



2024:DHC:1706



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

+ **W.P.(C) 2129/2024**

MASTER HITESH VERMA Petitioner

Through: Father of petitioner In-person

versus

DAV PUBLIC SCHOOL & ANR. Respondents

Through: Through: Mr. Yogesh
Kumar, Adv. for R-1

Mr. Utkarsh Singh, Adv. for Mr. Santosh
Kumar Tripathi, SC (Civil) for GNCTD/
(DoE)/R-2

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

J U D G M E N T (O R A L)

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29.02.2024

1. The petitioner in this case is a student belonging to the Other Backward Classes (OBC). He applied to the Department of Education (DoE) for admission as a DG (Disadvantaged Group) category student.

2. Consequent on a computerized draw of lots conducted by the DoE, the petitioner's name was short-listed for admission to the Respondent 1 school in Class I and he was informed accordingly.

3. The petitioner alleges that, consequent to being informed of the aforesaid allotment, he approached the Respondent 1 school which declined to admit him. He further alleges that he approached various

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authorities in that regard but to no avail. Unfortunately, the petitioner did not approach the one authority which he should have approached, which is this Court.

4. The petitioner, by this writ petition, seeks that the Respondent 1 school be directed to admit him in Class II.

5. It is, regrettably, not possible to grant relief to the petitioner, for two reasons.

6. Firstly, Mr. Yogesh Kumar, learned Counsel for Respondent 1 school points out that there are various discrepancies between the details filled in by the petitioner while applying for preferential admission as a DG category student and the details which are reflected in the present writ petition.

7. This has been set out in a tabulated form in para 6.4 of the counter affidavit of the Respondent 1 school thus:

Particulars	Details Filled in Online Application Form	Details given by the Petitioner with the Present WPC
Registration ID	20220171185	
First Name	ITESH	HITESH
Middle Name	AERMA	VERMA
Last Name		
Type of DG:	OBC (NCL)	OBC (NCL)
Certificate No.:	/000858871/	90500000858871
Issued Date:	03.04.2022	06.04.2022
Phone No.:	9852456807	9716883243

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Aadhar No. of the Child	-----	4273 2953 9321
Class:	Class-1	Class-2
Mother's Name:	HEMA VERMA	HEMA VERMA
Father's Name:	-----	VIKAS KUMAR
Address:	S-796, Mangolpuri, Delhi	C-134/3 Vijay Vihar, Phase-2, Sector-7, Rohini, Delhi

8. The only submission of Mr. Vikas Kumar, the father of the petitioner who appears in person is that these are errors which unfortunately crept in when the form was filled in by his wife.

9. More significantly, the petitioner does not have, to his credit, any allotment by the DoE in Class II in the Respondent 1 school. The computerised draw of lots held by the DoE had found the petitioner entitled to admission to Class I in the Respondent 1 school.

10. In my considered opinion – which I have expressed earlier as well – the right of a student to admission to a school as an EWS/DG student, which could be enforced by way of a writ of mandamus, can only flow from an allotment made in his favour by the DoE consequent to the computerised draw of lots being conducted in accordance with the RTE Act and the various Circulars issued by the DoE in that regard from time to time.

11. A student cannot seek issuance of a mandamus to a school to admit her, or him, in a class to which the said student has not been found entitled to allotment, consequent on a computerised draw of lots

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conducted by the DoE.

12. If a child, therefore, applies for admission to Class I in a particular school as an EWS/DG student, and is found eligible for such admission consequent to the computerised draw of lots conducted by the DoE, and if the school declines admission, the student has to seek judicial redress *at that stage*. If the student allows the year to go by without seeking any remedy in law, and approaches the court in the next year, *for which there is, in his favour, no admission approved by the DoE consequent to any draw of lots*, a writ court cannot issue a mandamus directing the school to grant such admission.

13. A remedy must flow from a right; *ubi jus ibi remedium*. Apart from the fact that such a writ of mandamus, if issued, would be in the absence of any enforceable right on the part of the student, it can also prejudice the legitimate claims of students who may have actually applied, and been shortlisted, for admission to the said higher class consequent to a draw of lots issued by the DoE. Such legitimate claims cannot be sought to be sacrificed to grant admission to a student who never sought admission to that class in that school and was never found entitled to such admission on the basis of the computerised draw of lots conducted by the DoE.

14. In the present case, apart from the discrepancies to which Mr. Yogesh Kumar has drawn my attention, the father of the petitioner never applied for admission of his ward to Class II in any school as



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DG category candidate. He applied for admission as a DG category candidate to Class I in the Respondent 1-school and was shortlisted for said admission. That right was, however, never ventilated in any manner known to the law.

15. The petitioner has not been found entitled to admission to the Respondent 1 school in Class II by any draw of lots conducted by the DoE. No enforceable right to such admission can, therefore, enure in favour of the petitioner.

16. The petition is accordingly dismissed, with no order as to costs.

C. HARI SHANKAR, J.

FEBRUARY 29, 2024

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Click here to check corrigendum, if any