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

Date of decision: 18th December, 2018

+ W.P.(C) 9119/2018 & CM APPL. 35192/2018 (*for direction*)

SH. MANMOHAN

..... Petitioner

Through: Mr. Ashok Agarwal with
Mr. Kumar Utkarsh,
Advocates

versus

GOVERNMENT OF N.C.T. OF DELHI

AND ANR.

..... Respondents

Through: Mr. Anuj Aggarwal, ASC for
Directorate of Education

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

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J U D G E M E N T (O R A L)

1. The petitioner, who is a resident of House No. B-169, Lajpat Nagar, Sahibabad, Ghaziabad, Uttar Pradesh-201005, seeks to admit his three children, namely Priya Kumari, Chanchal Kumari and Mohit Kumar in Classes VII, VII & I, respectively, in the Sarvodaya Kankya Vidyalaya Anand Vihar, Delhi (hereinafter referred to as “the school”).

2. The writ petition avers that, despite the petitioner having approached the school on numerous occasions, the school refused to admit his wards, stating that they were required to produce proof of their residing in Delhi.

3. It is pointed out, in the writ petition, that the residence of the petitioner, though located in Ghaziabad, is within a distance of 2-3 kilometers from the aforesaid school.

4. A legal notice was sent by the petitioner, through his counsel, to the Chief Secretary of NCT of Delhi on 14th August 2018. A response was received by email to the said notice, on 28th August, 2018, in which it is clearly stated that admissions were being denied to the wards of the petitioner only because they had “no residence proof in Delhi”.

5. In this writ petition, the Directorate of Education has placed a circular dated 26th February, 2018, purported to contain “guidelines to the Heads of Government Sarvodya Vidyalayas regarding admissions to Nursery (3+)/KG/Class-1 (Entry Class) for the Academic Session 2018-19”.

6. A reading of the said circular discloses that it does not contain any embargo, on children who are not residing within Delhi, from seeking admission in the Sarvodya Vidyalayas located in Delhi. The said circular, undoubtedly, requires various documents to be produced, by the children, as proof of residence, but does not, as already noted hereinabove, require such residence to be within Delhi.

7. Mr. Anuj Agarwal, learned ASC appearing for the Directorate of Education, also submits that, apart from the above circular, he is not in possession of any other rule, guideline or instruction, requiring

children, who seek admission into Sarvodya Vidyalayas, to be residing within Delhi.

8. Right to education, needless to say, is a fundamental right, and fundamental rights can be abridged only in a manner known to law. They are, otherwise, sacrosanct and sacred, and the court cannot be privy to any attempt to scuttle such fundamental rights.

9. Inasmuch as there is no available rule, guideline or instruction, limiting the right of admission to Sarvodya Vidyalayas, located in Delhi, only to children who are residing within Delhi, the ground for rejecting the petitioner's request for admitting his wards to the school, cannot sustain either on facts or in law.

10. Accordingly, the writ petition succeeds. The Sarvodya Kanya Vidyalaya, Anand Vihar, Delhi, is directed to admit the aforesaid three wards of the petitioner, subject to completion of all other necessary formalities in that regard. Admission be granted within a period of two weeks.

11. This writ petition is allowed with no orders as to costs.

C. HARI SHANKAR, J

DECEMBER 18, 2018/bh