



2024:DHC:4256



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 12845/2023**

YASH THROUGH HIS FATHER SUSHIL Petitioner
Through: **Mr. Arkaneil Bhaumik, Adv.**

versus

DIRECTORATE OF EDUCATION & ANR. Respondent
Through: **Mr. Utkarsh Singh for Mr. Santosh Kumar Tripathi, Standing Counsel for GNCTD**
Ms. Swati Surbhi, Advocate for R2

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

JUDGMENT (ORAL)

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22.05.2024

1. The petitioner is a student belonging to the Scheduled Castes. He, therefore, qualifies as a “child belonging to the disadvantaged group” within the meaning of Section 2(d)¹ of the Right of Children to Free and Compulsory Education Act, 2009 (the RTE Act). The Respondent 2 School satisfies ingredients of Section 2(n)(iv)² of the RTE Act.

¹ **2. Definitions.**—In this Act, unless the context otherwise requires,—

(d) “child belonging to disadvantaged group” means 5[a child with disability or] a child belonging to the Scheduled Caste, the Scheduled Tribe, the socially and educationally backward class or such other group having disadvantage owing to social, cultural, economical, geographical, linguistic, gender or such other factor, as may be specified by the appropriate Government, by notification;

² (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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2. By operation of Section 12(1)(c) of the RTE Act read with the proviso³ thereto, the respondent school is obligated to admit at least 25% of students in its entry level class belonging to the EWS/DG/CWSN category. The entry level class in the Respondent School is admittedly KG/Pre-Primary.

3. The petitioner applied to the Directorate of Education (DoE) as a DG category student for admission to the KG/Pre-Primary entry grade in 2023-2024. Among the schools which the petitioner selected, and to which the petitioner desired admission, was the respondent school.

4. A computerized draw of lots was conducted by the DoE on 14 March 2023, following which the petitioner was found eligible and entitled to admission to KG/Pre-Primary in the Respondent School and allotment letter to that effect was issued by the DoE. As the respondent school denied admission to the petitioner, the petitioner approached this Court by means of the present writ petition, seeking a writ of mandamus directing the respondent school to admit the petitioner.

5. *Vide* order dated 27 September 2023, this Court directed

³ 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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provisional admission to be granted to the petitioner in the respondent school in KG/Pre-primary.

6. In that view of the matter, following the judgment of this Court in *Jai v. Directorate of Education*⁴, *Arpit v. Adriel High School*⁵ and *Deepak Raj v. The Principal Apeejay School*⁶, the petitioner would be entitled to regularization of his admission as a DG category student in the Respondent 2 School.

7. Accordingly, the provisional admission of the petitioner in the KG/Pre-primary in the respondent-school, as granted by this Court *vide* order dated 27 September 2023, is regularized and made permanent. The respondent-school is directed to continue to provide education to the petitioner as a DG category student in accordance with the mandate of the RTE Act along with all facilities and amenities to which such students are entitled.

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

C.HARI SHANKAR, J

MAY 22, 2024

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[Click here to check corrigendum, if any](#)

⁴ 2024 SCC OnLine Del 2537

⁵ Order dated 30 April 2024 in WP (C) 2848/2024

⁶ Order dated 3 May 2024 in WP (C) 14843/2023