

HIGH COURT OF CHHATTISGARH, BILASPUR

WA No. 460 of 2017

(Arising out of order dated 05.10.2017 in WPC No. 2711 of 2017 passed by the Single Judge of this Court)

- Naveen Kumar Saha S/o Shri Naresh Saha Aged About 36 Years R/o Haldibadi Chirmiri District Korea Chhattisgarh.

---- Appellant

Versus

1. D.A.V. Public School, A Unit of Dayanand Anglo Vadic College Trust And Management Society through its President Head Office Sector - 7 Rohini New Delhi.
2. Principle Cum Ex - Officio Member Secretary, D A V Public School Chirimiri, A Unit of Dayanand Anglo Vedic College Trust And Management Society, S E C L Bartunga, Chirimiri, District Korea Chhattisgarh.
3. Chief General Manager, South Eastern Coalfields Limited (S E C L) Cum Chairman D A V Public School , Chirimiri, S E C L Chirimiri Area, District Korea Chhattisgarh.
4. District Education Officer, Korea District Korea Chhattisgarh.

---- Respondents

And

WA No. 462 of 2017

(Arising out of order dated 05.10.2017 in WPC No. 2712 of 2017 passed by the Single Judge of this Court)

- Vachaspati Dubey S/o Shri Bhagwat Prasad Dubey Aged About 37 Years R/o Ward No. 15 , Haldibadi , Chirmiri District Korea Chhattisgarh.

---- Appellant

Versus

1. D.A.V. Public School S/o A Unit Of Dayananad Anglo Vadic College Trust And Management Society , Through Its President Head Office Sector - 7 , Rohini , New Delhi .
2. Principle Cum Ex- Officio Member Secretary, D. A. V . Public School Chirimiri, A Unit Of Dayanand Anglo Vadic College Trust And Management Society S E C L Bartunga Chirimiri , District Korea Chhattisgarh.
3. Chief General Manager, South Eastern Coalfields Limited (S E C L) Cum Chairman D A V Public School Chirimiri S E C L Chirimiri Area District Korea Chhattisgarh.
4. District Education Officer, Korea District Korea Chhattisgarh.

---- Respondents

For Appellants	: Shri Alok Bakshi, Advocate
For Respondent-1	: Shri Amrito Das, Advocate

For Respondent/SECL : Shri Vinod Deshmukh, Advocate

Hon'ble Shri Thottathil B. Radhakrishnan, Chief Justice
Hon'ble Shri Justice Sharad Kumar Gupta

Judgment on Board

Per Thottathil B. Radhakrishnan, Chief Justice

22.11.2017

- 1) Heard the learned counsel for the appellants, the learned counsel for the DAV Public School - establishment and the learned counsel for the South East Coalfields Limited (SECL)
- 2) SECL has sponsored a DAV Public School in Chirimiri area. The appellants, who are LKG students and were studying in DAV Public School elsewhere, took their Transfer Certificates and applied as students on transfer for admission to the DAV Public School, Chirimiri. In an earlier round, they were told that they have to participate in what is called "lottery", meaning thereby that there will be a draw of lots for the only two available seats. Their claims were considered along with other students who were awaiting admissions. Both the appellants failed to clear in the draw, based on luck. Through the impugned judgment, the learned Single Judge refuses to grant any relief to the appellants. Hence this appeal.
- 3) While the learned counsel for the appellants argued that there must be some priority for the students who are coming on transfer and they should be treated as a separate lot distinct from students who are seeking admission from the open market, we are of the view that though the said argument appears to be quite appealing, on a deeper consideration that is not worth acceptance. We say this because the appellants are the

children of persons who are not employees of SECL which has sponsored the Chirimiri School. They had, on their own volition and personal reasons, moved to the Chirimiri area. They cannot claim to be a class by themselves. The school in Chirimiri is sponsored by the SECL. The object of having such a school may prioritize the need of the children of SECL Employees. The benefit of transfer can be claimed on a comparatively better rating, only by the children of those employees of SECL, who under the compulsion of employment, are subjected to a transfer by the employer - SECL. Any other view on the facts and circumstances of the case would result in manifest injustice to the students in the open market. No claim for superior consideration for open market students who have obtained Transfer Certificate deserves to be considered on the scales of justice, on the facts and in the circumstances of the instant case.

4) Hence, the learned Single Judge cannot, therefore, found fault having passed the impugned judgment.

5) In the result, this appeal is dismissed.

Sd/-
(Thottathil B. Radhakrishnan)
Chief Justice

Sd/-
(Sharad Kumar Gupta)
Judge