



2024:DHC:4321



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

+ **W.P.(C) 2394/2024**

**MOHAMMAD AREESH SAIFI THROUGH HIS FATHER  
MOHAMMAD ARIF SAIFI ..... Petitioner**

Through: Mr. Arkaneil Bhaumik with Mr.  
Adhishwar Suri, Adv.

versus

**DIRECTORATE OF EDUCATION & ANR ..... Respondents**

Through: Mr. Santosh Kumar Tripathi,  
Standing Counsel (Civil) with Ms. Prashansa  
Sharma, Advocate. for DoE

Ms. Shikha Sharma Bagga, Adv. for R-  
2/School

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

**ORDER (ORAL)  
21.05.2024**

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1. The petitioner is a 7 year old child belonging to the Economically Weaker Section (EWS) of the society and is, therefore, a “child belonging to the weaker section” within the meaning of Section 2(e)<sup>1</sup> of the Right of Children to Free and Compulsory Education Act, 2009 (the RTE Act).



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2. Section 12(1)(c)<sup>2</sup> and the proviso thereto, read with Section 2(n)(iv)<sup>3</sup> of the Right of Children to Free and Compulsory Education Act, 2009, (“the RTE Act”) requires every unaided private school to admit, in its entry level class, at least 25% of children belonging to the weaker section and the disadvantaged group in the neighbourhood and to provide them free and compulsory elementary education till its completion. Respondent 2 is an unaided school and, therefore, falls within Section 2(n)(iv)<sup>4</sup> of the RTE Act.

3. *Vide* notification dated 23 July 2018, the Directorate of Education (DoE) directed schools allotted land by the Government to admit children belonging to the EWS category in all classes above the entry level classes.

4. On 9 June 2023, DoE issued circular inviting applications for admissions in Class II under the EWS/Free-ship category for the academic session 2023-24.

5. Pursuant to the circular dated 9 June 2023, the petitioner submitted its application for admission in Class II for the academic

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annual income is lower than the minimum limit specified by the appropriate Government, by notification;

**<sup>2</sup> 12. Extent of school's responsibility for free and compulsory education. –**

(1) For the purposes of this Act, a school, -

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(c) specified in sub-clauses (iii) and (iv) of clause (n) of Section 2 shall admit in Class I, to the extent of at least twenty-five per cent of the strength of that class, children belonging to weaker section and disadvantaged group in the neighbourhood and provide free and compulsory elementary education till its completion:

Provided further that where a school specified in clause (n) of Section 2 imparts pre-school education, the provisions of clauses (a) to (c) shall apply for admission to such pre-school education.

<sup>3</sup> (n) “school” means any recognised school imparting elementary education and includes –

(iv) an unaided school not receiving any kind of aid or grants to meet its expenses from the appropriate Government or the local authority;

<sup>4</sup> (n) “school” means any recognised school imparting elementary education and includes –

(iv) an unaided school not receiving any kind of aid or grants to meet its expenses from the

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session 2023-24, with the respondent school as the most preferred school based on the distance between the school and the residence of the petitioner.

6. A computerised draw of lots was conducted by the DoE on 19 July 2023, following which the petitioner was granted admission in the respondent school in Class II for the academic session 2023-24. The petitioner was directed to approach the respondent school on or before 10 August 2023, which was later extended upto 31 August 2023 *vide* Circular dated 11 August 2023.

7. As the respondent school did not admit the petitioner, the petitioner has instituted the present writ petition, seeking a mandamus to the respondent school to admit him.

8. Notice was issued in this writ petition on 19 February 2024. *Vide* order dated 5 March 2024, this Court granted provisional admission to the petitioner in Class II as an EWS candidate in the respondent school.

9. This Court has held, in case after case, including *Jai v. Directorate of Education*<sup>5</sup>, *Arpit v. Adriel High School*<sup>6</sup> and *Deepak Raj v. The Principal Apeejay School*<sup>7</sup> and *Ankit Kumar v. GNCTD*<sup>8</sup> that schools are obligated to admit students who are shortlisted for

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appropriate Government or the local authority;

<sup>5</sup> 2024 SCC OnLine Del 2437

<sup>6</sup> 2024 SCC OnLine Del 3152

<sup>7</sup> 2024 SCC OnLine Del 3213

<sup>8</sup> 2024 SCC OnLine Del 3118

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admission by the DoE, and cannot refuse admission.

10. Resultantly, the provisional admission of the petitioner in Class II in the respondent-school, as granted by this Court *vide* order dated 5 March 2024, is regularised and made final.

11. The petitioner shall be entitled to be educated by the respondent school as an EWS student in accordance with the provisions of the RTE Act and shall be entitled to all facilities to which EWS students are entitled.

12. Ms. Shikha Sharma Bagga, learned Counsel for the respondent school submits that the school has certain misgivings regarding the financial status of the petitioner's father. No cogent material in that regard is forthcoming on record. Besides, in para 125 of its judgment, a Coordinate Bench of this Court has, in ***Rameshwar Jha v. Richmond Global School***<sup>9</sup>, already held that such objections cannot stand in the way of grant of admission to the child who has been shortlisted for admission consequent on the computerised draw of lots conducted by the DoE.

13. The writ petition stands allowed in the aforesaid terms with no orders as to costs.

14. However, this order shall not preclude the respondent-school from examining the financial capacity of the father of the petitioner, if



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it so chooses, in accordance with law.

**C. HARI SHANKAR, J.**

**MAY 21, 2024**

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*Click here to check corrigendum, if any*

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