



2024:DHC:3166



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

+ **W.P.(C) 5086/2024**

RASHMI GUPTA Petitioner

Through: Mr. Prabodh Shukla and Ms.
Richa Choudhary, Advs.

versus

GOVT. OF NCT OF DELHI & ORS. Respondents

Through: Mr. Utkarsh Singh, Adv. for
Mr. Santosh Kumar Tripathi, Standing
Counsel (C) for DoE
Mr. Atul Jain and Mr. Anikesh Brahma,
Advs. for respondent school
Mr. Atul Jain, Adv. for Respondents 3 and 4

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

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

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22.04.2024

W.P.(C) 5086/2024

1. In the point based admission system, which was being followed by the Respondent 1 school for effecting pre-school admission for the 2024-2025 academic session, the son of the petitioner Master Ivaan Rana was considered but was not found eligible for admission as the cut-off for admission was 70 points, whereas Ivaan scored only 65 points.

2. Aggrieved thereby, the petitioner has instituted the present writ petition before this Court. The petitioner's contention is that the respondent-school erred in computing the number of points to which

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Ivaan was entitled. According to the petitioner, he was entitled to 70 points instead of 65, as his residence was within 1 km of the respondent-school. There is no dispute about the fact that students, whose residence is located within 1 km of the school, are entitled to 70 points.

3. The respondent-school, instead, awarded Ivaan 65 points against the distance criterion. This is the first bane of the petitioner's grievance before this Court.

4. The second grievance urged by the petitioner is that the respondent-school erred in not granting Ivaan 20 points on the ground that his siblings were already studying in the respondent-school.

5. Apropos the second ground of challenge, the petitioner has not been able to draw the attention of this Court to any circular, notification, rule, regulation or other binding document, which entitles Ivaan to 20 additional points on the ground that his siblings were studying in the respondent-school. Reliance has been placed in the writ petition on a circular dated 26 February 2020 issued by the Directorate of Education (DoE). However, Mr. Jain, learned Counsel for the respondent-school pointed out that the said circular applies to Schools of Excellence. The respondent-school has not been notified as a School of Excellence and, therefore, the circular dated 26 February 2020 is not applicable to the respondent-school.

6. Mr. Jain's contention is that the respondent-school has, in its admission criteria for admission against the open seats for the



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academic session 2024-2025, restricted the availability of sibling benefit upto a second child. As the petitioner's son is the third child of his parents, Mr. Jain's contention is that the petitioner is not entitled to the benefit of the sibling criterion. Mr. Jain has handed over, across the bar, the admission criteria of the respondent-school, which restricts the availability of sibling benefit of 20 additional points to a student who is a sibling of an existing student of the school, to a second child.

7. Mr. Shukla, learned Counsel for the petitioner does not dispute this submission. He is unable to draw my attention to any circular on the basis of which the petitioner could claim 20 points as a sibling of existing students of the school, despite his being the third child of his parents.

8. Mr. Shukla, however, sought to contend that even if the petitioner was not granted 20 points as being the sibling of a student already studying in the respondent-school, the petitioner would nonetheless be entitled to a score of 70 points as the petitioner's residence is situated within 1 km of the school.

9. During the course of arguments, learned Counsel for both sides are *ad idem* that the petitioner in fact submitted two forms, one on 11 December 2023 and the second on 12 December 2023 respectively, which were numbered R1338 and R1441. The name of the petitioner was reflected in Form R1338 as Inaan Rana instead of Ivaan Rana. Mr. Shukla's contention is that the second form R1441 had to be filled as the name of the petitioner was wrongly entered in the first form R1338.

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10. Be that as it may, both forms reflected the same residential address of the petitioner as G-3, Sai Apartments, Sector 13, Rohini, Delhi-110085. In Form R1338, the distance between the petitioner's residence and the school was entered as 1.39 km, whereas, in the second form R1441, the distance was entered as 0.51 km.

11. Mr. Jain submits that the distance between G-3, Sai Apartments, Sector 13, Rohini, Delhi-110085 and the school could not quite obviously be both 1.39 km and 0.51 km. He draws my attention to the instructions dated 16 November 2023 issued by the respondent-school, in which the distance between the school and the residence of the petitioner has to be assessed as per Google maps, with the further rider with "the final score will be calculated by the use of appropriate software". He submits that, when the distance between the petitioner's declared residence at G-3, Sai Apartments, Sector 13, Rohini, Delhi-110085 and the school was calculated using the Google software, the distance was found to be 1.39 km.

12. There does not, therefore, appear to be any error in the school treating the petitioner's residence as between 1 and 2 km, rather than as between 0 and 1 km and, therefore, awarding the petitioner only 65 points instead of 70 against the distance criterion.

13. Even otherwise, a petitioner who submits two forms, showing two different distances can hardly come to seek relief from a writ Court, exhorting the Court to compel the respondent to accept one of the two forms in preference to the other. The very act of submitting two forms with different distances between the petitioner's residence

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and the school being shown, one between 0 and 1 km and other between 1 and 2 kms, itself disentitles the petitioner to relief under Article 226 of the Constitution of India, in which equity essentially and fundamentally inheres.

14. Mr. Shukla further sought to contend that, on 8 January 2024, the petitioner's mother addressed an email to the respondent-school, informing the respondent that she had shifted to 115, Neelgiri Apartment, Sector 9, Rohini, Delhi – 110085, which was less than 1 km from the respondent-school.

15. This communication can have no bearing on the case at hand. The last date for submission of application forms for admission was admittedly 15 December 2023. Time was granted, thereafter, till 8 January 2024 only for students to clear any doubts which may have existed. The last date for submission of the application form does not thereby stand extended till 8 January 2024. Neither did the procedure being followed by the school permit any change of address after the last date for submission of application, which was 15 December 2023. As such the email dated 8 January 2024 addressed by the petitioner to the respondent-school cannot come to the aid of the petitioner.

16. Neither of the contentions advanced by the petitioner, regarding miscalculation by the respondent-school of the points to which the petitioner was entitled either on the sibling criterion or on the distance criterion, therefore, impresses.

17. The respondent-school cannot, therefore, be faulted for having

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awarded 65 points to the petitioner.

18. Resultantly, the writ petition fails and is accordingly, dismissed, with no order as to costs.

CM APPL. 20885/2024 and CM APPL. 20886/2024

19. These applications do not survive for consideration and stand disposed of.

C.HARI SHANKAR, J

APRIL 22, 2024

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Click here to check corrigendum, if any

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