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W.P.Nos.28188, 28196 & 28198 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.11.2022

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.Nos.28188, 28196 & 28198 of 2022

and

W.M.P.Nos.27482, 27483, 27487 & 27490 of 2022

Minor Sonam Badiya
Minor rep. By father and
Natural Guardian
Uttam Kumar Baidya
Chathoth Thazhe Kuni,
Narayanan Nagar, Vadakara,
Kozhikode, Kerala.

... Petitioner in WP.No.28188/022

Minor Vishnu E. Vishwanath
Minor Rep. By father and
Natural Guardian
V.K.Vishwanathan
Pranavam, Mulliyil Nada,
Thiruvangad, Thalassery.

... Petitioner in WP.No.28188/022

Minor Sreehari.K
Minor Rep. By Mother and
Natural Guardian
Harsha T.M.
Kizhakkayil House
Kariyad South (P.O.)
Peringathur, Thalassery,
Kannur – 673 316

... Petitioner in WP.No.28188/022

Vs



W.P.Nos.28188, 28196 & 28198 of 2022

1. The Commissioner,
Navodaya Vidyalaya Samiti,
B-15, Sector-62, Institutional Area,
G.B. Nagar, Noida,
Uttar Pradesh 201 307.
2. The Joint Commissioner,
Navodaya Vidyalaya Samiti,
B-15, Sector-62, Institutional Area,
G.B. Nagar, Noida,
Uttar Pradesh 201 307.
3. The Deputy Commissioner,
Navodaya Vidyalaya Samiti,
(Hyderabad Region),
Gopanapall, Serilingampally Mandal
Nallagandla Road, Hyderabad – 500 107.
4. The Director (Special Exams)
Central Board of Secondary Education,
P.S. 1-2, I.D. Extension,
Institutional Area, Patpargani, Delhi 110 092.
5. The Principal,
Jawahar Navodaya Vidyalaya,
Mahe, P.O. Pandakkal, Mahe District,
Pondicherry (UT) – 673 310.

... Respondents in all WPs

Prayer in WP.No.28188 of 2022: Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the 3rd and 5th respondents herein to grant admission to petitioner's son in 6th Standard in the academic year 2022-2023 in the 5th respondent institution.

Prayer in WP.No.28196 of 2022: Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the 3rd and 5th respondents herein to grant admission to petitioner's son in 6th Standard in the academic year 2022-2023 in the 5th respondent institution.



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Prayer in WP.No.28198 of 2022: Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for the records in F.No.4-6/2022-NVS (Exam) 3818 dated 13.10.2022 issued by the 2nd respondent to quash the same and consequently direct the 2nd and 5th respondents to grant admission to her son in VI Standard in academic year 2022-2023 in 5th respondent institution.

In all WPs

For Petitioners : Mr.R.Krishna Prasad

For Respondents : Mr.C.Prasanna Venkatesh
Standing Counsel for R1 to 3 & 5
: Mr.G.Nagarajan
Standing Counsel for R4

COMMON ORDER

Since the issue raised in these writ petitions is one and the same, with the consent of the learned counsel appearing for both sides, these writ petitions were heard together and are disposed of by this common order.

2. The petitioners in this batch of writ petitions are the father, mother and natural guardian of their Wards who studied V standard in a recognised Private School located in Mahe of Pondicherry State.



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3. After completing V standard, they wanted to pursue their further studies i.e. from VI standard in the Jawahar Navodaya Vidyalaya (in short 'JNV') located in Mahe.

4. To get admission in JNV as per the procedure in vogue, the students who completed V standard have to write the examination based on which selection would be made and thereafter admission would be given at these JNVs. Accordingly the petitioners' Wards also written the examination.

5. Though they become successful or eligible to get admission in JNV, on merit basis they were not selected and given admission in the JNV located at Mahe.

6. When representations were given on behalf of the students by the petitioners to the respondents seeking admission for their Wards, in respect of one writ petition, the representation has been rejected stating that the student is not eligible to get admission in JNV located at Mahe, because, the student does not belong to the said District even though he studied V standard in the school located in Mahe as the student belongs to the other area i.e. Kannur District of Kerala State.



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7. In respect of other two candidates the respective representation submitted by the parents i.e. the petitioners not even considered and disposed.

8. Therefore, the petitioners moved the present writ petitions that in writ petition W.P.No.28198 of 2022 writ of certiorarified mandamus has been sought for to quash the order rejecting the plea of the petitioner therein and in other two writ petitions, writ of mandamus has been sought for to consider the representation given by the respective petitioners.

9. Supporting the case of the petitioners, Mr.R.Krishna Prasad, learned counsel appearing for the petitioners would submit that, clause 3.6 of Navodaya Vidyalaya Scheme issued by the Navodaya Vidyalaya Samiti has made it clear that, the candidates and their parents/guardians may note that the children selected on the basis of the test will be admitted only in the JNV located in the District from where they are studying V standard and appearing for the JNVST. Relying upon this clause, the learned counsel would contend that, all the Wards of these writ petitions had completed their V standard in a school located in the District where they sought for admission in JNV, therefore the admission



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sought for by the petitioners' Wards is in consonance with clause 3.6 of the Regulation i.e. Scheme.

10. He would also submit that, though clause 4.1 envisages that, only the candidates from the District concerned where the JNV has been opened are eligible to apply for admission, the said clause 4.1 only is subject to clause 3.6. Therefore the learned counsel would contend that, either the candidate who completed V standard in a District where the JNV is located can seek in that JNV irrespective of the fact whether he/she belongs to that District or any other place. Therefore the learned counsel would contend that, the reason now cited by the respondents in not admitting the Wards of the petitioners by citing the reason that the petitioners' Wards are not belonging to the Mahe District which is part of the Pondicherry State where only the JNV is located and for such JNV alone the admission has been sought for by these petitioners, may not be justifiable and in fact according to the learned counsel for the petitioner, it is against the import of clause 3.6 of the Scheme. Therefore, the learned counsel seeks indulgence of this Court in ordering these writ petitions as per the prayer sought for respectively.



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11. Per contra, Mr.C.Prasanna Venkatesh, learned Standing Counsel appearing for respondents 1 to 3 & 5 would submit that, it is an admitted case on the part of the petitioners that, none of the petitioners or their Wards belong to Mahe District where alone the JNV is located. Admittedly they belong to Kannur District of Kerala State and it may be a neighbouring area of Mahe District it does not mean that, the petitioners would be permitted to pursue their VI standard in JNV located in Mahe unless and until they satisfied that the Wards of the petitioners belong to Mahe District.

12. In this context, the learned Standing Counsel appearing for the respondents would submit that, clause 3.6 of the Scheme is subject to clause 4.1 which means the eligibility for getting admission in JNV is restricted only to the Wards or Students of the District concerned where JNV is located.

13. In fact clause 3.6, according to the learned counsel for the petitioners, has reiterated the same, in other words saying that, if at all any students after passing out the test is to be admitted he/she should be admitted only in the JNV located in the District where the Ward studied in V standard.



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14. Therefore, giving interpretation in these two clauses, the learned counsel would contend that the Wards should have fulfilled that twin test, one is he/she must belong to the District where the JNV is located, secondly if he/she seeks for admission to a JNV, admission would be given in the JNV provided the Wards should have completed the V standard in a school located where the JNV is also located.

15. In support of his contention, the learned Standing Counsel appearing for the respondents has relied upon a recent decision of the Division Bench of the Bombay High Court in W.P.No.9310 of 2022 etc. batch where the Division Bench of the Bombay High Court exactly has confronted the issue now has been espoused before this Court by the petitioners. After having gone through and hearing the learned counsel for the parties, the Division Bench of the Bombay High Court has held as follows:

“5 The substratum of the matter for adjudication is “whether the students not residing in the District can seek admission in the JNV situated in the said District”. The Petitioners it appears have passed 5th standard from Sangli District. They seek admission in the JV at Sangli. They



appear to be residents of Kolhapur District.

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6 Clause 4.1 of the Prospectus for JNVST 2022 provides that only the candidates from the District where the JNV has been opened are eligible to apply for admission. Clause 3.6 provides that the children selected on the basis of the test will be admitted only in the JNV located in the District from where they are studying in Class V and appearing for JNVST. The selected candidates will not be given admission to any other JNV. It further provides that no request for shifting of students on account of medium of instruction in the JNV concerned, shifting of parents / guardians to other Districts / States etc. will be entertained. Clause 4.3 further provides that a candidate appearing for the selection test must be studying in Class V for the whole of the academic session 2021-2022 in a Government / Government aided or other recognized schools or B Certificate competency course of NIOS in the same District where he is seeking admission.

7 So far as reservation of seats is concerned, the Prospectus provides that 75% of the seats in the District are filled in by the candidates selected from rural areas and remaining seats will be filled in from the urban areas of the District. The reservation of the seats in favour of the children belonging to SC/ST is provided in proportion to the



population of the District concerned. It would appear that 75% of the seats in a District are filled by candidates selected from rural areas and the remaining seats are filled from urban areas of the District. The same appears to be in consonance with the object of the scheme. The object of the scheme is to provide good quality modern education including a strong components of culture, inculcation of values, awareness of the environment, adventure activities and physical education to the talented children predominantly from rural areas. The Petitioner is harping more on clause 2.1(iii) under the caption 'How to Apply for JNVST' wherein the candidates from NIOS are required to be resident of the same District where he or she is seeking admission. It is contended that the said clause provides for residence proof and the requirement of residence of the same District only to the candidates from the NIOS and not the candidates passing from a recognized Government or Government aided institution.

8 The object of the scheme along with all clauses will have to be read in harmony to arrive at a conclusion. The clauses cannot be read in a manner that one of the clauses is rendered redundant or a dead letter. All the clauses will have to be read in a manner that none of the clause is rendered nugatory or otiose. The object of the scheme is to provide quality modern education to the children predominantly from the rural areas. Keeping in mind the



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said objective, 75% of the seats in a District are reserved for the candidates from rural areas and remaining seats are filled in from the urban area of the District.

9 Clause 4.1 under the caption ‘Who is Eligible’ also provides insights for interpreting the clauses. It states that only the candidates from the District concerned where the JNV has been opened, are eligible to apply for admission. The general rule under the said Prospectus is that only the candidates from the District concerned where the JNV has been opened, are eligible to apply for admission. Clause 3.6 further provides that the children selected on the basis of District will be admitted only in the JNV located in the District from where they are studying in class 5 and appear for the JNVST. Reading clause 3.6 and 4 conjointly and harmoniously, irresistible conclusion that can be drawn is that a candidate will be required to satisfy the twin test for being eligible to get admission in the JNV; (i) the candidate should have passed 5th standard from the District where the JNV is located; and (ii) only the candidates from the District concerned where the JNV is opened, are eligible to apply for admission. The condition of residence certificate in the prescribed proforma in case of NIOS i.e. the candidates should obtain ‘B’ certificate and residence should be in the same district where he is seeking admission, as provided in clause 2.1 is an additional condition imposed for



clarification purpose. NIOS is a correspondence course for the students who are not able to pursue regular classes. For the said purpose, additional precautions appears to have been undertaken. The general rule of eligibility has been laid down in clause 4.1. Clause 4.1 starts with the term 'only'. It states that 'only the candidates from the district concerned where the JNVs are opened are eligible for admission'. The word 'only' implies that the students other than the District where the JNV is situated are excluded. No other interpretation is possible. We cannot persuade ourselves to accede to the arguments of the Mr.Bhavake, the learned Advocate for the Petitioners that even though the student may not be the resident of the same District where the JNV is situated and if he has passed 5th standard from the district where the JNV is situated is eligible to be admitted. Such an interpretation would be against the object and the tenor of the clauses in the prospectus. The aforesaid discussion leads us to conclude that the candidate seeking admission to the JNV must satisfy the twin test (i) he must be studying in class V in Government / Government aided or other recommended schools or B Certificate Competency Course of NIOS in the same District where the JNV is situated and (ii) he must be resident of the same district where the JNV is situated and is seeking admission."

16. By relying upon this position, the learned counsel appearing



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for the respondents would contend that, a complete answer has been given by the Division Bench of the Bombay High Court for the issue raised in these writ petitions by the learned counsel for the petitioners and therefore, the learned counsel appearing for the respondents seek dismissal of these writ petitions.

17. I have considered the said rival submissions made by the learned counsel appearing for the parties and have perused the materials placed before this Court.

18. Though it has been contended by the learned counsel appearing for the petitioners that, clause 3.6 of the Scheme is having the primacy over clause 4.1 and in other words, clause 4.1 of the Scheme is subject to clause 3.6 of the Scheme, this Court is unable to accept the said contention, because, the main criteria fixed under the Scheme by the Samiti i.e. Navodaya Vidyalaya Samiti is that, in order to help the rural folks students located in a particular Revenue District where if a JNV is established, admissions for 75% shall be given only to rural students belong to that particular Revenue District.



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19. If that being the aim and object of the Scheme under which the JNVs are established throughout the country, that kind of prime object of the Scheme cannot be destroyed by giving any such interpretation as sought for by the petitioners counsel.

20. If the interpretation sought to be given by the petitioners counsel is accepted, certainly that will destroy the very object of the Scheme.

21. Therefore clause 4.1 made it very clear that, only the candidates from the District concerned where the JNV has been opened are eligible to apply for admission. Therefore, the very eligibility condition itself as has been imposed in the said clause 4.1 is that, if one has to make application to get admission in JNV, he must belong to that Revenue District.

22. After making application and after successfully completing the test at the time of giving admission, suppose the candidate wants to get admission in any other District, that would not be considered and admission would be given only in JNV located in the same Revenue



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District where he/she studied V standard.

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23. On reading of these clauses 4.1 and 3.6 conjointly and combinedly, the meaning would be that, the candidate who wants to get admission in any JNV must complete the twin test. This has been exactly pointed out by the Division Bench of the Bombay High Court where they have held that, the object of the Scheme along with all clauses will have to be read in harmony to arrive at a conclusion. The clauses cannot be read in a manner that one of the clauses is rendered redundant or a dead letter. They further held that, reading of clauses 3.6 and 4.1 conjointly and harmoniously the irresistible conclusion that can be drawn is that, a candidate will be required to satisfy the twin test for becoming eligible to get admission in the JNV i.e. (i) the candidate should have passed V standard from the District where the JNV is located; and (ii) only the candidates from the District concerned where the JNV is opened, are eligible to apply for admission.

24. The Division Bench has further said that, the general rule of eligibility has been laid down in clause 4.1. Clause 4.1 starts with the term 'only'. It states that 'only the candidates from the district concerned



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where the JNVs are opened are eligible to apply for admission'. The word 'only' implies that the students other than the District where the JNV is situated are excluded. No other interpretation is possible, that is what held by the Division Bench of the Bombay High Court and the argument advanced before the Bombay High Court by the counsel appearing for the petitioners on behalf of the students that even though the student may not be the resident of the same District where the JNV is situated and if he has passed V standard from the District where the JNV is situated is eligible to be admitted, was not accepted by the Division Bench and that argument was negated.

25. Having gone through the said decision of the Bombay High Court, I am in complete agreement with the said view expressed by the Division Bench of the said High Court and in fact the said judgment has given complete answer to all the issues raised by the learned counsel appearing for the petitioners in this batch of writ petitions.

26. In that view of the matter, this Court has no hesitation to hold that the petitioners in this batch of cases have not made out any case either to interfere with the impugned order passed by the respondents in



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W.P.No.28198 of 2022 or even to give a direction by way of mandamus

to consider the representations submitted by the respective petitioners in

other two writ petitions viz., W.P.Nos.28188 & 29196 of 2022, therefore

all the three writ petitions since fail they are liable to be dismissed and

accordingly are dismissed, however there shall be no order as to costs.

Consequently, connected miscellaneous petitions are also dismissed.

08.11.2022

Index : Yes

Speaking Order : Yes

Sgl

To

1.The Commissioner,
Navodaya Vidyalaya Samiti,
B-15, Sector-62, Institutional Area,
G.B. Nagar, Noida,
Uttar Pradesh 201 307.

2.The Joint Commissioner,
Navodaya Vidyalaya Samiti,
B-15, Sector-62, Institutional Area,
G.B. Nagar, Noida,
Uttar Pradesh 201 307.

3.The Deputy Commissioner,
Navodaya Vidyalaya Samiti,



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(Hyderabad Region),
Gopanapall, Serilingampally Mandal
Nallagandla Road, Hyderabad – 500 107.

4.The Director (Special Exams)
Central Board of Secondary Education,
P.S. 1-2, I.D. Extension,
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5.The Principal,
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R. SURESH KUMAR, J.

Sgl

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