

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.502 of 2023

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1. Paramjeet Kumar (Minor), Son of Labhesh Kumar through his Guardian Labhesh Kumar, Male, Aged about 46 years, Son of Satyendra Mahto, Resident of Manakoul, Ward no. 7, P.S. - Belchhi, District - Sheikhpura, Bihar.
 2. Sanyam Vatsa, (Minor) Son of Amit Kumar through his Guardian Amit Kumar, Male, Aged about 43 years, Son of Late Shree Kant Singh, Resident of Village - Lohan, P.S. Lohan, District - Sheikhpura, Bihar.
 3. Parniti, (Minor), Son of Lal Gopesh through her Guardian Lal Gopesh, Male, Aged about 37 years, Son of Mundrika Yadav, Resident of Ward- 05, Makdumpur, Sheikhpura, Bihar.

... .. Petitioner/s

Versus

1. The Union of India through Secretary, Department of School Education and Literacy, Ministry of Education, Government of India.
2. The Secretary, Department of School Education and Literacy, Ministry of Education, Government of India.
3. The Navodaya Vidyalaya Samiti through Chairman, B- 15, Institutional Area, Sector - 62, Noida, Uttar Pradesh 201307.
4. Chairman, Navodaya Vidyalaya Samiti, B- 15, Institutional Area, Sector - 62, Noida, Uttar Pradesh 201307.
5. Javahar Navodaya Vidyalaya, Jamui through Principal, Village and Post - Barhat, District - Jamui, Bihar.
6. Principal, Javahar Navodaya Vidyalaya, Jamui, Village and Post - Barhat, District - Jamui, Bihar.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Prince Kumar Mishra, Advocate Mr. Vikash Kumar Jha, Advocate
For the Respondent/s	:	Mr. Anshay Bahadur Mathur, CGC Dr. K. N. Singh, Sr. Advocate Mr. Siddhartha Prasad, Advocate



Mr. Sumit Kumar, Advocate

**CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH
SHARMA**

CAV JUDGMENT

Date : 25th Feb. 2023

Petitioners are young children who have approached this Court through their parents in order to allow them to join the prestigious Jawahar Navodya Vidyalaya (hereinafter referred to as 'JNV') at Jamui after they have been selected.

2. It is their contention that respondent No.6 has wrongly cancelled their admission/candidature vide letter dated 22.11.2022 solely on the ground that the petitioners parents are not residents of the district Jamui where the JNV has been located.

Individual letters of even date 22.11.2022 have been issued to all the three petitioners which have been jointly assailed before this Court.

3. From the perusal of the impugned letters, it appears that the parents have been informed of three reasons which have been made basis for rejecting their candidature. Firstly, the selection in the test will not vest any right to secure admission, and secondly, therefore, even though they may have been selected in the test their candidature stands rejected solely on the ground that their parents are not residents of the district where



the JNV is existing and thirdly, the judgment passed by the Bombay High Court dated 13th October 2022, as per para 9 (ii) he must be a resident of the same district where JNV is situated and seeking admission.

4. Learned counsel appearing for the petitioners relies on a judgment rendered in the case of ***Patil Vijayakumar Vs. Commissioner of Income Tax*** reported in ***ILR (Karnataka) page 1520*** to submit that the Division Bench judgment of the Bombay High Court does not have a binding effect on the other high Courts and it only has a persuasive value. He also relies on judgment of the Bombay High Court rendered in the case of ***Commissioner of Income Tax vs. Thana Electricity Supply Ltd.*** reported in ***1993 SCC online Bom. 591*** where similar view has been taken.

5. Before delving on the merits of the case, it is noticed that a Division Bench of the High Court of Bombay while deciding a bunch of writ petitions filed by various students who were aspirants to join JNV on 13th of October, 2022 held as under :

“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.”

6. Learned counsel for the petitioners has tried to persuade this Court to take a different view. He submits that as per the prospectus heading ‘**Selection and Admission**’ para 3.6, it is provided “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 in class V and appearing for the JNVST. Under no circumstances, the selected candidate will be given admission to any other JNV. 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”.

7. He, therefore, submits that the candidates who have studied in a school of a particular district different from their parental home or maternal home would not be entitled to apply in another district for admission to JNV. A certificate is required to be given by the school that they were studying in class Vth in the school located in the said district from where they are



applying.

8. He further submits that two categories of students may apply for admission to the JNV; one are those students who are regularly pursuing their studies for the entire year, and the entire academic session, in a Government or Government aided or other recognized schools and second are those category of students who have done a 'B' certificate competency course of National Institute of Open School (hereinafter referred to as 'NIOS') in the same district where he /she is seeking admission. The students who obtained a 'B' certificate would have to necessarily submit a residence certificate as required along with the form. Learned counsel has invited attention to the format of the residential certificate which is applicable for the candidates who seek admission through the studies in NIOS. The parent/guardian has to submit such a residence certificate mentioning his/her place of residence.

9. Learned counsel submits that the Bombay High Court has failed to notice the difference between students who applied under the NIOS category and that the same conditions will not apply to candidates who are regular students studying in class Vth in a school falling in the same district as JNV for which admission is being taken.



10. He further submits that the student cannot be denied admission after he has already been selected solely on the basis of the residence of his/her parent. If a different interpretation is taken, young students like the petitioners, who have studied at their parental home or maternal home away from the place where their parents are residing, may be on account of any reason, would be deprived of admission to any of the JNV i.e. to say they would neither be eligible for admission where their parents reside because they have not studied in that district nor they would be eligible in the district where they are studying in class Vth because their parents are not residing in the concerned district. The requirement of residence also does not have any nexus to the purpose sought to be achieved.

11. *Per contra*, the learned Additional Solicitor General has supported the decision of the respondents and submits that the interpretation taken by the Bombay High Court has persuasive value and there is no reason to take a different view by this Court.

12. I have considered the submissions. While the judgment passed by the Division Bench of the Bombay High Court may have its own persuasive value, but for the reasons hereinbelow, this Court intends to take a different view. In my



considered opinion, the view taken by the Bombay High Court is not correct.

13. On merits, this Court finds that the respondents have issued a prospectus for admission to class VI in the JNV by conducting a selection test in 2022. The application form along with the prospectus did not require the candidates to submit a residence certificate and from perusal of various columns of the application form, it requires to fill the name, parentage, postal address, particulars of the school, its location, year of joining/ passing, name of the block, name of the district, and name of the state.

There is a note in the form which mentions “in respect of NIOS students, the area will be decided on the basis of the residence of a candidate”. A format for submitting the residence certificate duly attested by the Sub-Divisional Magistrate/Tehsildar for NIOS category students as attached is also to be filled by them. Similarly, a format for the OBC certificate has to be filled. Admit card verifying the details of the candidate is also required to be issued by the headmaster where the student is studying in class V and is also issued in a separate format where the address of the candidate is mentioned.

The petitioners have passed the examination and they



were informed that they stand selected. The impugned letter dated 22.11.2022 has thereafter been issued rejecting their candidature (supra). Resulting in the present petition.

14. The prospectus details out as to how to apply for the JNV selection test which mentions in para 2.1 (3) relating to candidates of NIOS as under:-

“2.1(iii) In case of candidates from NIOS, candidates should obtain ‘B’ certificate and residence should be in the same district where he/she is seeking admission.”

Thus, this Court is satisfied that the residence certificate is only required for candidates from NIOS category.

In the Chapter **‘Selection and Admission’** the requirement is limited to the fact that the child was studying in class Vth from the school which was located in the same district where the admission in JNV is sought. As per para 3.6 (supra). It would be apposite to quote the relevant provisions from the chapter **‘Who is Eligible’** as under :-

“For all candidates :

4.1 Only the candidates from the district concerned where the Jawahar Navodaya Vidyalaya has been opened are eligible to apply for admission. However, if the district where JNV is opened is bifurcated at a later date, the old boundaries of the district are considered for the purpose of eligibility for admission into JNVST, in case a new Vidyalaya is not started in the newly bifurcated district as yet.



4.3. *A candidate appearing for the selection test must be studying in Class-V for the whole of the academic session 2021-22 in a Government/Government aided or other recognized schools or 'B' certificate competency course of National Institute of Open Schooling in the same district where he/she is seeking admission. The candidate who has already passed/studied class V in all previous academic session is not eligible to appear in the selection test. A school will be deemed recognized if it is declared so by the Government or by any other agency authorized on behalf of Government Schools where students have obtained 'B' certificate under National Institute of Open Schooling should have accreditation of NIOS. A candidate must successfully complete Class-V in the session 2021-22. Actual admission in Class-VI for the session 2022-23 will be subject to the mentioned condition.*

4.4. *A candidate claiming admission under rural quota must have studied and passed class III, IV and V from a Govt./Govt. aided/recognized school spending one full academic session each year in a school located in rural area.*

4.5. *Candidates passing 'B' certificate competency course of National Institute of Open Schooling on or before 30th September 2021 are also eligible to write admission test provided they are in the prescribed age group. The rural status of a child from National Institute of Open Schooling will be decided on the basis of a certificate to be issued by Tehsildar/District Magistrate of the District indicating that the child has been residing in rural areas for the last three years. Students studying under the above scheme and residing in urban and notified areas are not eligible for obtaining seat in rural quota."*

For Rural candidates

A) *At least 75% of the seats in a district will be filled by candidates selected from rural areas*



of the district and remaining seats will be filled from the Urban areas of the district.

B) A candidate seeking admission under the rural quota must have studied in Classes-III, IV and V completing full academic session from the Government/Government Aided/Government recognized schools located in rural areas.

However, the candidate should study full academic session in Class-V from the same district where admission is sought.

C) Candidates studying under the schemes of National Institute of Open Schooling should produce their rural status certificate issued by District Magistrate/Tehsildar/Block Development Officer.

For urban candidates

A candidate who has studied in a school located in an urban area even for a single day of session in Class-III, IV and V will be considered as an urban candidate. Urban areas are those which are so defined in 2011 census or through a subsequent Government notification. All other areas will be considered as rural.

15. In chapter relating to reservation of seats following provisions are required to be noticed, which is as under :-

Reservation of seats

a) At least 75 % of the seats in a district are filled by candidates selected from rural areas and remaining seats are filled from urban areas of the district.

b) Reservation of seats in favour of



children belonging to Scheduled Castes and Scheduled Tribes is provided in proportion to their population in the district concerned provided that in no district, such reservation will be less than the national average (15% for SC and 7.5 % for ST) but subject maximum of 50% for both the categories (SC & ST) taken together. These reservations are interchangeable and over and above the candidates selected under open merit.”

16. In chapter relating to ‘Documents to be Submitted After Selection’ the parents are required to submit the documents as under :-

Documents to be Submitted After Selection

The parents of the candidates who are provisionally selected for admission will have to submit the following documents at the time of admission for verification :-

I) Proof of date of birth.

ii) Proofs for eligibility as per the conditions of NVS.

Iii) For candidates seeking admission under rural quota, the parents will also have to submit a certificate from the competent authority to the effect that the child had studied in an Institution/School located in a rural area.

(iv) Residence Certificate in prescribed proforma in case of NIOS studies only.

V) Any other documents required.”

17. In *Kehar Singh Vs. State*, 1988(3) SCC 609, the



golden rule was stated by *Jagannath Shetty, J.* as “the grammatical or literal meaning unmindful of consequences”. *Lord Simon*, however, held that “unmindful of consequences” as not part of the Golden Rule and will have no application. In fact, the Golden Rule of construction would apply to “the natural or ordinary meaning of a word or sentence”.

See: Principles of Statutory Interpretation by Justice G. P. Singh (14th Edition, Chapter-II, p.94)

The provisions of the prospectus are in plain and clear language. The interpretation of such provisions has to be on basis of the Golden Principle of interpretation. Language used in any provision has to be as it is and to be interpreted on the basis of the plain meaning. There is no scope for persuasive interpretation if the plain reading of the provision expresses its meaning.

18. Having noticed the aforesaid provisions, this court finds that there are two different separate distinct categories of students (who may be referred as Class ‘X’ and Class ‘Y’) who may apply for admission in a JNV of a particular district.

Class ‘X’



Class 'X' are those candidates who are continuously studying in a school located in the same district from class-III to class-V. Provided they have studied full academic sessions in classes IIIrd, IVth and Vth in the same school which is located in the same district where the JNV is located.

Class 'Y'

Class 'Y' are those candidates who have passed class-V from open school of NIOS. Since such students do not go to the school they are required to be residents of the district where the JNV is situated and have to submit residence certificate.

Such two categories of students are further divided to be either a 'Rural candidate' or an 'Urban candidate'. They are neither required to submit any residence certificate nor the requirement of a residence certificate applicable to them. It means that even if the child has studied in Classes I and II in any other school but has studied thereafter upto class 5th in the school located in the district where the JNV is located, he or she will be eligible to be admitted upon selection i.e. to say that the student must have studied in classes IIIrd to Vth in a Government /aided Government recognized school located in the rural area or the urban area of the district where JNV is located.



Thus, a student's identification as a student from a rural area or urban area is with reference to the location of the school where he studied in classes III, IV, and V. If the school is located in the urban area, he would be an urban candidate and if the school is located in the rural area, he would be a rural candidate. Provided the said school is in the same district as the district of JNV. If the provisions of reservation of seats are examined, the same is also with reference to the rural area and urban area of the district. It is noticed that rural area students are identified with reference to their school location and not where the students/parents are residing. The reference therefore would only be identifiable to the place of the school and not the place of residence of the parent of the child.

19. The word 'from' used in para 4.1 (supra) has to mean the district where the student has been studying and not where his parents are residing. No other interpretation is possible with reference to the context.

20. In distinction to the above for class 'Y' students, namely, students who applied under the NIOS category, the prospectus requires the candidate to submit a residence certificate of his parent duly attested by the concerned SDM/Tehsildar. For them, the rural and urban areas would relate



to the place of residence as can be seen from clause 4.5 (supra).

21. Unfortunately, this aspect was not noticed by the Bombay High Court and I respectfully, cannot be persuaded with the view taken by the Bombay High Court. It is settled law that two distinct classes cannot be treated individually which itself violates of Article 14 of the Constitution.

22. In the present case, all the petitioners were admittedly studying from in class III to class V continuously in the recognized school located in district Jamui and from where they applied for JNV, Jamui alone. They were therefore entitled to admission after having been selected at the JNV, Jamui. Their rejection appears to have been made without application of mind and simply relying upon a judgment of the Court which respectfully does not address to the students who are applying as regularly studying students of a school located in the rural/urban area of the same district where the JNV is located.

23. Having reached to the aforesaid conclusion, this Court finds 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.

24. In view of the above, their rejection of admission



letters dated 22.11.2022 are quashed and set aside and the respondents are directed to consider the petitioners for admission as per their merit in the JNV, Jamui and allow them to join and continue their studies. The students would also be provided extra tuition in order to cover up the period.

25. The writ petition is allowed. No cost.

(Sanjeev Prakash Sharma, J)

Ashwini/-

AFR/NAFR	AFR
CAV DATE	13.02.2023
Uploading Date	25.02.2023
Transmission Date	NA

