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**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

Dated: 22.12.2023

CORAM

**THE HONOURABLE DR. JUSTICE ANITA SUMANTH**

**W.P.No.34381 of 2022 and**  
**WMP.Nos.33840 & 33841 of 2022**

R.Prabakaran

... Petitioner

Vs

- 1.The Commissioner of School Education  
Director of School Education  
DPI Complex  
College Road  
Chennai.
- 2.The District Collector  
Thiruvannamalai District  
Thiruvannamalai.
- 3.The Chief Educational Officer  
Thiruvannamalai District  
Thiruvannamalai.
- 4.The District Educational Officer (Private Schools)  
Thiruvannamalai District  
Thiruvannamalai.
- 5.The District Educational Officer  
Cheyyar  
Thiruvannamalai District



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6.The Block Education Officer  
Peranamallur  
Vandavasi Taluk  
Thiruvannamalai District.

7.The Principal  
Suraj Matriculation Higher Secondary  
Melathangal  
Chetpet Taluk-606 807.

... Respondents

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari Mandamus, calling for the records on the file of the fourth respondent dated 25.11.2022 issued in Na.Ka.No.193/A2/2022 and quash the same as illegal and unconstitutional and consequently direct the respondents to give admission to the petitioner's daughter namely Mahasri for LKG in 7<sup>th</sup> respondent School viz. Suraj Matriculation Higher secondary School under the 25% RTE Reservation in accordance with Section 12 of the Right of Children to Free and Compulsory Education Act, 2009, within the time stipulated by this Court.

For Petitioner : Mr.M.Guruprasad

For Respondents : Mr.P.Anandakumar (for R1 to R6)  
Government Advocate

No Appearance (for R7)



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## **ORDER**

The petitioner has two daughters and had sought admission for the second daughter by name Mahasri in Lower Kindergarten in R7 school. The petitioner claims to be an agriculturist residing at No.202, Road Street, Melacheri Post, Kozhipuliyur, Chepet Taluk-604 502.

2. According to the petitioner, the distance from his residence to R7 school is only 900 metres and the child is thus entitled admission in R7 school under 25% of RTE Reservation in accordance with Section 12 of the Right of Children to Free and Compulsory Education Act, 2009 (in short 'Act').

3. The petitioner had submitted an application online on 11.05.2022 seeking admission under RTE for academic year (AY) 2022-23. He had also appeared for an enquiry and produced all requisite documents. The child was granted admission on 25.06.2022 and had been attending school regularly.

4. While so, he was orally intimated by the school administration that the request for admission under RTE had been rejected. It was only in response to his representation that the petitioner received the order of rejection impugned in this writ petition from the District Educational Officer (Private Schools/R4). The reason for rejection is that the residence of the petitioner is at distance of



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more than 1 km from R7 school. The violation is of a distance of 450 metres.

Hence, this writ petition assailing the order of rejection.

5.The respondents have filed a counter where they admit that the distance between the petitioner's residence from the school is 1.4 kms. It is solely on this basis the impugned order has been passed. They also state that the petitioner's residence is within 300 mtr from Government Panchayat Primary school.

6.Upon a consideration of the matter, I am of the categoric view the impugned order cannot be sustained. The consistent view taken by this Court has been to the effect that the distance rule cannot defeat the beneficial object of the RTE Act and that in any event, Rule 4 of the TN RTE Rules, 2011 is not mandatory but directory.

7.Admittedly, the distance between the child house and school is only 1.4 km, 400 mtr is in excess of what is stipulated in Rule 4. It is not as though the distance is so much as to make it impractical for the child to attend the school every day.

8.Yet another supervening future in this case is that for the year 2022-23, no child has been admitted under the RTE Act and this is confirmed by learned Government Advocate today by way of a tabulation received from R7 school for academic year 2023-24. Only one child has been admitted as against the



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sanctioned RTE strength of 23 children. The figures for 2019-20 to 2023 onwards have been supplied as extracted below:

**SURAJ MATRIC HR SEC SCHOOL**

**MELATHANGAL VILLAGE & POST, CHETPET TALUK,  
THIRUVANNAMALAI DISTRICT**

**RTE 25% SELECTED AND NORMAL ADMITTED STUDENTS YEAR  
WISE DETAILS**

| <b>RTE<br/>ADMISSION<br/>YEAR</b> | <b>CLASS</b> | <b>RTE 25%<br/>Total No of<br/>Online<br/>Application</b> | <b>No of seats<br/>under 25%<br/>reservation at<br/>the entry level<br/>class<br/>(8/15/23/30/38)</b> | <b>No. of Student<br/>Admitted in RTE<br/>25% - LKG<br/>(With Lot<br/>School)</b> | <b>RTE 25%<br/>LKG<br/>Vacancy</b> | <b>Normal<br/>Admission</b> | <b>Total No<br/>of<br/>Students<br/>in LKG</b> |
|-----------------------------------|--------------|-----------------------------------------------------------|-------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------|------------------------------------|-----------------------------|------------------------------------------------|
| 2019-2020                         | LKG          | 40                                                        | 23                                                                                                    | 23                                                                                | 0                                  | 57                          | 80                                             |
| 2020-2021                         | LKG          | 31                                                        | 23                                                                                                    | 23                                                                                | 0                                  | 47                          | 70                                             |
| 2021-2022                         | LKG          | 28                                                        | 23                                                                                                    | 20                                                                                | 3                                  | 6                           | 26                                             |
| 2022-2023                         | LKG          | 55                                                        | 8                                                                                                     | 0                                                                                 | 8                                  | 49                          | 49                                             |
| 2023-2024                         | LKG          | 48                                                        | 8                                                                                                     | 1                                                                                 | 7                                  | 71                          | 72                                             |

9.This Court is of the view that it is inappropriate for R7 school not to have considered the application of the petitioner's child for admission in RTE for academic year 2022-23 both in light of the proximity of the residence to the school as well as the fact that there were no other admissions that have been made. The impugned order is thus quashed and this writ petition is allowed in terms of this order.

10.I am given to understand that the child has been permitted to attend the school by virtue of an interim order passed by this Court and the child is now in the UKG and has not been paying any fee thus far, having the benefit of



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the RTE Act. This position shall thus continue. No costs. Connected

miscellaneous petitions are closed.

**22.12.2023**

vs

Index : Yes / No

Speaking order

Neutral citations: Yes

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**Dr.ANITA SUMANTH,J.**

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