



2024:DHC:4323



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**+ **W.P.(C) 9950/2023**

MASTER PIYUSH SAHA & ANR. Petitioners
Through: Mr. Vivek Kumar Tandon with
Ms. Prerna Tandon, Advocates

versus

**MAHARAJA AGRASEN ADARSH VIDYALAYA SCHOOL
& ANR.** Respondents
Through: Mr. Neeraj Dinkar, Mr. S.C.
Agrawal, and Mr. B.S. Malik and, Advs. for
R-1.
Mr. Utkarsh Singh, Advocate on behalf of
Mr. Santosh Kumar Tripathi, Standing
Counsel for GNCTD.

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

ORDER (ORAL)/% **21.05.2024**

1. The petitioners are children belonging to the Economically Weaker Section (EWS) of the society and are, therefore, “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



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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 1 is an unaided school and, therefore, falls within Section 2(n)(iv)⁴ of the RTE Act.

3. *Vide* Circulars dated 13 January 2023 and 2 February 2023, DoE launched a computerised online admission process through its portal laying down the admission procedure to Entry-Level classes for the academic session 2023-24.

4. Pursuant to the circular dated 13 January 2023, the petitioners submitted their application for admission in Nursery/Pre-School. A computerised draw of lots was thereafter conducted by the DoE on 14 March 2023, following which the petitioners were granted admission in the respondent school for the academic session 2023-24.

5. As the respondent school did not admit the petitioners, the petitioners have instituted the present writ petition, seeking a mandamus to the respondent school to admit them pursuant to the

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.

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 appropriate Government or the local authority;

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draw of lots conducted on 14 March 2023.

6. While issuing notice in this writ petition on 28 July 2023, this Court observed that the admission status of Petitioner 2- Reyansh Gupta was shown as admitted whereas Petitioner 1- Piyush Saha's name was reflected in the waiting list. Respondent school was thus directed to reserve a seat for Petitioner 1 in class Pre-Nursery/Nursery, to be read as Nursery/Pre-School.

7. As the respondent school submitted that it has granted admission to Petitioner 2, this Court *vide* order dated 6 December 2023, granted provisional admission to the Petitioner 1 in Class Nursery/Pre-School as an EWS candidate in the respondent school for academic session 2023-24.

8. This Court has held, in case after case, including *Jai v. Directorate of Education*⁵, *Arpit v. Adriel High School*⁶ and *Deepak Raj v. The Principal Apeejay School*⁷ and *Ankit Kumar v. GNCTD*⁸ that schools are obligated to admit students who are shortlisted for admission by the DoE, and cannot refuse admission.

9. Resultantly, the provisional admission of the Petitioner 1 in Class Nursery/Pre-School in the respondent school, as granted by this Court *vide* order dated 6 December 2023, is regularised and made final.

⁵ 2024 SCC OnLine Del 2437

⁶ 2024 SCC OnLine Del 3152

⁷ 2024 SCC OnLine Del 3213

⁸ 2024 SCC OnLine Del 3118

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10. The petitioner shall be entitled to study in the respondent school as an EWS student in accordance with the provisions of RTE Act and shall be entitled to all facilities to such students are entitled.

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

C. HARI SHANKAR, J.

MAY 21, 2024

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Click here to check corrigendum, if any

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