



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 09.07.2019

CORAM:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Writ Petition No.10060 of 2019
& W.M.P.Nos.10633 & 17383 of 2019

P.Prathish Minor
Rep.by his father and Natural Guardian
Mr.G.Prabhu

...Petitioner

Vs

1. The Chairman,
Deputy Inspector General of Police,
Kendriya Vidyalaya,
Central Reserve Police Force,
Group Centre, Avadi, Chennai-600 065.
2. The Nominee of Chairman,
The Commandant,
Kendriya Vidyalaya,
Central Reserve Police Force,
Group Centre, Avadi, Chennai-600 065.
3. The Principal,
Kendriya Vidyalaya,
Central Reserve Police Force,
Group Centre, Avadi, Chennai-600 065.
4. K.Srinivasan,
S/o.Krishnasamy,
No.1, 5th street,
Ulaipalar Nagar, Pattabiram, Chennai-600 072

(R4 impleaded vide order dated 09.07.2019,
made in W.M.P.No.17383/19 in W.P.No.10060/19
by Dr.GJJ)

... Respondents

Prayer:

Writ Petitions are filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus to direct the respondents to admit the petitioner's son P.Prathish Serial No.17 with Application Submission Code 190100454601743017 in the First Standard in the 3rd respondent School by considering the Rental Agreement dated 02.01.2019.



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For petitioner	:	Mr.M.MD.Ibrahim Ali
For R1 & R2	:	Mr.T.V.Krishnamachari Senior Panel counsel
For R3	:	Mr.M.Vaidhiyanathan
For R4	:	Mr.M.MD.Ibrahim Ali

ORDER

Heard the learned counsel for the petitioner and the learned counsel for the respondents

2. The petitioner seeks admission in Kendriya Vidyalaya under the quota meant for economically weaker section. The petitioner's son was short listed as Serial No.17 while drawing a lot. When the petitioner approached the third respondent with necessary documents, the respondent verified the same and rejected the petitioner's request for admission on the ground that the petitioner is residing beyond 5 km radius of the institute. Thereafter, the petitioner has shifted his residence place, which is within the distance of 5 km radius from the third respondent school.

3. Relying upon the judgment of this Court passed in W.P.No.7924 of 2017 confirmed by the Hon'ble Division Bench in W.A.No.678 of 2017 dated 30.06.2017, the learned counsel appearing for the petitioner would submit that having been short listed, the petitioner cannot be deprived the admission in the third respondent school citing the distance of his residence. More so, when he has shifted the residence nearer, within 5 km radius of the third respondent school.

4. The third respondent has filed counter and the learned counsel appearing for the third respondent would point out that the alleged rental agreement with one Srinivasan, to show as if the petitioner has shifted the residence nearer to the third respondent institute to overcome 5 km embargo, is a fake document prepared for the purpose of getting admission in the third respondent institute.

5. On considering the submissions, the petitioner was directed to implead the fourth respondent. Accordingly, the fourth respondent got impleaded and has also filed counter.

6. Before advertng to the genuineness of the affidavit filed by the fourth respondent, it is essential to consider the scheme for admission in Kendriya Vidyalaya. After advent of Right to Education Act, the Educational Institutes recognized as a school under RTE Act (Except minority institutions) are supposed to provide free education to the economically weaker



section as per Section 12C of the said Act. Accordingly, the first respondent, who is the Chairman of the third respondent school has invited applications from the eligible candidates. The petitioner herein has applied for admission in the third respondent School on 01.03.2019. Nearly 1718 candidates applied in the said quota. While applying for admission, the petitioner has mentioned his residential address as No.38/10, 3rd Street, Pudhu Nagar, Avadi and also stated that the distance of School from his residence is less than or equal to 5 km. Based on this application, the third respondent has scrutinized and short listed the candidates. Among short listed candidates, the petitioner name is found in Serial No.17, which was released by the third respondent on 26.03.2019. When his application was scrutinized by the third respondent, they have found that the petitioner's residence is beyond 5 km radius. Thereafter, the petitioner's father has entered into an agreement with the fourth respondent. The counter filed by the fourth respondent is self explanatory

"3.I submit that the petitioner approached me for letting out the portion of the property situate at No.1, 5th street, Ulaipalar Nagar, Pattabiram, Chennai-600 072 for the purpose of getting admission in the Kendriya Vidyalaya, Central Reserve Police Force, Group Centre, Avadi, Chennai-600065 in the month of January 2019. Accordingly, the rental agreement was entered into on 02.01.2019 with the petitioner by purchasing a Stamp Paper for Rs.20/- dated 11.07.2017 which was available with the Typist. According to the Rental Agreement the period mentioned was 02.01.2019 to 02.11.2019.

4.I submit that the Tenant had not vacated the portion rented out to the petitioner and therefore the petitioner had given possession only in the month of April 2019. The tenant namely the petitioner is presently in occupation of the premises rented out to him by paying the monthly rent of Rs.2,500/- from April 2019. The delay in handing over the possession to the petitioner was due to the delay in vacating the portion by the previous tenant. Therefore, the period mentioned in the Rental Agreement is neither wilful nor wanton and nothing has been deliberately done."

7. In the counter filed by the third respondent it is specifically pointed out that the petitioner while applying for admission has given false information and mis-declared his residence and the institute is within 5 km radius. Only after his name got short listed through the lot, the petitioner has created the documents with the old stamp papers as if he entered



into rental agreement with one Srinivasan on 02.01.2019.

8. The learned counsel appearing for the petitioner relying upon the judgment of this Court would say that the opportunity of getting education in Kendriya Vidyalaya cannot be deprived for the reason the candidate is not residing within 5 km radius. More so, when the petitioner has shifted his residence to another place and satisfied their requirements. In similar circumstances, the Court has taken a lenient view to direct the third respondent herein to give admission, therefore, this petitioner has also been extended the benefit.

9. This Court is unable to countenance the above submission. The petitioner has made an application giving a wrong information that the petitioner resides within 5 km radius and thereafter, having been short listed, he has created the document as if he has entered into an agreement with the land owner for his premises, which is less than 5 km radius from the third respondent school. Reading the counter of the fourth respondent it is very obvious that this rental agreement created only to accommodate and get over the embargo. If new documents are to be considered after application and short listing, it may not be impossible for the candidates to give wrong information about distance and after getting short listed entered into agreement with any land owner and seek for a seat.

10. As pointed out by the learned counsel for the third respondent the petitioner knowing that disclosure of the fact would dis-entitled him for consideration has suppressed the fact. Perusal of the rental agreement which alleged to have been entered between the petitioner and the fourth respondent it states that the agreement was entered on 02.01.2019 and same reduced in Rs.20/- stamp paper issued on 11.07.2017. If really this agreement was in existence on 02.01.2019 then the petitioner while applying on 01.03.2019 ought to have mentioned that address and not No.38/10, Third Street, Pudhunagar, Avadi.

11. For this simple reason, the writ petition is bound to be dismissed. Hence, this writ petition is dismissed. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

rpl



To

1. The Chairman,
Deputy Inspector General of Police,
Kendriya Vidyalaya,
Central Reserve Police Force,
Group Centre, Avadi, Chennai-600 065.
2. The Nominee of Chairman,
The Commandant,
Kendriya Vidyalaya,
Central Reserve Police Force,
Group Centre, Avadi, Chennai-600 065.
3. The Principal,
Kendriya Vidyalaya,
Central Reserve Police Force,
Group Centre, Avadi, Chennai-600 065.

+1cc to Mr.M.MD.Ibrahim Ali, Advocate, S.R.No.57407
+1cc to Mr.T.V.Krishnamachari, Advocate, S.R.No.57795
+1cc to Mr.M.Vaidhiyanathan, Advocate, S.R.No.58646

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LN(CO)
CS/25/09/2019