

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.26813 of 2018

ORDER:

This Writ Petition is filed seeking writ of mandamus directing the respondents to produce Optical Marks Recognition (OMR) Sheet (Answer Sheet) of the petitioner bearing Roll No.J 00186 of Jawahar Navodaya Vidyalaya Selection Test-2018, dated 21.04.2018 with registration No.36060 12895 230 and consequently to direct the respondents to admit the petitioner in VI Class at the 3rd respondent's institution.

2. Brief facts which are germane for disposal of this Writ Petition are as follows:

Since the petitioner is being minor, he is being represented by his father and natural guardian by name Sri Ch.Srinivas. The petitioner is a brilliant student in primary education. He intends to join in Jawahar Navodaya Vidyalaya for the Academic year 2018-19 in 6th class. The procedure for admission into Jawahar Navodaya Vidyalaya is being managed by the 1st respondent; that Jawahar Navodaya Vidyalayas are situated all over India except in the State of Tamilnadu, with the syllabus of Central Board of Secondary Education. In the State of Telangana, there is one school for each erstwhile Districts. The 3rd respondent school comes under Medak District. Since the petitioner comes under the territorial jurisdiction of Medak District, he appeared for the common entrance test-2018 with hall ticket No.J 00186 for admission into VI class conducted on 21.04.2018 by the 2nd respondent. The petitioner performed well

and was expecting 94 marks out of 100 after verifying the Key released to Press. While things stood thus, results were declared on 24.07.2018 and same was published in the Press on 25.07.2018, but the name of the petitioner was not found in the results. An e-mail was sent to the Navodaya Vidyalaya Samithi, A-28, Kailash Colony, New Delhi, represented by its Office under RTI Act on 26.07.2018 through internet along with application on 16.07.2018 to the very same authority for sending Xerox copy of OMR marks sheet and particulars marks secured by the petitioner. As no action is being taken on the application of the petitioner, present Writ Petition is filed.

3. Counter affidavit is filed by the 2nd respondent denying the averments in the affidavit filed in support of the Writ Petition stating that the petitioner obtained 91 marks out of 100; that this respondent has a limited role in JNVST Examination i.e., preparation of question paper, processing of the result and handing over the selection list to the Navodaya Vidyalaya Samithi (NVS) based on the guidelines issued by the NVS Head Quarters; that the list of candidates region wise was sent to JNVS and accordingly for Hyderabad for region selection list was handed over on 24.07.2018 and that this respondent has not published answer key in the newspaper and also produced OMR sheet of the petitioner before this Court. It is stated that Medak District of Telangana State consists of total number of 11 Blocks. The petitioner resides in Block No1., which is having only four (4) seats/intakes under Rural Open Category. As per the guidelines, girl candidates are given preference over the boy candidates even

who has secured more marks in the selection list; that four girl candidates have placed in the Selection List in Block 1 even though they got lower marks compared to the boy candidates. It is also stated that a candidate by name Ch.Vishnu (boy) bearing Roll No.J00203 has secured 92 marks but could not get selected in the same Block No.1 against 04 intakes/seats under Rural Open Category; that no RTI application is filed by the petitioner before this respondent.

4. Counter affidavit is filed by the 3rd respondent denying the averments in the affidavit filed in support of the Writ Petition stating that NVS is an autonomous body under the Ministry of Human Resources Development, Government of India and incepted in the year 1986 under new education policy of Central Government to provide free quality education to the Rural Talented Children, who cannot afford higher cost of education; that admissions in JNVs are made through the JNVST at class VI which will be conducted every year by CBSE. There is one school in each district in the State of Andhra Pradesh and Telangana. The candidate who resides within the district, where there is JNV, is eligible to apply for admission into the school. In each school, there are 80 seats and out of the same, at least 75% of the seats in the District are filled by candidates selected from rural area and remaining seats are filled from the urban areas of the district. It is stated that this respondent has absolutely no role in the process of selection and that the CBSE does not even send the marks obtained by each selected student and does not send the answer scripts of candidates; that after receipt of selected list of

students, the Principal will send the letter of intimation to the selected candidate with a request to approach the school along with all necessary documents so as to complete the process of admission. Since the petitioner's name is not mentioned in the list of selected candidates, it is deemed that he was not selected in the JNVST and that the 2nd respondent had sent the list of candidates duly following reservation. It is also stated that this respondent cannot admit the students unless his/her name is being sent by the CBSE and that as on today, out of 80 selected students, only 71 students have joined in the school.

5. Reply affidavit is filed by the petitioner denying the averments in the counter affidavits filed by the respondents 2 and 3 stating that the entire allocation of seats for Girls under reserved category would be 27 seats of 80 seats i.e., 33% and that the said percentage of seats is to be taken out of 80 seats not by taking total seats in a block. It is stated that allotting of seats in block wise itself is contrary to the allocation of seats to the different categories from out of the total seats allotted to the District.

6. Heard Sri Nuthalapati Krishna Murthy, learned counsel for the petitioner, Smt. A.Chaya Devi, learned Standing Counsel for the 2nd respondent and Sri N.Srinath Rao, learned Standing Counsel for the 3rd respondent.

7. Learned counsel for the petitioner while placing reliance on the prospectus of Jawahar Navodaya Vidyalaya Selection Test-2018 for admission into Class VI submits that each district is the Unit and there are 80 seats for each for each District. Out of the

same, 75% of the seats would be allotted to the rural area candidates who come from rural areas and other 25% seats would be allotted to the urban area candidates. He submits that 80 seats are to be filled in the entire erstwhile District of Medak and that 60 seats are earmarked for rural area candidates and 20 seats are earmarked for urban area candidates and out of the same 1/3rd can be reserved for girls, but whereas in the counter it is stated that each District is divided into 11 blocks. He submits that it is neither mentioned in the entire prospectus nor any statutory rules are framed regarding the same for division of districts into blocks. He submits that at any rate all the students in block i.e., Block No.1 are filled up by girl students, who have secured less marks than the boys. He also submits that the so-called guidelines annexed with counter of the 2nd respondent are not statutory in nature, as such, the entire selection process is bad.

8. On the other hand, learned Standing Counsel for the 2nd respondent submits that they conduct examination, prepare the list as per the guidelines of NVS and they have no role to play except following the guidelines of NVS Head Quarters. By referring to the guidelines annexed to the counter of the 2nd respondent, she submits that evening the Districts, there are more backward areas than other areas, as such, each district is divided into blocks in order to see that the talented candidates are selected from most backward areas and that is the reason why block wise admissions are being taken up. She further submits that since the Rule of Reservation is provided to girls i.e., 1/3rd, as

such, out of 80 candidates 33% reservation comes to 27 candidates, as four (4) girl students in Block I are admitted to make up the same. She further submits that they have not been able to accommodate in Block No.1 more than the allotted strength with girl students in order to fulfill the reservation criteria, as such, the same cannot be faulted. She also submits that in this Writ Petition the petitioner only asked for production of his OMR sheet, which is produced before this Court. She also submits that the arguments advanced by the learned counsel for the petitioner are not raised in the affidavit filed in support of the Writ Petition, as such, the 2nd respondent could not answer the said contentions in the counter affidavit.

9. Learned Standing Counsel for the 3rd respondent, apart from reiterating the averments in the counter affidavit, submits that except 9 students, other seats have been filled up and they have sent written communication to the 2nd respondent to send the list of selected list on merit for filling up the unfilled vacancies. He also submits that the entire selection cannot be set aside as the selected candidates are not made as parties to the Writ Petition.

10. In this case, a perusal of Jawahar Navodaya Vidyalaya Selection Test-2018 Prospectus for Class VI admission goes to show that reservations are provided only in respect of districts and there is no specific division of Districts into Blocks. But the so-called Rules annexed to the counter affidavit filed by the 2nd respondent goes to show that there is no specific mention that Districts can be divided into Blocks, but there is a mention of District/Block in some places. In the said Rules, no criterion is

provided for division of Districts into Blocks. It is not the case of the respondents that even if the Districts are divided into Blocks, one particular Block can be reserved for girl students, who got less marks depriving the boy students, who got higher marks than the girl students. In this case, admittedly, less meritorious girl students have been granted admission into Block No.1, to which the petitioner belongs, ignoring the petitioner and other meritorious boy students. That apart, it is also admitted in the counter of the 2nd respondent that one boy student by name Ch.Vishnu, bearing Roll No. J 00203 has got 92 marks, was also not granted admission because four girl students accommodated in Block No.1. These aspects go to show that there are no clear cut guidelines for dividing Districts into Blocks and same is not specified in the prospectus. Even the guidelines produced by the learned Standing Counsel for the 2nd respondent also not specified about division of districts into blocks. If the respondents are of the view that more provision shall be made to most backward areas in the District, they should have specified in the prospectus or they should have at least specified the same in the guidelines or which could have been made part of the prospectus or at least made clear in the notification. In the absence of the same, dividing Districts into Blocks and filling up seats in Blocks with girl students, which are less meritorious candidates than the petitioner, appears to be erroneous and illegal. But the fact remains that the writ petition is filed only for production of OMR sheet and after production of the OMR sheet, petitioner was satisfied with the marks obtained by him. Moreover, petitioner

has not questioned the selection on the grounds argued by the learned counsel for the petitioner enabling the respondents to answer the said issues, but petitioner also cannot be blamed because of division of District into blocks, as the same is also not found even in prospectus. The said aspect of division of District into blocks came to light when the 2nd respondent filed counter and said Rules are annexed with the said counter. However, the fact remains that the selected candidates are not before this Court for striking down the selections.

In view of above facts and circumstances, this Court is not inclined to interfere with the admission process of the 2nd respondent. Since it is stated in the counter affidavit that there are 9 seats vacant out of 80 seats, the 3rd respondent is directed to consider the case of the petitioner basing on the merit for admission into VI class in 3rd respondent school.

With the above direction, this Writ Petition is disposed of. As a sequel to the disposal of this petition, miscellaneous petitions, if any, pending shall stand closed.

A.RAJASHEKER REDDY, J

05 -10-2018

Note: Issue in two days.

B/o.kvs

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITON No.26813 of 2018



Date .10.2018.

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