

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.21426 of 2022

Subhranshu Kumar Rout

....

Petitioner

Mr. S.C. Pradhan, Advocate

-versus-

***The Collector-cum-Chairman of
Management Committee, Adarsh
Vidyalaya, Keonjhar and others***

....

Opposite Parties

*Mr. R.C. Pattnaik, S.C. for School
and Mass Education Department*

**CORAM:
JUSTICE A.K. MOHAPATRA**

**ORDER
15.11.2022**

**Order
No.**

07.

1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Heard learned counsel for the petitioner as well as learned counsel for the State.
3. The present writ petition has been filed by the petitioner with a prayer for a direction to Opposite Party No.1 to recommend his to take admission into Odisha Adarsha Vidyalaya, Suanpada under Ghasipura Block under Keonjhar district under his/her discretionary quota as has been provided under clause 1.4.5 of general guideline for admission of students in Odisha Adarsha Vidyalaya.
4. It is submitted by learned counsel for the petitioner that the petitioner belong to remote area of Keonjhar district and appeared in Odisha Adarsha Vidyalaya Examination-2022 for taking admission into Class-6. In

examination test, the petitioner has secured 34 marks out of 52 marks and stood at Sl. No.55 of the selection list. After completion of the selection process, the petitioner did not get admission on merits into the Odisha Adarsha Vidyalaya. Although in total 86 seats are available for admission into the Class-6 of the above noted Odisha Adarsha Vidyalaya, two seats have been reserved under the Collector's quota particular category of persons over and above sanctioned strength of 86 seats. It is further contended that the mother of the petitioner applied to the Collector, Keonjhar on 04.04.2022 to recommend the name of her son(petitioner) under Collector quota. However, he further submits that the name of the petitioner was not recommended under the Collector quota. Being aggrieved of such conduct, the petitioner has approached this Court by filing the present writ petition.

5. On instruction, learned Standing Counsel for the School and Mass Education Department submits that as per clause 1.4.5 guideline for admission of students in Odisha Adarsha Vidyalaya, the Collector as the Chairman of the Managing Committee can allow two seats per Class-VI over and above the sanctioned strength for admission of orphan children on priority/the wards of the employees of Odisha Adarsha Vidyalayas in exceptional cases to provide opportunity to deprived/deserving children. The Collector, Keonjhar has selected two candidates on the basis of merit of selection list. The said list has been annexed as Annexure-A/1 to the affidavit filed by the Collector, Keonjhar dated 10.10.2022. On perusal of the merit list of the candidates, who had applied under the quota of the Collector-cum-Chairman, Odisha Adarsha Vidyalaya, it appears is as follows:-

Sl. No.	Name of the student	Name of OAV	Class	Roll No	Mark
1.	Sumanta Kumar Sahoo	OAV Suanpada,	VI	226183311	38 0

Ghasipura

2.	Subhransu Kumar Rout	-do-	VI	226183305	34 1
3.	Arpita Moharana	-do-	VI	226183317	26 6
4.	Tanuska Behera	-do-	VI	226183304	16 9
5.	Sweetarani Mallick	-do-	VI	226183307	29 3
6.	Bibekananda Sahoo	-do-	VI	226181411	36 9

List of students nominated by Collector

1.	Sumanta Kumar Sahoo	OAV Suanpada, Ghasipura	VI	2261833110	38
3.	Arpita Moharana	OAV Suanpada, Ghasipura	VI	2261833176	26

Referring to the aforesaid merit list, learned Standing Counsel for the School and Mass Education Department submits that even considering the fact that Sumanta Kumar Sahoo was given admission under the sanctioned quota not for the Collector quota, the petitioner is not eligible under the Collector quota on the following grounds:-

- I. The present petitioner does not come under the Orphan children category.
- II. He is not the ward of the employees of Odisha Adarsha Vidyalaya in exceptional cases to provide opportunity to deprived/deserving children following the aforesaid guidelines.

Therefore, the case of the petitioner has not been considered by the

Collector for admission. It is further submitted that even assuming that there is present Sl.No.1-Sumanta Kumar Sahoo under the sanctioned seats and for the sanctioned seats of merits then one seat would remain vacant and the said vacant seat would go to candidate at Sl.No.6, who had secured 36 mark more than the petitioner (34).

6. In reply to the aforesaid contention, learned counsel for the petitioner draws attention of the Court to the affidavit filed by the Collector, Keonjhar in paragraph-8 of the affidavit, it has been stated that two candidates, namely, Sweetarani Mallick and Bibekananda Sahoo at Sl. No.5 and 6 has submitted their applications after the due date of selection and it has been categorically stated in the said paragraph-8 that the case of these two candidates have not been considered under 1.4.5 of the general guideline for admission of two children. Therefore, those two students, namely, Sweetarani Mallick and Bibekananda Sahoo are not to the zone of consideration to be considered for admission under the Collector's quota. In such view of the matter, learned counsel for the petitioner further submits that the merit list under the Collector quota has been allegedly drawn under Annexure-A/1 by reflecting the name of the petitioner against Sl. No.4 as 2

7. Two counter advanced by learned Standing Counsel for the School and Mass Education Department submits and learned counsel for the petitioner submits that two candidates were given admission under the Collector's quota, namely, Sumanta Kumar Sahoo at Sl. No.1 and Arpita Moharana at Sl. No.3. He further contends that those two candidates do not come under Orphan children on priority/the wards of the employees of Odisha Adarsha Vidyalaya. Since none of the students were available in the category mentioned under clause 1.4.5, the Collector has rightly adopted the principle of inter se merit among the students, who have applied for admission under the Collector's quota and accordingly, on the basis of merit select list has

been drawn. Further, it is submitted by learned counsel for the petitioner that Sumanta Kumar Sahoo, who stood first having adjusted against the sanction seat on the basis of the merit list and he was not considered for admission under the Collector's quota. Therefore, there is still vacancy, which is not disputed by the Standing Counsel for the for the School and Mass Education Department, who submits that on the basis of instruction he has received vide letter dated 12.11.2022 of D.E.O. Keonjhar.

8. Having heard leaned counsels for the respective parties and upon consideration of rival contentions made before this Court, this Court is of the considered view that two seats under the Collector's quota which has been provided under clause 1.4.5 of the guidelines for admission of students in Odisha Adarsha Vidyalaya for Orphan children on priority/ for the wards of the employees of Odisha Adarsha Vidyalaya should be filled up the same among the students. However, in absence of students belonging to the ex-category exclusively, the Collector, Keonjhar adopted an approach giving admission to deserving children on the basis of inter se merit of the students, who had applied under first category. Accordingly, one person from the boys category and another one person from girls category, however, applicant under the boys who has been adjusted against the sanctioned seat under the merit list. Therefore, there still exists one vacancy. Now the question is whether the petitioner is entitled to get admission in boys category against the aforesaid one, which has been lying vacant in the boys category. No doubt a person belonging to the category for which one seat has been reserved is to be given admission, however, in the present case no such candidates were available. Accordingly, admission has been given to the deserving children on the basis of reservation. Upon scrutiny of the merit list, which has been attached to the affidavit of the Collector under Annexure-A/1, this Court observes that Sl. No.2 secured 34 marks, therefore, automatically he is eligible and Sl. No.1 against sanction post. Contentions of

learned Standing Counsel for the School and Mass Education Department, petitioner does not belong to the category for which the seats have been intended is not sustainable out of contentions of the Collector, Keonjhar in the aforesaid paragraph of the affidavit dated 10.10.2022 wherein he has stated that the candidates at Sl. No.5 and 6 has not been considered under clause 1.4.5. In such view of the matter those two candidates out of shown consideration they may not be eligible for admission under the clause 1.4.5. Therefore, the interest mean i.e. present petitioner be also under the Collector quota seat and this Court is of the considered view, the present petitioner given admission in the 86 vacancy seat against the Collector quota. In such view of the matter, opposite parties are directed to give admission to the present petitioner within a period two weeks from the production of certified copy of this order.

9. With the aforesaid observation and direction, the writ petition stands disposed of.

Urgent certified copy of this order be granted on proper application.

(*A.K. Mohapatra*)
Judge