



2024:DHC:4180



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 2135/2024 and CM APPL. 8884/2024**

MASTER VANSR RATHOR Petitioner

Through: Petitioner in person

versus

**MAHARAJA AGRASEN MODEL SCHOOL
AND ANR**

..... Respondents

Through: Mr. Yogesh Kumar, Advocate
for Respondent 1.

Ms. Prasansha Sharma for Mr. Santosh K.
Tripathi, Standing Counsel for DOE

CORAM:
HON'BLE MR. JUSTICE C. HARI SHANKAR

JUDGMENT (ORAL)
21.05.2024

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1. The petitioner is a student belonging to the economically weaker sections (EWS). He applied to the Directorate of Education (DoE), through his father, for admission as an EWS student in Class I for the academic session 2023-2024.

2. The data relating to the number of seats which were required to be filled in by various schools in various classes from students belonging to the EWS/DG/CWSN categories was uploaded by the DoE on its website on 13 January 2023. The said data has been placed

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on record with the counter-affidavit of the DoE. The fact that this data was uploaded on 13 January 2023 is not in dispute.

3. The data reveals that in Class I, the Respondent School was required to fill in 19 seats from EWS/DG/CWSN students. These were carry forward seats which had remained unfilled by the Respondent School in earlier years. The principle of carry forward, I may note, stands affirmed by the Division Bench of this Court in *Siddharth International Public School v. Motor Accidents Claim Tribunal*¹ and by this Bench in *Anjali Pandey v. GNCTD*².

4. On 29 February 2024, it had been stated before this Court by Mr. Yogesh Kumar, learned counsel for the Respondent School, that, for the academic year 2023-2024, the Respondent School had within the time granted by the DoE in that regard, filed a representation against the seat matrix which was uploaded on 13 January 2023. In as much the said representation had not been considered by the DoE, it was sought to be submitted that the Respondent School could not be compelled to admit the petitioner.

5. The DoE was asked to file response in that regard but none is forthcoming.

6. In view of this submission of Mr. Yogesh Kumar before this Court on 29 February 2024, no order of provisional admission of the

¹ 2016 SCC OnLine Del 5272
² 2024 SCC OnLine Del 584



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petitioner in the Respondent School was made.

7. Mr. Yogesh Kumar has taken me through the representation which was preferred by the Respondent School against the seat matrix which was uploaded on 13 January 2023. It is true that the representation was preferred on 23 January 2023, within the period of ten days provided for representing against the uploaded seat matrix. It is also true that in the said representation, the Respondent School has asked for sizing down of the number of seats notified in the seat matrix.

8. The reduction in seats reflected in the seat matrix was, however, sought in respect of the notified seats for Nursery / Pre-School and KG / Pre-Primary. *There is no request in the representation dated 23 January 2023 for any reduction in the 19 seats identified as requiring to be filled by the Respondent School in Class 1 from EWS students for the academic year 2023-2024.* In that view of the matter, representation dated 23 January 2023 preferred by the Respondent School does not help its case.

9. Mr. Yogesh Kumar, thereafter, seeks to rely on judgment of this Court in *Ankit Kumar v. GNCTD*³, to contend that as there is no order of provisional admission and no seat has been reserved in favour of the petitioner in Class I by this Court, as the 2023-2024 academic year has drawn to a close and we are now in 2024-2025, no relief can be granted to the petitioner who would have to apply with all other EWS



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candidates for admission in the 2024-2025 academic year against freeship seats in accordance with the second proviso to Section 12(2) of the RTE Act.

10. Ordinarily, it is true that this Court would not grant relief to a petitioner if the academic year for which the petitioner was shortlisted by the DoE in its computerized draw of lots has already come to an end, the principle is that in the next academic year, it is not just that student alone but all other students of the EWS category who would have a right to seek admission in the educational institutions. The petitioner would therefore ordinarily have to compete with all other students.

11. Where, however, an order of provisional admission is passed by the Court during the academic year for which the petitioner was allotted a seat in the Respondent School by the DoE consequent on the computerized draw of lots, the Court is well within its authority to grant relief even after the academic year has come to an end.

12. The only reason why this Court did not pass any order of provisional admission in favour of the petitioner was because of the statement made on behalf of the School that an application pointing out discrepancies in the seat matrix uploaded by the DoE on 13 January 2023 had been preferred by the Respondent School within the time provided in that regard.

13. On going through the said representation, however, it is seen

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that it does not seek any reduction in the number of notified seats which were required to be filled by the Respondent School in Class I. The objection, which was raised by the School before this Court on 29 February 2024, and which persuaded this Court not to pass any interim order of provisional admission was, therefore, misconceived.

14. Had such an objection not been raised, this Court would following similar orders passed in other cases have granted provisional admission to the petitioner.

15. In as much as absence of order of provisional admission, was because of an erroneous statement made by the School before this Court on 29 February 2024, the petitioner cannot be prejudiced in that regard.

16. This case cannot therefore be equated with one of the ordinary cases in which there is no order of provisional admission or reservation of any seat in favour of the petitioner by the Court and the petitioner comes up for hearing after the concerned academic year has ended.

17. In the aforesaid circumstances, I am of the considered opinion that the petitioner would be entitled to be admitted as an EWS student to a seat in Class II to the Respondent School and would be continued to be imparted education as an EWS student in accordance with the provisions of the RTE Act.



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18. It is made clear that this order is being passed in the peculiar circumstances of this case and in view of the statement which had been made before this Court on 29 February 2024 on behalf of the Respondent School and which on deeper scrutiny made today is found not to be correct.

19. In the aforesaid circumstances, the Respondent School is directed to admit the petitioner as an EWS student in Class II. It is true that the RTE Act does not extend to Class II but as the Respondent School, nonetheless is required to admit 20% of students belonging to the EWS category from Classes II onwards.

20. In the peculiar circumstances of this case, one such seat shall be granted to the petitioner, who shall thereafter continue to be educated by the Respondent School as an EWS student with all facilities to which such students are entitled including school uniform, textbooks and the like.

21. The fees for educating the petitioner as an EWS student otherwise payable to the Respondent School would be reimbursed by the DoE.

22. The DoE is also directed to ensure compliance with the above direction to admit the petitioner as an EWS student in the Respondent School in Class II.

23. The writ petition stands allowed in the aforesaid terms with no

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orders as to costs.

MAY 21, 2024/yg

C. HARI SHANKAR, J.

Click here to check corrigendum, if any

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