



2024: DHC: 4077



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**+ **W.P.(C) 11534/2023****SABRIN KHATUN**

..... Petitioner

Through: Mr. Aayush Agarwala, Ms.
Bhumika Sharma & Mr. Kunj Mehra, Advs.

versus

GOVT OF NCT OF DELHI & ANR

..... Respondents

Through: Mr. Santosh Kumar Tripathi,
SC (C) with Mr. Utkarsh Singh, Adv. for
DoE

None for Respondent 2

CORAM:**HON'BLE MR. JUSTICE C. HARI SHANKAR****JUDGMENT (ORAL)**

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17.05.2024**W.P. (C) 11534/2023**

1. There is no appearance on behalf of Respondent 2 school.
2. The issue in this case is squarely covered by the judgment of this Court in various cases including *Jai v. Directorate of Education*¹, *Master Arpit v. Adriel High School*² and *Deepak Raj v. The Principal Apeejay School*³.
3. The petitioner belongs to the Economically Weaker Section/ Disadvantaged Group (EWS/DG). The present writ petition relates to

¹ 2024 SCC OnLine Del 2537² Order dated 30 April 2024 in WP (C) 2848/2024

Order dated 3 May 2024 in WP (C) 14843/2023

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the petitioner's son Md. Nawaz Khan. The petitioner's son is, therefore, a child belonging to EWS/DG within the meaning of Section 2(e) of the Right of Children to Free and Compulsory Education Act, 2009 (RTE Act) and is, therefore, entitled to free, compulsory and elementary education till its completion under Section 12(c) of the RTE Act. Elementary Education, it may be noted, is defined in Section 2(f) of the RTE Act as education from Class I to Class VIII.

4. The *proviso* to Section 12 makes Section 12(c) applicable for admission to free education in the case of school which provides free school education.

5. The petitioner applied for admission for her son as an EWS/DG student in Nursery/Pre-school in the academic year 2023-2024 to the Directorate of Education (DoE). A computerized draw of lots was conducted by the DoE, which resulted in the petitioner's son getting shortlisted for admission to Nursery/Pre-school in the respondent school.

6. As the respondent school refused to grant admission to the petitioner's son, the petitioner has instituted the present writ petition seeking issuance of writ of mandamus to the respondent school to grant admission to the petitioner's son.

7. At the time of issuance of notice on 31 August 2023, this Court directed the petitioner's son to be granted provisional admission to

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Nursery/Pre-school for the academic session 2023-2024 as an EWS/DG category student in the respondent school.

8. The issue in controversy in this case is squarely covered by the judgment of this Court in **Jai, Arpit** and **Deepak Raj**. This Court has uniformly adopted a view that short-listing by the DoE of a student for admission to a particular class in a particular school as an EWS/DG category candidate, creates in favour of the said student an enforceable right that the school cannot refuse to grant admission to the student, unless the school has represented within the stipulated period, after uploading of the seat matrix by the DoE on its website, seeking modification in the said seat matrix.

9. There is no appearance in the present case to canvass any such stand. Following the decisions in **Jai, Arpit** and **Deepak Raj**, the petitioner's son is entitled to regularization of the provisional admission granted to him as an EWS/DG student granted in the respondent school *vide* order dated 31 August 2023 passed by this Court.

10. Accordingly, this writ petition is allowed. The provisional admission granted to the petitioner's son as an EWS/DG student in the respondent school in Nursery/Pre-school in 2023-2024 stands regularized. The petitioner's son would be entitled to progressive promotion to higher classes and to be educated by the respondent school as an EWS/DG category candidate in accordance with the provisions of the RTE Act. The petitioner's son shall also be provided

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all amenities and facilities to which such students are entitled including school uniform, textbooks and the like.

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

CM APPL. 48209/2023 (modification/recall of order dated 31 August 2023)

12. This application does not survive for consideration and stands disposed of.

C.HARI SHANKAR, J

MAY 17, 2024
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Click here to check corrigendum, if any

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