



2024:DHC:4078



\$~26

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 12937/2023**

RAKESH

..... 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

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

JUDGMENT (ORAL)

%

17.05.2024

W.P.(C) 12937/2023

1. There is no appearance on behalf of the 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, *Arpit v. Adriel High School*² and *Deepak Raj v. The Principal Apeejay School*³.
3. The petitioner belongs to the Disadvantaged Group (DG) in Scheduled Caste (SC) category. The present writ petition relates to the

¹ 2024 SCC OnLine Del 2537

² Order dated 30 April 2024 in WP (C) 2848/2024

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

Signature Not Verified

Digitally Signed
By: AJIT KUMAR
Signing
Date: 19.05.2024 18:18

WP(C) 12937/2023

Page 1 of 4

Signature Not Verified

Digitally Signed
By: CHANDRASHEKHAR
AN HARI SHANKAR
Signing Date: 19.05.2024
18:17



2024:DHC:4078



petitioner's daughter Jahnvi Ahirwar. The petitioner's daughter is, therefore, a child belonging to DG in the SC category within the meaning of Section 2(e) of the Right of Children to Free and Compulsory Education Act, 2009 ("the 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 pre-school education in the case of schools which provide such pre-school education.

5. The petitioner applied for admission for his daughter as a DG student in SC category 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 daughter being shortlisted for admission to Nursery/Pre-school in the respondent school.

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

7. At the time of issuance of notice on 4 October 2023, this Court directed the petitioner's daughter to be granted provisional admission

Signature Not Verified

Digitally Signed
By: AJIT KUMAR
Signing
Date: 19.05.2024 18:18

WP(C) 12937/2023

Page 2 of 4

Signature Not Verified

Digitally Signed
By: CHANDRASHEKHAR
AN HARI SHANKAR
Signing Date: 19.05.2024
18:17



2024:DHC:4078



to Nursery/Pre-school for the academic session 2023-2024 as a 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 to be admitted, and 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 of the school by the DoE on its website, seeking modification in the said seat matrix.

9. No one appears on behalf of the respondent school to canvass any such stand.

10. Following the decisions in *Jai, Arpit* and *Deepak Raj*, therefore, the petitioner's daughter is entitled to regularization of her provisional admission as a DG category student in the respondent school *vide* order dated 4 October 2024 passed by this Court.

11. Accordingly, the provisional admission granted to the petitioner's daughter as a DG category student in the respondent school in Nursery/Pre-school in 2023-2024 stands regularized. The petitioner's daughter would be entitled to progressive promotion to higher classes and to be educated by the respondent school as a DG

Signature Not Verified

Digitally Signed
By: AJIT KUMAR
Signing
Date: 19.05.2024 18:18

WP(C) 12937/2023

Page 3 of 4

Signature Not Verified

Digitally Signed
By: CHANDRASHEKHAR
AN HARI SHANKAR
Signing Date: 19.05.2024
18:17



2024:DHC:4078



category student in accordance with the provisions of the RTE Act. The petitioner's daughter shall also be provided all amenities and facilities to which such students are entitled, including school uniform, textbooks and the like.

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

CM APPL. 50902/2023 (Interim Directions)

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

C.HARI SHANKAR, J

MAY 17, 2024

rb

Click here to check corrigendum, if any

Signature Not Verified

Digitally Signed
By: AJIT KUMAR
Signing
Date: 19.05.2024 18:18

WP(C) 12937/2023

Signature Not Verified

Digitally Signed
By: CHANDRASHEKHAR
AN HARI SHANKAR
Signing Date: 19.05.2024
18:17

Page 4 of 4