

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

% Date of decision: 14th December, 2018

+ W.P.(C) 13524/2018, CM Nos. 52720-52721/2018
DIVINE ORGANISATION OF RURAL EDUCATION (D.O.R.E)
..... Petitioner

Through: Mr. N.K. Upadhyay, Adv.

versus

LT. GOVERNOR, GOVT OF NCT OF DELHI AND ORS.

..... Respondent

Through: Mr. Ramesh Singh, SC with
Mr. S.K. Tripathi, ASC (GNCTD) &
Mr. Shashank S. Tiwari, Adv. for
DoE
Mr. Kamal Gupta, Adv. with
Ms. Pragya Agrawal, Adv. for R-5

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE V. KAMESWAR RAO

V. KAMESWAR RAO, J. (ORAL)

CM No. 52721/2018

Exemption allowed subject to all just exceptions.

Application stands disposed of.

W.P.(C) 13524/2018

1. This petition has been filed by the petitioner with the following prayers:-

In view of the facts and circumstances of the present case, it is therefore, most respectfully prayed that this Hon'ble Court may be pleased to:-

(i) Issue a Writ of Mandamus or any other appropriate writ (s) in favour of public at large and

against the respondents thereby quashing / setting aside the circular bearing No. DE.15(298)/PSB/2018/27093-99 dated 27.07.2018 issued by respondent no.3 herein respect of admission of students belonging to Freeship/EWS/DG Category in various private unaided recognized schools in Delhi, as unjust, arbitrary and arbitrary, and be further pleased to direct the respondents herein to restore the manual or offline method of admission of students belonging to Freeship/EWS/DG Category in Classes Second and above in various private unaided recognized schools in Delhi in the current academic session and allow admission of all the eligible students belonging to Freeship/EWS Category by waiving off and / or in keeping in abeyance the online system as postulated vide circular bearing No. DE.15 (298)/PSB/2018/27093-99 dated 27.07.2018 issued by the respondent no.3 herein, in the interest of justice;

(ii) Issue a Writ of Mandamus or any other appropriate writs or any other orders / directions in favour of public at large and against the respondents thereby directing the respondent no.3 herein not to implement online system of admission under Freeship / EWS/ DG Category in the current session 2018-19 or till such time as the online system is not properly implemented and be further pleased to direct the respondent no.3 and 6 herein to issue a public notice asking all Private Unaided Recognized Schools in Delhi to allow admission of students in Class Second and above under Freeship/EWS/DG Category against the existing vacancies in their schools in the current academic session 2018-19;

(iii) Issue a Writ of Mandamus or any other appropriate writs or orders or directions in favour of public at large and against the respondents thereby directing, through the respondent no.3 herein and its concerned various District Admission Monitoring Committees in Delhi, all the private unaided recognized schools in Delhi to allow admission of students under

Freeship / EWS/ DG Category in Class Second and above against the existing vacancies in their respective schools in the said category in the current academic session 2018-19 manually and through offline system of admission till the pendency of the present petition;

(iv) Issue appropriate writ (s), orders or directions in favour of public at large and against the respondents thereby directing the respondent no.3 herein to comply with the various provisions of DSEAR Act and Delhi Right to Free and Compulsory Education Rules 2011 relating to admission of students belonging to weaker sections of the society and also ensure that all the Private Unaided Recognized Schools in Delhi running on government land grants admission to eligible students belonging to Freeship / EWS/ DG Category in classes second and above on the basis of offline method / manual mode of admission in the current academic session 2018-19 in terms of notification dated 30.12.2013 issued by the respondent no.3 herein as well as order dated 28.04.2016 passed by the respondent no.3 herein;

(v) Issue appropriate writ (s) orders or directions in favour of public at large and against the respondents thereby directing the respondent no.3 herein to disclose on affidavit the total number of seats in each category in each classes above Standard Second in various private unaided recognized schools in Delhi and also direct the respondent noi.3 to disclose the number of admission made so far of the students belonging to Freeship / EWS/ DG Category in each classes in Standard School and above in the session 2018-19 in all the Private Unaided Recognized Schools in Delhi;

(vi) Any other order or relief(s) which this Hon'ble Court may deem fit and proper in view of the facts and circumstances of the present case may also be passed or awarded in favour of the petitioners and against the respondents, in the interest of justice.

2. In effect, the petitioner is challenging the circular dated July 27, 2018, whereby the respondents have decided to fill all such vacancies / seats available under freeship quota and also EWS / DG category through computerized draw of lots after inviting online applications for admission in Class 2 onwards in private / unaided recognized schools running on the Government land / DDA as was being done in case of admissions at the entry level classes.

3. Learned counsel for the petitioner would contend that the respondents have not put in place the mechanism for online admission. That apart, it is his submission that the online admission process shall result in many seats going waste.

4. Mr. Ramesh Singh, who appeared for the respondent Nos.1, 2 and 3, on advance notice, states that this issue is no more *res-integra* in view of the judgment of one of us, (V.Kameswar Rao, J.) wherein this Court has upheld the admission through online process. He has placed before us the judgment delivered on March 31, 2017 in ***W.P.(C) No. 7945/2016 Neeraj Kumar v. Venkateshwar Global School and Ors*** and connected matters in that regard.

5. Having perused the judgment, we note in paras 26 and 27, the Court has held as under:-

“26. Having heard the learned counsel for the parties, the only issue which arises for consideration is that the prayer as sought for by the petitioners in this petition is liable to be granted when the petitioners have not applied through online for admission in terms of circular issued by the Director of Education on 29th December, 2015. I may only state here, in none of the petitions, the petitioners have challenged the Circular dated 29th December, 2015.

27. The stand is that the said circular shall hold good for those admissions made uptill March 31, 2016 and not against the vacancies, which may arise after that date because of attritions, cancellation of admissions on account of submission of fabricated certificates etc. In other words, the admission against those seats need to be made on the basis of manual application by the School concerned. Such a plea is not appealing for the reason, the stand of the Directorate of Education on the objective to introduce online system to ensure a fair, uniform, and transparent admissions under EWS/DG category, can't be overlooked. As stated above, the petitioners have not submitted online applications. In the absence of applications and also a challenge to the circular dated December 29, 2015 it must be held that till such time, the online applications are exhausted, the petitioners/wards of the petitioners have no right to seek admission on the strength of a manual application.”

(emphasis supplied by the court)

6. Apart from the above conclusion, we also agree with the submission made by Mr. Ramesh Singh that the admission through manual applications may lead to irregularities in the admission process. Suffice it to state, the plea of learned counsel for the petitioner that the applications should also be invited through offline process, cannot be accepted.

7. Insofar as the other plea of the learned counsel for the petitioner that many of the seats shall go waste is concerned, Mr. Ramesh Singh states, if any vacancy remains, the admission is undertaken through further draw of lots.

8. Noting the above, we do not see any reason to exercise our extraordinary jurisdiction under Article 226 of the Constitution of India. The petition is dismissed. No costs.

CM No. 52720/2018 (for direction)

Dismissed as infructuous.

V. KAMESWAR RAO, J

CHIEF JUSTICE

DECEMBER 14, 2018/ak