

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.13626 OF 2018

Omkar Ramprasad Gaikwad,
Through it's Gaurdian
Ramprasad Balasaheb Gaikwad
Age: 32 years, Occu. Agri.
R/o. Ukhali,
Tq. Aundha Nagnath,
District – Parbhani.
At present his son Omkar pursuing
education in Jawahar Navodaya Vidyalaya,
Basmathnagar, Tq. Aundha [Na],
Dist. Hingoli. **.. PETITIONER**

VERSUS

- 1] Jawahar Navodya Vidyalaya Samiti,
[Ministry of Human Resource Development,
Department of School Education and
Literacy Govt. of India],
Basmathnagar, Tq.Basmat,
Dist. Hingoli – 431 512.
Through Commissioner of Samiti
- 2] The Principal,
Jawahar Navodaya Vidyalaya,
Basmathnagar,
Tq. Aundha [Na], Dist. Hingoli.
- 3] The Union of India,
Ministry of Human Resource Development,
Department of School Education and
Literacy Govt. of India]

.. RESPONDENTS

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Mr.A.K.Bhosale, Advocate for the Petitioner
Mr.D.G.Nagode, Advocate for respondent nos.1
to 3.

**CORAM: S.S.SHINDE &
K.K.SONAWANE, JJ.**

Reserved on : 12.12.2018
Pronounced on : 20.12.2018

JUDGMENT: [Per S.S.Shinde, J.]:

1] Heard. Rule. Rule made returnable forthwith, and heard finally with the consent of the parties.

2] It is the case of the petitioner that, the son of the petitioner is admitted in 6th Standard for the Academic Year 2018-19 at Jawahar Navodaya Vidyalaya, Basmathnagar, Tq. Aundha [Na], Dist. Hingoli, and his school registration number is 1331015870935. Respondent no.1 is the Jawahar Navodaya Vidyalaya Samiti, Dist. Hingoli, who is running a school in which son of the petitioner is admitted. The said school is established by the Central Government, and therefore, falls under the purview of Article 12 of the Constitution of India. Respondent

no.2 is the Principal of Jawahar Navodaya Vidyalaya School, in which son of the petitioner is enrolled and he is presently pursuing his education in 6th Standard of Primary section. It is further the case of the petitioner that, son of the petitioner passed 5th standard from Gandhi Vidyalaya, Parbhani. The petitioner filed online application to the Navodaya Vidyalaya Samiti and applied for the admission in 6th Standard for his son, namely, Omkar. He has furnished all details and also his permanent and mailing address. The petitioner disclosed true and correct information in the online application for admission. The petitioner has also obtained copy of application dated 10.10.2017 submitted to the Samiti.

3] It is further the case of the petitioner that, Jawahar Navodaya Vidyalaya Samiti i.e. respondent no.1 conducted the selection test in the month of April, 2018.

Respondent no.2 issued Admit Card in favour of the son of the petitioner, namely Omkar, upon which he appeared in the examination, and secured his admission by getting first rank in Hingoli District. The son of the petitioner scored marks with distinction. Respondent no.2 intimated to the petitioner about the admission of his son in the said school. Thereafter, under the instruction of respondent no.2, son of the petitioner obtained medical fitness certificate from Civil Surgeon, Hingoli. Respondent no.2 issued letter in favour of son of the petitioner, regarding confirmation of admission and list of things which will be required to bring by the petitioner on 02.08.2018. The petitioner's son has given the examination, which was conducted in the month of October, 2018. Respondent no.2 is not ready to continue the admission of the son of the petitioner due to the change of

District. Respondent no.2 has orally intimated to the petitioner that, he has received instructions from respondent no.1 to issue transfer certificate. Respondents have informed the petitioner to secure admission in some other school, and son of the petitioner was not entitled for admission in respondent no.2 school due to change in District. But the respondents have till date not issued any letter in respect of cancellation of admission of the son of the petitioner.

4] It is further the case of the petitioner that, only for the reason of change of District, respondent no.1 is not ready to allow the son of the petitioner to pursue the education. Respondent no.1 ignored the fact that, the respondents have already made scrutiny of all relevant papers / documents submitted by the petitioner. After scrutiny of all papers, the respondents gave

admission to the son of the petitioner in 6th Standard. The serious prejudice will be caused to the petitioner and his son, if the son of the petitioner is not allowed to complete his education from the said School in 6th standard for the present Academic year. The son of the petitioner will lose valuable academic year due to hyper technical approach of the respondents. The petitioner has filed representation to the Collector of Hingoli, upon which the said office has also issued letter in favour of respondent no.2. Therefore, the action of respondent nos.1 and 2 is contrary to principle of equity, and therefore, respondent nos.1 and 2 may be directed to allow the son of the petitioner, namely Omkar, to complete his education from the said school for the academic year 2018-19. Hence this Petition.

5] Learned counsel appearing for the petitioner submits that, in similar set of

facts and circumstances, the Division Bench of this Court [Coram : R.M.Borde & Mangesh S. Patil, JJ.] in Writ Petition No.10884 of 2018 [Shubham s/o. Namdev Ghuge Vs. The Union of India & others], decided on 16th October, 2018, held that Rule 4.a of the Rules of Admission for Navodaya Vidyalaya, allow the candidates from the District concerned where the Jawahar Navodaya Vidyalaya has been opened, are eligible to apply for admission, and the candidates from other Districts are not held eligible to apply, such action of the school authorities has been held *prima facie* arbitrary. Learned counsel appearing for the petitioner submits that, son of the petitioner, namely Omkar, was admitted in 6th standard in respondent no.2. He also appeared for the examination conducted in the month of October, 2018. It is submitted that, in the peculiar facts and circumstances of this case, when the son of the petitioner, namely

Omkar, is already admitted in 6th standard, and he has also appeared in the examination held in the month of October, 2018, he may be allowed to continue his studies.

6] Pursuant to the notices issued to the respondents, respondent no.2 has filed affidavit in reply. It is stated in the said affidavit in reply that, the main object to start Jawahar Navodaya Vidyalaya is to provide good quality modern education including a strong component of culture, awareness of the environment, adventure activities and physical education to the talented children predominantly from rural areas; to ensure that students attain a reasonable level of competency in three language; to promote national integration through migration of students from Hindi to non Hindi speaking state and vice-versa; and to serve in each district as focal point for improvement of quality of school education in

general through sharing of experience and facilities etc. Therefore, the Government has been pleased to fix the limited seats for 6th standard students i.e. 80 only. The idea behind it is to restrict the student from rural area to apply for the school, only from the same district. Hence, no hardship and discrimination would be caused to students from the rural area.

7] In para 4 of the reply, respondent no.2 has stated factual details about admission of Omkar i.e. son of the petitioner. It is stated in the said para that, admission list is received on 18.07.2018 from CBSE office. A letter from Deputy Commissioner, Regional office, Pune was received on 19.07.2018, thereby directing to complete the admission process on or before 31st July, 2018. The intimation by way of telephone, SMS, E-mail etc. were sent to the selected candidates. A letter dated

20.07.2018 was given to the parents of Omkar Gaikwad informing them to take admission of their son in VIth standard. Accordingly, all formalities were completed, and respondent no.2 has scrutinized all relevant documents. It is further stated in para 5 of the said affidavit in reply that, since the roll Number was issued/allotted to the son of the petitioner by the Regional Office in Hingoli District, he was given admission. Thereafter, by communication dated 23.07.2018, the Regional office has communicated to all the Jawahar Navodaya Vidyalayas, thereby pointing out, some discrepancies are observed in selection list of Class VI JNVST-2018 Exam, and further directed respondent no.2 to verify the information provided during online application processed by the parents / candidates by comparing with original documents produced by the candidates before confirming the admission.

8] It is further stated in para no.6 of the said affidavit in reply that, on 25th October, 2018, after close scrutiny of the documents on record, respondent no.2 found discrepancies in the documents submitted by the petitioner that, he has completed his III, IV and V standard examination at Parbhani District, due to which the petitioner is not eligible. Thereafter immediately, the parents of the petitioner were called to take their son since the admission of the son of the petitioner has been cancelled. They were also informed to collect the T.C. of their son. Accordingly, the petitioner took his son at home from the Hostel. It is also stated that, in the meanwhile first term examination started, and petitioner came to respondents and requested to permit his son i.e. Omkar Gaikwad, to appear for first term examination. Thus, son of the petitioner was permitted to give first

term examination on the request of the parents, as the parents assured that, after examination they will collect T.C. of Omkar. Though the petitioner time and again was requested by respondent no.2 to collect T.C. of his son, however, the petitioner did not collect the T.C. till this date. Thereafter again petitioner was called on 19th November, 2018, to collect the T.C. At that time, he told that he will come and collect T.C. in the afternoon on said date. Thus respondent no.2 has time and again called the father of the student to collect the T.C.

9] It is further stated in para 7 of the said affidavit in reply that, CBSE has approved list of 80 students and sent to respondent no.2, accordingly after scrutinizing all the relevant documents, 69 students were admitted as they are eligible. Since 11 seats were vacant including the seat occupied by the son of the petitioner, again

respondent no.2 has requested CBSE to send list of 11 candidates. After receipt of the second list of 11 students/candidates, again they have scrutinized the documents of 11 candidates. Out of 11 candidates, 10 were eligible and they are given admission. Therefore, still 1 seat is vacant as on today. It is further stated in para 8 of the said affidavit in reply that, it is matter of record that, for appearing in the entrance examination i.e. first examination, the online applications were called, in that application respondent no.1 has issued prospectus for JNVST-2018 and as per clause IV of 4 (c) "Who is eligible", it is specifically stated that, a candidate appearing for the selection test must be studying in Class 5th for whole of the academic session 2017-18 in Government / Government aided or other recognized school or B-Certificate Competency Course of

National Institute of Open Schooling in the same District. It is further stated in para 9 of the said affidavit in reply that, as per the selection list, received from CBSE through letter No.CBSE/JNVST Class of U 2018 dated 19.07.2018, call letter has been issued to Master Omkar Gaikwad, who is selected for Class VI admission and roll No.4.05316 has been allotted for provisional admission and for verification of documents on 25.07.2018. It is also mentioned in the call letter that, after fulfillment of prescribed conditions relating to the entrance, the students are entitled to take admission.

10] Learned counsel appearing for respondent no.2 submits that, as per the record, Omkar studied in Classes III, IV and V in Parbhani District [Gandhi Vidyalaya, Parbhani], and therefore, he is not entitled to apply for admission at Hingoli District. It is submitted that, it appears from the

record that, the parents of the Omkar belong to Taluka Aundha [N], District Hingoli, and accordingly, Admit Card was issued to the Omkar to appear for examination at Hingoli. It is submitted that, as per the guidelines issued by respondent no.1 for selection test-2018, a candidate appearing for the selection test must have studied in Class-V for the whole academic session 2017-18 in a Government/Government aided or their recognized schools in the same District where he is seeking admission. However, son of the petitioner has studied in Classes III, IV and V in Parbhani District, therefore, he was not eligible for admission in JNV situate in District Hingoli.

11] We have given careful consideration to the submissions of the learned counsel appearing for the petitioner, and learned counsel appearing for respondent no.2. We have carefully perused the pleadings and

grounds taken in the Petition, annexures thereto, and the reply filed by the respondents. Admittedly, Omkar has been given admission in 6th standard in respondent no.2 school, as it is evident from the perusal of the averments in para 9 of the affidavit in reply, filed by respondent no.2 that, the name of Omkar is appearing in selection list, received from the CBSE, and accordingly, call letter was issued to the Master Omkar, who was selected for admission in 6th Standard, and roll number was also given to him thereafter, he was allowed to appear for examination. It has come on record in para 7 of the affidavit in reply that, still there is one seat vacant as on today in class 6th in respondent no.2 school.

12] In the peculiar facts and circumstances of the case and fact that, son of the petitioner, namely Omkar, is already admitted in 6th standard in respondent no.2

school, and he has attended the classes, and also appeared for the examination, conducted in October, 2018, we are inclined to allow the prayers in the Petition. At this juncture, it is also relevant to make reference to the order passed by the Division Bench of this Court [Coram : R.M.Borde & Mangesh S. Patil, JJ.] in Writ Petition No.10884 of 2018 [Shubham s/o. Namdev Ghuge Vs. The Union of India & others], decided on 16th October, 2018, wherein in similar facts situation, this Court directed the respondents therein to admit the petitioner therein to Navodaya Vidyalaya, Latur, though the students has prosecuted the studies in 5th standard in the school located in Hingoli District. In fact, the case in hand is on better footing inasmuch as in the facts of the present case, the son of the petitioner namely Omkar, is already admitted in VIth standard and roll number is given, and he has

also appeared for the examination held in the month of October, 2018, and still there is one vacant seat, as it is stated in the affidavit in reply filed on behalf of respondent no.2.

13] In that view of the matter, the Writ Petition is allowed in terms of prayer clause-a, which reads thus:

- a) That, the Hon'ble Court be pleased to direct the Respondent No.1 to allow the petitioner (Omkar Ramprasad Gaikwad) to complete the Academic Year 2018-19.

14] Rule is made absolute on above terms. The Writ Petition stands disposed of accordingly.

[K.K.SONAWANE]
JUDGE

[S.S.SHINDE]
JUDGE