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

+ **W.P.(C) 16661/2023**

MASTER DIVYANSH

.....Petitioner

Through: Mr. Vivek Kumar Tandon, Ms.
Mamta Tandon, Ms. Prerna Tandon
and Mr. Harshit S. Gahlot, Advs.

versus

**DARBARI LAL DAV MODEL SCHOOL
& ANR.**

.....Respondents

Through: Mr. Yogesh Kumar, Adv for R-1.
Mr. Santosh Kumar Tripathi,
Standing counsel with Mr.Utkarsh
Singh,Adv for DOE.

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

ORDER
28.11.2024

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1. By the way of present petition, the petitioner seeks a direction to respondent No. 1/Darbari Lal Dav Model School, Shalimar Bagh to grant him admission in Class Nursery/Pre-School under the EWS/DG Category for the Academic Session 2023-24.
2. The facts of the case would indicate that as per the draw of lots conducted on 14.03.2022 by the respondent-Directorate of Education ('DoE'), the petitioner was allotted respondent-School. However, when the petitioner approached the respondent-School, they had denied the admission



to the petitioner and apparently told the petitioner to approach the respondent-School when they receive a call/communication. Thereafter, on many occasions, the petitioners claimed to have approached the respondent-School and DoE, however, no heed was paid and, therefore, the petitioners knocked on the doors of this Court.

3. The contention of the respondent-School for non-compliance of the DoE order was that there exists certain discrepancy of the seats matrix and due to which respondent-School could not comply with the DoE direction.

4. I have heard the learned counsel appearing for the parties and perused the record.

5. It is seen that in terms of the order dated 22.12.2023, the petitioner was directed to be admitted provisionally in the Academic Session 2023-2024.

6. It is pertinent to lend credence on the decision of a Coordinate Bench of this Court in the case of *Samar Deval v. Directorate of Education*¹, wherein, it has been held that once a student falling in the disadvantaged category is allotted a school by the Department of Education, the said decision cannot be retracted keeping in mind the larger objectives which the RTE Act seeks to achieve. The Court has categorically held that denial of admission to any child after allotment of school in EWS category militates against the express provisions of the RTE Act. The relevant paragraphs of the said decision read as under:-

“8. Denial of admission to any child under DG/EWS category after allotment of school by DOE pursuant to the due procedure followed by it, would be in violation of the object as well as express provisions of The Right of Children To Free and Compulsory Education Act,

¹ 2023 SCC OnLine Del 1282



2009 (RTE Act, 2009), which provides for free and compulsory education to every child between the ages of 6 to 14 years. Pertinently, under Section 3 of the RTE Act, 2009, Right of education of a child between the ages of 6 to 14 years is expressly and unconditionally recognised. It deserves consideration that in addition, it is further provided that such right shall be ensured to a child between the said age groups uptill the completion of his/her elementary education.

9. It is no longer *res-integra* in as much as the Courts have held time and again that the 25% reservation requirement for filling up seats in unaided private schools, in respect of children belonging to economically weaker sections and the disadvantaged groups, has to be mandatorily complied with.

10. Section 12 of the RTE Act, 2009 expressly provides for reservation of atleast 25% for the weaker sections and the disadvantaged groups, as defined under the said Act. Thus, once, it is established that the child belongs to economically weaker section of the society or disadvantaged group and after satisfaction on this account, school has been allotted by DOE as per its due procedure, such child is entitled to get admission in the allotted school under the said category.

11. In the present case, the petitioner child has been duly allotted the respondent school by the DOE under the DG category after following its due procedure. Thus, the petitioner is entitled to be granted admission in the school.”

7. In the case of *Arpit v. Adriel High School*², while dealing with almost a similar controversy, this Court reiterated the consistent view adopted by the Court that once the students are shortlisted for admission in various schools based on computerized draw of lots, the same would create a crystallized right in favour of the students and the school cannot deny them admission thereafter. The relevant paragraphs of the said decision read as under:-

“5. The issue in controversy in this writ petition is similar to that which has arisen before this Court in a large number of cases including some of which were taken up even today. This Court has consistently adopted the view that, if a child applies for admission to a school as an EWS

² 2024 SCC OnLine Del 3152



candidate, and the DoE circulates the seat matrix of the schools indicating the number of general and EWS category of seats available with them, any school which does not represent against the seat matrix within the time granted in that regard would be bound by the outcome of the draw of lots conducted by the DoE.

6. The children who are shortlisted for admission to various schools on the basis of the computerised draw of lots would be entitled as a right to such admission and the schools cannot refuse to admit them.”

8. At this stage, wherein the concerned academic session is already substantially over and balance of convenience lies in favour of the petitioner, it will be highly inappropriate to discontinue the interim order, and, therefore, without prejudice to the rights and contentions raised by the respondents, this Court deems it appropriate to confirm the same.

9. Accordingly, the provisional admission granted by the respondent be confirmed by the respondent-School.

10. The respondent-School shall also extend all necessary benefits in accordance with the EWS/DG category to the petitioner.

11. In view of aforesaid, the instant petition stands disposed of, along with pending applications, if any.

PURUSHAINdra KUMAR KAURAV, J

NOVEMBER 28, 2024

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