission, who belong to the district concerned, where Jawahar Navodaya Vidyalaya has been opened. He has referred to application form submitted by the petitioner, in which his residential district has been shown as Ballia. Reference to various other documents has also been made, in which the same residence has been described, except a Domicile Certificate issued by the village Pradhan on 25.08.2022, in which the petitioner's permanent address has been described as district Bhadohi and a Character Certificate dated 13.10.2022, in which word "स्थाई" has been corrected as "अस्थाई" by the village Pradhan. The submission, therefore, is that since the petitioner does not fulfill the requirements of Clause 4.1, he has already been denied admission.

7. Learned counsel for the respondents has placed reliance upon the following orders of this Court:

(i) ***Vishal Verma (Minor) vs The Union of India and 2 others***, (Special Appeal No. 281 of 2023, decided on 24.05.2023).

(ii) ***Vishal Verma (Minor) and another vs Union of India and 2 others***, (Writ C No. 11403 of 2023, decided on 07.04.2023)

(iii) ***Divyansh Thru. His Father Sri Umesh Kumar vs U.O.I. Thru. Secy. Ministry of Education (Deptt. Of School Education and Literacy) New Delhi and others***, (Writ C No. 7659 of 2022, decided on 03.11.2022).

(iv) ***Anurag Yadav vs Union of India and 3 others*** (Writ C No. 1629 of 2023, decided on 24.01.2023).

8. Placing reliance upon the aforesaid orders, it has been argued

that Clause 4.1 has been interpreted by this Court time and again, and it has been found that a candidate, who does not fulfill the said requirements, cannot claim admission.

9. Answering the aforesaid submissions advanced by Shri Tripathi, learned counsel for the petitioner has referred to Clause B under the heading "**For Rural Candidates**" of the eligibility criteria, which reads as follows:

"A candidate seeking admission under the rural quota must have studied in Classes- III, IV and V completing full academic session from the Government/Government Aided/Government recognized schools located in rural areas. **However, the candidate should study full academic session in Class-V from the same district where admission is sought.**"

10. It is, therefore, contended that the petitioner having applied under the Rural quota has studied in Classes IIIrd, IVth and Vth from an Institution situated in district Bhadohi and in this regard, reference to attendance Register of D. Pansy Primary School, Bhaidpur Aurai, Bhadohi has been made, which document is annexed alongwith rejoinder affidavit. It is, therefore, contended that the requirements of Clause B has been fulfilled by the petitioner, and if certain discrepancy was found by the respondents in relation to the petitioner's residence, the same would not come in the way of the petitioner claiming admission.

11. Learned counsel for the respondents further submits that the concerned session is already over and even in the next session, the admissions have been made.

12. Having heard learned counsel for the parties, the Court finds that interpretation of Clause 4.1 having been successively made by the co-ordinate Bench of this Court as well as Division Bench, the necessity for a candidate to be resident of the particular district cannot be interpreted in a different manner. The only thing, which this Court can see in the present writ petition, is as to whether the petitioner is entitled to claim any benefit of Clause B on the ground that he has allegedly passed Classes IIIrd, IVth and Vth from an Institution situated in district Bhadohi.

13. After carefully examining the concerned guidelines, the Court finds that eligibility conditions have been laid down from Clauses 4.1 to 4.7 and the category "For Rural Candidates" described in Clause A, B and C cannot be treated as distinct from the eligibility conditions specified under Clause 4.1. Therefore, even if, a candidate has satisfied all the conditions enumerated in Clause B, in case he is not a permanent resident of district concerned, where Jawahar Navodaya Vidyalaya is located, the candidate cannot be held eligible, otherwise a strange situation would arise, which will defeat the very purpose of establishing such Institutions in accordance with the provisions of Right to Free and Compulsory Education Act, 2009. There is another aspect of the matter and that is with respect to the sanctity of the documents annexed along with the rejoinder affidavit. The Court can see the correction made in the particular session 2020-21 or 2021-22 in the attendance Register, which has been argued as an interpolation by learned counsel for the respondents, whereas learned counsel for the petitioner has submitted that on account of Pandemic COVID-19, discrepancy occurred and requisite correction was made.

14. Without making any comment on the aforesaid documents,

considering the residential status of the petitioner as described in the application form, as Ballia, and based upon the decisions referred to by the learned counsel for the respondents and inter-dependency of various Clauses and sub-Clauses of eligibility criteria, the Court does not find any good ground to issue a direction to the respondents to accord admission to the petitioner.

15. The writ petition fails and is, accordingly, **dismissed**.

Order Date :- 5.12.2023

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