

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

28 WRIT PETITION NO.2817 OF 2023

Jayanand s/o Ram Kamble,
Age 40 years, Occ. Labour,
R/o. House o. 48/924, Barshi
Road, Uddan Pul, Harangul
Tq. Latur, Dist. Latur.

... **Petitioners**

VERSUS

- 1) The State of Maharashtra
- 2) The Chief Executive Officer,
Zilla Parishad, Latur.
- 3) The Block Education Officer,
Panchayat Samiti, Latur.
- 4) The Headmaster,
Saint Tukaram National Model School
Latur

... **Respondents**

...

Advocate for Petitioners : Mr. Kamble Shirish M.
AGP for Respondent No. 1 : Mr. S.K. Tambe
Advocate for Respondent Nos. 2 & 3 : Mr. V.C. Patil h/f Mr. Uttam Bajirao
Bondar

**CORAM : MANGESH S. PATIL &
SHAILESH P. BRAHME, JJ.**

DATE : 10.07.2023

PER COURT :

Heard the learned advocate for the petitioner and the learned A.G.P
as well as learned advocate for the respondent Nos. 2 and 3.

2. The petitioner is seeking admission from 25% quota reserved in the
respondent No. 4's school under the Right of Children to Free and
Compulsory Education Act, 2009. It is his stand that his place of residence
is about 1.5 k.m. from the school. There is one vacant seat which is still to

be filled in. The petitioner had approached this Court in Writ Petition No. 5530/2022. By the order dated 12.10.2022 the respondent Nos. 2 and 3 were directed to consider the online application of the petitioner and similarly situated pupils whose residences fell within the distance of 1 to 3 k.m. from the school and by adopting the lucky draw to fill in that vacant seat.

3. Pursuant to the directions of this Court, the respondent nos. 2 and 3 conducted necessary hearing and by the order which is impugned in the present petition the request of the petitioner has been turned down on the ground that already there are 112 students who are awaiting for admission against that one vacant seat whose residences fall within 1 k.m. distance. Since the petitioner's residence is between 1 to 3 k.m. radius category even if there is a draw of lots, the petitioner would not be eligible.

4. We have heard both the sides and perused the impugned order as well as the order of this Court in Writ Petition No. 5530/2022. As is mentioned herein above, the impugned order has been passed in spite of the directions of this Court in Writ Petition No. 5530/2022 for the reason that there are already 112 students waiting for the admission from the category whose residences fall within one k.m. radius of the school. More importantly, the fact regarding availability of these many number of students from the category-I was apparently not brought to the notice of this Court while deciding the Writ Petition No. 5530/2022. Besides, as can be seen from

paragraph no. 11, the petitioner then had pretended that his residence was within one k.m. radius of the location of the school which is factually incorrect. If such is the state of affairs, when this Court was oblivious of either availability of 112 students from category-I and also was misled to believe that the petitioner's residence was within one k.m. radius, we find no illegality in the impugned order whereby the respondents have now expressed that even if a lottery is to be held, the petitioner would not be eligible to participate when there are 112 students from category-I awaiting admission against that one vacant seat.

5. We find no merit in the petition. The Writ Petition is dismissed.

(SHAILESH P. BRAHME, J.)

(MANGESH S. PATIL, J.)

mkd/-