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

% *Decided on: 15th February, 2023*

+ W.P.(C) 5910/2022 & CM APPL. 17720/2022

MASTER SUSHRUT SINGH Petitioner

Through: Mr. Sumit Kumar, Advocate
(M:9911247063,email:sumit.la
w89@gmail.com)

versus

SAINIK SCHOOL SOCIETY & ORS. Respondents

Through: Mr. Anshuman, Sr. Panel
Counsel with Major Partho
Katyayan, Officer Legal Area
HQ, Delhi for R-1&3
(M:9818571429,email:advocate
anshuman1458@gmail.com)
Mr. Sanjay Khanna, Standing
Counsel with Ms. Pragya
Bhushan, Mr. Karandeep Singh,
Mr. Tarandeep Singh,
Advocates for R-2/NTA

CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

[Physical Hearing/ Hybrid Hearing]

MINI PUSHKARNA, J. (ORAL):

1. The present writ petition has been filed with prayer for directions to the respondent authorities to grant admission to the petitioner in Sainik School, since the petitioner has qualified on merits in the All India Sainik School Entrance Examination, 2022. The petitioner has not been granted admission since the petitioner in the application form indicated his domicile as State of Rajasthan, while

the documents submitted by the petitioner pertained to his domicile for the State of Uttar Pradesh. On account of the said discrepancy, admission was denied to the petitioner.

2. The facts in brief are that the respondent No.1 Sainik School Society issued public notice for conducting All India Sainik School Entrance Examination for the academic year 2022-2023 through its nodal agency, i.e., National Testing Agency (NTA) for Standard 6th and 9th. Pursuant to the advertisement, the petitioner applied for admission to Class 6th. In the application form as submitted by the petitioner, the petitioner in the column for State of domicile mentioned Rajasthan. Along with the application form, the candidates were required to upload documents, which included photographs, signatures, thumb impression, domicile certificate and date of birth certificate.

3. Along with the application form for taking the aforesaid exam, the petitioner uploaded the documents as required by the respondents. The said documents have been filed along with the present petition. The domicile certificate submitted by the petitioner shows that the domicile of the petitioner is State of Uttar Pradesh. The birth certificate of the petitioner shows his place of birth as well as his address as State of Uttar Pradesh. The caste certificate uploaded by the petitioner is issued by the Government of Uttar Pradesh for Schedule Caste of Uttar Pradesh.

4. The petitioner took the entrance exam and qualified with good marks obtaining 233 marks out of a sum total of 300 marks. The scorecard as issued by the NTA, respondent No.2 shows the petitioner

as qualified in the written test.

5. Thereafter, the petitioner was called for counselling by respondent No.3, i.e., The Sainik School, Jhunjhunu in Rajasthan, as per the domicile of State of Rajasthan filled by the petitioner in his application form for the exam. Medical of the petitioner was conducted and he passed in the medical test. The said document has been filed by the respondents along with their counter affidavit. However, the petitioner was denied admission as the petitioner was unable to submit any domicile certificate from the State of Rajasthan. It is the case of the petitioner that it is at that point of time that the petitioner came to know that due to some typographical error, the petitioner in his application form had mentioned his domicile status as that of Rajasthan, though all correct documents had been submitted, including domicile certificate from the State of Uttar Pradesh.

6. Thus, the petitioner made representations dated 23.03.2022, 24.03.2022 and 29.03.2022 to the respondents immediately. The petitioner received email dated 25.03.2022 from respondent No.2, i.e., NTA that it has no role to play in the admission process. Since the petitioner was denied admission, the present writ petition came to be filed by the petitioner in April 2022.

7. On behalf of the petitioner, it is contended that petitioner has qualified for admission in the Sainik School and has secured good marks. The petitioner was taking coaching from Rajasthan and thus, while filing the application form, the domicile status was mentioned as Rajasthan inadvertently. However, the petitioner has submitted all correct information as well as documents. Therefore, it is prayed that

admission ought to be granted to the petitioner.

8. Ld. Counsel appearing on behalf of respondent Nos.1 and 3 has opposed the present petition vehemently. He submits that the information bulletin for the entrance examination clearly mentioned important dates for submission of application forms, which was from 27th September, 2021 to 26th October, 2021. A correction window of three clear days, i.e., from 28th October, 2021 to 2nd November, 2021 was available to the candidates to amend any details in the application. The said date for correcting any details in the application was further extended and correction window was available to the candidates from 7th November, 2021 to 10th November, 2021. Thus, it is submitted that despite the aforesaid opportunities, the petitioner did not correct the discrepancy in his application form.

9. It is submitted on behalf of respondent Nos. 1 and 3 that since the petitioner had filled his State of domicile as Rajasthan and had applied under the SC category, the petitioner was put in State of Rajasthan, SC category, as per the choice indicated by the petitioner.

10. Attention of this court is drawn to the merit list, which shows the Roll Number of the petitioner under the State of Rajasthan in SC category. It is further submitted that for admission under the category of 'Other State' from SC Quota, admission has already been granted for the Academic Session 2022-2023. It is further submitted that the current Academic Session for 2022-2023 had commenced in April 2022 and is at its fag end. Thus, it will not be possible to grant admission to the petitioner for the current Academic Session 2022-2023.

11. Ld. Counsel appearing for respondent No.2, NTA submits that it has no role in the admission process and that its role was only to conduct examinations.

12. In rejoinder, ld. Counsel for the petitioner submits that the petitioner is ready to drop a year and is ready to take admission in Class 6th for the next Academic Session 2023-2024. Ld. Counsel for the petitioner further relies upon judgment of High Court of Punjab and Haryana in *Harsh Yadav (Minor) through his father Vs. Union of India and Others*¹.

13. I have heard ld. Counsels for the parties and perused the documents on record.

14. The facts as pleaded before this Court clearly manifest that the petitioner had committed a discrepancy while filling the application form for entrance examination to Sainik School. Though the petitioner showed his domicile as State of Rajasthan, the documents as submitted and uploaded on behalf of the petitioner, pertained to his domicile for State of Uttar Pradesh. This discrepancy came to the fore at the time when the petitioner cleared the written examination and was called for counselling for the purpose of admission.

15. It is to be noted that the petitioner has cleared the examination with good marks and would have got admission in a Sainik School, but for the aforesaid discrepancy was denied admission. The petitioner is otherwise eligible in all aspects for admission to the Sainik School on the basis of the marks obtained by the petitioner in the

¹ 2020 SCC OnLine P&H 2048

examination. The petitioner has been able to explain and justify the discrepancy which occurred owing to the fact that the application form was filled from Rajasthan, from where the petitioner was taking coaching classes, though his domicile is that of State of Uttar Pradesh.

16. This Court has considered the fact that in Sainik Schools, entrance examinations are conducted for admission to only Class 6th and Class 9th. Thus, if the petitioner is denied admission in Class 6th, the petitioner would lose an opportunity to get admission in Sainik School and would have to wait for a couple of years before he is eligible to take the entrance examination for admission to Class 9th.

17. No doubt the respondent had given ample opportunity to the students to correct any information in the application form, however, if some discrepancy has occurred inadvertently, a student cannot be penalised by denying admission on that account. Rules for admission to school cannot be compared to Statutory Rules which have to be followed rigidly. Such stiff and stringent stand cannot be taken vis-a-vis the procedural directives issued for the purpose of filling forms for entrance examination for admission to school. Some latitude ought to be given to students considering the fact that a lot of hard work and labour goes into clearing any entrance examination. Future of children is shaped by the institutions they study in, thus, any rigid stance in this regard would mar their future prospects.

18. It has been held time and again that procedural requirements should never be made a tool to deny justice or perpetuate injustice. Thus, Supreme Court in the case of *Uday Shankar Triyar Vs. Ram*

Kalewar Prasad Singh and Another² has held as follows:

“17. Non-compliance with any procedural requirement relating to a pleading, memorandum of appeal or application or petition for relief should not entail automatic dismissal or rejection, unless the relevant statute or rule so mandates. Procedural defects and irregularities which are curable should not be allowed to defeat substantive rights or to cause injustice. Procedure, a handmaiden to justice, should never be made a tool to deny justice or perpetuate injustice, by any oppressive or punitive use.....”

19. Non-statutory rules like procedure and requirements for admission cannot be treated at par with Statutory Rules, which entail strict compliance. Courts have held that a procedural requirement should not ordinarily be construed as mandatory. In ***Kailash Vs. Nanhku and Others***³, Supreme Court has held as follows:

“28. All the rules of procedure are the handmaid of justice. The language employed by the draftsman of processual law may be liberal or stringent, but the fact remains that the object of prescribing procedure is to advance the cause of justice. In an adversarial system, no party should ordinarily be denied the opportunity of participating in the process of justice dispensation. Unless compelled by express and specific language of the statute, the provisions of CPC or any other procedural enactment ought not to be construed in a manner which would leave the court helpless to meet extraordinary situations in the ends of justice.....”

20. In view of the aforesaid discussion, this Court is inclined to allow the present writ petition. Since the respondents have indicated

² (2006) 1 SCC 75

³ (2005) 4 SCC 480

that the current academic session is already at its fag end and the petitioner has expressed his inclination for admission in Class 6th in the next academic session to overcome the said hurdle, it is directed that the respondents shall give admission to the petitioner in Sainik School under them in SC quota either in the State of Uttar Pradesh considering the domicile of the petitioner as Uttar Pradesh or in the State of Rajasthan, under the category of 'Other State'. The petitioner shall be given admission for the next academic session 2023-2024 in Class 6th.

21. Since it is the submission on behalf of the respondent that the petitioner would be overage by one month, the respondents shall give concession to the petitioner in this regard and age of the petitioner shall not be considered as a constraint in granting admission to the petitioner in the Class 6th for the academic session 2023-2024.

22. It is made clear that the present petition is being allowed in the peculiar facts and circumstances of the present case.

23. The present petition is disposed of with the aforesaid directions along with pending application.

MINI PUSHKARNA, J

FEBRUARY 15, 2023

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