

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9043 of 2023

Kangana Kumari, Minor Daughter of Sunil Kumar through her natural guardian of her father, namely, Sunil Kumar, aged about 35 years, Male, Son of Bhupendra Paswan, resident of village Raybhir Tola, P.O.- Chandpur Bhangha, P.S. Jankinagar, District- Purnea.

... .. Petitioner

Versus

1. The Union of India through the Secretary, Department of School Education and Literacy, Ministry of Education, New Delhi.
2. The Secretary, Department of School Education and Literacy, Ministry of Education, Govt. of India, New Delhi.
3. The Navodaya Vidyalaya Samiti, through its Chairman, having his office at B-15, Institutional Ara, Sector- 62, Noida, (U.P.).
4. The Chairman, the Navodaya Vidyalaya Samiti having its office at B-15, Institutional Ara, Sector- 62, Noida, (U.P.).
5. The Deputy Chairman, Navodaya Vidyalaya Samiti, Regional Office Patna having its office at J3GM Plus MQC, Block A and B. Karpoori Thakur Sadan, Ashiyana Digha Road, Patna.
6. The District Magistrate, Madhepura.
7. The Principal, Jawahar Navodaya Vidyalaya Sukhashan, Madhepura.

... .. Respondents

with

Civil Writ Jurisdiction Case No. 6449 of 2023

Abhishek Kumar (Minor) through his natural guardian and father Subish Kumar Yadav, S/o Janardan Yadav, r/o vill. - Atlakha, P.S. - Basnahi, Distt. - Saharsa.

... .. Petitioner

Versus

1. The Navoday Vidyalaya Samiti through its Chairman, having its Office at B-15, Institutional Area, Sector 62, Noida (U.P.)
2. The Commissioner, Navoday Vidyalaya Samiti through its Chairman, having its office at B- 15, Institutional Area, Sector 62, Noida (U.P.)
3. The Deputy Commissioner, Navoday Vidyalaya Samiti, Regional Office, Patna having its Office at J3 GM and MQC Block, A and B, Karpoori Thakur Sadan, Ashiyana Digha Road, Patna.
4. The Principal, Jawahar Navodya Vidyalaya, Sukhasan, Madhepura - 852128.

... .. Respondents

Appearance :

(In Civil Writ Jurisdiction Case No. 9043 of 2023)

For the Petitioner	:	Mr. Manoj Kumar, Advocate Ms. Pooja Prasad, Advocate
For the State	:	Mr. Uday Chand Prasad, Advocate Mr. Narendra Kumar, AC to GP-20



For Navodaya Vidyalaya: Dr. K.N. Singh, ASG
Mr. Siddhartha Prasad, Advocate
Mr. Sunit Kumar, Advocate
Mr. Kaustubh, Advocate
(In Civil Writ Jurisdiction Case No. 6449 of 2023)
For the Petitioner : Mr. Manoj Kumar, Advocate
Ms. Pooja Prasad, Advocate
Mr. Uday Chand Prasad, Advocate
For the State : Mr. Narendra Kumar, AC to GP-20
For Navodaya Vidyalaya: Dr. K.N. Singh, ASG
Mr. Siddhartha Prasad, Advocate
Mr. Sunit Kumar, Advocate
Mr. Kaustubh, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 17-07-2023 Heard learned counsel for the petitioners in both the writ applications and Dr. K.N. Singh, learned senior counsel assisted by Mr. Siddhartha Prasad, learned Advocate for the Navodaya Vidyalaya Samiti and its authorities as also learned counsel for the State.

2. In the present set of writ applications, the petitioners are seeking a Writ in the nature of issuance of a Writ of Mandamus directing the respondents to admit the petitioners in Class VI in Jawahar Navodaya Vidyalaya, Sukhashan, Madhepura.

Case of the Petitioner

3. It is the common case of the petitioners that they had appeared in the Jawahar Navodaya Vidyalaya Entrance Examination, 2022 conducted by the Central Board of Secondary Education, Patna for admission in Class VI in the Session 2022-23. They found their place in the selection list and



were called for taking admission.

4. The grievance of the petitioners is that when they appeared along with all required documents before the respondent authorities and submitted the same, the respondent authorities did not take their admission. In this regard, a representation was also submitted by the fathers of the petitioners to the District Magistrate, Madhepura.

5. Learned counsel for the petitioners submits that in similar circumstance, CWJC No. 502 of 2023 and CWJC No. 450 of 2023 were filed by some of the candidates. A learned Co-ordinate Bench of this Court heard those writ applications and disposed of the same vide order dated 25.02.2023. It is stated that this Court reached to a conclusion that the reasons for denying admission to the petitioners after they were duly selected and found meritorious, solely on the basis of their parents not being residents of the district, is not sustainable in law. Learned counsel submits that pursuant to the said order of the learned Co-ordinate Bench, those petitioners were admitted in Class VI, special classes were held for them and they have been promoted to Class VII.

Stand of the Navodaya Vidyalaya

6. Dr. K.N. Singh, learned senior counsel representing the Navodaya Vidyalaya Samiti submits that the order of the learned Co-ordinate Bench of this Court was complied with,



subject to the decision of the Hon'ble Division Bench in LPA No. 467 of 2023 and other LPA's which arose out of the common order. In LPA No. 467 of 2023, the Hon'ble Division Bench has though refused to interfere with the order of the learned Co-ordinate Bench of this Court in the writ proceeding but at the same time observed that the order of the learned Single Judge would not be a precedent for the year 2022-23 in respect of other candidates whose claim is stated to have been declined since they are not party to the *lis*.

7. Learned senior counsel, therefore, submits that on the one hand, the order of the learned Co-ordinate Bench is now not a precedence and at the same time, the fact is that the Session 2022-23 is over, those who were admitted by virtue of the Court's order were given special classes and they have been promoted to Class VII. It is submitted that, at this stage, if this Court issues a similar direction, it would be difficult for the Navodaya Vidyalaya to conduct special classes for one student particularly in the kind of scheme under which Jawahar Navodaya Vidyalaya Sukhashan are run, the entire cost/expenses are borne by the Central Government and it is not known that under such circumstance, what will be the fate of the source from which the student may be allowed admission.



Consideration

8. Having heard learned counsel for the petitioner and learned senior counsel for the Navodaya Vidyalaya Samiti as also upon consideration of the materials available on the record, this Court finds that it is definitely a very hard case for the petitioners of these two writ applications that they are not getting admission despite having been selected. Despite this, this Court is of the opinion that at this stage, an extraordinary writ in the nature of a Writ of Mandamus need not be issued for the following two reasons:-

(1) The petitioners have approached this Court on or about 27.06.2023 and 29.04.2023 respectively even as they were denied admission some time in the month of July 2022. During this period, the students admitted in the Session 2022-23 continued with their studies and the Session had almost ended. The petitioners, though claimed to have filed representation but did not approach this Court in time which would make them dis-entitled for the reliefs in the changed circumstances.

(2) The sheet anchor to claim admission being similarly situated to the petitioners in CWJC No. 502 of 2023 and other analogous matters is also not available to the petitioners in view of the Hon'ble Division Bench Judgment dated 06.07.2023 wherein it has been observed that the order of



the learned Single Judge would not be a precedent for the year 2022-23.

9. This Court understands that the delay on the part of the petitioners is such that it has made the petitioners dis-entitled for the reliefs prayed in the writ applications.

10. Both the writ applications are, thus, dismissed.

(Rajeev Ranjan Prasad, J)

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