

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP No.6648 of 2014

Date of decision : 04.03.2015

Seema and others

.....Petitioners

Vs.

Kendriya Vidyalaya Sangathan and Others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present:- Mr.Ankit Grewal, Advocate for the petitioners.

Mr.Aman Chaudhary, Advocate for the respondents.

AUGUSTINE GEORGE MASIH, J. (ORAL)

It is the contention of the counsel for the petitioners that the petitioners belong to the economically weaker section of the society which fact is not disputed by the respondents, and therefore, the wards of the petitioners already studying in the Kendriya Vidyalaya Sangathan would be entitled to the same benefits as the other wards of economically weaker sections of the society (hereinafter referred to as 'EWS').

Counsel for the petitioners contends that the requirement as specified in the Section 2(p) of the Right of Children to Free and Compulsory Education Act, 2009 (hereinafter referred to as 'RTE Act, 2009') is applicable and the wards of the petitioners fulfill the said required conditions mentioned therein. The respondents are denying to grant them the benefit of being wards of EWS category only on the ground that since they have already been admitted and are now in classes other than first class and thus are not entitled to the said benefit. Counsel for the petitioners

submits that the stand taken by the respondents is not sustainable as it would violate Article 14 of the Constitution of India.

Counsel for the respondents on the other hand submits that when the petitioners had taken admission in Kendriya Vidyalaya, they did not claim any benefit that they were belonging to the EWS category. Since they have not availed of the benefit at the initial stage of their admission i.e. in class-I, they are not entitled to the said benefit.

I have heard counsel for the parties and have considered the matter with their assistance.

As per provisions of RTE Act, 2009, Section 12 thereof deals with the extent of the school's responsibility for free and compulsory education. The terms used therein indicate that free and compulsory elementary education is to be provided to the children admitted therein, out of whom minimum 25% have to be of the reserved category. Since the petitioners belong to the EWS category, as such, their wards are entitled to the benefit of the RTE Act. The fact, that the petitioners belong to the EWS category, is not denied by the respondents and that being so merely because at the time when the admissions were taken by the petitioners in the Kendriya Vidyalaya they were not given benefit of the EWS category would not disentitle them to the claim as has been made by them in the present writ petition especially in the light of provisions as contained in the RTE Act. If, the contention of the respondents is accepted that the benefit can be offered and admissible to the students who are admitted in Class-I only and not to the children who are studying in higher classes would violate Article 14 of the Constitution of India. However, this benefit has to be limited to 25% of

the total strength of the class. The ground on which the claims of the petitioners have been rejected, thus, cannot be sustained as that would be violative of the RTE Act, 2009 as also Article 14 of the Constitution of India.

In view of the above, the present writ petition is allowed. Petitioners are held entitled to the benefit of the provisions as contained in RTE Act, 2009 and the wards of the petitioners would be entitled to the same benefits as are being granted to the students who have been admitted under EWS category in Class-I.

04.03.2015
anil

(AUGUSTINE GEORGE MASIH)
JUDGE