

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.2617 OF 2023

1. Vedant Baban Nandgavkar,
2. Sarthak Sanjay Harale,
3. Shreyas Vijay Kumbhar,
4. Atharv Sharad Nale,
5. Vishal Kundlik Patil. ...Petitioners

Versus

1. The Navodaya Vidyalaya Samiti,
(An Autonomous Organisation),
under Ministry of Human Resources
Development.
2. The Navodaya Vidyalaya Samiti,
Having its Regional Office at,
Sheti Mahamandal Bhavan, Pune.
3. Jawahar Navodaya Vidyalaya Padave,
Through its Principal, Ratnagiri. ...Respondents

WITH

WRIT PETITION NO.2618 OF 2023

1. Atharv Sambhaji Shinde,
2. Shravan Suhas Sawant,
3. Rudra Kundlik Nandgavkar. ...Petitioners

Versus

1. The Navodaya Vidyalaya Samiti,

(An Autonomous Organisation),
under Ministry of Human Resources
Development.

2. The Navodaya Vidyalaya Samiti,
Having its Regional Office at,
Sheti Mahamandal Bhavan, Pune.
3. Jawahar Navodaya Vidyalaya Padave,
Through its Principal, Ratnagiri.

...Respondents

Mr. Prashant Bhavake for the Petitioner (in both the petitions).

Ms. Neeta V. Masurkar a/w. Ms. Nieyaati V. Masurkar for the
Respondents.

**CORAM : A. S. CHANDURKAR,
JITENDRA JAIN, J.J.**

Date on which the Arguments were Heard : 2nd February 2024.
Date on which the Judgment is Pronounced : 1st March 2024.

JUDGMENT :- (Per Jitendra Jain, J.)

1. **Rule.** Rule made returnable forthwith. By consent of the parties heard finally.
2. Since the issue involved in both the Writ Petitions are identical except the name of the Petitioners, we propose to dispose of both the writ petitions by a common order. For the sake of convenience, we will narrate the facts of the Writ Petition No.2617 of 2023.
3. By this petition under Article 226 of the Constitution of India, the Petitioners seeks to challenge communication dated 26th November

2021 issued by Respondent No.3-JNV informing the Petitioners that their admission to 6th standard is cancelled and further the Petitioners pray that Respondents be directed to grant admission to the Petitioners to 7th standard for the academic year 2022-2023.

4. Brief facts are as under:-

- (i) The Petitioners were students who were studying in 5th standard during the academic year 2020-2021. For the academic year 2021-2022, the Petitioners appeared for selection test conducted by the Respondents for admission to class 6th. The Petitioners cleared the said selection test in general category as per the merit list dated 24th September 2021. The Petitioners filled the admission form giving details and the documents. However, the Respondents vide their impugned communication dated 26th November 2021 informed that on perusal of the admission form following discrepancies were found:-

- “1. Date of admission of the students to 5th Standard not mentioned.*
- 2. Date of admission to 5th standard, mentioned on the Information letter to be submitted to the Navodaya Vidyalaya.*
- 3. Month of admission to 5th standard not mentioned in the Admission Form.”*

- (ii) Thereafter, as per page 14 of the petition, it is stated that the Petitioners cleared 6th standard from another primary school and are now seeking admission in 7th standard in Respondent No.3-JNV School.

(iii) It is on the above backdrop that the Petitioners are before us seeking the relief as prayed for.

5. The Petitioners submit that on identical issues, this Court has permitted admission to 6th standard to the students who had filed petitions and, therefore, since the Petitioners are similarly placed, Respondents be directed to grant admission to the Petitioners in 7th standard, since the Petitioners have already cleared 6th standard from another primary school. The Petitioners submit that rejection of admission by Respondent No.3 to 6th standard was incorrect since the other students who approached the High Court and got a favourable order were admitted to class 6th and, therefore, even the Petitioners should have been granted admission in 6th standard for the academic year 2021-22. Since the same was not granted, the Petitioners were compelled to pursue their 6th standard from another primary school and now the Petitioners are entitled for class 7th admission in Respondent No.3-School. The Petitioners relied upon the following decisions.

- (i) *Anushka Sambhaji Patil & Ors. Vs. The Navodaya Vidyalaya Samiti & Ors. in Writ Petition No.2926 of 2022;*
- (ii) *Pritam Vijay Anuse & Ors. Vs. The Navodaya Vidyalaya & Ors. in Writ Petition No.10553 of 2022; and*
- (iii) *Ku. Shubham Vijay Patil & Ors. Vs. The Navodaya Vidyalaya Samiti & Ors. in Writ Petition No.9310 of 2022.*

6. The Petitioners, therefore, pray that the writ petition be allowed in terms of prayer clause (b).

7. Per contra, the Respondents opposed the petition on the ground that the writ petition is to be dismissed on the ground of delay and laches. The Respondents further submitted that the Petitioners do not stay in Ratnagiri District, but the family home is in Kolhapur and, therefore, even on this ground, the condition specified to seek admission in Respondent No.3-School is not satisfied. The Respondents relied upon the Affidavit-in-reply dated 4th December 2023 and prayed that petition be dismissed.

8. We have heard learned counsel for the Petitioners and Respondents and with their assistance have perused the documents annexed to the petition and the Affidavit-in-reply on behalf of the Respondents.

9. In our view and after hearing the parties, we are not inclined to entertain the present petition for the following reasons:-

- (i) The impugned communication whereby the admission of the Petitioners is cancelled is dated 26th November 2021, the Petitioners have filed the present petition on 26th February 2023. In the petition, the Petitioners in paragraph 7 have stated that after the decision of the co-ordinate bench passed on 29th April 2022 in Writ Petition No.2926 of 2022 (Anushka Sambhaji Patil & Ors. Vs. The Navodaya Vidyalaya Samiti & Ors.) and on 17th February 2023

in Writ Petition No.10553 of 2022 (Pritam Vijay Anuse & Ors. Vs. The Navodaya Vidyalaya Samiti & Ors.), they had approached the Respondents for admission, since they were similarly placed students as that of the Petitioners in the said petitions. Except making this averment, there is no further pleading to explain the delay in approaching this Court. At the direction of the Court, the Petitioners have produced copy of emails dated 26th/28th July 2022 addressed by the Petitioners to the Respondents in support of above referred averment.

- (ii) In our view, the Petitioners ought to have approached this Court immediately when the communication dated 26th November 2021 was received. They have not challenged the said communication till 26th February 2023 and after having taken admission in other school, the Petitioners are not justified in contending that since they were following up with the school, there was a delay in filing the present petition. The Petitioners cannot on the basis of the decision passed in another case take such a plea to explain the delay. Even otherwise, the emails addressed by the Petitioners to the Respondents are of July 2022, whereas the present writ petition is filed in February 2023. Except making a bald averment that they were following up with the Respondents, there is no other explanation for the delay from July 2022 to February 2023 in

approaching this Court. Therefore, the present petition is required to be dismissed on the ground of delay and laches. In any case, the said dismissal would not affect the Petitioners since there is no loss of academic year because the Petitioners availed admission in other school.

- (iii) The Petitioners are claiming its right for admission to class 7th on the basis of the admission test which they took in the year 2021 for 6th standard. In our view, since the test given by the Petitioners was for Standard 6th academic year 2021-2022, same cannot form the basis to claim admission to Class 7th in Respondent No.3-School.
- (iv) The Petitioners in the petition have stated that they have passed class 6th from another primary school. If that be so, then the Petitioners are deemed to have accepted the communication dated 26th November 2021 by which Respondents informed the Petitioners about their cancellation of admission to class 6th for the reasons mentioned therein. Therefore, the Petitioners took admission in class 6th of another school before filing the writ petition. The Petitioners today are not justified in challenging the communication dated 26th November 2021 by which their admission to class 6th was cancelled. Therefore, on this count also the Petitioners are not entitled for the relief.

(v) The decisions relied upon by the Petitioners are not applicable since there was no delay by those Petitioners in approaching this Court which is the not case with regard to the present Petitioners and, therefore, those decisions would not come to the assistance of the Petitioners.

10. Therefore, viewed from any angle, the present writ petition cannot be entertained and the same is dismissed. Rule is discharged. No order as to costs.

11. For the reasons stated in Writ Petition No.2617 of 2023, Writ Petition No.2618 of 2022 is also dismissed.

[JITENDRA JAIN, J.]

[A. S. CHANDURKAR, J.]