

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.06.2017

CORAM:

THE HON'BLE MR. JUSTICE HULUVADI G. RAMESH
AND
THE HON'BLE MR. JUSTICE A.D. JAGADISH CHANDIRA

W.A. No.678 of 2017

&

C.M.P. No.9791 of 2017

The Principal
Kendriya Vidyalaya
Central Reserve Police Force
Group Centre
Avadi
Chennai 600 065

....Petitioner

vs.

1 Punitha
Minor represented by her father and
natural guardian A. Jayakumar
No.1-A, St. Michael Nagar
Dr. Ambedkar Main Road
Mittanamalli, Avadi, Chennai 600 065

2 The Chairman
Deputy Inspector General of Police
The Commandant
Kendriya Vidyalaya
Central Reserve Police Force
Group Centre, Avadi, Chennai 600 065

3 The Nominee of Chairman
The Commandant
Kendriya Vidyalaya
Central Reserve Police Force
Group Centre
Avadi, Chennai 600 065

...Respondents

Writ Appeal preferred under Clause 15 of the Letters Patent challenging the order dated 28.04.2017 passed in W.P. No.7924 of 2017 filed to issue a Writ of Mandamus directing the respondents to admit the petitioners daughter Punitha, Serial No.34 with Registration No. P - 1770 - 7429029343 in the First Standard in the 3rd respondent School by considering the Rental Agreement dt 31.3.2017.

For appellant : Mr. M. Vaidyanathan

JUDGMENT

(Judgment of the Court was delivered by HULUVADI G. RAMESH, J.)

This intra Court appeal has been filed, calling in question, the legality and validity of the order dated 28.04.2017 passed by a learned Single Judge in W.P. No.7924 of 2017.

2 To avoid verbosity, the parties are referred to as per their rank in the instant intra Court appeal.

3 Shorn of the minute details, the germane and necessary facts which led to the filing of this intra Court appeal are as under:

3.1 The first respondent is a minor girl, who is represented by her father and natural guardian, a tailor by profession. The first respondent's father applied for his daughter's admission to I standard in the appellant school, an institution of national renown and repute. 3.2 The selection was made by drawing of lots and in the selection list, the first respondent's name figured as Sl.No.34. However, the first respondent was denied admission on the score that the address furnished in the application form is situated beyond 5 kms. from the appellant school.

3.3 Seemingly, the first respondent's father, after relocating his residence which comes within the distance criterion of the appellant school, approached the appellant school once again with a copy of the rental agreement to substantiate his stand that his residence is situate within 5 kms. from the appellant school, but, to no avail, since the appellant took a firm stand that the address mentioned in the

application form is final.

3.4 Aggrieved, the first respondent, represented by her father and natural guardian, preferred the writ petition seeking a mandamus directing the appellant school and respondents 2 and 3 to admit her in I standard in the appellant school.

3.5 Before the learned Single Judge, the appellant school inter alia contended that the students applying under the RTE category should have their residence within a radius of 5 kms. from the school and since the first respondent did not satisfy this eligibility criterion qua distance, she was rightly denied admission.

3.6 The learned Single Judge, lamenting that the parents approaching the High Court even for admission to nursery schools has become an annual affair and finding that a growing bud should not be denied admission on the score of distance being in excess marginally and taking cognizance of the fact that the first respondent's father has got his residence relocated within a radius of 3 kms. which is well within the distance criterion fixed by the appellant school, has held that the provisional selection of the first respondent deserves to be confirmed and accordingly, directed the appellant school to admit the first respondent in I standard.

3.7 Challenging the said order passed by the learned Single Judge, the appellant school is before this Court.

4 We have heard the learned counsel for the appellant school and perused the materials placed on record.

5 The appellant school's main bone of contention is that the address mentioned by the first respondent in the application form is situated beyond 5 kms. from the school and the said information so provided in the application form being final, the first respondent has been rightly denied admission.

6 However, the fact remains that after having been denied admission on the ground that the address mentioned in the application form is beyond 5 kms., the first respondent's father had relocated his residence and in support of his stand, he had also furnished a copy of the rental agreement. This aspect should not be lost sight of and wished away. Notwithstanding the

factum of the first respondent's father relocating his residence, thereby satisfying the condition qua distance, the appellant school has denied admission to the first respondent, which does not merit acceptance by this Court.

7 Be that as it may, it is also all the more probable that the address mentioned in the application form could be within 5 kms., if the measurement been taken straight instead of resorting to a circuitous route and even assuming for a moment that it is slightly on the higher side, that by itself, cannot be a ground to deny admission, provided the first respondent fulfills other parameters. Further, it is seen that the Google map provides a circuitous route, whereas, the actual distance taken in straight route, would not exceed 5 kms. In such perspective of the matter, we have no incertitude in endorsing the view taken by the learned Single Judge that, a distance, which, perhaps, even marginally in excess, cannot deprive the first respondent of admission to I standard, which is a fundamental right.

8 Thus, given the socio-economic condition of the first respondent's father and inadequacy of quality C.B.S.E. schools like the appellant school in the city, as has been rightly observed by the learned Single Judge, we are of the considered opinion that the order impugned herein is justified and does not call for interference.

Resultantly, this intra Court appeal fails and accordingly stands dismissed. Costs made easy. Connected C.M.P. is closed.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

cad

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To

1 The Chairman
Deputy Inspector General of Police
The Commandant
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2 The Nominee of Chairman
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+1cc to Mr. M. Vaidyanathan, Advocate, S.R.No. 46086

W.A. No.678 of 2017

MSM (CO)
PSI (29.07.2017)

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