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W.P.No.25763 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **27.01.2023**

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P.No. 25763 of 2022

K. Arunachalam ... Petitioner

Vs

1. The Deputy Commissioner
Kendriya Vidyalaya Sangathan,
IIT, Campus, Guindy,
Chennai – 600 036.

2. The Principal,
Kendriya Vidyalaya School,
Kanathampoondi Campus,
Kanathampoondi Village,
(Near Marutham Farm House)
Thiruvannamalai.

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, for the issuance of a Writ of Mandamus, directing the respondents to admit petitioner's daughter A. Bhaveshwari in to Class XI in 2nd respondent's school for the academic year 2022-2023 under any stream of group.

For the Petitioner : Mr. D. Rajagopal

For the Respondents : Mr. N. Vaidhiyanathan
Standing Counsel



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ORDER

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The writ petition has been filed in the nature of a mandamus seeking a direction to the respondents to admit the daughter of the petitioner, A. Bhaveshwari to Class XI in second respondent school namely Kendriya Vidyalaya School for the academic year 2022-2023.

2. In the affidavit filed in support of the writ petition, the petitioner who belongs to the schedule caste community stated that his daughter A. Bhaveshwari had passed out of X std from CBSE Board from TVS Academy School, Adaiyur, Thiruvannamalai and had secured a total of 368 marks out of 500. She had then applied to the second respondent/Kendriya Vidyalaya school to join in XI std. However, she was not selected for such selection. Aggrieved by that, the present writ petition has been filed.

3. The grievance raised by the learned counsel for the petitioner is that another student by name R. Swathi, who had obtained less marks than the petitioner, had been admitted and it is also stated that the policy of reservation had not been followed by the second respondent. It is therefore insisted that the daughter of



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the petitioner must be granted admission in the second respondent school.

4. A counter affidavit had been filed by the Deputy Commissioner of Kendriya Vidyalaya Sangatha, Regional Office, at IIT Campus at Chennai wherein admission of the other student R. Swathi, who had scored lesser marks in X std has been justified by stating that the said candidate/R. Swathi is a child of a transferable/non-transferable State Government employee and therefore, she is placed in that category, while the daughter of the petitioner, comes in any other category, namely category No. 5.

5. With respect to the possibility of admitting the petitioner herein it had been stated that the total strength is 40 and that three seats alone fell vacant at the beginning of the academic year for admission to XI std and in accordance with the guidelines, three students had been admitted.

6. With respect to the grievance that the reservation policy had not been followed, it had been stated that such policy is followed at



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the time of admission to I std and thereafter it is only the filling up of vacant seats and in that, children of transferred government or public sector or State or Central Government employees are given preference than children of private individuals who are not employed in public service.

7. Heard the counsel for the petitioner and respondents.

8. The daughter of the petitioner, had admittedly obtained 368 marks out of 500 in her X std which she had done in a reputed private school, TVS Academy School, Adaiyur, Thiruvannamalai District. For reasons best known, the petitioner had applied for his daughter to join the second respondent school. For joining the second respondent school, there are some rules and regulations which bind the second respondent, particularly, for admission to classes X and XII or in other words for Class IX. The guidelines are as follows:

" 3. Priorities in Admission

The following priorities shall be followed in granting admissions:-

(A) Kendriya Vidyalayas under Civil/Defence Sector:

1. Children of transferable and non-transferable Central government employees and children of ex-servicemen. This will also



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include children of Foreign National officials, who come on deputation or transfer to India on invitation by Govt. of India.

2. Children of transferable and non-transferable employees of Autonomous Bodies/Public Sector Undertaking/Institute of Higher Learning of the Government of India.

3. Children of transferable and non-transferable State Government employees.

4. Children of transferable and non-transferable employees of Autonomous Bodies/Public Sector Undertaking/Institute of Higher Learning of the State Governments.

5. Children from any other category including the children of Foreign Nationals who are located in India due to their work or for any personal reasons. The children of Foreign Nationals would be considered only in case there are no children of Indian Nationals waitlisted for admission.

Note: Preference in Admission to wards will be based on the number of transfers of the parents in the last 7 years."

9. It is seen that the student who had been admitted namely R. Swathi, comes under category 3 namely daughter of transferable or non-transferable State Government employees.

10. The petitioner is admittedly not in public service. He is running a trust by named Arunachala Maha Annathnam Madam. With respect to the guidelines, it is only that student who comes within the first category who can be considered first and any spill over can flow



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over to the next category. The daughter of the petitioner comes under the 5th category and can be accommodated only if there are no children to be admitted from the first to fourth categories. Unfortunately, for the petitioner, the three vacancies were filled up by students who qualify from the first to four categories and more particularly Swathi about whom the petitioner has raised grievances had been accommodated since she came under category No. 3.

11. With respect to the issue of reservation, it is stated that the said policy is strictly followed while admitting students to I std and thereafter the rules and regulations are followed.

12. The petitioner has also not questioned that particular aspect but had only sought a mandamus seeking a direction to admit his daughter in Class XI. Once there are no seats available then a mandamus cannot be issued.

13. The Court had also asked the counsel for the respondents to examine whether the petitioner can be admitted over and above the sanctioned strength of 40 seats.



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14. However, the learned counsel for the respondents stated that 40 is the limit and that flows out of the guidelines which had been given for the academic year 2022-2023. Even though the learned counsel for the petitioner stated that, there are seats available, this statement is countered by the learned counsel for the respondent who stated that seats are not available. That being a disputed fact cannot be examined by this Court in Writ jurisdiction.

15. In view of the facts presented, I must state that the Court cannot come to the rescue of the petitioner but can only wish his daughter all the best since she is already studying in the school where she had studied X std. It is also advisable that she continues to study there, since she would have gained a core group of classmates as her friends and shifting at the time of XI could affect her psychologically or otherwise. I again wish her best.

16. The writ petition stands dismissed. No costs.

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Index: Yes/no

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mrn
To

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C.V.KARTHIKEYAN, J.
(mrn)

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