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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 3939/2021 & CM APPL. 11847/2021**MISS AAHANA THROUGH FATHER ATUL GUPTA**

..... Petitioner

Through: Mr. Khagesh B. Jha, Ms. Shikha Sharma Bagga, Advocates

versus

SANSKRITI SCHOOL & ANR.

..... Respondents

Through: Mr. Srijan Sinha, Ms. Parul Dhumey, Mr. Naveen Soni, Advocates for R-1 (M:6265350286,email:parul@s sinha.in)

Ms. Hetu Arora Sethi, ASC-GNCTD with Mr. Arjun Basra, Advocates for R-2/DOE (M:9810368590)

CORAM:**HON'BLE MS. JUSTICE MINI PUSHKARNA****J U D G M E N T****03.07.2023****MINI PUSHKARNA, J.**

1. The present writ petition has been filed with prayer for directions to the respondents to ensure the admission of petitioner in the respondent no.1 school. The present petition was filed in the year 2021 and at that point of time admission of the petitioner was sought in Class Nursery for session 2021-2022.

2. It is the case on behalf of the petitioner that the respondent school has failed to admit the petitioner despite the fact that she fulfils



all the criteria for admission and also succeeded in the merit list after draw of lots. However, subsequently the candidature of the petitioner was rejected on the ground of distance from the house of the petitioner to the school, which as per the petitioner is arbitrary and illegal. The petitioner has further raised the contention regarding failure of the respondent no.2, Directorate of Education (DOE) to ensure transparency and accountability in the respondent school recognised by them, which has rejected the admission of the petitioner without any valid ground.

3. Facts in brief are that the respondent school issued notification for admission to Pre-school for the academic year 2021-2022, wherein 150 seats were declared for admission, out of which 38 seats were on account of Economically Weaker Section (EWS) category; 90 seats for General category; 15 seats for Non-Government category and 7 seats for Staff category. The petitioner herein applied for admission to Class Nursery in the academic session 2021-2022 in the Non-Government category, which had 15 seats.

4. The notification of the respondent school detailed the parameters of admission for children belonging to Non-Government category in accordance with which, different points were allotted. The parameters as stipulated for admission to the 15 seats as available under the Non-Government category, is reproduced as under:



Sanskriti School
Dr. S. Radhakrishnan Marg
Chanakyapuri, New Delhi -110021

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b. Parameters for children belonging to the Non – Government category

Criteria	Points
1. Distance will be calculated as per the Area table	0 to 30
2. Sibling studying in Sanskriti School	25
3. Parent, an Alumni of Sanskriti School	25
Total	80

Distance & Area table (Distances calculated as per School bus routes)

Distance	Area	Points
Below 8Km	All areas in Chanakyapuri, DholaKuan Enclave I & II, DholaKuan, Moti Bagh North & South, Netaji Nagar, Satya Niketan, Shanti Niketan, Nanak Pura, Anand Niketan, RKPuram, West End, Meena Bagh, Safdarjung Enclave, Sarojini Nagar Baba Karak Singh Marg, Laxmibai Nagar, Munirka, AIIMS, Prithviraj Rd, INA, New Rajinder Nagar, Rabinder Nagar, Aurangzeb Rd and adjoining areas, Kidwai Nagar (New Campus) East & West, Subramaniam Bharti Marg, Jorbagh, Lodhi Colony, Lodhi Estate, Green Park, Vasant Vihar, Delhi Cantt, Humayun Road, Bharti Nagar, Khan Market, Ber Sarai	30
Above 8Km and below 10Km	SDA, Mansingh Road, Sujan Singh Park, JNU Campus, Naraina Vihar, Sansad Marg, South Extension I & II, Gulmohar Enclave, Bapa Nagar, Gulmohar Park, Akbar Road, Old Rajinder Nagar, Janpath, Andrews Garj, HauzKhaz, Pandara Rd, Pandara Park, HauzKhaz Enclave, Golf Links, Shahajahan Rd, IIT, KGMarg, Kaka Nagar, Barakamba Rd, Niti Bagh, Dr Zakhir Hussain Marg, Uday Park	20
Above 10 Km and below 12 Km	DESU Colony (C4, C5), Sadiq Nagar, Sarvodaya Enclave, Mansarovar Garden, Janak Puri (Aditi Apartment), Subash Nagar, Anand Lok, Sunder Nagar, Nizamuddin East & West, Vasant Kunj (B9, B10, B11, C1, C2, C3, C4, C5, C6, C7, C8, C9, B1, B2, B3, B4, B5, B6, D3, D4, D6, D7, D8), Rajouri Garden, Panchkuan Rd, Sarvapriya Vihar, Karol Bagh, Chemsford Rd, Raja Garden, Defence Colony, Tagore Garden, Inderpuri, W.E.A	10
Above 12 Km	Other Areas not included in this table	0

1. Age Criteria: - The child should have completed 3 years on or before 31st March, 2021.
2. Once the admission list is declared, concerned parents will be called for verification of ORIGINAL documents.
 - a. Photocopy of Birth Certificate Issued by the Local Municipal Authority.
 - b. Photocopy of proof of Identity of Parents- (Passport / Unique Identity Card (Aadhaar Card)/ Voter I – card).
 - c. Photocopy of proof of residence- (MTNL Bill / Domicile Certificate / Electricity Bill / Water Bill) (issue date of document should be between 9/10/2020 to 09/02/2021)

If any of the above required information / document is incorrect / altered, the school reserves the right to cancel admission at any time.

5. It is the case on behalf of the petitioner that father of the petitioner applied for admission in the respondent school through the online system adopted by the respondent school and uploaded all the requisite documents required to decide the candidature of the petitioner. In the admission form, father of the petitioner categorically mentioned his address as 108 B, Gautam Nagar. It is submitted that as per the criteria, he had to fill up the neighbouring locality from the list



published by the school along with the admission criteria, in case the colony he was residing in, was not mentioned in the list. The list as given by the school in its admission notification mentioned All India Institute of Medical Science, New Delhi (AIIMS), but did not mention Gautam Nagar colony. As per the petitioner, since the colony of Gautam Nagar starts with the boundary wall of AIIMS, hence, father of the petitioner selected AIIMS from the given list. Father of the petitioner also uploaded the electricity bill for address proof, which mentioned the residential address as House No. 108 B, Gautam Nagar, New Delhi – 110049.

6. The school conducted draw of lots for admission in Non-Government category. Name of the petitioner was considered for draw of lots by the respondent school held on 16.03.2021. As per the criteria fixed by the respondent school, she scored total 30 points. The petitioner succeeded in the draw of lots and her name was shortlisted at serial No.7 for admission in the respondent school. Thus, father of the petitioner was called for verification of documents.

7. Father of the petitioner had submitted electricity bill of his house in order to show the proof of residence. The electricity bill was in the name of grandfather of the petitioner, which mentioned his name as Jagminder. It is the case of the petitioner that at the time of verification of documents, it was found by the officials of respondent school that the name of grandfather of the petitioner was mentioned as Jagminder, but Aadhaar Card of father of the petitioner, showed name of grandfather of the petitioner as Jagminder Goyal. Hence, father of the petitioner was advised to file an affidavit explaining the factual



position that Mr. Jagminder and Mr. Jagminder Goyal, was the same person. Thus, father of the petitioner filed the requisite affidavit.

8. It is the case on behalf of the petitioner that when the aforesaid affidavit was submitted, her father was informed by the officials of the school that in his address proof the area is mentioned as Andrews Ganj, whereas he has mentioned his locality as near AIIMS. Father of the petitioner gave an explanation that the address as mentioned in the application form was of Gautam Nagar, which starts with the boundary wall of AIIMS. However, Gautam Nagar has its head post office at Andrews Ganj. It was further submitted that distance of the house of the petitioner and the school is 8 kms. and in view of that the petitioner was entitled for 30 points.

9. However, name of the petitioner was struck down from the list of selected candidates by the respondent school in Non-Government category and the school published name of only 8 candidates who succeeded in the draw of lots for admission. Father of the petitioner submitted written communication through email requesting the School Management to re-consider their decision, and also to Education Minister, Govt. of NCT of Delhi and various authorities of Govt. of NCT of Delhi to help the petitioner in getting admission to respondent school. Since the petitioner was not granted admission, the present writ petition has been filed.

10. On behalf of the petitioner it is submitted that the decision of the respondent school to link Gautam Nagar with Andrews Ganj for the purpose of measurement of distance criteria, is arbitrary and illegal. It is not a case where the father of the petitioner has filled up



any incorrect address in the application form. There is nothing wrong to mention AIIMS as locality neighbouring to Gautam Nagar, as Gautam Nagar starts immediately from the boundary wall of AIIMS.

11. It is further submitted that choice of school is fundamental right of children through their parents, and the same is not dependent on the whims and fancies of either the Government or the private schools. Such valuable right cannot be taken away on the basis of what is the bus route of school or what is Pin Code of the area. It is submitted on behalf of the petitioner that even otherwise also, the admission criteria of the school does not mention the area of Gautam Nagar and there is no bus route map in the public domain through which the distance can be measured as per the bus route.

12. It is further submitted that the choice to select the nearest area vests with the parents as per instructions. Therefore, father of the petitioner cannot be declared guilty of filling up incorrect information, even if he selected one of the nearest area as per geographical location. There is no instruction to select the nearest area as per bus route, and if there would be any bus route between Gautam Nagar and AIIMS, then Gautam Nagar itself would have been mentioned in the table. The power to reject admission can be exercised only when any information/document is incorrect or altered.

13. It is submitted that the bus route criteria adopted by the school to reject the admission is not justified, especially when the bus route is neither part of the admission notification, nor available at the official website of the school or anywhere in public domain.

14. It is further submitted that the plea of alternate remedy as taken



on behalf of the school is totally misleading. The grievance mechanism as stipulated in the Circular dated 09.02.2021 issued by the DOE, clearly stipulates that a parent can make complaint if they are aggrieved with the admission criteria uploaded on the DOE website. However, petitioner never had any grievance with the admission criteria as uploaded by the DOE, thus, there was no question of approaching the DOE through Online Grievance link.

15. Ld. Counsel for the petitioner has relied upon the following judgments in support of his submissions:

- i. ***Modern dental College and Research Centre and Others Vs. State of Madhaya Pradesh and Others, (2016) 7 SCC 353***
- ii. ***Forum for Promotion of Quality Education for All Vs. Social Jurist, A Civil Right Group, SLP(C) NOs. 24617-24618/ 2007***
- iii. ***Social Jurist and Ors. Vs. Govt. of NCT of Delhi and Ors., MANU/DE/0485/2013***
- iv. ***Forum For Promotion of Quality Education For All vs. Lt. Governor of Delhi, MANU/DE/3079/2014***
- v. ***Union of India Vs. Courts on its own Motion Thr. Registrar, High Court of Delhi at New Delhi and Ors., SLP (C) No(s). 35077/2015***
- vi. ***Action Committee Unaided Recognized Private Schools and Ors. Vs. Directorate of Education and Ors., MANU/DE/0267/2016***
- vii. ***Forum for Promotion of Quality Education for All and Ors. Vs. DDA and Ors., MANU/DE/0352/2017***



**viii. *Rakesh Goel and Ors. Vs. Montfort School and Ors.,
LPA 196/2004 (order dated 08.12.2006)***

16. Per contra on behalf of the respondent No.1 school, it is submitted that the present writ petition is not maintainable. The petitioner has indulged in forum shopping and has also availed an alternative efficacious remedy as provided under the Delhi School Education Act, 1973 (DSE Act). Therefore, the petitioner has not approached this Court with clean hands. The petitioner had approached the Delhi Commission for Protection of Child Rights (DCPCR) for seeking an identical relief against the respondent No.1 school on the identical subject matter. The learned DCPCR erroneously and without any jurisdiction directed the respondent No.1 school to grant admission to the petitioner.

17. It is submitted that the petitioner also approached the DOE by invoking Clause 16 of the DOE's Circular dated 09.02.2021. The email dated 25.03.2021 issued by the DOE reflects the identical nature of relief and grounds as urged by the petitioner in the present petition. The petitioner also approached the Education Minister of Govt. of NCT of Delhi vide representation dated 21.03.2021 and sought the same relief, as sought in the present writ petition. Thus, it is prayed that the petitioner is guilty of forum shopping and the present petition is not maintainable on that account.

18. It is submitted that the petitioner is a resident of Gautam Nagar and the said location does not appear in the distance table as uploaded by the respondent school. Accordingly, the admission circular dated 17.02.2021 clearly stipulated that the petitioner was to select the



correct location and if the location was not available then nearest location from the distance table was to be uploaded. It is evidently clear that the petitioner should have chosen Gulmohar Park or Niti Bagh from the second category of locations between 8 to 10 Kms. distance from the school, as Gulmohar Park and Niti Bagh are approximately 900 meters away from Gautam Nagar. However, the petitioner chose AIIMS from the first category, which upon verification was rejected by the school. This view of the school has been upheld by the DOE as well. It is further submitted that this Court vide order dated 08.03.2022 and 22.03.2022 had sought clarification from the respondent school whether the next waitlisted candidate was given admission or not. Vide additional affidavit filed on behalf of the school, it was shown that the next waitlisted candidate had already been granted admission.

19. It is further the case of the respondent school that private un-aided schools have the autonomy to regulate admissions. The autonomy of the school with respect to choosing bus route as a metric to determine distance/locality of any applicant including that of the petitioner, has been left to the respondent school's discretion. The respondent school has in all fairness applied the said metric uniformly for all applicants, including the petitioner.

20. It is further submitted that the Hon'ble Supreme Court has held that in the case of unaided private schools, maximum autonomy has to be with the management of the school with regard to administration, including right of appointment, disciplinary powers, admission of students and fees to be charged. It is further submitted that this Court



has also held that Private Unaided Recognised School Managements have a fundamental right under Article 19(1)(g) of the Constitution of India to maximum autonomy in the day to day administration, including the right to admit students.

21. It is submitted that even the statutory authority has examined the petitioner's complaint and has found the respondent school's process to be fair and reasonable. Thus, it is prayed that present writ petition be dismissed.

22. Ld. Counsel for the respondent school has relied upon the following judgments in support of his submissions:

- I. *T.M.A Pai Foundation & Ors. Vs. State of Karnataka & Ors., (2002) 8 SCC 481***
- II. *Forum for Promotion of Quality Education for all Vs. Lt. Governor of Delhi & Ors., 216 (2015) DLT 80***
- III. *Assistant Commissioner (CT) LTU, Kakinada and Others Vs. Glaxo Smith Kline Consumer Health Care Ltd., 2020 SCC OnLine SC 440***
- IV. *Union of India & Ors. Vs. M/s Cipla Ltd. and Anr., (2017) 5 SCC 262***
- V. *Thansingh Nathmal & Ors. Vs. Superintendent of Taxes, Dhubri & Ors., AIR 1964 SC 1419***
- VI. *Munshi Ram & Ors. Vs. Municipal Committee, Chheharta, (1979) 3 SCC 83***
- VII. *Commissioner of Income Tax Vs. Chhabil Dass Agarwal, (2014) 1 SCC 603***
- VIII. *Jagmohan Bahl & Anr. Vs. State (NCT of Delhi) &***



Anr., (2014) 16 SCC 501

IX. Society for Unaided Private Schools of Rajasthan Vs. Union of India, (2012) 6 SCC 1

23. On behalf of respondent No.2, DOE, it is submitted that the respondent No.1 is a private unaided school. As per the circular issued by the school, the parameters for children belonging to the Non-Government category has been given, wherein points in respect of the distance from the school to the locality were fixed, which is based on the distance calculated as per the respondent No.1 school bus routes and the localities coming within the bus route. The locality falling below 8 kms. were allotted 30 points, locality above 8 kms. and below 10 kms. were awarded 20 points and areas above 10 kms. and below 12 kms. were to be awarded 10 points.

24. Thus, it is submitted on behalf of DOE that the father of the petitioner has applied for admission of his ward for Class Nursery on the basis of the aforesaid circular of the school and was well aware of the above said point based system. It is submitted that the father of the petitioner was well aware of the fact that his address of Gautam Nagar falls in Andrews Ganj and the points awarded to the said locality of Andrews Ganj, as per the circular of the school, was 20 points. The address in the AIIMS locality/area was to be awarded 30 points distance, hence, instead of filling up Andrews Ganj, he filled AIIMS in the column of the application form of the admission of his ward, so that the petitioner could avail maximum points.

25. It is submitted on behalf of DOE that the point based system



adopted by the respondent school seems transparent, which was in consonance with the various judgments of Supreme Court as well as this Court where schools have been given autonomy to adopt fair, reasonable and transparent admission process for admission of the children at entry level classes.

26. I have heard Id. Counsels for the parties and have perused the record.

27. The genesis of the dispute in the present case arises from the fact that the petitioner was earlier shortlisted in the draw of lots for admission under the Non-Government category in the respondent school in entry level class for the academic session 2021-2022. The petitioner was shortlisted as she was awarded 30 points under the distance criteria as the petitioner who was living in Gautam Nagar, had chosen AIIMS as neighbouring area, since Gautam Nagar was not given in the said list of distance criteria. However, subsequently, name of the petitioner was struck down from the list of successful candidates on the ground that the petitioner should have chosen Andrews Ganj as neighbouring area, which had 20 points and not AIIMS. Aadhaar Card of father of the petitioner also showed the address as 108 B, Gautam Nagar, Andrews Ganj.

28. Father of the petitioner sought to explain that Andrews Ganj was mentioned in the Aadhaar Card, as the head post office of Gautam Nagar was situated in Andrews Ganj. The mentioning of Andrews Ganj after Gautam Nagar in the address of Aadhaar Card is due to mandatory filling up the Pin Code and the automated selection of area by Government website from the database of postal department, where



the main post office is Andrews Ganj, for the sub-post office, Gautam Nagar. However, Gautam Nagar Colony is different from Andrews Ganj Colony. Gautam Nagar has no nexus with Andrews Ganj and electricity bill submitted by the petitioner as address proof, does not contain the word Andrews Ganj, but only mentions Gautam Nagar. It is further the case on behalf of the petitioner that point to point road distance from the house of the petitioner to the school is exact 8 kms. If the school takes the area distance from the school to Gautam Nagar, the same comes around 6 kms.

29. However, the aforesaid explanation given on behalf of the petitioner was rejected by the respondent school. As per the stand of the school, the distance is to be measured as per the school bus routes. The school has the autonomy with respect to choosing bus route as a metric to determine distance/locality of any applicant. Further, calculation of a nearby location to a locality that is not mentioned in the distance and area table, shall be left for verification to the school. The distance of Gautam Nagar from Uday Park and Gulmohar Park is lesser than AIIMS. Even as per the bus route adopted by the respondent school, the nearest bus stop for any student residing in Gautam Nagar is Uday Park which caters to several localities including Hauz Khas, Gulmohar Park, Uday Park and Gautam Nagar. Thus, on the basis of aforesaid, the petitioner was not granted admission.

30. As per the circular issued by the respondent school, various parameters were set out for admission of children belonging to Non-Government category. For this purpose, various points have been



allotted under different criteria, including distance of the area where an applicant resides from the school. As per the circular given by the school, the distances have been calculated as per the school bus routes. Thus, all the areas which are shown at a distance of below 8 kms. have been awarded 30 points. The areas above 8 kms. and below 10 kms. have been awarded 20 points, while areas above 10 kms. and below 12 kms. have been awarded 10 points. The instructions to fill the online registration form clearly stated that parents of Non-Government category are required to select area from the drop down menu. In case any specific area is not in the table, parent may select the nearest area from the drop down menu.

31. In the present case the colony of Gautam Nagar wherein the petitioner resides, is not mentioned in the areas as enlisted in the distance and area table as per the circular for admission issued by the respondent school. Thus, in terms of the instructions, as given in the online registration form as issued by the school, the parents of the petitioner selected the nearest area as AIIMS, which was shown at a distance of below 8 kms. However, as per the stand of the school, the said area of Gautam Nagar as per the school bus route falls in the second category of beyond 8 kms. and less than 10 kms. Thus, the petitioner was denied admission, as she was held to be not entitled to 30 points under the distance criteria, but 20 points.

32. The prerogative of the respondent school to choose bus route as a metric to determine distance/locality of any applicant seeking admission in the school, and awarding points on that account, is indisputable. Father of the petitioner had applied for admission of his



ward on the basis of aforesaid circular of the school and was well aware of the said point based system. The point system adopted by the school is logical and well founded.

33. Supreme Court in the case of ***T.M.A. Pai Foundation and Others Vs. State of Karnataka and Others***¹, has held that in the cases of unaided private schools maximum autonomy has to be with the Management with regard to administration, admission of students, besides other things. Thus, it has been held as follows:

“61. In the case of unaided private schools, maximum autonomy has to be with the management with regard to administration, including the right of appointment, disciplinary powers, admission of students and the fees to be charged.....

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34. Similarly, this Court has also reiterated that private unaided recognised schools have a fundamental right to maximum autonomy in the day to day administration, including the right to admit students. Thus, in the case of ***Forum for Promotion of Quality Education for All Vs. Lt. Governor of Delhi and Others***², it has been held as follows:

“114. From the aforesaid discussion, it is apparent that private unaided recognized school managements have a fundamental right under Article 19(1)(g) of the Constitution to maximum autonomy in the day-to-day administration including the right to admit students. This right of private unaided schools has been recognized by an eleven judge Bench of the Supreme Court in T.M.A. Pai Foundation (supra). Subsequently,

¹(2002) 8 SCC 481

²2014 SCC OnLine Del 6650



a Constitution Bench of the Supreme Court in *P.A. Inamdar (supra)* has held that even non-minority unaided institutions have the unfettered fundamental right to devise the procedure to admit students subject to the said procedure being fair, reasonable and transparent. Even, in 2014, another Constitution Bench of the Supreme Court in *Pramati Educational & Cultural Trust (Registered) (supra)* reiterated that the content of the right under Article 19(1)(g) of the Constitution to establish and administer private educational institutions, as per the judgment of this Court in *T.M.A. Pai Foundation*, includes the right to admit students of their choice and autonomy of administration.

115. The concept of autonomy has also been recognized and conferred upon schools by the DSE Act and Rules, 1973. Rule 145 of DSE Rules, 1973 states that the head of every recognised unaided school shall regulate admissions in its school. Consequently, the private unaided schools have maximum autonomy in day-to-day administration including the right to admit students.”

35. To similar tenor is the judgment of Supreme Court in the case of *Society for Unaided Private Schools of Rajasthan Vs. Union of India and Another*³, wherein it has been held as follows:

“96. The right to establish and administer educational institutions, according to *Pai Foundation* [(2002) 8 SCC 481], comprises right to admit students, set up a reasonable fee structure, constitute a governing body, appoint staff, teaching and non-teaching and to take disciplinary action. So far as private unaided educational institutions are concerned, the Court held that maximum autonomy has to be with the management with regard to administration, including

³(2012) 6 SCC 1



the right of appointment, disciplinary powers, admission of students and the fee to be charged, etc. and that the authority granting recognition or affiliation can certainly lay down conditions for the grant of recognition or affiliation but those conditions must pertain broadly to academic and educational matters and welfare of students and teachers. The Court held that the right to establish an educational institution can be regulated but such regulatory measures must be in general to ensure proper academic standards, atmosphere and infrastructure and prevention of maladministration. The necessity of starting more quality private unaided educational institutions in the interest of general public was also emphasised by the Court by ensuring autonomy and non-regulation in the school administration, admission of students and fee to be charged.”

36. Although the courts have recognised the autonomy of private unaided schools in granting admission to students, the schools are required to formulate a procedure to admit students, which is fair, reasonable and transparent.

37. Considering the aforesaid law, it is crystal clear that the procedure as adopted by the respondent school is equitable and transparent and is not discriminatory in any manner. The respondent school has clearly stipulated in its admission notification that the distance is calculated as per the school bus route. The criteria of the respondent school with respect to choosing bus route as a yardstick to determine distance/locality of any applicant, is founded on a rational basis and is acceptable. The said criteria cannot be said to be unjustified. The respondent school has applied the said criteria uniformly to all the applicants and the same is a cogent and intelligible



criteria. The school has been following the said criteria consistently in a homogenous manner across the board with respect to all the applicants.

38. The said criteria as devised by the school for calculating distance based on school bus route, falls within the autonomy of the school in devising its criteria for admission. As noted above, the said policy criteria of calculating distance in accordance with the bus route is being applied by the school uniformly and there is no discrimination in following the same for allotting points.

39. Further, calculation of a nearby location to a locality that is not specifically mentioned in the distance and area table, has to be left for verification to the school. The petitioner's choice of a 'nearby locality' cannot dictate or impinge on the autonomy or authority of the respondent school in verifying whether the nearby locality as entered is the nearest, or whether there is another locality, which may be nearer. It is the clear stand of the school that as per the bus route adopted by the respondent school, the nearest bus stop for any student residing in Gautam Nagar is Uday Park, which caters to several localities including Hauz Khas, Gulmohar Park, Uday Park and Gautam Nagar. Moreover, the bus route that is taken to this bus stop, clearly indicates that the bus travels beyond 8 kms. to reach.

40. The petitioner sought admission in the respondent school on the basis of the notification of the school which clearly mentioned that bus route was the indicative measure of the distance to determine what points will be available to an applicant. The criterion as devised by the respondent school to calculate distance through the bus route, has



been applied uniformly and consistently to all the applicants who applied for admission, including the petitioner. The criteria as devised by the school is clearly fair and transparent and within the scope of the authority and autonomy of the school to devise its procedure and criteria for admission.

41. This Court also takes note of the stand of the respondent school that the distance covered for reaching the nearest bus stop for Gautam Nagar in the morning route as well as the afternoon route is 9.8 kms. and 9.7 kms. respectively. It may be useful to refer to submissions made on behalf of respondent No.1 school in Paragraph – 14 of its counter affidavit, which is reproduced as under:

“14. That it is pertinent to note that the school chooses its routes not as per whims & fancies but on the basis of the number of students that can be accommodated by a particular bus stop. This is to further say that the Respondent School has to pick a bus route which has the effect of minimising the transport fees that the student has to bear, while maximizing the number of students on a particular bus/ bus route. That as per the school’s record, there are two bus routes that are prepared by the School – one for the morning schedule which picks up students and the second is the afternoon route for dropping students. That the distance covered for reaching the nearest bus stop for Gautam Nagar on both the shifts is 9.8 kms and 9.7 kms. This would mean the distance covered by the bus to reach the nearest bus stop for Gautam Nagar automatically falls in the second category of 8-10kms enabling the Petitioner to receive 20 points.

A copy of a tabulated depiction of the distance covered by the Respondent School Bus to reach nearest bus stop for Gautam Nagar annexed herein and



marked as Annexure – R2 (Colly.).”

42. Perusal of the aforesaid clearly shows that the respondent school has maintained complete transparency and fairness in its admission criteria. As per the admission norm set out by the school, petitioner was able to procure 20 points as per the distance criteria. Since there were other applicants who secured more points than the petitioner, her candidature has justifiably been rejected by the school.

43. In view of the aforesaid detailed discussion, no merit is found in the present writ petition. Accordingly, the present writ petition is dismissed.

**(MINI PUSHKARNA)
JUDGE**

JULY 03, 2023
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