



W.P.(MD) No.8269 of 2020

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.06.2023

CORAM

THE HONOURABLE Ms.JUSTICE P.T.ASHA

W.P.(MD) No.8269 of 2020

and

W.M.P.(MD) Nos.7671, 7673 and 7666 of 2020

D.Saravanan

... Petitioner

/vs./

1.Kendriya Vidyalaya Sangathan,
represented by the Commissioner,
No.18, Institutional Area,
Shaheed Jeet Singh Marg,
New Delhi 110 016.

2.The District Collector,
Collectorate,
Madurai District.

3.The Kendra Vidyalaya Hr.Sec.School,
represented by the Principal,
No.1, Kattupillaiyar Kovil,
P.T.Rajan Road,
Narimedu,
Madurai 625 002.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records relating to the impugned guidelines in so far as Part-A General Guidelines 3(A) 5 Note. Preference in Admission to wards will be based on the number of transfers of the parents in the last 7 years on the file of the respondent No.1 dated nil and consequently direct the respondents to earmark seats to the children of petitioner Ex-servicemen by considering the transfers of the Ex-service Men prior to their retirement and directing the respondent No.3 to provide admission for the petitioner's son, namely, K.S.Madhu Dharsan in the school.

For Petitioner : Mr.J.Jeyakumaran
For R1 & R3 : Mr.E.T.Rajendran
For R2 : Mr.M.Ramesh
Government Advocate

ORDER

The above writ petition is filed for the following relief:-

“Writ of Certiorarified Mandamus, to call for the records relating to the impugned guidelines in so far as Part-A General Guidelines 3(A) 5 Note. Preference in Admission to wards will be based on the number of transfers of the parents in the last 7 years on the file of the respondent No.1 dated nil and consequently direct the respondents to earmark seats to the children of petitioner Ex-servicemen by considering the transfers of the Ex-service Men prior to their retirement and directing the respondent No.3 to provide admission for the petitioner's son, namely, K.S.Madhu Dharsan in the school.”



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2.It is the case of the petitioner that he is an ex-service man, who was working as Driver in the Army (Naik). He had, on 26.02.2017, approached the third respondent school seeking admission into the 1st std., for his son, K.S.Madhu Dharsan. It is the case of the petitioner that his son was placed in the waiting list at serial No.47 and the third respondent had not provided a seat for his son, though he is an ex-service man. The petitioner would quote the provisions of the Right of the Children to Free and Compulsory Education Rules, 2010, particularly Rule (6) and the proviso to Section 15 of the Right of Children to Free and Compulsory Education Act, 2009.

3.The petitioner would submit that since his son had not got the admission, he had sent a detailed representation on 29.03.2017. He had followed it up with the writ petition in W.P.(MD) No.6624 of 2017, since the representation was not considered. This Court, by order dated 20.07.2017, had disposed of the writ petition with a direction to the second respondent to consider the representation of the petitioner on merits and in accordance with law after giving him an opportunity. Pursuant thereto, the third respondent had rejected the petitioner's



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claim on 27.09.2017. In the said order, the third respondent had referred to the guideline, which stipulated the priorities to be followed in granting admissions, where in category No.1, children of ex-service men along with others were to be considered and therefore, the petitioner had filed W.P.(MD) No.20837 of 2017 challenging the guidelines and seeking a Mandamus that his son be admitted in the school. Pending this writ petition, it is seen that the petitioner has given up his claim challenging the guidelines and has only placed his arguments on the request for admission. Since the request has once again been rejected, the petitioner has moved this Court.

4.The learned counsel appearing for the respondent school would submit that taking into account the earlier writ petitions in W.P.(MD) No.6624 of 2017 and W.P.(MD) No.20837 of 2017, the present writ petition has to necessarily be dismissed. As regards the demand for an admission, the learned counsel would submit that it is not a matter of right. Further, the admission is demanded for the 3rd std, for which there is no vacancy. To prove the same, the respondent school has submitted its statistics.



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5. In the light of the above arguments and considering the fact that the petitioner has himself given up the challenge to the guidelines in the earlier writ petitions, the present writ petition for the very same relief cannot be maintained and has to necessarily be rejected. As regards the demand for admission, firstly the petitioner, as a matter of right, cannot demand that he should be allotted a seat and the allotment of seats, which depends upon vacancies and the guidelines for filling up these vacancies would not be an infringement of his fundamental right, which gives him the right to move this Court under Article 226 of the Constitution of India. That apart, the respondents have clearly shown the proof that there is no vacancy.

6. In the light of the above, the Writ Petition is dismissed. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

Speaking : Yes / No
NCC : Yes / No
Internet : Yes / No
Index : Yes / No

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To

The District Collector,
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P.T.ASHA, J.

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