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

+ LPA 366/2017

RAVINDER SINGH

..... Appellant

Through: Mr. Rajat Aneja & Ms.Chandrika
Gupta, Advocates.

versus

GOVT OF NCT OF DELHI & ORS

..... Respondents

Through: Mr. Peeyoosh Kalra, ASC and
Ms.Sona Babbar & Ms. Swati,
Advocates for respondents No.1 & 2/
GNCTD.
Mr. Kapil Gupta, Ms. Aashita Jain &
Mr. Akhilesh Aggarwal, Advocates
for respondent No.3.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MS. JUSTICE DEEPA SHARMA

ORDER

15.05.2017

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C.M. No. 18245/2017

Exemption allowed, subject to all just exceptions.

The application stands disposed of.

LPA 366/2017 and C.M. No. 18244/2017

The appellant assails the order dated 01.05.2017 passed by the learned

Single Judge in W.P. (C.) No. 4561/2015 dismissing the petitioner's said writ petition.

The petitioner had preferred the said writ petition assailing the letter dated 24.04.2015 issued by the respondent No.3 school – which is an unaided private school, whereby the names of two sons of the petitioner, i.e. Arjun (then student of Class-V) and Yuvraj (then student of Class-II) have been struck off from the rolls of the school on account of non-payment of fee. The petitioner also sought a direction to the respondent No.3 school to re-admit the said two sons of the petitioner and allow them to continue with the study in the school in the Economically Weaker Section (EWS) category and to provide them all benefits and privileges so admissible under the Right of Children to Free and Compulsory Education Act, 2009.

The background facts in which the said writ petition was preferred was that the petitioner's aforesaid two children were studying in the respondent No.3 school since Nursery class. At the time when the writ petition was preferred, they were studying in IVth and VIIth Standard respectively. The names of the said two children were struck off from the rolls of respondent No.3 school on account of non-payment of fee by the petitioner in respect of the said children from January 2014 till April 2014. The learned Single Judge vide order dated 08.05.2015 directed the respondent No.3 not to give effect to communication dated 24.04.2015 due to non-payment of fee. The petitioner did not make payment of fee even till the time the said writ petition was taken up for hearing. Since the arrears had accumulated to about Rs.2,91,160/-, and the petitioner was not ready & willing to pay even 50% of the said amount, the writ petition was dismissed.

The submission of the petitioner before the learned Single Judge was

that the category of the said children should be changed from 'General' to 'EWS' category. This submission was rejected by placing reliance on the stand taken by the respondent No.2, i.e. Directorate of Education that there is no such policy envisaging the change of category from 'General' to 'EWS'. Students have to be admitted in the EWS category by applying online afresh as per the policy formulated by respondent No.2, and admissions to the said category are done by draw of lots.

The submission of Mr. Aneja, learned counsel for the appellant is that on account of the petitioner falling in bad times, he could not pay the fee in respect of his two children from 2014 onwards. He submits that there is no policy or rule in relation to conversion of the category in which the child may be admitted to a school from "General" to "EWS". Mr. Aneja submits that the petitioner meets the criteria to seek admission of his wards under the EWS category. In this regard, he has placed reliance on the income certificate dated 05.05.2016 issued by the District Magistrate, Vasant Vihar, New Delhi District.

Mr. Aneja further submits that the respondent school was called upon by the learned Single Judge during the course of the writ proceedings to disclose the number of vacancies in the EWS category and they had merely stated that there was no vacancy in the said category in IVth and VIIth Standard respectively. He submits that the assertion was completely bald inasmuch, as, no disclosure was made with regard to the total strength of the batches of IVth and VIIth Standards, and the particulars of the students admitted in EWS category in the said standards were also not disclosed.

Having perused the impugned order and heard Mr. Aneja, we do not find any reason to interfere with the impugned order. The stand taken by the

Directorate of Education clearly was that there is no policy envisaging change of category from “General” to “EWS” and for admission to the EWS category, fresh application has to be made as per the policy formulated by respondent No.2. Such admissions are granted through draw of lots. Thus, it is open to the petitioner to apply for admission afresh under the EWS category in case he satisfies the requisite criteria therefor.

Merely because the appellant claims that the information with regard to the vacancies, if any, and the manner in which the EWS category vacancies have been filled up, has not been disclosed by the respondent school, would not entitle the appellant to seek admission for his wards to the vacancies, if any, in Classes IVth and VIIth in the EWS category in the respondent No.3 school. This is for the reason that the appellant would have to apply afresh under the said category and the petitioner’s application would be considered by the concerned authorities along with all such other applications that may be made by other EWS category candidates through a draw of lots.

In our view, even if the petitioner has any grievance in respect of lack of information, it is open to the petitioner to agitate the same in appropriate proceedings before the appropriate authority.

With the aforesaid observations, we dispose of the present appeal.

VIPIN SANGHI, J

DEEPA SHARMA, J

MAY 15, 2017

B.S. Rohella