



W.P(MD)No.27626 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 02.02.2024

CORAM

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

Writ Petition(MD)No.27626 of 2023

P.Jeyanthi

.. Petitioner

Vs

1.The Chairman

National Institute of Open Schooling (NIOS),
A-24/25, Institutional Area,
Sector – 22, Gautam Budh Nagar,
Noida – 201 309,
Uttar Pradesh.

2.The Regional Director,

National Institute of Open Schooling (NIOS)
Lady Willington Campus, Kamarajar Salai,
Triplicane, Chennai – 600 005.

3.Aruna Creative Minds School,

1127, Pallapatti Road, Murugan Colony,
Thiruthangal – 626 130,
Virudhunagar District,
Tamil Nadu
rep. by its Director Mr.Dr.A.Ramanathan.

4.The Principal,

Aruna Creative Minds School,
1127, Pallapatti Road, Murugan Colony,
Thiruthangal – 626 130,
Virudhunagar District, Tamil Nadu.

..Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned Email order dated 10.11.2023 passed by the 2nd Respondent and quash the same and consequently direct the 2nd respondent to register and admit the Special Child of the Petitioner, V.J.Aarya to Open Basic Education (OBE) Level-A for the academic year 2023-2024 and permit him to write the OBE Level-A examination to be held in the month of April 2024.

For Petitioner : Mrs.T.Kokilavane for
Mr.A.Robinson

For Respondents : Mr.Swarnalatha Murahari
(for R1 and R2)

Mr.P.Santhoshkumar (for R3 and R4)

ORDER

This writ petition is filed seeking for issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned E-mail order dated 10.11.2023 passed by the 2nd Respondent and quash the same and consequently, direct the 2nd respondent to register and admit the Special Child of the Petitioner, by name, V.J.Aarya to Open Basic Education (OBE) Level-A for the academic year 2023-2024 and permit him to write the OBE Level-A examination to be held in the month of April, 2024.



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WEB COPY 2. The learned counsel appearing for the petitioner would submit that the petitioner is having two sons. Out of them, the second son V.J.Aarya, aged about 10 years, is a special child with the disability of Autism Spectrum Disorder. The petitioner is an Engineering Graduate and on diagnosis of Autism Spectrum Disorder, in order to fully understand her son's feeling, needs, activities and to support and develop her quality of life, she voluntarily joined the courses meant for Special Child and completed B.Ed and M.Ed Courses exclusively for the support of her special child. The petitioner finds day-to-day improvements of her son's abilities and now, he attained the level of understanding the conversation, awareness of situation with moderate appropriate reactions. He has improved to the level of writing the matters both in Tamil and English. Hence, the petitioner has decided to bring her special child to write the examination in OBE Level – A, which is equivalent to Grade – III. Accordingly, she admitted him in the third respondent School. The fourth respondent/Principal agreed to admit him in his school and on demand, the petitioner has paid a sum of Rs.4,000/- on 03.07.2023 as a token advance. The fourth respondent/Principal supplied the Correspondence Fees Structure for the academic year 2023-2024. The petitioner has paid total fees of Rs.13,200/- out of Rs.15,700/-. As instructed by the fourth respondent, her special child wrote



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and complete his quarterly examination in all five subjects in the month of September, 2023. Her special child has passed all the subjects with colourful marks more than 74% in each subject. Her special child is very much interested and eager in writing the OBE Level – A Examination. Ever since his admission in the third respondent school, he has been all along expressing his eagerness to write the OBE Level - A examination.

3. The learned counsel for the petitioner would further submit that once a special child is registered with the second respondent, the special child will be issued with the Unique NIOS ID Card with Registration Number. Since the third respondent school did not supply the NIOS ID Card to the petitioner's special child, she contacted the third respondent school and requested them to give the NIOS ID Card. However, they informed the petitioner that admission of her son was not registered with the second respondent, as the birth certificate of her son was rejected, as the same was not clear. The third respondent school further informed that the petitioner's son could not write the OBE Level – A examination in this Academic Year and he may straight away write the OBE Level – B examination on production of *bone fide* certificate issued by the third respondent school. The learned counsel would further submit that on enquiry, it was found that the third respondent school failed to pay the registration fee of



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Rs.350/-, when the application of the petitioner's son for registration was uploaded in the portal of the second respondent. The said mistake was admitted by the staff of the third respondent school. She would further submit that on the request of the petitioner, the fourth respondent/Principal made a request to the second respondent through e-mail dated 08.11.2023 to admit her son so as to write the OBE Level – A examination in the month of April, 2024, however, the second respondent, vide impugned E-mail dated 10.11.2023 gave one line response stating that “All through online mode only”. This reply was interpreted by the fourth respondent/Principal that the second respondent has declined the request of the petitioner. Hence, the petitioner has filed this present writ petition.

4. The learned counsel appearing for the respondents 3 and 4/school would submit that due to some technical error, the third respondent school is not in a position to upload the same and hence, the student's name was not registered. The said mistake has been committed by the staff of the third respondent school.

5. The learned counsel for the respondents 1 and 2 would submit that the petitioner's son cannot write the examination, as the petitioner belatedly



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approached them and the authorities are going to conduct the examination on

20.02.2024 and there is no other way to accommodate the petitioner's son.

6. It is the duty of the Government to educate all the children. The policy of the Government itself states that all the children have to be educated and free education from I Standard to College level have to be given. The petitioner's son is a special child and the petitioner/mother, who has taken care of the child and got educated herself and trained him, has made the child to get prepared for the examination of OBE Level – A. It is not the UPSC Examination or TNPSC Examination and it is only an examination only for the special children and they are not going to write any competitive examinations for getting into any job. It is only for motivating the children to reach their optimal level. The respondents or whoever have to see these types of children sympathetically. There would be no problem, if the petitioner's son is going to be admitted and is writing the examination. Hence, the petitioner's son has to be accommodated by the respondents 1 and 2 as a special case.

7. In view of the above observations, this Writ Petition is allowed and impugned E-mail order dated 10.11.2023 passed by the second respondent is set aside. Accordingly, this Court directs the respondents 1 and 2 to accept the fees



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uploaded by the third respondent school for the petitioner's son and allow the petitioner's son to write the examination of OBE Level – A, scheduled to be held in the month of February, 2024. It made clear that the said child will not be in a position to copy anything from some other students and he is going to write the examination on his own skill. The petitioner's son can be allowed to write the examination separately, if it is not in the month of February 2024. No costs.

02.02.2024

NCC : Yes/No

Index : Yes/No

Internet: Yes

skn

Note : Issue Order Copy on 05.02.2024.

To

1.The Chairman

National Institute of Open Schooling (NIOS),
A-24/25, Institutional Area,
Sector – 22, Gautam Budh Nagar,
Noida – 201 309,
Uttar Pradesh.

2.The Regional Director,

National Institute of Open Schooling (NIOS)
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V.BHAVANI SUBBAROYAN, J.

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