



2024:DHC:285



\$~17

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**+ **W.P.(C) 5752/2019 and CM No.25082/2019**

**MST. LAKSHYA THROUGH NATURAL
GUARDIAN SH. MAHENDRA KUMAR** Petitioner
Through: **Mr. Vinay Rathi, Advocate**

versus

**GOVERNMENT OF NCT OF DELHI
AND ORS.** ... Respondent
Through: **None**

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

**JUDGMENT (ORAL)
12.01.2024**

%

1. The Petitioner is a student belonging to the economically weaker section (EWS) category.

2. On 18 January 2019, the Directorate of Education (DoE) issued Circular DE-15(298)/PSB/2018/691-696 publishing vacancy data pertaining to EWS seats in various schools. The schools were required to submit written representations to the private school branch of the DoE till 25 January 2019 in the event of any discrepancy in the number of seats indicated as available in that particular school. The DoE was to forward the representation between 25 and 31 January 2019.

3. The Circular dated 18 January 2019 further clarified that, if no representation was received from the concerned school, it would be

Signature Not Verified

Digitally Signed
By: AJIT KUMAR
Signing

Date: 13.01.2024 20:46

W.P.(C) 5752/2019

Page 1 of 6



presumed that the data in respect of the school was correct and the DoE would proceed to conduct draw of lots to assign schools to EWS candidates in accordance with the mandate of Section 12 (1)(a) and (b)¹ of the Right of Children to Free and Compulsory Education Act, 2009 (the 2009 Act) read with Clause 3(a)² of the Delhi School Education (Free Seats for Students belonging to Economically Weaker Sections and Disadvantage Group) Order, 2011 which extended the applicability of the 2009 Act to pre-school education.

4. On 15 March 2019, the DoE issued another Circular No.DE15(298)/PSB/2018/2442-2448 notifying the fact that the computerized draw of lots for admissions to seats against the EWS quota from Class II to IX had been conducted that day, i.e. on 15 March 2019. The circular also made it mandatory for schools to call all candidates who had been allotted seats in their institution through the said computerized draw of lots on their registered mobile number informing the candidates of the fact that they had been selected and

¹ 12. **Extent of school's responsibility for free and compulsory education.—**

- (1) For the purposes of this Act, a school,—
- (a) specified in sub-clause (i) of clause (n) of Section 2 shall provide free and compulsory elementary education to all children admitted therein;
 - (b) specified in sub-clause (ii) of clause (n) of Section 2 shall provide free and compulsory elementary education to such proportion of children admitted therein as its annual recurring aid or grants so received bears to its annual recurring expenses, subject to a minimum of twenty-five per cent;
 - (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.

² 3. **Free seats for students belonging to weaker section and disadvantaged group:**

- (a) All Schools shall admit children in class one to the extent of at least twenty-five per cent of the strength of that class, children belonging to weaker sections and disadvantaged groups in neighborhood and provide free and compulsory elementary education till its completion: Provided that where such school imparts pre-school education, the provisions shall apply for admission to such pre school education.



2024:DHC:285



intimating them the last date for securing admission.

5. In the draw of lots, the petitioner had been allotted a seat in the Ryan International School (hereinafter, the School) in Class II. She approached the school to obtain admission.

6. However, the school refused admission to the Petitioner on the ground that it did not have any EWS seat vacant in which she could be accommodated.

7. Contending that, in view of the mandate of the circulars issued by the DoE, it was not permissible for the school to adopt such a stand, the petitioner moved this Court by means of the present writ petition, seeking a direction to the school to admit her.

8. When this petition came up for preliminary hearing before this Court on 30 May 2019, the school sought to contend that there were no EWS vacancies in Class II available in its institution. This Court observed that the stand could not be accepted, as the school's name had turned up in the draw of lots conducted by the DoE while considering the petitioner's case for admission against the EWS category. The Court noted that the circular dated 18 January 2019 issued by the DoE made it explicitly clear that the draw of lots would be conducted against the number of vacancies intimated by the School and that if there was any discrepancy, the school was to correspond with the DoE on or before 25 January 2019.

Signature Not Verified

Digitally Signed
By: AJIT KUMAR
Signing
Date: 13.01.2024 20:46

W.P.(C) 5752/2019

Page 3 of 6



2024:DHC:285



9. In that view of the matter, this Court directed the school to keep one EWS seat vacant.

10. When the matter next came up before this Court on 16 December 2019, the Court heard learned counsel for the DoE as well as learned counsel for the School and observed that, prior to the admission process having been initiated, the School had intimated the DoE that it had 16 vacancies in the General category and 4 vacant seats in the EWS category in the academic session 2019-2020, with which we are concerned. Admittedly, none of the 16 seats available in the General category had been filled. Of the 4 seats available in the EWS category, the School informed the Court that 3 seats had been filled up by carrying forward provisional admissions of 2018-2019. Even so, the Court observed that one EWS seat continued to be available in the school.

11. Inasmuch as the petitioner's name have come up for admission to the EWS seat which was available in the school by a computerized draw of lots, the Court was of the opinion that petitioner could not be denied admission to the school.

12. Accordingly, the Court passed an interim order directing the petitioner to be granted admission by the school.

13. This matter has been taken up today and called out twice. There is no appearance on behalf of the school.

Signature Not Verified

Digitally Signed
By: AJIT KUMAR
Signing
Date: 13.01.2024 20:46

W.P.(C) 5752/2019

Page 4 of 6



2024:DHC:285



14. In the meanwhile, consequent to the orders passed by this Court, the petitioner apparently stands admitted to the school. The grievance of the petitioner in the present petition, which was essentially that she was not being granted admission against the EWS category in Class II in the respondent school in the academic session 2019-2020, thereby stands redressed.

15. Inasmuch as the school has not turned up to contest the matter and the DoE obviously is not taking up the matter on an adversarial plane, no useful purpose would be served in keeping this writ petition pending.

16. Accordingly, order dated 16 December 2019, to the extent it directs the petitioner to be granted admission in the Respondent 4 school is made absolute. The petitioner shall hereafter continue to be provided education in the EWS category in the Respondent 4 school.

17. The order dated 16 December 2019 also flags the issue of how the fees for the education of the Petitioner would be paid.

18. The DoE has categorically stated before the Court that, as the school was allotted the land at a concessional rate under the allotment by the DDA, the DoE would not be reimbursing the said amount. The school is not available before this Court to voice its take on the issue, though the matter has been called out twice.

19. In any event, that issue is not strictly relevant to the relief

Signature Not Verified

Digitally Signed

By: AJIT KUMAR W.P.(C) 5752/2019

Signing

Date: 13.01.2024 20:46



2024:DHC:285



sought in this petition, which stands granted with the petitioner having been provided admission in the Respondent 4-school. As already noted, the petitioner shall continue to be provided education by the school as an EWS candidate.

20. In so far as the aspect of payment of fee is concerned, the matter is essentially between the School and the DoE. The petitioner, as an EWS candidate, cannot be asked to cough up the fees. Accordingly, in case the school has any grievance on this score, liberty is reserved with the school to take up the said issue separately in appropriate proceedings in accordance with law.

21. This writ petition is disposed of in the aforesaid terms with no orders as to costs.

C.HARI SHANKAR, J

JANUARY 12, 2024/yg

Click here to check corrigendum, if any

Signature Not Verified

Digitally Signed
By: AJIT KUMAR
Signing

Date: 13.01.2024 20:46

W.P.(C) 5752/2019

Page 6 of 6