



2024:DHC:6326



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

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Reserved on: 16.08.2024
Pronounced on: 22.08.2024+ **W.P.(C) 9810/2024**

GUNJAN AS GUARDIAN OF PIHUPetitioner

Through: Mr. Aayush Agarwala,
Advocate

versus

GOVT OF NCT OF DELHI & ANR. ...Respondents

Through: Mr. Santosh Kumar Tripathi,
SC Civil GNCTD with Mr.
Divyam Nandrajog and Mr.
Utkarsh Singh, Advocates for
DoE.Mr. Sanjay Sehgal and Mr.
Shivesh Sehgal, Advocates for
the R-2/3 Holy Innocents
public school+ **W.P.(C) 9821/2024**KAMALJOT KAUR BHAMRA ACTING AS GUARDIAN
OF JASRAJ KAUR BHAMRAPetitionerThrough: Mr. Aayush Agarwala,
Advocate

versus

GOVT OF NCT OF DELHI & ANR. ...Respondents



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Through: Mr. Santosh Kumar Tripathi,
SC Civil GNCTD with Mr.
Divyam Nandrajog and Mr.
Utkarsh Singh, Advocates for
DoE.

Mr. Sanjay Sehgal and Mr.
Shivesh Sehgal, Advocates for
the R-2/3 Holy Innocents
public school

+ **W.P.(C) 10369/2024**

MASTER YUVRAJ

.....Petitioner

Through: Mr. Rahul Bajaj & Mr. Amar
Jain, Advocates

versus

DIRECTORATE OF EDUCATION (GNCTD)

AND ANR.

....Respondents

Through: Mr. Santosh Kumar Tripathi,
SC Civil GNCTD with Mr.
Divyam Nandrajog and Mr.
Utkarsh Singh, Advocates for
DoE.

Mr. Sanjay Sehgal and Mr.
Shivesh Sehgal, Advocates for
the R-2/3 Holy Innocents
public school

+ **W.P.(C) 10399/2024**

LAVANYA SHARMA THROUGH HER MOTHER

(MRS. YAMUNA)

.....Petitioner



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Through: Ms. Aditi Gupta, (DHCLSC),
Advocate.

versus

DIRECTORATE OF EDUCATION & ANR. ..Respondents

Through: Mr. Santosh Kumar Tripathi,
SC Civil GNCTD with Mr.
Divyam Nandrajog and Mr.
Utkarsh Singh, Advocates for
DoE.

Mr. Sanjay Sehgal and Mr.
Shivesh Sehgal, Advocates for
the R-2/3 Holy Innocents
public school

+ **W.P.(C) 10464/2024**

ANUREET KAUR

.....Petitioner

Through: Ms. Aditi Gupta (DHCLSC),
Advocate

versus

DIRECTORATE OF EDUCATION & ANR. ..Respondents

Through: Mr. Santosh Kumar Tripathi,
SC Civil GNCTD with Mr.
Divyam Nandrajog and Mr.
Utkarsh Singh, Advocates for
DoE.

Mr. Sanjay Sehgal and Mr.
Shivesh Sehgal, Advocates for
the R-2/3 Holy Innocents
public school



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+ **W.P.(C) 9597/2024**

RINKU ACTING AS GUARDIAN OF MANYA ...Petitioner

Through: Mr. Aayush Agarwala, Mr. Anuj P. Agarwala, Mr. Kunj Mehra, Ms. Mallika Luthra, Mr. Nilesh Kumar, Mr. Prakash Jha, Advocates

versus

GOVT OF NCT OF DELHI & ANR. ...Respondents

Through: Mr. Santosh Kumar Tripathi, SC Civil GNCTD with Mr. Divyam Nandrajog and Mr. Utkarsh Singh, Advocates for DoE.

Mr. Sanjay Sehgal and Mr. Shivesh Sehgal, Advocates for the R-2/3 Holy Innocents public school

+ **W.P.(C) 9834/2024**

VRIDDHI MINOR (THROUGH NEXT FRIEND) ...Petitioner

Through: Mr. Raghavendra Mohan Bajaj, Mr. Shagun Agarwal, Mr. Sajal Awasthi, Advocates.

versus

DIRECTORATE OF EDUCATION & ANR. ..Respondents

Through: Mr. Santosh Kumar Tripathi, SC Civil GNCTD with Mr. Divyam Nandrajog and Mr. Utkarsh Singh, Advocates for



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DoE.

Mr. Sanjay Sehgal and Mr.
Shivesh Sehgal, Advocates for
the R-2/3 Holy Innocents
public school

+ **W.P.(C) 10179/2024**

PRIZLEEN KAUR & ORS.

.....Petitioners

Through: Mr. Arkaneil Bhaumik, Ms.
Rupam Jha, Mr. Adhishwar
Suri, Ms. Suparna Jain, Ms.
Ibansara Syiemlieh Mr.
Dushyant Kaul, Advocates
(through VC).

versus

DIRECTORATE OF EDUCATION & ORS. ..Respondents

Through: Mr. Santosh Kumar Tripathi,
SC Civil GNCTD with Mr.
Divyam Nandrajog and Mr.
Utkarsh Singh, Advocates for
DoE/R-1.

CORAM:**HON'BLE MS. JUSTICE SWARANA KANTA SHARMA****J U D G M E N T****Index to the Judgment**

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SWARANA KANTA SHARMA, J.

1. The present case involves eight petitions, brought forward by ten petitioners, all of whom are united by a common experience and a shared goal. Their common experience lies in the difficulties they have encountered due to technical issues while seeking admission under the Economically Weaker Section/Disadvantaged Group [‘EWS/DG’] category — a right to which they are entitled under the



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Right to Education Act. Their shared goal is to secure quality education and ensure equal treatment by private unaided schools.

2. The present judgment seeks to address these issues and lay down the much-needed guidelines towards achieving equitable educational attainment goals and try to alleviate the challenges faced by both the schools, and the students belonging to the EWS/DG category, thereby promoting a more just and accessible educational environment.

3. This judgment is focused not only on law or access of children to educational opportunities alone, but also on the intertwined critical issue of the dignity of children irrespective of them being rich, middle class or poor.

4. These writ petitions have been filed under Article 226 of the Constitution of India on behalf of children belonging to the EWS/DG category who have been denied admission in respondent School i.e. Holy Innocents Public School (Senior Wing). The refusal is based on the premise that the Junior Wing and Senior Wing of the School are distinct entities, and that the allotment made by the Directorate of Education [*DoE*] for the Junior Wing does not extend to the Senior Wing.

FACTUAL BACKDROP

5. The common facts discernible from all these petitions, which are relevant for the purpose of deciding the issue in question, are that the petitioners who are all minor children, had applied through their parents/guardians, to the DoE for the purpose of securing admission



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in entry level classes i.e. Nursery/Pre-School or KG/Pre-Primary, under the EWS/DG category. Consequent to conduct of a computerised draw of lots by the DoE, either in the year 2022 or 2023, these children were allotted seats in Junior Wing of Holy Innocents Public School, located in Janakpuri, Delhi. Pursuant to such allotment being made by DoE, these children had obtained admission in the said School and had completed their education in the entry level classes.

6. However, the challenge to the continuous education of these children arose when they were promoted to Class 1 after satisfactorily completing their KG/Pre-Primary classes, for the purpose of which they visited the Senior Wing of Holy Innocents Public School, located in a different locality i.e. Vikaspuri, Delhi. However, to the utter shock of these children, the Senior Wing of the School refused to grant admission to these children in Class 1, on the premise that as per the computerised draw of lots conducted by the DoE, these children had been allotted the Junior Wing of the School which is having a different School ID (*unique number given to the Schools by the DoE*) i.e. 1618313, and on the strength of such allotment made to these children, they cannot be promoted to and be granted admission in Class 1 of the Senior Wing of the School which has a different School ID, i.e. 1618232 provided by the DoE. One of the petitioners before this Court was, in fact, earlier granted admission in Class 1 of the Senior Wing of the School and the aforesaid issue was raised at the time of her promotion to Class 2.



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7. A common thread that emerges from these petitions is that being aggrieved by the aforesaid action of the School, the parents/guardians of these children were compelled to file RTI applications, write letters or representations to the Ministry of Education or DoE, and eventually file their complaints with the National Commission of the Protection of Child Rights [*‘NCPCR’*]. Left with no option, the petitioners herein were finally compelled to approach this Court for seeking admission in the Senior Wing of the respondent School, and for enforcement of their fundamental right to education as guaranteed under Article 21A of the Constitution of India.

SUBMISSIONS BEFORE THIS COURT

Submissions on behalf of Petitioners

8. Learned counsels appearing on behalf of the petitioners, in these petitions, have argued and raised the following contentions:

- i. The petitioners, having been allotted seats in the EWS/DG category through a computerised draw of lots conducted by DoE, are now being unjustly deprived of their right to education as guaranteed under the Right of Children to Free and Compulsory Education Act, 2009 [*‘RTE Act’*], the Delhi School Education Act and Rules framed thereunder. This arbitrary denial is a direct violation of their fundamental rights under Articles 14, 15, 21, and 21A of the Constitution of India.



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- ii. The ground of denial of admission to these children i.e. the Junior and Senior Wings of Holy Innocents Public School being separate entities based on different school IDs is artificial and contrived. Both Wings of the School are run by the same Society and they operate under the same name, management, logo, and educational policy, and thus, they should be treated as one institution for the purposes of continuing education in the EWS/DG category.
- iii. The petitioners were never informed that their allotment by Directorate of Education was limited to the Junior Wing of the School, and that they would need to apply afresh for admission in Class I of Senior Wing of school. Such lack of transparency violates the principles of fairness and the rights of the petitioners.
- iv. The Senior Wing of School allowed one of the petitioners in *W.P.(C) 10179/2024* to continue education in Class I without objection, only to raise the issue of different school IDs in Class II. This delayed objection is untenable and reflects inconsistency in the application of rules, which must be rectified to prevent prejudice against the petitioners.
- v. The petitioners, who belong to the EWS/DG category, cannot be expected to understand the internal distinctions or financial issues between Junior and Senior wings of the School. The burden of these internal matters cannot be



- shifted to the petitioners, who have a right to continuous and uninterrupted education.
- vi. The actions of the respondents are contrary to the circulars issued by the Directorate of Education, which clearly state that if different branches or wings of a school are managed by the same society, they must be treated as a single entity and follow a unified admission process. The respondents' failure to comply with this mandate further prejudices the petitioners.
- vii. The sudden denial of education in the Senior wing of the School will not only result in a loss of a valuable year of education but will also have a detrimental impact on the child's psychological and social well-being. It creates a lasting impression of inequality and discrimination based on social status, which is against the constitutional principles of equality and justice.
- viii. The State is under a categorical obligation to ensure free and compulsory education for all children aged 6-14 years. The respondents' actions, which obstruct the petitioners' education, directly contravene this constitutional mandate.
- ix. The actions of the respondents are contrary to the legal position established in the case of ***Rameshwar Jha v. Richmond Global School 2022 SCC OnLine Del 4438***, which mandates that schools must grant admission to students shortlisted through the draw of lots by the Department of Education unless an exemption is granted



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under exceptional circumstances, which is not the case herein.

Submissions on behalf of DoE

9. Sh. Divyam Nandrajog, learned counsel appearing on behalf of the Directorate of Education, submits that as per the judgment of the Coordinate Bench of this Court in ***Rameshwar Jha*** (*supra*), the petitioner's children must be given admission in the respondent-School since they have been allotted the said School as per computerised draw of lots, irrespective of the different in School IDs.

10. As regards the issue of two School IDs of the respondent School is concerned, it is submitted by Sh. Nandrajog, on instructions, that since the Junior Wing of Holy Innocents Public School is located in Janakpuri, Delhi and the Senior Wing is located in Vikaspuri, Delhi, the respondent School had been allotted different School IDs. However, he states that the DoE has taken a decision to merge both the School IDs in this case and give them one School ID, so that there can be *quietus* to the disputes. It is further submitted that this Court may pass an appropriate order in this regard.

Submissions on behalf of School

11. Sh. Sanjay Sehgal, learned counsel appearing on behalf of the Junior Wing and Senior Wing of the Holy Innocents Public School, submits that the DoE had allotted two different School IDs i.e. 1618313 to the Junior Wing of the School, located in Janakpuri, Delhi and 1618232 to the Senior Wing of the School, located in



Vikaspuri, Delhi. It is further submitted that due to the same, the School was facing significant challenges over the past two years in obtaining the reimbursement from the DoE for the students enrolled in the Junior Wing of the School.

12. It is further submitted on behalf of the respondent School that the School has been requesting the DoE, for years, to resolve the issue pertaining to different School IDs *viz-a-viz* admission of students under EWS/DG category, however, the DoE has failed to take the needful steps in this regard. It is also stated that the School has no objection even if the School IDs to the Junior Wing and the Senior Wing are merged into one School ID, provided that the DoE takes steps to issue fresh identification number to the students who were allotted the Junior Wing of the School. It is also submitted that while doing so, the DoE must also ensure that not more than 25% students are granted admission in the Senior Wing of the School, under the EWS/DG category.

13. This Court has **heard** arguments addressed by the learned counsels appearing on behalf of the petitioners, the respondent School and the DoE, and has perused the material placed on record.

ISSUES BEFORE THIS COURT

14. While enactment of RTE Act, 2009 highlights the spirit behind a movement towards attaining educational equity, the nature of petitions filed before this Court, including this batch of petitions, raises pertinent questions of commitment to enforcing the fundamental right of education and ensuring that the private unaided



recognized schools, which are vital pillars of our democratic fabric and nation-building efforts, at no point of time are allowed to slacken this movement or allow any regression in this journey of achieving the goal of educational equity, at the same time balancing the rights of the private educational institutes.

15. The present petitions also bring to the fore the roadblocks faced by the parents and children of the EWS/DG category, and the need for private educational institutes to be more responsive and sensitive to the special background related needs of such children and their families. It must be examined whether these schools are fulfilling their obligations to create an inclusive and supportive environment for all students, particularly those from disadvantaged groups.

16. With these facts brought to light by the petitioners herein, this Court deems it appropriate to deal with the following issues:

- i. Whether the petitioners, who were allotted seats under the EWS/DG category in the Junior Wing of Holy Innocent Public School, can be denied admission to the Senior Wing of the same school run by the same society based on the distinction between the school IDs assigned to the Junior and Senior Wings, and whether these school IDs should be merged to ensure continuity in the education of petitioners and other similarly placed students and uphold their right to education?*



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- ii. *Whether there is a need for passing directions to ensure a respectful and accessible admission process for EWS/DG category students, addressing the challenges and barriers faced by them and their parents?*

ANALYSIS & FINDINGS

Education: The Greatest Wealth and Its Constitutional Protection

17. Education is the foundation upon which the edifice of a just and equitable society is built.

18. The ancient Indian wisdom beautifully encapsulated in the following verse conveys the importance of education and as to why education is the ultimate wealth that a person has. The ancient Indian education system and the experts who convey this wisdom have no parallel. To remind us all, it reads as under:

“न चोरहार्यं न राजहार्यं न भ्रतृभाज्यं न च भारकारि ! व्यये कृते वर्धति
एव नित्यं विद्याधनं सर्वधनप्रधानम् !”

Education is the best wealth among all. No one can steal it, no state can snatch it, it cannot be divided among the brothers and it's not heavy to carry. As one consumes or spend, it increases, as one shares, it expands.

19. It is this holistic vision of education that the Right of Children to Free and Compulsory Education Act, 2009 seeks to fulfil by ensuring that quality education is not a privilege of the few but a fundamental right accessible to all, regardless of economic status.



20. In this background, it is critical to note that Article 21A of the Indian Constitution, introduced by the 86th Constitutional Amendment Act in 2002, marked a significant milestone in our nation's commitment to equality and the realisation of fundamental rights as it guarantees the fundamental right to education to every child. The RTE Act is a legislation that brings to life the mandate of Article 21A to the Indian Constitution.

21. The RTE Act aims to ensure that every child, between the ages of six and fourteen, receives full-time elementary education of satisfactory and equitable quality in a neighborhood school. The Act is rooted in the belief that equality, social justice, and democracy can only be achieved through inclusive education, making it the responsibility not just of government-supported schools but also of private schools to provide free and compulsory education to all children.

22. Thus, one of the pivotal provisions of the RTE Act is the mandatory reservation of seats for children from EWS/DG category in private unaided schools. The inclusion of EWS children in private institutions is a crucial step toward bridging the socio-economic divide and ensuring that the future of this nation is shaped by a diverse and inclusive generation. This also ensures that quality education is not the exclusive domain of the affluent but is extended to those who might otherwise be denied such opportunities due to financial constraints. It is a conscious effort to level the playing field and ensure that every child, regardless of her economic status, can dream, aspire, and achieve.



23. The government, through the RTE Act, seeks to fulfil the constitutional mandate of providing free and compulsory education to every child. The framework of the Act aims to ensure that the right to education is not merely aspirational but a legally enforceable right for every child in India. The Act is, thus, a testament to our nation's commitment to ensure that education is accessible to all, irrespective of socio-economic background of the children and their families.

24. Education, as Swami Vivekananda proclaimed, is the “*manifestation of the perfection already in man*”. The RTE Act, by facilitating access to quality education for all, particularly the underprivileged, aims to bring out this inherent potential.

Grievance of the Petitioners

25. The petitioners, minor children admitted to the Junior Wing of Holy Innocents Public School under the EWS/DG category, faced a significant issue and challenge when they were successfully promoted to Class 1. Despite having completed their entry-level education in the Junior Wing, they were denied admission to the Senior Wing of the same School, due to the two Wings of the same School having different School IDs assigned to them by the DoE. Aggrieved by this decision of the School, the petitioners' parents/guardians undertook several efforts, including filing RTI applications, submitting representations to the Ministry of Education and the Directorate of Education, and lodging complaints with the Public Grievance Monitoring System [*PGMS*] and NCPCR, before



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approaching this Court and seeking judicial intervention as a last resort.

26. Thus, it shall be first apposite to take note of the letters written and response received thereto, by the petitioners, from the authorities including DoE, NCPCR, etc.

27. The parents/guardians of petitioner no. 1 in *W.P.(C) 10179/2024* had submitted their grievance at the PGMS *vide* grievance number 2024032744 on 09.04.2024. In furtherance of the same, the concerned Deputy Director of Education had sent an email to the respondent School. In response to the said grievance, the respondent School had informed the Deputy Director of Education, *inter alia*, about the difficulties being faced by the school in obtaining the reimbursement for students enrolled in the Junior Wing of the School. This relevant portion of the letter sent by the Vice Principal of Holy Innocents Public School (Senior Wing) reads as under:

“Sir

Reference is made to your mail dated 12/04/2024 regarding discontinuation of the student ‘Prizleen Kaur’ who transferred from our Holy Innocents Public School (Junior Wing) School ID 1618313 to our Senior Wing (School ID 1618232).

In this connection, we have already submitted via our letter No HIPS/EWS/2024 dated 20/03/2024 (copy enclosed) that over the past two years we are facing significant challenges in obtaining the reimbursement for students enrolled in our Junior Wing (School ID 1618313). This financial strain has severely impacted our ability to provide quality education and maintain essential facilities for our students.



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However, the matter is already discussed with the Deputy Director of education (Zone - 18) in detail and in adherence to the decision provided by the department, we have determined that Prizleen Kaur categorized under the EWS Category in our Junior Wing (School ID 1618313) are now considered part of the General Category in Senior Wing (School ID 1618232)”

Beginning Point of Controversy

28. In response to another grievance raised by the said petitioner with PGMS *vide* grievance number 2024033415, the petitioner was informed as under by the Deputy Director of Education (West B zone):

“The Matter Pertain To Shifting Of EWS Students From One School (Junior Branch) To Another School (Sr. Branch), Matter Sent To HQ For Approval Of Shifting The Students, But HQ Rejected The Proposal With The Remarks That **There Is No Settled Policy Of Transfer Of EWS/DG/CWSN Students Allotted Through Computerized Draw Of Lots From One School To Another Having Different School ID. So Matter Has Been Disposed Off As Per DOE HQ (Copy Upload)**”

(Emphasis supplied)

29. It is evident from the aforesaid that the DoE’s response, to the grievance of the petitioners, was that since there is no established policy for transferring EWS/DG category students from one school to another when the schools have different School IDs, the petitioners’ request for shifting the student could not be allowed.

30. Being dissatisfied with the responses received from the authorities, the parents/guardians of petitioner no. 1 in *W.P.(C) 10179/2024* had filed a complaint on 23.04.2024 before the NCPCR



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against the alleged illegal discontinuation of the education of their ward in the Holy Innocents Public School. Acting upon the said complaint, the NCPCR had issued a notice to the concerned Deputy Director of Education, requesting him to initiate a detailed inquiry and take necessary action considering the best interest of the children. This notice is extracted hereunder:

“To,
The Deputy Director of Education, West-B CBSS
School, G-Block.
Vikaspuri, New Delhi - 110018
Email: ddewest.b@gmail.com
Phone No: 28544372

NOTICE U/s 13(1)(j) of CPCR Act, 2005

Subject: **Complaint regarding illegal discontinuation of education of a girl child enrolled under EWS category. in Holy Innocents Public School**

Sir/ Madam,

1. The National Commission for Protection of Child Rights (hereinafter referred to as the “Commission”) is a statutory body constituted under Section 3 of the Commission for Protection For Child Rights (CPCR) Act, 2005 to protect the child rights and other related matters in the Country. The Commission is mandated to monitor the proper and effective implementation of the Protection of Children from Sexual Offences (POCSO) Act, 2012; Juvenile Justice (Care and Protection of Children) Act, 2015 and Right to Free and Compulsory Education (RTE) Act, 2004. In one of the functions laid down under Section 13 of the CPCR Act, 2005 the Commission has been assigned with the function to examine and review the safeguards provided by or under any law for the time being in force for the protection of child rights and recommend measures for their effective implementation. The Commission also has the powers of Civil Court trying a suit under Section 14 of CPCR Act, 2005 and the Code of Civil Procedure, 1908.



2. The Commission has received various complaints on E-baal nidaan, wherein the complainant have stated that their children were enrolled under the EWS category in Holy Innocents Public School and the school discontinued their admission in the beginning of this academic session. The complainants further alleged that this is impeding the course of further studies of the children. Therefore, the Commission has taken cognizance of the matter u/s 13(1)(j) of CPCR Act, 2005 (copy of complaint enclosed)

3. In view of the above, you are requested to initiate a detailed enquiry on the matter and take necessary action keeping in mind the best interest of the children. Further, an action taken report is required to be sent to the Commission within 7 working days from the receipt of this letter either in English or Hindi medium only”.

31. The Action Taken Report sent by the concerned Deputy Director of Education, in response to the notice issued by NCPCR, is more significant and noteworthy. The contents of the ATR read as under:

“Sub:- **Submission of ATR for complaint regarding illegal discontinuation of education of children enrolled under EWS category in Holy Innocent Public School.**”

Respected Sir/Mam,

Reference file No. DL-ND17883/ NCPCR/ 202-25/EDU/ DD24645-46 dated 30/05/2024 (Notice U/s 13(1)(i) of CPCR Act, 2005)

In this connection, it is stated that Holy Innocent Public School are two different Schools having two different School IDs i.e. Holy Innocent Public School, B-3, Janakpuri, Delhi (Junior Wing). School ID-1618313 and 2nd is Holy Innocent Public School, Vikas Puri School ID (1618232). Holy Innocent Public School, Janakpuri, New Delhi (ID-1618313) caters with only two classes i.e. Pre-School and Pre-Primary (1st standard classes are



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not being held there) and Holy Innocent Public School, Vikaspuri (ID-1618232) having 1 to 12th class.

As per the settled policy of the Directorate of Education, student allotted through a computerized draw cannot be transferred from one school to another. Therefore, the registration IDs of EWS students from the Junior branch (ID 1618313) cannot be transferred to the Senior Wing (ID-1618232)

The Department has ensured that the issue of admission of EW/DG Students will be resolved by admission of them in neighbouring Govt. School to ensure continuity of their education. The parents of these students have also been advised to apply online under the free ship EWS scheme for admission to Class 2nd onwards for the session 2024-2025. Further, to avoid the arise of the same issue in future, the Department has stopped allotting students to this school bearing ID-1618313 in the session 2024-25 and the same policy will be followed in the forthcoming sessions.

This issues with the prior approval of The Worthy Director of Education.”

32. In this Action Taken Report, it has been clearly stated on behalf of DoE that as per settled policy of DoE, a student allotted through a computerized draw of lots cannot be transferred from one school to another and thus, the registration IDs allotted to the students in this case cannot be transferred from Junior Wing of the School to the Senior Wing. It has also been stated that though these students will be accommodated in nearby government schools as of now, they will have to apply online afresh, under EWS/DG category, for securing admission in Class 2.



Contradictory stands taken by DoE before NCPCR and before this Court

33. During the pendency of these petitions, this Court while going through the records of the case had taken note of the contents of the Action Taken Report submitted by the DoE to the NCPCR and the stand taken by the DoE therein, which has been noted in the preceding paragraph. *Vide* order dated 30.07.2024, this Court had directed the learned counsel for DoE to seek instructions *qua* the said ATR submitted by the DoE before the NCPCR.

34. On 06.08.2024, the learned counsel for DoE on instructions from the Deputy Director, Education (West) stated that DoE has no objection to allot a single identity to the respondent school for the Junior as well as the Senior Wing, since it is governed by the identical society. This Court had further flagged some issues, and had sought the response of DoE on the same, as recorded in the following order dated 06.08.2024:

“1. By way of order dated 30.07.2024, this Court had directed learned counsel appearing on behalf of the DoE to specifically seek instructions regarding the letter dated 05.07.2024 which was written to NCPCR. The Deputy Director of Education (West Wing) is present in the Court today alongwith learned counsel for Director of Education.

2. Learned counsel for DoE on instructions from the Deputy Director, Education (West Wing) submits that they have no objection to allot a single identity to the respondent no. 2-school for the junior as well as the senior wing, since it is governed by the identical society.

3. The letter written to NCPCR reveals that DoE has taken two stands, one in the Court regarding the identity of the schools and the responsibility of the



school to admit a child from junior wing to senior wing automatically if the school is governed by identical society, and another contrary stand before NCPCR. In the Court today, it was submitted that DoE has no objection if a single identity is given to the respondent no. 2-school for the purpose of promoting the petitioner from junior wing to senior wing in EWS category.

4. This Court is now faced with a situation where the children of EWS category find it difficult to be promoted from junior wing to senior wing of the same educational institution, since they have two different identification numbers given by DoE for the purpose of drawing lot of EWS category candidates etc. despite both the wings being governed by the same educational society.

5. While this Court was inclined to dispose of the writ petitions by laying down guidelines regarding the school identification number and the guidelines to be followed for admission of EWS candidates to junior wing and senior wing of the same school, in view of the difficulties faced by the candidates, the learned counsel for DoE stated that they be granted one opportunity to file a short counter-affidavit.

6. In this regard, **the DoE is granted a week's time to apprise this Court as to whether they will face any difficulty in case, a single identification number is granted to junior wing and senior wing of the school run by the same society.**

7. In case, no response is received from the DoE within one week, this Court will presume that they have no suggestions to make and no difficulties to face and this Court will proceed to pass appropriate orders and guidelines.

8. List on 13.08.2024.”

(Emphasis supplied)

35. On 16.08.2024, Sh. Divyam Nandrajog, learned counsel for DoE, on instructions from the concerned officer of DoE, submitted



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that as undertaken earlier before this Court, the DoE shall be merging the two School IDs of the Junior Wing and Senior Wing of the Holy Innocents Public School. Learned counsel further stated that the reason for creation of two separate School IDs in this case was the different location of the Schools i.e. one being located in Janakpuri and the other in Vikaspuri.

36. On instructions, Sh. Divyam Nandrajog, learned counsel for DoE further submitted that the Department do not foresee any difficulty or hindrance if a direction is passed by this Court for merging or consolidation of School IDs of the Junior Wing and Senior Wing of all the Schools in Delhi, which are run by same educational societies, and the same would rather solve the problems faced by the schools as well as the students.

Merger of School IDs: Ensuring Continuity of Education for EWS/DG Students Across Junior and Senior Wings of the Same Schools run by the Same Educational Society

37. This Court is confronted, day in and day out, with multiple petitions raising the issue of non-promotion of EWS/DG category students from the Junior Wing to the Senior Wing of the same School run by the same educational society and the refusal of the School to promote them due to different school identification numbers assigned to the different Wings of the same School by DoE.

38. Therefore, the stress and trauma of a child being denied continuous education despite the child being promoted to a higher class as her peers are in the similar circumstances promoted to a



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higher class, needs to be necessarily understood and adjudicated upon. One can only look at the dilemma faced by these children and their parents i.e. even after being admitted to the school and completing their education in the junior wing, they are yet not able to continue their education in the same institution, all due to a lack of clarification by the DoE.

39. This is particularly disheartening because, once children are enrolled in an educational institution, there should be no distinction or categorization in their minds based on their financial background, especially when they are all studying in the same school. The very purpose of the RTE Act is to ensure that those who lack the financial means are treated equally with those who are more fortunate. The Act aims to guarantee that all children, regardless of their financial status, are provided with equal educational opportunities.

40. By denying the opportunity for continuous education in a school run by the same society, a pitiable situation frequently arises where, due to the two different identification numbers assigned by the DoE to the school's junior and senior wings, financial segregation of students is indirectly perpetuated. This situation exacerbates the educational disadvantages that EWS/DG category students already face. This Court also recognizes that children from the EWS/DG categories are at a significant disadvantage when it comes to availing legal remedies to overcome such challenges.

41. The injury to dignity felt by a student from the EWS category, who is made to feel unequal to his peers in a privately-run school—and even in the eyes of the State—is deeply damaging. What is



central to the soul of the RTE Act is the intent behind it and as a constitutional Court, this Court has to make every endeavour to resolve any roadblocks or issues for smoother implementation of the act thereby affording equal opportunities of education to those who are less privileged and financially weaker. This Court bears in mind its duty to achieve the goal of the constitution as education is not only important to individual students but also to the community and the nation.

42. Thus, the judicial adjudication, in this case, aims to redirect the focus of the DoE and the schools from their financial concerns regarding reimbursement, to rather emphasise that their primary duty and central concern must be to provide education to the children of this country with dignity and without the young children either waiting for their turn in the courtrooms after filing cases to enforce their legal rights or waiting at their homes for the schools to open their doors to them.

Equal educational opportunities should also ensure Adequate educational opportunities.

43. When a child is made to wait to study in a new class, after being successfully promoted to a higher class, it takes away the excitement of the child having successfully cleared his previous class. Such excitement has fewer parallels for all children and their parents. Most of us have experienced this happiness and excitement of having cleared a junior class and being promoted to a higher class.



44. The ideal of equality in education will be undermined if a general category student who is admitted to a school in nursery is assured of graduating from that same school, subject to the school's rules, while a child admitted under the EWS/DG category faces uncertainty. In the present case, the assignment of two separate identities to the Junior and Senior Wings of the same School run by same educational society disrupts the stability and certainty of these children, who may not be able to continue and complete their education from the same School despite having initially secured admission.

45. A child's right to continuous education should not be hindered by obstacles that deny them the opportunity to pursue their goals. **For instance**, let us consider two students A and B, who both gain admission to the nursery in the Junior wing of a school — A under the general category and B under the EWS/DG category. Initially, both have equal educational opportunities as per the law, with A choosing the School and B being selected by the system. However, their opportunities become unequal if, when promoted to the senior school, B has to face the unnecessary obstacle of going through the EWS process again to be promoted to the higher wing, despite both students having obtained the necessary qualifying grades and marks. Such a situation would undoubtedly amount to discrimination, as it imposes hindrances on B that A does not have to face, simply because A can pay the school fees and B cannot.

46. This unfortunate scenario does a great disservice to the children and the community. A child who has already been admitted



to a school faces an uncertain future, unsure if he will be able to graduate from the same school or even secure admission in another private school. This uncertainty arises because the DoE has assigned separate identities to the junior and senior wings of schools run by the same society.

Lack of any rationale for assigning different School IDs to Junior and Senior Wings of the same School

47. While the laws enacted by the Parliament or the State legislature may formally, under law, provide equality of opportunity, it is the very rules and policies framed within these frameworks by the State that either promote, or at times, hinder the achievement of the goals that these laws are meant to accomplish. The assignment of two identities to the junior wing and senior wing of the same school run by the same society is one such hindrance.

48. It is unclear as to what rationale exists for granting two separate School IDs to the junior and senior wings of the same school, especially when both wings are run by the same society. Though this Court had the occasion to put a query to the learned counsel for DoE in this regard, the only explanation which was forthcoming from the DoE was that these Junior and Senior Wings of the same School may be located, at a distance from each other, in different localities in Delhi. However, this division is denying children, who have secured admission in a school, the right to continuous elementary education.



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49. This Court is of the considered opinion that providing two school identification numbers to the same school' junior and senior wings, being managed and run by one identical society, only creates confusion and the same has not contributed towards achieving the ends that the Act was enacted to achieve. It also results in students of the school rushing to the Court, due to the confusion that a student who has been legally allotted the Junior wing of the school under EWS/DG category is not certain that the school in question will promote him and let him continue the studies in the Senior wing. This has to be stopped in the larger interest of the society and the children.

50. This Court notes that the DoE, despite the students flagging this issue of schools not allowing a smooth transition from the Junior Wing to the Senior Wing, has not taken the necessary steps to resolve this problem. While the DoE has come to this Court requesting that the petitioners' minor children be granted admission to the Senior Wing of the School, they have failed to put their own house in order. It is an admitted case of the DoE that there is no clarification in any of the circulars issued by it, that a child, who is granted admission in a private unaided school by way of draw of lots, in the Junior wing, will be entitled to be promoted to the Senior wing of the same school without having to undergo the same process of applying and going through the draw of lots. It was necessary for the DoE to have such a clarification or policy in place to ensure that the child seamlessly completes his education and graduate from the same School without having to reapply or being subjected to draw of lot for admission to



the Senior Wing, since the children belonging to EWS/DG category are entitled to free education up to 8th standard by virtue of the RTE Act and up to 12th standard by virtue of the policy formulated by the Delhi Government.

51. In this background, this Court deemed it appropriate to pass the directions, as recorded in the succeeding paragraphs, keeping in mind the system for reimbursing the schools, wherever applicable, and the duty of the schools to provide free education to the children belonging to EWS/DG category, under under the law governing them. Equally conscious was this Court of the fact that though the RTE Act is the product of decades of conscious enactment and equally conscious policies to ensure equal educational opportunities, the Courts are still flooded with cases that highlight inequalities in the conduct of schools towards the children belonging to EWS/DG category, fuelled by the policy of DoE of assigning two different identities to junior and senior wing of the educational institutes governed by the same educational society.

Directions

52. In light of the fact that the DoE itself has taken the stand before this Court that it has no objection in assigning one School ID to the respondent School in this case and further in consolidating the School IDs of the Junior Wings and Senior Wings of all such similarly placed School in Delhi, which are run by same educations societies, and despite being given the opportunity to inform this Court whether the merging of School IDs would pose any difficulty



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for the students or the school, the DoE did not inform the Court of any such difficulties and instead, their position, as put forth by their learned counsel on instructions from the concerned officers, was clear and unequivocal that DoE has no objection to the aforesaid, **this Court deems it appropriate and necessary to direct as under:**

- i. To serve and achieve the larger goal of the RTE Act, in Delhi, it is directed that the different School Identification Numbers, assigned to the Junior Wing and Senior Wing of the same schools, run by the same educational societies, in Delhi, be merged / consolidated into one single School Identification Number, by the DoE.
- ii. The said process shall be completed by DoE within a period of 08 weeks from passing of this judgment.
- iii. The DoE shall intimate the concerned Schools, where the aforesaid directions are applicable, about the directions passed in this judgment within 01 week.
- iv. If any School is aggrieved by the action of DoE, of merging of the School IDs to the Junior Wing and the Senior Wing, the School shall be at liberty to file a representation in this regard before the DoE within a period of 04 weeks from passing of this judgment.
- v. The representation filed by any school in this regard shall be decided by the DoE within a period of 02 weeks from receipt of such representation.



- vi. A compliance report, *qua* the above directions, shall be filed positively by the DoE before this Court, after conclusion of the period of 08 weeks.

53. In this Court's opinion, seamless transition from one class to another is important in ensuring that the dignity of the children and their parents is not compromised. This also prevents the child from losing academic time and needing to approach the Court, which could result in the loss of an academic session. Moreover, the children belonging to the EWS/DG category will not face the disadvantage or disrespect of seeing their peers, who may have scored lower, seamlessly move to the next standard. This Court hopes that these directions would ensure that the children have the certainty of receiving continuous education till they graduate from school, as they are entitled to under the RTE Act and Delhi School Education Act and Rules thereof.

Ensuring Respectful and Accessible Admissions: Addressing Barriers Faced by EWS/DG Students and Their Parents in the Admission Process

54. This Court is also faced with another serious issue in multiple cases where parents and children belonging to the EWS/DG category have been compelled to approach this Court, highlighting through their petitions, the indifferent approach of certain schools. They often face significant challenges during the admission process, which are not limited to procedural complexities but extend to experiences of disrespect and inconvenience at various stages. Many parents,



already grappling with socio-economic hardships, are further burdened by the lack of clear communication and guidance from schools. In some instances, parents are made to repeatedly visit the school premises without being informed whom they should approach, leading to unnecessary frustration and delay.

55. Additionally, language barriers exacerbate these difficulties, particularly for those who are not fluent in English, making it even more difficult for them to navigate the admission process effectively. These schools have also allegedly treated them poorly, sometimes even insulting them, and turning them away without explaining why their admission requests were denied. In most instances, this Court has been informed that the parents and children were not even allowed to enter the school premises. While this Court will not comment on the veracity of these claims, as the schools involved have denied any such conduct, it finds it necessary to issue the following guidelines to ensure that such issues do not arise in the future between children, parents, and schools, and to ensure a more respectful, accessible, and efficient admission process for EWS/DG category students:

- I. *Appointment of a Nodal Officer:* Every private unaided recognized school in Delhi shall appoint a dedicated Nodal Officer responsible for overseeing the admission process of students under the EWS/DG category. This officer shall serve as the primary point of contact for parents and guardians, ensuring that they receive clear guidance and assistance throughout the admission process. Information about the



Nodal Officer, including their contact details and office hours, must be prominently displayed at the school's entrance and on the school's official website.

II. *Addressing Language Barriers:* Recognizing the language barriers faced by many parents of EWS category students, it is important that circulars, notices, instructions related to admissions under EWS/DG category be provided in both English and Hindi.

III. *Preparation of an Admission Schedule of EWS/DG category students:*

A. All the private unaided recognized schools of Delhi are directed to prepare a clear admission schedule following the allotment of students by the Directorate of Education (DoE) pursuant to the computerised draw of lots, as mentioned in the succeeding directions.

B. In accordance with the judgment in ***Rameshwar Jha*** (*supra*), schools have a seven-day window to address any concerns regarding the number of students allotted. To streamline the admission process of EWS/DG category students, schools shall create a schedule that specifies the date and time each student is required to report for admission, distributing the total number of students evenly over the designated period, within the aforesaid seven-day period.



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- C. The admission schedule should also include a comprehensive list of all documents that parents are required to bring for the admission process.
- D. This admission schedule must be displayed, either prominently in the school premises or at the office/room of Nodal Officer, to be appointed in each school, and be made available in both Hindi and English for the convenience of parents.
- E. This schedule should be clearly communicated and made accessible to ensure that parents are fully prepared and they do not face unnecessary delays or complications during the admission process.

56. The **DoE is directed to ensure** that these directions are circulated among all the private schools in Delhi, wherever the admissions are granted to students under EWS/DG category as per computerized draw of lots, and that the same are complied with in letter and spirit.

57. In this Court's opinion, these measures will go a long way in simplifying the admission process for underprivileged families, many of whom may have limited educational backgrounds or face language barriers. The successful implementation of these directions is essential to uphold the rights of EWS/DG category students and to ensure that their access to education is not hindered by avoidable procedural challenges.

58. One must not forget that the RTE Act was enacted to ensure that education in private institutes is not limited to children whose



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families can afford access to private schools, and principles of justice require that schools governed by the law must treat all children with equal concern and respect. The children belonging to EWS/DG category should never be made to feel that their more advantaged peers are cared for or respected more. The State must also ensure that the children do not feel that the State does not care for them at no point in time, a child's self-respect should be hurt.

59. Therefore, **all the stakeholders must ensure that there is a seamless merger of EWS and Non-EWS students in the Schools,** which is the spirit of RTE Act.

CONCLUSION

60. The foundation of a country is laid through the education provided to its children, as the strength of our nation's future depends on the quality of education we offer today. A robust educational system is crucial for building a strong nation. The Right to Education Act embodies this patriotic vision, aiming to secure a solid foundation for the future of our country. It is the role of Constitutional courts to address and remove any obstacles that may hinder this vital process, ensuring that the path to education remains clear and accessible for all who will shape the future of our nation.

61. In this Court's opinion, while power and money may be unequally distributed in society, any Act, policy, or decision that ensures equal opportunities and non-discrimination, as mandated by law, must be implemented with the same spirit that guided its



enactment. The essence of such laws is to bridge societal gaps, and their faithful execution is crucial in achieving true equality.

62. Any discrimination against parents and children seeking admission under the EWS/DG category has profound negative impacts. Such discriminatory treatment affects not only the children's sense of belonging within the school but also their self-esteem, especially when they are confronted with unequal treatment due to their financial background. This discrimination, whether intentional or systemic, undermines the very purpose of inclusive education.

63. The EWS/DG category students may already face different social dynamics within the school and classroom due to their financial situation and numerical minority. If educational institutions themselves perpetuate this inequality or show disrespect, it can further entrench discrimination by peers, exacerbating the student's challenges. It is important to remember that the concept of equality encompasses equality of opportunity, and schools must be environments where every child feels valued and respected, irrespective of his or her economic background. It must not be forgotten that the concept of equality also includes equality of opportunity.

64. This Court firmly believes that as a Constitutional Court, it is the Court's duty to ensure that the concept of equality—especially equal educational opportunity—includes the removal of irrelevant obstacles, whether in the form of policies, rules or the absence thereof, as soon as they are encountered by the Court. Acts and policies designed to close the gap between the rich and the poor must



be implemented effectively. The Courts are also duty-bound to focus on and develop the theory of justice within the framework of law, which not only serves the ends of justice but also ensures fair equality of opportunity for all members of the community. We must not allow children or their families from disadvantaged groups to accept inequalities in education as their social or natural fate.

65. In this batch of petitions, this Court observed that the lack of seamless transition of the students between the Junior Wing and the Senior Wing of the same School run by the same educational society created insurmountable challenges for the children as well as their parents who are the petitioners before this Court. In some cases, financial hardship or parental indifference may even prevent the child from pursuing legal remedies. Thus, this Court finds these obstacles, of a school having two separate School IDs for its two wings, detrimental to a child's educational goals, which weigh heavily in the mind of this Court while passing this judgment.

Regularisation of Provisional Admissions Granted in these Cases

66. During the pendency of these petitions, the children of the petitioners were granted provisional admission in the Senior Wing of respondent School i.e. Holy Innocents Public School, in Class 1 or Class 2, as the case may be.

67. Since this Court has now directed that the School IDs of the Junior Wing and Senior Wing of the respondent School be consolidated, and the DoE has undertaken to carry out the said process, and even the learned counsel appearing on behalf of



respondent School has graciously submitted that the School will allow these children to continue their education, under the EWS/DG category, if the School IDs are merged, the provisional admission granted in these cases is hereby regularised.

68. The petitioners shall be entitled to continue studying in the respondent School in their respective classes, under the EWS/DG category, with all the RTE entitlements. The DoE is also directed to issue fresh student identification numbers to the petitioners, as per relevant rules and policies.

69. This Court is pleased that the journey of the students in this case culminates on a positive note, with the decision to merge the identities of the Junior and Senior Wings of the respondent School. This Court hopes that the concerned stakeholders will act in the spirit of this judgment and ensure compliance expeditiously, upholding the values of self-respect, equality, dignity, and nation-building for the future of these children.

There are no poor or rich aspirations

70. To conclude, this Court would express that there are no poor or rich dreams, nor are there poor or rich talents. Similarly, there are no poor or rich expectations from the community and the government. This Court believes that the dreams of those who are financially weaker and labelled as poor by society should not be presumed to be lesser in their capacity or capability. Likewise, those who are not financially poor are not different in their aspirations. All children,



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regardless of their economic background, may share the same dreams they wish to pursue.

71. With this vision in mind, this judgment and the accompanying guidelines, as mentioned in paragraph nos. 51 and 54, have been issued with the positive hope that they will help ensure every child has the opportunity to study and graduate from the same school without facing unnecessary hindrances and roadblocks.

72. In above terms, the present batch of petitions alongwith all pending applications are disposed of.

73. The judgment be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

AUGUST 22, 2024/ns