

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 5995 OF 2023**

Shivali Krishna Shinde
Through her father-
Krishna Ganpati Shinde and OthersPetitioners.
V/s
The Navodaya Vidyalaya Samiti
and Others Respondents.

**WITH
WRIT PETITION NO.5496 OF 2023**

Rudrapriy Bharat Patil
Through his father-
Bharat Shamrao Patil & Others Petitioners.
V/s
The Navodaya Vidyalaya Samiti
and Others Respondents.

**WITH
WRIT PETITION NO.138 OF 2024**

Tejas Balaso Kasar
Through his father-
Balaso Bhikaji Kasar & Others Petitioners.
V/s
The Navodaya Vidyalaya Samiti
and Others Respondents.

Mr. Nitin P. Deshpande, Advocate for the petitioners in all the above writ petitions (through V.C.)
Ms. Neeta V. Masurkar a/w Ms. Nieyaati Masurkar, Advocates for the respondent.

**CORAM: A.S. CHANDURKAR &
RAJESH S. PATIL, JJ.**

**The arguments were heard on : 25.07.2024
The order is pronounced on : 20.08.2024**

P.C.:-

1] In these writ petitions, the petitioners who are minor students have approached this Court through their respective guardians seeking to raise a challenge to Clause 4.1 of the Prospectus for Jawahar Navodaya Vidyalaya Selection Test-2022 for seeking admission to Class-VI. It is the case of each petitioner that on account of various reasons they are required to reside away from their parents. They claim that admission to Class-VI of Navodaya Vidyalaya has been denied to them for this reason. The writ petitions were filed when Academic Session 2023-24 had commenced.

2] On 11/10/2023 when the writ petitions were considered for admission it was noted that according to the petitioners the cause of action in their favour had arisen sometime in March, 2022. A period of one and half year had passed and hence the petitioners were permitted to make a request/application to the respective Jawahar Navodaya Vidyalayas for seeking admission. It was directed that if the petitioners could not be granted admission then the reason for the same be specified. Pursuant to the aforesaid, the petitioners made such applications and on 31/10/2023 each petitioner was issued a

communication stating therein that the applications moved for seeking admission to Class-VII had been considered. In view of Clause 4.1 of the Prospectus, a candidate seeking admission was required to apply from the District of which he/she is a bonafide resident. Since the petitioners failed to produce relevant certificates/documents pertaining to the District in which they desired to take admission, the same could not be granted. By amending the writ petitions, this communication is under challenge.

3] Mr. Nitin Deshpande, the learned counsel for the petitioners submitted that denial of admission to the petitioners only on the ground that the petitioners were staying away from their parents was unjustified. According to him, for various compelling reasons the petitioners were required to stay away from their parents and take education in the adjoining district. Merely on this ground they could not have been denied admission to Class-VI and thereafter Class-VII. By denying admission to the petitioners for such reason the object behind establishment of Navodaya Vidyalaya was defeated and the petitioners were prevented from having quality education. The impugned communication dated 31/10/2023 was not in consonance with the

Prospectus and hence the petitioners could not have been denied admission. Inviting attention to the judgment of the Delhi High Court in *Sirjeet Kumar vs. Jawahar Navodaya Vidyalaya*, 2023 SCC OnLine Del 1638, *Shrishti Kumari through her next friend and natural father Mr. Santosh Kumar vs. Jawahar Navodaya Vidyalaya and others*, W.P.(C) 6440/2024 decided on 21/05/2024, it was submitted that the impugned communication be set aside and the petitioners be granted admission. On the aspect of delay on the part of the petitioners in approaching this Court, reliance was placed on the decision in *Dr. Kashinath G. Jalmi and another vs. The Speaker and others*, (1993) 2 SCC 703 to urge that the grievance raised by the petitioners ought to be redressed by entertaining the writ petitions.

4] Ms. Neeta Masurkar, the learned counsel appearing for the respondents opposed the writ petitions. She submitted that since the petitioners failed to submit documents in accordance with Clause 4.1 of the Prospectus they were denied admission. Referring to Clause 3.1 of the Prospectus, it was submitted that there was no vested right in favour of the petitioners for seeking admission. The same was subject to producing all the relevant certificates and documents as prescribed.

Referring to the affidavit in reply filed on behalf of the respondent it was submitted that the action taken was in accordance with the Prospectus and there was no illegality in denying admission. She invited attention to the judgment of the Division Bench of this Court in *Kum Shubham Vijay Patil and others vs. The Navodaya Vidyalaya Samiti and others* in Writ Petition No.9310 of 2022 with connected writ petitions decided on 13/10/2022 to submit that a similar contention was considered therein and turned down. Subject to the petitioners satisfying the relevant clauses of the Prospectus they could be granted admission. It was further submitted that the petitioners had sought admission in Class-VI in 2022-23 after which two academic years had passed. Even on this ground, the petitioners were not entitled to any relief whatsoever. It was thus submitted that the writ petitions were liable to be dismissed.

5] We have heard the learned counsel for the parties and perused the documents on record. The impugned communication dated 31/10/2023 indicates that for failure to supply relevant documents in accordance with Clause 4.1 of the Prospectus, the petitioners were found to be ineligible for admission. As per Clause 4.1, it is only for

candidates from the district concerned where a Jawahar Navodaya Vidyalaya has been opened is it permissible to apply for admission. Clause 3.1 of the Prospectus requires a selected candidate to produce all the relevant documents prescribed before being finally selected. As per the communication dated 14/03/2022 issued by Deputy Commissioner (Exam) to the Deputy Commissioner, Navodaya Vidyalaya Samiti, proof of residence or any other official document of the parents pertaining to district in which admission was sought was required to be produced. The requirement prescribed is because a candidate studying in Class-V in a particular district is entitled to seek admission at the Jawahar Navodaya Vidyalaya in that district alone.

6] The provisions of Clause 4.1 of the Prospectus was the subject matter of consideration in *Ku. Shubham Vijay Patil and others* (supra).

In paragraph 9, it has been held as under:-

“9. Clause 4.1 under the caption ‘Who is Eligible’ also provides insights for interpreting the clauses. It states that only the candidates from the District concerned where the JNV has been opened, are eligible to apply for admission. The general rule under the said Prospectus is that only the candidates from the District concerned where the JNV has

been opened, are eligible to apply for admission. Clause 3.6 further provides that the children selected on the basis of District will be admitted only in the JNV located in the District from where they are studying in class 5 and appear for the JNVST. Reading clause 3.6 and 4 conjointly and harmoniously, irresistible conclusion that can be drawn is that a candidate will be required to satisfy the twin test for being eligible to get admission in the JNV; (i) the candidate should have passed 5th standard from the District where the JNV is located; and (ii) only the candidates from the District concerned where the JNV is opened, are eligible to apply for admission. The condition of residence certificate in the prescribed proforma in case of NIOS i.e. the candidates should obtain 'B' certificate and residence should be in the same district where he is seeking admission, as provided in clause 2.1 is an additional condition imposed for clarification purpose. NIOS is a correspondence course for the students who are not able to pursue regular classes. For the said purpose, additional precautions appears to have been undertaken. The general rule of eligibility has been laid down in clause 4.1. Clause 4.1 starts with the term 'only'. It states that 'only the candidates from the district concerned where the JNVs are opened are eligible for admission'. The word 'only' implies that the students other than the District where the JNV is situated are excluded. No other interpretation is possible. We cannot persuade ourselves to accede to the

arguments of the Mr. Bhavake, the learned Advocate for the Petitioners that even though the student may not be the resident of the same District where the JNV is situated and if he has passed 5th standard from the district where the JNV is situated is eligible to be admitted. Such an interpretation would be against the object and the tenor of the clauses in the prospectus. The aforesaid discussion leads us to conclude that the candidate seeking admission to the JNV must satisfy the twin test (i) he must be studying in class V in Government / Government aided or other recommended schools or B Certificate Competency Course of NIOS in the same District where the JNV is situated and (ii) he must be resident of the same district where the JNV is situated and is seeking admission.”

From the aforesaid, it becomes clear that a candidate seeking admission to the Jawahar Navodaya Vidyalaya is required to satisfy the twin test, namely he must be studying in Class-V in the concerned district where the Jawahar Navodaya Vidyalaya is situated and he must be a resident of that district where he seeks admission at the Jawahar Navodaya Vidyalaya. The Special Leave Petition challenging this judgment has been dismissed on 04/11/2022. We do not find any reason to take a different view of the matter on the basis of the

judgment of the learned Single Judge of the Delhi High Court in *Sirjeet Kumar* (supra)

7] It is true that the petitioners are studying away from their parents in a different district. However, as a matter of policy the Navodaya Vidyalaya Samiti has imposed condition that a candidate seeking admission at the Jawahar Navodaya Vidyalaya must be studying in Class-V of recognized School in that very district where the Vidyalaya is situated. After noticing that students from other districts were also seeking admission in Jawahar Navodaya Vidyalayas, this policy has been framed. It therefore cannot be said that there is anything arbitrary in the insistence of requiring candidates to produce documents of residence of the same district where they desire to take admission at a Jawahar Navodaya Vidyalaya.

8] For the aforesaid reasons we do not find that the petitioners are entitled for any relief whatsoever. The writ petitions are therefore dismissed with no order as to costs.

[RAJESH S. PATIL, J.]

[A.S. CHANDURKAR, J.]