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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Decided on: 16th March, 2023

+ **W.P.(C) 648/2023 & CM APPL. 2517/2023**

SIRJEET KUMAR MINOR Petitioner

Through: Mr. Naushad Alam & Mr.
Sandeep Kr. Pathak, Advocates
(M:9899743251,email:naushad
alamadv@gmail.com)

versus

**JAWAHAR NAVODAYA VIDYALAYA
MUNGESHPUR**

..... Respondent

Through: Mr. S. Rajappa, Mr. R. Gowri
Shankar, Advocates
(M:9810063946,email:advocate
rajappa@gmail.com)

CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

[Physical Hearing/ Hybrid Hearing]

MINI PUSHKARNA, J. (ORAL):

1. The present petition has been filed by a minor through his father with prayer for setting aside and quashing the letter dated 11.01.2023 issued by the respondent to the father of the petitioner. By way of the said letter, admission of the petitioner in Class VI in Jawahar Navodaya Vidyalaya (JNV), Mungeshpur was cancelled by the respondent on the ground that the petitioner was outside the district and thus, not entitled for admission in the said school.

2. As per the case of the petitioner, he belongs to a Scheduled Tribe (ST) category and belongs to economically and socially weaker

section of the society. Father of the petitioner is a taxi driver.

3. In November 2021, petitioner applied for admission in Class VI in respondent School. He passed the selection test held in April 2022 and was placed under waiting list published in December 2022 in ST category.

4. The petitioner was asked to come to the respondent school on 23.12.2022 and complete the admission formalities. After completion of all the formalities including medical test, petitioner was admitted in the respondent School. However, subsequently on 14.01.2023, father of the petitioner received a letter dated 11.01.2023 sent by the respondent School through post, stating that admission of the petitioner is cancelled on the ground of being outside the district/area. Thus, the present writ petition has been filed.

5. It is the case of the petitioner that he has been studying in Atal Adarsh Boys Vidyalaya, Mandir Marg, falling in New Delhi District since Nursery and he is resident of Sitaram Bazar, falling in Central District, Delhi – 110006. There are only two JNVs in Delhi, one in Mungeshpur which was established in 1987, wherein the petitioner has sought admission. The other is in Jaffarpur Kalan, which was established in the year 1991. Thus, it is submitted that meritorious students, if successful, need to be admitted in either of these schools.

6. It is submitted that the New Delhi District where the petitioner has been studying, has no JNV. Thus, the students belonging to New Delhi District, need to be admitted to the respondent School.

7. On the other hand, on behalf of the respondent it is submitted that the petitioner had completed his Vth Standard from Atal Adarsh

Boys Vidyalaya, Mandir Marg, which comes under District New Delhi. However, he has furnished fabricated and frivolous information before court to mislead the court. It is submitted that the petitioner had studied in the aforesaid school falling in the New Delhi District, where JNV scheme is not applicable being 100% urban population. However, the petitioner wrongfully submitted the false information that the petitioner is covered under District Mungeshpur.

8. It is further submitted that the Executive Committee of the Navodaya Vidyalaya Samiti in its 37th Meeting held under the Chairmanship of the Minister of Human Resource Development (now renamed as Ministry of Education) has approved that Navodaya Vidyalaya Scheme is not applicable in 2 districts, i.e., Central Delhi and New Delhi, being 100% urban districts, out of the 11 Districts in Delhi. Thus, it is contended that the petitioner is not eligible to get admission in JNV Mungeshpur, where the petitioner had applied. Moreover, as per Clause 3.1 of the Prospectus for admission to JNV, provisional selection does not vest any right to get admission, unless the documents are duly verified by the Selection Committee of the Vidyalaya.

9. It is the case of the respondent that as per Clause 4.1(a), only the bona fide resident candidates from the district concerned where the JNV is located, are eligible to apply for admission. The children selected on the basis of the test will be admitted only in the JNV located in the district concerned where they are studying in Class V. In the instant matter, the petitioner had completed his Vth Standard from school in situated in Mandir Marg, New Delhi which comes

under the District New Delhi, whereas the petitioner is seeking admission in the JNV, Mungeshpur, which comes under District North West Delhi. Thus, it is contended that the petitioner is not eligible for admission to the said school as an applicant can apply for admission in JNV only in the District from where such applicant has completed his or her Vth Standard.

10. It is contended that the petitioner participated in the selection test for admission to Class VI in JNV, Mungeshpur by submitting wrong information. Accordingly, on the basis of wrongful information furnished by the petitioner, he was provisionally selected through Jawahar Navodaya Vidyalaya (JNV) Selection Test. He is not eligible to get the admission in JNV, as he belongs to District New Delhi which consists of 100% urban population. Since the petitioner was found ineligible at the time of verification of his documents, his admission was cancelled. Learned Counsel for the respondent has relied upon Clause 4.3 of the Prospectus for JNV Selection Test, which reads as under:

*“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.....”*

11. In support of his submissions, learned counsel for the respondent has relied upon judgment of Bombay High Court dated 13.10.2022 in W.P. No. 9130/2022, ***Ku. Shubham Vijay Patil and***

Ors. Vs. The Navodaya Vidyalaya Samiti and Ors. By relying upon the said judgment, it is submitted that the Bombay High Court has clearly held that only the student belonging to the district where the JNV is located, can seek admission in the respective JNV.

12. In rejoinder, learned Counsel for petitioner has submitted that from 1987 till 2019, the scheme of JNV was applicable to the whole of Delhi and it is only in the year 2019 that the respondent has excluded New Delhi District and Central District from the ambit of JNV, as apparent from the stand of the respondent.

13. Learned Counsel for the petitioner has also relied upon the 2001 Census showing the District wise urban and rural population of Delhi. Thus, he submits that 97.50% of the population of Delhi is urban. Thus, there is no justification for excluding New Delhi and Central Delhi from the ambit of JNV.

14. I have heard learned counsels for the parties and have perused the record.

15. Navodaya Vidyalaya Samiti is an autonomous body under the Ministry of Education, Government of India. The same was incepted in the year 1986 under New Education Policy of Central Government to provide quality and modern education to talented children predominantly from rural areas, free of cost. In accordance with the National Policy of Education, the Government of India started the Jawahar Navodaya Vidyalayas (JNVs). Presently the JNVs are spread in 27 States and 8 Union Territories. These are co-educational residential schools fully financed and administered by Government of India through an autonomous organisation, Navodaya Vidyalaya

Samiti. Admissions in the JNVs are made through the Jawahar Navodaya Vidyalaya Selection Test (JNVST) to Class VI. Education in the schools is free including boarding and lodging, uniform and textbooks.

16. Perusal of the Prospectus issued by the Navodaya Vidyalaya Samiti shows that according to the Navodaya Vidyalaya Scheme, one JNV is to be set up in each district in a phased manner. For Delhi, 9 JNVs have been sanctioned, whereas the fact remains that till now only 2 JNVs have been set up in Delhi. The JNV at Mungeshpur was established in the year 1987, while the JNV at Jaffarpur Kalan was established in the year 1991. Thus, for the whole of Delhi there are only 2 JNVs.

17. As per the Prospectus for the year 2022 issued by the Navodaya Vidyalaya Samiti, the eligibility criteria for admission to JNVs has been detailed as under:

“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.

4.2

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 sessions 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

4.5

4.6A

4.7

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.

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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.

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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 to 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.

XXXXX ”

18. Delhi is divided into 11 Districts. It is undisputed that from 1987 when the first JNV was established in Delhi till the year 2019, admission in the two JNVs situated in Delhi, were open to the whole of Delhi. However, in the year 2019, in the 37th Meeting of Executive Committee of Navodaya Vidyalaya Samiti held on 17.10.2019, it was decided that the Districts of Central Delhi and New Delhi will be excluded from the scheme of JNV, as the said two districts had 100% urban population. The decision of the Executive Committee with respect to admission of students in Class VI in JNV Mungeshpur and JNV Jaffarpur Kalan as filed by the respondent is reproduced herein below:

“ITEM No. 12: ADMISSION OF STUDENTS IN CLASS-VI IN JNV JAFFARPUR KALAN AND MUNGESHPUR FROM THE STATE OF DELHI

Agenda

At the time of opening the NVSs during 1987-88 there were 5 Blocks in the erstwhile UT Delhi, viz. Alipur, Nangloi, Najafgarh, Mehrauli and Sahadara. The two JNVs were opened in Nangloi (Mungeshpur) and Najafgarh (Jaffarpur Kalan) blocks only. Meanwhile in 1997 when the UT-Delhi become Delhi State these 5 blocks were formed into 9 districts and later on in 2012 into 11 districts. After final bifurcation of districts the JNV Mungeshpur is in district North West & Jaffarpur Kalan in the district South West Delhi. However, the

districts New Delhi and Central Delhi have 100% Urban population.

JNVs are spread out In all districts of all states and UTs except state of Tamil Nadu. As on date, 661 JNVs are sanctioned and 637 JNVs are functional. Admission In JNVs is done through Jawahar Navodaya Vidyalaya Selection Test conducted through an external agency. Students who study Class-V in a district where JNV is functional are eligible to appear for JNVST in the same district concerned.

*NCT of Delhi is having 11 districts out of which 02 districts i.e. Central Delhi & New Delhi are urban districts, where Navodaya Vidyalaya scheme is not applicable. The map of Delhi state depicting the bifurcation is placed at **Annexure-XIII (Page 148)**. Therefore, 09 JNVs are to be established in NCT of Delhi. However, only two JNVs i.e. North West district (Mungeshpur) & South West Delhi (Jaffarpur Kalan) are functional. 07 JNVs sanctioned during November, 2016 could not be made functional as no offer of land has been received from the State Government. Hence, students of these districts are deprived of quality education of JNVs.*

In view of above it is proposed that:

JNV, Jaffarpur Kalan (South West Delhi) may cater to:

*South West Delhi
West Delhi
South East Delhi
South Delhi and
East Delhi Districts*

JNV Mungeshpur (North West Delhi) may cater to:

*North Delhi
North East Delhi*

*Shahdara
North West Delhi Districts*

It is therefore , proposed to consider admission of students in JNV Jaffarpur Kalan and Mungeshpur from all districts of NCT of Delhi except the districts with 100% urban population i.e. Central Delhi & New Delhi, as per the existing policy of Navodaya Vidyalaya Samiti. This will ensure the deserving students of Class-V to appear for JNVST.

Executive Committee is kindly requested to approve the above proposal.

Decision

After detailed discussion, the Executive Committee approved the proposal. It was also instructed to take up the matter of opening of new JNVs In 7 districts with Delhi Administration.”

19. Perusal of the documents as filed on behalf of the respondent manifests that it is the policy of the respondent that only the candidates from the district concerned where the JNV has been established, are eligible to apply for admission. However, as seen in the case of Delhi, out of the 11 districts in Delhi, JNVs have been established in only 2 districts. Thus, the respondent itself has resolved to establish JNVs in 9 other districts in Delhi, except the District of New Delhi and Central Delhi. As per the policy of the respondent itself for Delhi, since there are only two JNVs in Delhi, the Clause – 4.1 pertaining to eligibility of candidates for admission to candidates from the district concerned where the JNVs are situated, are not followed strictly. Thus, from 1987 when the first JNV was established

in Delhi till the year 2019, as per the admission of respondent itself, students from all over Delhi were being granted admission.

20. It is only now by way of the decision of the 37th Meeting of the Executive Committee of Navodaya Vidyalaya Samiti, that decision was taken that the New Delhi and Central District will not be covered by JNVs as there was 100% urban population in the said districts. The said decision of the respondent to exclude the New Delhi and Central District from the ambit of JNV schools and not granting admission to the children studying in schools of the said district, is totally unjustified. This is for the reason that the policy of the respondent itself provides for admission of 25% students from the urban areas, while 75% of the students are to be admitted from the rural areas. Therefore, the exclusion of the aforesaid two districts for the purposes of granting admission to the JNVs is founded on baseless and iniquitous premise.

21. Delhi has a unique demographic distribution of population, which as per the 2011 Census has 97.50% of urban population, meaning thereby that only 2.50% population in Delhi is rural. The district-wise urban and rural population of Delhi as per the 2011 Census is as follows:

DISTRICT-WISE URBAN & RURAL POPULATION OF DELHI:2011

Sl. No.	District	Population (Number)			% of Urban Population
		Urban	Rural	Total	
1.	North West	3442589	213950	3656539	94.15
2.	North	870232	17746	887978	98.00

3.	North east	2220097	21527	2241624	99.04
4.	East	1705816	3530	1709346	99.79
5.	New Delhi	142004	--	142004	100.00
6.	Central	582320	--	582320	100.00
7.	West	2536823	6420	2543243	99.75
8.	South West	2149282	143676	2292958	93.73
9.	South	2719736	12193	2731929	99.55
	Delhi	16368899	419042	16787941	97.50

22. Perusal of the aforesaid table shows that while the New Delhi and Central District have 100% urban population, other districts viz. North East, East, West and South Districts have more than 99% of urban population. Thus, when Delhi itself has only 2.5% population as rural population, exclusion of New Delhi and Central Districts for the purposes of admission in JNVs, is totally unreasonable, as the urban population in the New Delhi and Central Districts has every right to be treated at par with the urban population of other districts of Delhi for grant of admission in the JNVs under the 25% quota of urban population. When the scheme of the admission to the JNVs itself stipulates admission of the urban population to the extent of 25% of the quota, then similar opportunity of applying for admission under the quota of urban population has to be given to the urban population of all the districts. Exclusion of the urban population of the Central and New Delhi Districts for admission to JNVs, is totally arbitrary, discriminatory and unreasonable. Even otherwise, the classification on the basis of urban/rural has no relevance for the reason that in the JNVs, 75% seats are reserved for rural population and 25% seats are

for urban population.

23. Reliance by the respondent on the judgment of the Bombay High Court is totally misplaced as the said judgment is distinguishable and clearly inapplicable to the facts and circumstances of the present case. In the judgment by the Bombay High Court, the said court has given a finding that only students belonging to the district where the JNV is located, can seek admission in that respective JNV, and that the students other than the district the JNV is situated, are excluded. However, when there are only two JNVs in Delhi and respondent itself has been extending the admission to students from other districts in Delhi in addition to the two districts where the JNVs are located, then reliance by the respondent upon the judgment of Bombay High Court is totally erroneous. The respondent itself has not been following the eligibility criteria for admission to students only from the same district, and has been allowing admission to students across different districts in Delhi in the two JNV schools situated in Mungeshpur, which is in North West District and situated in Jaffarpur Kalan, which is in South West District.

24. The contention of the respondent that the petitioner had given wrong information in his application form, is also found to be incorrect. This Court has perused the application form which has been filed by the petitioner as well as the respondent herein. The petitioner has categorically stated truthfully that he has passed Class V from Atal Adarsh Boys Vidyalaya at Mandir Marg. The petitioner has also correctly filled the form showing his district/block as New Delhi. The location of the school has also been indicated in urban area, which is

again correct information. Thus, the said objection as raised on behalf of respondent is found to be baseless.

25. Another important factor which is to be considered is that the two JNVs were established in Delhi in the year 1987 and 1991 respectively. At that point of time the present district-wise segregation was not there. Respondent School came into existence prior to division of Delhi in different districts, as existing today. Considering the aforesaid fact, coupled with the fact that the respondent was granting admission across Delhi to the students from all the districts to the two JNVs situated in Delhi right from 1987 till 2019, the decision of the respondent in excluding Central District and New Delhi District from the ambit of admission to JNVs and the decision of the respondent to cancel the admission of the petitioner, are found to be totally unjustified and untenable.

26. The respondent school is fully financed and administered by the Government of India. The noble objective of establishing the Jawahar Navodaya Vidyalayas cannot be lost sight of. The objective of establishing the JNVs is to provide good quality and modern education to the children predominantly from rural areas in India, targeting gifted students who lack access to accelerated learning due to financial, social and rural disadvantages. The scheme provides for admission to students from rural areas upto 75% of the seats and rest 25% seats are to be filled from the urban areas of the district. Thus, the petitioner claiming a seat as a candidate from urban area is fully entitled to be granted equal opportunity as other candidates from urban areas of different districts in Delhi.

27. As brought forth from the facts on record, the petitioner belongs to Scheduled Tribe and socially and economically backward class, his father being a taxi driver. Hence, we must bear in mind the noble objective of establishing these JNVs to open the doors of education to socially and economically marginalised population of our country and the said noble object cannot be overlooked.

28. Supreme Court in the case of *Ajay Hasia and Others Vs. Khalid Mujib Sehravardi and Others*, reported as (1981) 1 SCC 722, delving on the concept of equality in treatment by the State, has held as follows:

“16.It was for the first time in E.P. Royappa v. State of Tamil Nadu [(1974) 4 SCC 3, 38 : 1974 SCC (L&S) 165, 200 : (1974) 2 SCR 348] that this Court laid bare a new dimension of Article 14 and pointed out that that article has highly activist magnitude and it embodies a guarantee against arbitrariness. This Court speaking through one of us (Bhagwati, J.) said: SCC p. 38: SCC (L&S) p. 200, para 85]

“The basic principle which, therefore, informs both Articles 14 and 16 is equality and inhibition against discrimination. Now, what is the content and reach of this great equalising principle? It is a founding faith, to use the words of Bose, J., ‘a way of life’, and it must not be subjected to a narrow pedantic or lexicographic approach. We cannot countenance any attempt to truncate its all-embracing scope and meaning, for to do so would be to violate its activist magnitude. Equality is a dynamic concept with many aspects and dimensions and it cannot be “cribbed, cabined and confined” within traditional and doctrinaire limits. From a positivistic point of view, equality is antithetic to arbitrariness. In fact, equality and arbitrariness are sworn enemies; one belongs to the rule of law in a republic while the other, to the whim and caprice of an absolute monarch. Where an act is arbitrary it is implicit in it that it is unequal both according to political logic and constitutional law and is

therefore violative of Article 14, and if it affects any matter relating to public employment, it is also violative of Article 16. Articles 14 and 16 strike at arbitrariness in State action and ensure fairness and equality of treatment.”

This vital and dynamic aspect which was till then lying latent and submerged in the few simple but pregnant words of Article 14 was explored and brought to light in Royappa case [(1974) 4 SCC 3, 38 : 1974 SCC (L&S) 165, 200 : (1974) 2 SCR 348] and it was reaffirmed and elaborated by this Court in Maneka Gandhi v. Union of India [Maneka Gandhi v. Union of India, (1978) 1 SCC 248 : (1978) 2 SCR 621] where this Court again speaking through one of us (Bhagwati, J.) observed: (SCC pp. 283-84, para 7)

“Now the question immediately arises as to what is the requirement of Article 14: What is the content and reach of the great equalising principle enunciated in this Article? There can be no doubt that it is a founding faith of the Constitution. It is indeed the pillar on which rests securely the foundation of our democratic republic. And, therefore, it must not be subjected to a narrow, pedantic or lexicographic approach. No attempt should be made to truncate its all-embracing scope and meaning, for to do so would be to violate its activist magnitude. Equality is a dynamic concept with many aspects and dimensions and it cannot be imprisoned within traditional and doctrinaire limits.... Article 14 strikes at arbitrariness in State action and ensures fairness and equality of treatment. The principle of reasonableness, which legally as well as philosophically, is an essential element of equality or non-arbitrariness pervades Article 14 like a brooding omnipresence.”

This was again reiterated by this Court in International Airport Authority case [(1979) 3 SCC 489] at p. 1042 (SCC p. 511) of the Report. It must therefore now be taken to be well settled that what Article 14 strikes at is arbitrariness because any [Under Article 32 of the Constitution] action that is arbitrary, must necessarily involve negation of equality. The doctrine of classification which is evolved by the courts is not paraphrase of Article 14 nor is it the objective and end of that article. It is merely a judicial formula for determining whether the legislative or executive action in question is arbitrary and therefore constituting denial of equality. If the classification is

not reasonable and does not satisfy the two conditions referred to above, the impugned legislative or executive action would plainly be arbitrary and the guarantee of equality under Article 14 would be breached. Wherever therefore there is arbitrariness in State action whether it be of the legislature or of the executive or of an "authority" under Article 12, Article 14 immediately springs into action and strikes down such State action. In fact, the concept of reasonableness and non-arbitrariness pervades the entire constitutional scheme and is a golden thread which runs through the whole of the fabric of the Constitution."

29. The respondent being fully funded by Government and run by the Central Government through an autonomous organisation, is bound to ensure that the policies framed by it are neither discriminatory nor arbitrary. It is the bounden duty of the Government to follow a policy which provides equal opportunity to all its citizens for education and admission to educational institutions. Governments must follow the principles of fairness and equality in treatment while propounding its policies. It is the constitutional obligation of the Government to give equal opportunity to all, especially in matters of admission to educational institutions, otherwise the same shall be in violation of Article 14 of the Constitution of India. In the present case, there is no reasonable classification or intelligible differentia in excluding the Central and New Delhi District from the ambit of JNVs on the basis that the said districts are 100% urban, when the policy itself provides for admission to the JNVs to the extent of 25% to the urban population.

30. In view of the aforesaid detailed discussion, it is held that the decision of the respondent to exclude Central and New Delhi District

from the ambit of JNVs and not granting an opportunity to the students of the said districts for admission to JNVs under the urban quota, is clearly arbitrary, leading to inequality and clearly hit by Article 14 of the Constitution of India.

31. Consequently, the decision of the respondent as contained in letter dated 11.01.2023 cancelling the admission of the petitioner to Jawahar Navodaya Vidyalaya, Mungeshpur, situated in District North, Delhi, is set aside.

32. The current academic session of Class VI is almost over and the new session is about to begin from 01.04.2023 onwards. As informed, since the admission of the petitioner to the respondent school was cancelled, the petitioner continued his Class VI study in the Atal Adarsh Boys Vidyalaya at Mandir Marg, which is a Government School, as informed by learned Counsel for the petitioner.

33. In view of the aforesaid, keeping in mind the facts and circumstances of the present case, it is directed that the petitioner shall be granted admission to Class VII by the respondent School in the next academic session beginning from 01.04.2023.

34. The present writ petition is allowed in the aforesaid terms.

MINI PUSHKARNA, J

MARCH 16, 2023

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