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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% Judgment delivered on: 03.08.2016

+ **W.P.(C) 4980/2016**

BABY DIVANSHI (MINOR) THROUGH HIS FATHER Petitioner

versus

GOVT OF NATIONAL CAPITAL TERRITORY OF DELHI
(THROUGH DIRECTOR OF EDUCATION) & ANR. Respondents

Advocates who appeared in this case:

For the Petitioner :Mr Ashok Kumar Singh

For the Respondents : Mr Devvrat for R-1.
Mr Rajinder Dhawan for R-2.

CORAM:-

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

W.P.(C) 4980/2016 & CM No. 20768/2016(direction)

1. The present writ petition has been filed seeking quashing of letter dated 12.05.2016 whereby the admission of the petitioner has been cancelled and name of the petitioner has been struck off from the rolls of the school on the ground that income certificate furnished at the time of seeking admission was fake and forged.

2. Learned counsel for the petitioner contends that the income of the parents of the petitioner is less than Rs. One lakh per annum which is below the prescribed limit for the Economically Weaker Section (EWS). Fresh certificate dated 22.07.2016 has been filed. The respondent no. 2

was directed to verify the correctness of the certificate.

3. The petitioner had taken admission in the respondent No. 2 – School in the EWS category. In the petition, the petitioner contends that the disadvantage group category includes both Economically Weaker Section as well as the other backward classes. The petitioner had sought to place reliance on the OBC certificate issued to the father of the petitioner to contend that the petitioner still qualifies in the same category. During pendency of the present petition, the petitioner has also produced the income certificate dated 22.07.2016 which shows that the petitioner is still qualified under the EWS category. The income certificate has been verified by the respondents.

4. It is not in dispute that the reservation of 25% includes both Economically Weaker Section and disadvantage group. It would really make no difference insofar as the respondent No.2 school is concerned whether the petitioner falls in one or the other category. The petitioner has produced the income certificate which shows that the petitioner still qualifies in the EWS category.

5. Learned counsel for the petitioner relies on various judgments passed by this Court in similar circumstances whereby the school authorities were directed not to cancel the admission of the minor child on the ground of misdeeds of the father of the child. Learned counsel for the respondent school states that the seats in EWS category are still available. One such Judgment relied upon is dated 22.03.2016 in W.P.(C) 2219/2016, titled as **‘Master Jai Raikwar & Ors. Vs. The Heritage**

School & Ors.’.

6. As the issue involves the education of a minor and the minor falls in the eligible category and an income certificate certifying the said fact has been furnished and no fault can be attributed to the minor, in the facts of the case, a lenient view is required to be taken. It is thus directed that the admission of the petitioner be restored and not cancelled, subject to deposit of a penalty of Rs. 5,000/- by the father of the petitioner with the Lok Nayak Jai Prakash Hospital, Delhi within two weeks. The hospital shall utilize the amount for providing treatment to the persons falling under the EWS category.

7. The petitioner shall also be entitled to all the benefits/entitlements under the said category. The writ petition is accordingly disposed of in the above terms.

8. It is clarified that if the new income certificate furnished by the petitioner is found to be fictitious or not correct on any account, it shall be open to the respondents to cancel the admission of the petitioner in accordance with law and no special equity shall be claimed by the petitioner by virtue of the present order.

Dasti under the signatures of the Court Master.

AUGUST 03, 2016/’sn’

SANJEEV SACHDEVA, J