



2024:DHC:4462



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**+ **W.P.(C) 9374/2023 and CM APPL. 66427/2023****MASTER DEVANSH KUMAR** PetitionerThrough: **Ms. Pulkita Nara, Advocate**

versus

GOVT OF NCT OF DELHI AND ANR. RespondentsThrough: **Mr. Arun Panwar for Mr. Santosh K. Tripathi, SC for DoE****Mr. Pramod Gupta, Ms. Adyanshi Kashyap and Mr. Nicole Gomez and Mr. Dinesh Kumar, Advs. for R2****CORAM:****HON'BLE MR. JUSTICE C.HARI SHANKAR****ORDER (ORAL)****24.05.2024**

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1. The petitioner is a 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)¹ of the Right of Children to Free and Compulsory Education Act, 2009 (the RTE Act).

2. Section 12(1)(c)² and the proviso thereto, read with Section

¹ (e) “child belonging to weaker section” means a child belonging to such parent or guardian whose annual income is lower than the minimum limit specified by the appropriate Government, by notification;

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

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

(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.



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2(n)(iv)³ 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)⁴ of the RTE Act.

3. The petitioner applied with the Directorate of Education (DoE) for admission as an EWS student in the Respondent 2 School for the academic year 2021-2022 in class Nursery/Pre-School. A computerized draw of lots was conducted by the DoE in which the petitioner was found entitlement to admission in the Respondent 2 School.

4. Alleging that the Respondent School declined to admit the petitioner, this writ petition was instituted by the petitioner seeking issuance of a writ of mandamus to the Respondent School to admit the petitioner in Nursery / Pre-School in the EWS category.

5. This Court has already held that the right which enures in favour of an EWS student for admission to an entry level class in a school, consequent on the computerized draw of lots conducted by the DoE, survives only for the year in respect of which allotment is made.

³ (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;

⁴ (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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If the student does not come to the Court during that year, the right that flows from the computerized draw of lots conducted by the DoE ceases to exist. For the next year in the next higher class, student would be entitled to seek admission but she/he would have to compete with all other EWS students afresh.

6. This view has been expressed by me, inter alia, in **Ankit Kumar v. GNCTD⁵**.

7. As the petitioner approached this Court after the year 2021-2022 academic session had come to an end, the petitioner cannot be granted any relief by this Court.

8. The writ petition is, accordingly, dismissed.

9. However, since the petitioner was granted provisional admission on the basis of an order passed by this Court, the DoE is directed to ensure that the petitioner be provided alternate means of education so that academic career of the petitioner is not jeopardized.

C.HARI SHANKAR, J

MAY 24, 2024/yg

Click here to check corrigendum, if any

appropriate Government or the local authority;
⁵ WP(C) 5523/2024