

\$~27

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

% Decided on: 19th December, 2022

+ W.P.(C) 12005/2022

BUSHRA RIYAZ THROUGH MOTHER
REHMAT JAHAN

..... Petitioner

Through: Mr. Shoeb Shakeel, Mr. Vishal
Raj Sehijpal, Mr. Suhail Khan,
Mr. Purushender Bhardwaj,
Advocates (M:9999229678)

versus

GOVT. OF NCT OF DELHI & ANR. Respondents

Through: Mr. Kamal Gupta, Mr. Sparsh
Aggarwal, Advocates for
School (M:9560173511)

CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

[Physical Hearing/ Hybrid Hearing]

MINI PUSHKARNA, J. (ORAL):

1. The present writ petition has been filed with prayer for directions to the respondent to grant admission to the petitioner for session 2022-23 as she had been allotted the respondent No.2 school for admission, vide EWS admission process for session 2021-22 by way of registration no. 20210130919.

2. It is submitted on behalf of the petitioner that despite the petitioner complying with all the requisite formalities, respondent No.2 school has raised frivolous grounds and denied admission to the petitioner. Attention of this Court has been drawn to letter dated 01.11.2021 issued by the Delhi Commission for Protection of Child

Rights (DCPCR), Govt. of Delhi, 5th Floor, ISBT Building, Kashmiri Gate, Delhi – 110006. In the said letter, DCPCR has given categorical directions to the Deputy Director of Education (DDE) to investigate the rejection of the case of all the 19 children who wanted to take admission in the respondent No.2 school in the EWS category.

3. Thus, it is submitted that the respondent No.2 school has been denying admission to various students who wish to take admission in respondent No.2 school under the EWS category.

4. It is further submitted on behalf of the petitioner that respondent No.2 school has wrongly stated in its reply that the petitioner is not staying at the residence in question. The said contention on behalf of the school is disputed by Id. Counsel for petitioner who submits that petitioner is staying at the same residential address, as written in the application while applying to respondent No.2 school under the EWS category.

5. On the other hand, Id. Counsel appearing for respondent No.2 school disputes the submissions made on behalf of the petitioner. He has drawn the attention of this Court to the reply filed on behalf of the school. He submits that petitioner herein had applied for admission in the academic session 2021-2022 and thereafter did not apply for the current academic session of 2022-23. Thus, he submits that the petitioner cannot claim admission in the academic session 2022-23 on the basis of application filed for previous academic session 2021-2022. He relies upon the judgment in the case of *Neeraj Kumar Vs. Venkateshwar Global School , 2017 SCC OnLine Del 7842* and *Radha Krishan Vs. Bal Bharti Public School & Ors. (2018) SCC*

OnLine Del 8329. He further relies upon Division Bench judgment of this court in W.P.(C) No.3684/2013 titled *Justice For All Vs. GNCTD*. Thus, he contends that present petition is liable to be dismissed.

6. He further submits that the school is duty bound to carry out the necessary scrutiny/verification of documents produced by the parents to ascertain the eligibility of the applicant under the EWS category. Thus, he submits that during the scrutiny and verification conducted by the school, it so transpired that the petitioner is not residing at the address which is mentioned in the registration form.

7. Ld. Counsel for respondent No.2 school also submits that the EWS certificate dated 16.12.2019 submitted on behalf of the petitioner had expired way back on 15.06.2020, as the same was valid only for six months. Therefore, no admission could have been granted to the petitioner on the basis of EWS certificate dated 16.12.2019.

8. On the other hand, learned Counsel for petitioner submits that he had subsequently submitted an EWS certificate dated 13.07.2021. Thus, he submits that all the requisite documents have been submitted on behalf of the petitioner.

9. Having heard ld. Counsels for the parties, it is clear that the petitioner cannot claim admission in academic session 2022-23 on the basis of an application filed for previous academic session 2021-2022. A coordinate Bench of this court in the case of *Neeraj Kumar Vs. Venkateshwar Global School (Supra)* has held that on a fair and justifiable interpretation and reading of the provisions of the Right to Education Act, 2009, (RTE Act), admissions must take place in a school on or before 31st December of the academic year. This Court

had passed such directions after considering the various provisions of the RTE Act, 2009 and Rules framed thereunder by the Delhi Government. Thus, it has been held as follows:

“32. Further in terms of the Rules of 2011, the extended period of admission is five months i.e 31st August of that year. No doubt, the said period is not a fixed period, inasmuch as a child can also be admitted thereafter, who shall be eligible to complete the studies with the help of special training as determined by the Head of the School. Such a period need to be a reasonable period and cannot be stretched till 31st March i.e the last date of the academic year as an admission made on the last date of the academic year, presupposes the child did not have the occasion of learning/studies/training of that particular class till that date. It is expected that child need to achieve a particular level of learning/knowledge/training to progress to the next higher level/class so as to be at par with his peers/students of his age. The question is what should be that date. I note, Rule 5 of the Rules of 2011, which has been reproduced above, does indicate the minimum period of at least three months of training be given to a child. If that be so, an admission must take place on or before 31st December of the academic year, as from the date following that date i.e 1st January till 31st March of the academic year, the period is achieved. In the cases in hand, the said period cannot be achieved at this point of time. So the prayer of the petitioners for grant of admission cannot be accepted on this ground as well, apart from the ground that the petitioners/wards of the petitioners have not submitted online application. The writ petitions are dismissed.”

10. The aforesaid judgment in the case of *Neeraj Kumar Vs. Venkateshwar Global School (Supra)* was followed in the judgment of *Radha Krishan Vs. Bal Bharti Public School (Supra)*. In the said case,

it has been held in categorical terms that belated admission in a particular academic year would be totally dehors the scheme of the Delhi School Education Act & Rules, 1973 and would be counterproductive to the very purpose of reserving seats for children belonging to the EWS category.

10. It is also pertinent to mention that Division Bench of this Court in W.P.(C) No. 3684/2013, titled *Justice For All Vs. GNCTD and other connected matters* by its order dated 14.03.2018 has categorically held that the last date for admission for EWS category candidates is 31st December of any given academic year. In that view of the matter, it is clear that the petitioner cannot be given admission to the present academic session on the basis of an application filed for the previous academic session.

11. It is also seen that the EWS category certificates which are issued by Tehsildar of concerned area is valid only for 6 months. Thus, even otherwise, the EWS certificate dated 16.12.2019 or 13.07.2021, cannot come to the aid of the petitioner for grant of admission to the current academic session, 2022-2023.

12. In view thereof the present petition is disposed of with liberty to the petitioner to obtain a fresh EWS certificate and apply for admission accordingly in the next academic session 2023-2024. It is directed that as and when petitioner applies for admission on the basis of a fresh EWS certificate, the case of the petitioner shall be considered on its merits, and on the basis that the petitioner is staying on the given address, i.e., A-1/175-B, Maa Shakti Apartments, Paschim Vihar, New Delhi – 110063. However the school concerned

would be at liberty to carry out appropriate verification and scrutiny as per the procedure followed.

13. With the aforesaid observations, the present writ petition is disposed of.

