



2024:DHC:7137



\$~

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

%

Reserved on: 13.08.2024***Pronounced on: 18.09.2024***+ **W.P.(C) 2033/2024**

BABY GITIKA RAWAT

.....Petitioner

Through: Mr. Prithvipal Singh Rawat,
Advocate.

versus

THE SOVEREIGN SCHOOL & ANR.

.....Respondents

Through: Mr. Namit Suri & Mr. Arjun
Kaushal, Advocates for R-
1/School.Mr. Utkarsh Singh, Adv. for
Mr. Santosh Kumar Tripathi,
Standing Counsel (Civil) for
R-2.**CORAM:****HON'BLE MS. JUSTICE SWARANA KANTA SHARMA****JUDGMENT****SWARANA KANTA SHARMA, J.**

1. The present writ petition has been filed under Articles 226 and 227 of the Constitution of India, on behalf of Baby Gitika Rawat, seeking directions against the respondents for her admission and enrollment in Respondent No. 1 i.e. The Sovereign School, Rohini, Delhi [*the School*], under the Economically Weaker Section [*EWS*] category for the academic session 2023-2024. The petitioner



2024:DHC:7137



prays for immediate admission or, depending on the Court's decision, admission in the next higher class.

The Case of Petitioner

2. This case concerns Baby Gitika Rawat, whose parents, in compliance with the circular dated 13.01.2023 issued by the Respondent No. 2 i.e. Directorate of Education [*DoE*], had applied for her admission under the EWS category for the academic session 2023-2024. The application was made at the entry level in private unaided schools of Delhi, specifically in Nursery/Pre-School classes. As per the guidelines issued on 02.02.2023, Gitika's parents had selected several schools based on proximity to their residence, with Respondent No. 1 School marked as their most preferred choice. The admission process was to be determined by a computerized draw of lots, which was initially scheduled for 03.03.2023, but was postponed and eventually held on 14.03.2023. Upon the conclusion of the draw of lots, Gitika was successfully allotted Respondent No. 1 School under the EWS category. Following the allotment, her parents promptly approached the School multiple times, hoping to secure their daughter's admission. However, their efforts were met with refusal. Shockingly, each time they had tried to meet the concerned person at the School, they were denied entry into the premises and informed that no EWS admissions were being granted for the desired class. The School also did not provide any reasons for this denial, despite Baby Gitika's allotment under the EWS category being confirmed. It is pointed out that the guidelines issued on 14.03.2023



2024:DHC:7137



provided that the parents of the selected applicants were required to approach the concerned school by 31.03.2023 to secure admission. However, the DoE had issued a subsequent circular on 29.03.2023, extending the deadline for reporting to the allotted school to 08.04.2023. Despite this extension, when the petitioner's parents had visited the School on 28.03.2023, they were told that all the seats had already been filled. The school staff had claimed there were no vacant seats, even though the petitioner had been allotted a seat through the computerized draw. Frustrated by the lack of transparency and multiple refusals, Gitika's father had made a formal representation to the DoE, requesting intervention to ensure his daughter's admission. However, no effective action was taken. On 06.04.2023, the DoE had issued another circular, further extending the reporting deadline to 15.04.2023, followed by additional guidelines on 12.05.2023 emphasizing the need for private unaided schools to comply with the admission process for EWS/DG/CWSN category students. Despite this, the Respondent No. 1 School continued to deny admission to the petitioner, leaving her parents with no choice but to approach this Court for relief.

Submissions on Behalf of the Petitioner

3. Learned counsel for the petitioner submits that despite petitioner's valid allotment to Respondent No. 1 School under the EWS category, the School has wrongfully refused to admit her, in violation of the prescribed guidelines. It is argued that the School's refusal contravenes the guidelines issued by DoE on 14.03.2023 and



2024:DHC:7137



12.05.2023, which require schools to admit students allotted through the computerized draw of lots without unreasonable delay or rejection. It is submitted that DoE has also failed in its duty to enforce these guidelines and secure petitioner's admission, despite her rightful allotment to the School.

4. It is further contended that the denial of admission to the petitioner violates her fundamental right to free and compulsory education under Article 21A of the Constitution. It is also asserted that the provisions of the Right to Education (RTE) Act, which guarantee admission to children between the ages of six and fourteen in their allotted schools, have been blatantly disregarded by Respondent No. 1. It is stated that Respondent No. 1, as an unaided private recognized school, is legally bound to reserve 25% of its seats for EWS category students, including those at the entry level, as per the RTE Act and the relevant guidelines. The denial of admission, without any valid justification, undermines both the intent of the RTE Act and the constitutional rights of the petitioner.

5. Furthermore, it is highlighted that the petitioner's parents had duly submitted all necessary documents, including an income certificate proving their eligibility under the EWS category. Further, the petitioner's application was scrutinized and accepted by Respondent No. 2/DoE, leading to her allotment to Respondent No. 1 School. Learned counsel further places reliance on the case of ***Rameshwar Jha v. Principal Richmond Global School & Ors.***, 2022 SCC OnLine Del 4438. The petitioner, therefore, prays for the issuance of a writ directing Respondent No. 1 to admit her without



2024:DHC:7137



further delay, as the refusal to admit her violates her fundamental rights and frustrates the purpose of the RTE Act and the guidelines issued by the DoE.

Submissions on Behalf of the Respondent No. 1

6. Learned counsel appearing on behalf of Respondent no. 1 School argues that the petitioner is seeking admission to Class I under the EWS/DG category based on alleged backlog or carry-forward seats, however, the School has already fulfilled its statutory obligation under Section 12(1)(c) of the RTE Act, 2009, for the academic session 2023-2024, by admitting students in the EWS/DG category at the KG/Pre-Primary level, as required by law. It is further contended that the enforcement of backlog or carry-forward seats against the School is unwarranted and beyond the scope of the RTE Act, since the School has always been compliant with the provisions of the Act.

7. It is contended that the School had received a specific waiver from the DoE on 17.04.2023, exempting the School from filling any backlog EWS/DG seats for the 2023-2024 academic session. It is argued that this waiver was granted after the DoE took into consideration the below-par admissions in the general category at the School and the corresponding statutory requirements. It is submitted that in the absence of any judicial or executive order revoking this waiver, the DoE cannot disregard or resile from its own order.

8. It is argued that the School had admitted two EWS/DG category students, including one student admitted under court orders



2024:DHC:7137



in *Anjali Pandey v. Government of NCT of Delhi & Anr.* W.P.(C) 5194/2023. It is submitted that the petitioner is now seeking admission against backlog seats that have already been waived, and the School's statutory obligation has been met. It is further contended that the waiver granted to the school was based on a representation made by the School, which was supported by the order of this Court in case of *Sunita v. GNCTD & Ors.* W.P.(C) 3987/2023. It is argued that the waiver was legally issued by the DoE after reviewing the class strength of the School for the 2022-2023 academic session, and it cannot now be disregarded without a formal withdrawal order.

9. It is also argued that Respondent No. 1 had challenged the orders passed by this Court in W.P.(C) 13988/2023, wherein this Court had granted provisional admission to similarly placed petitioners. It is submitted that the Division Bench of this Court, in case of *Sovereign School v. Directorate of Education, GNCTD & Ors.* LPA 760/2023, had stayed the operation of those provisional admission orders on the premise that the School had already met its EWS/DG category admission requirements as per the DoE's circular dated 13.01.2023. It is contended that the Division Bench directed the DoE to adjust the petitioners in alternative schools, and therefore, the present petitioner's claim for admission against backlog seats must be denied.

10. It is further submitted that this Court, in *Ashok v. GNCTD & Anr.* W.P.(C) 9026/2023 and *Ravinder Kumar v. GNCTD & Anr.* W.P.(C) 8955/2023, observed that no provisional admissions can be granted in Respondent No. 1 school due to the waiver granted by the



2024:DHC:7137



DoE and the stay issued by the Division Bench.

11. It is submitted on behalf of the School that in the judgment passed in case of *Anjali Pandey (supra)*, this Court clarified that the expression 'strength' in Section 12(1)(c) of the RTE Act refers to the number of students actually admitted. It is argued that the School herein had already admitted more than 25% EWS/DG category students in compliance with the RTE Act for the 2023-2024 academic session, and therefore, no further admissions can be imposed on the School based on backlog or carry-forward seats.

12. In view of these submissions, it is contended that the present petition should be dismissed.

Submissions on Behalf of the Respondent No. 2

13. Learned counsel appearing on behalf of Respondent No. 2 i.e. DoE submits that the petitioner was allotted a seat in Class I under the EWS category at Respondent No. 1 school through a computerized draw of lots. However, Respondent No. 1 refused the admission on the grounds that the DoE had waived the unfilled EWS/DG seats for the academic session 2023-2024. It is argued that as per DoE's policy, any unfilled EWS/DG & CWSN seats at the lower entry level are carried forward to the next entry level class to ensure compliance with Section 12(1)(c) of the RTE Act, 2009. It is contended that the carry-forward policy was introduced in the 2017-2018 academic session to prevent wastage of reserved seats for economically weaker sections and disadvantaged groups. This policy has been upheld by this Court in the judgment dated 31.07.2017 in



2024:DHC:7137



W.P.(C) No. 9069/2016 and affirmed by the Division Bench of this Court. It is further submitted that the policy of carry forward was also recently upheld in case of **Anjali Pandey (supra)**, wherein the Court affirmed that Respondent No. 1 school had admitted only one student out of 25 allotted seats under the EWS/DG category for Class I, citing the waiver granted by the DoE.

14. It is argued that a similar situation arose in **Master Priyank Nagarwal & Ors. v. Sovereign School & Anr., W.P.(C) 13988/2023**, where this Court initially directed provisional admissions, but these orders were subsequently stayed by the Division Bench in **Sovereign School v. Directorate of Education, GNCTD & Ors. LPA 760/2023**, on 30.11.2023. It is submitted that the stay order in *LPA 760/2023* allowed the DoE to place the affected students in alternative schools, which also applied to **Ravinder Kumar v. GNCTD & Anr., W.P.(C) 8955/2023**. In both cases, it was contended that no admissions could be made against the carry-forward seats due to the waiver granted by the DoE.

15. It has also been argued that based on the judgment in **Anjali Pandey (supra)**, the term ‘strength’ in Section 12(1)(c) of the RTE Act refers to the actual number of students admitted, not the total available seats. This interpretation avoids an anomalous situation where schools would be forced to admit more EWS/DG students than necessary if fewer general category students were admitted.

16. It is contended that the petitioner’s claim for admission is untenable because the last date for admissions for the 2023-2024 academic session was 31st December 2023, as upheld by this Court



2024:DHC:7137



in *Neeraj Kumar v. Venkateshwar Global School*, W.P.(C) 7945/2016, and affirmed in *Justice for All v. GNCTD* (W.P.(C) 3684/2013). It has been further submitted that the petitioner is free to apply for the next academic session (2024-2025) under the EWS category.

17. In conclusion, it is submitted that no relief can be granted to the petitioner, and the petition must be dismissed in light of the settled legal precedents and the waiver order issued by the DoE.

18. This Court has heard arguments addressed on behalf of the petitioner as well as respondents, and has perused the material placed on record.

Analysis & Findings

19. In the present writ petition filed on behalf of Baby Gitika Rawat, the petitioner seeks admission in the respondent School under the EWS category, for the academic session 2023-2024. Having considered the detailed submissions of the petitioner and the respondents, this Court notes that the petitioner was allotted a seat in respondent School, under the EWS category, for the academic year 2023-2024 through the computerized draw of lots. However, the School had denied admission to the petitioner. In this regard, this Court further notes that *vide* order dated 17.04.2023, the DoE had decided to waive the requirement for respondent School to admit students against the carry-forward or backlog EWS seats, as the School had already fulfilled its obligations under the RTE Act, 2009, with respect to EWS admissions. This representation was decided,



2024:DHC:7137



pursuant to an order dated 28.03.2023 passed by this Court in case of *The Sovereign School v. DoE*, W.P.(C) 3987/2023. The relevant portion of waiver order dated 17.04.2023, issued by DoE, reads as under:

**"GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF
DELHI
DIRECTORATE OF EDUCATION
OLD SECRETARIAT, DELHI-110054
(PRIVATE SCHOOL BRANCH)**

No.DE.15(1025)/PSB/2023/3239

Dated:17/04/2023

ORDER

Whereas, as per section 12(1)(c) of RTE Act, 2009 all Private Unaided Schools recognized under DSEAR Act, 1973 and RTE Act, 2009 are under obligation to admit atleast 25% of the total strength of the entry level class as EWS/DG category including CWSN students.

And whereas, The Sovereign School, pocket-17, phase-III, sector-24, Rohini Delhi-110085 is a Private Unaided Recognized School falls within the preview of above mentioned section of RTE Act, 2009.

And whereas, the Directorate of Education vide computerized draw of lots held on 14/03/2023 allotted number of EWS/DG/CWSN students in Nursery, KG & Class-I for the session 2023-24.

And whereas, the said school has filed representation with the prayer to reduce EWS/DG /CWSN seats at the entry level classes for the session 2023-24 citing reasons that the school has not receiving enough General category admissions against the allotted EWS/DG/CWSN category admissions.

And whereas, this department has reduced the total seats in Nursery class for the session 2023-24 from 140 to 88.

And whereas, the said school has filed WPC No. 3987/2023 with the prayer:-

Quashing of circular dated 13/01/2023 of DOE vide which tentative vacancies were publicized by the department for the session 2023-24 and 34 seats under EWS/DG category including CWSN were carry forwarded in next higher entry level classes i.e. KG (10 seats) & Class-I (24 seats).

And whereas, the Hon'ble High Court in the said WPC has



passed the following order:

To treat the instant petition as a representation and the Directorate of Education shall consider the same in accordance with the law and pass an appropriate order after giving opportunity of hearing to the petitioner.

And Whereas, in compliance of the above direction passed by the Hon'ble High Court the Department after giving opportunity to the petitioner of the said writ petition and after going through the factual submission of the school in the writ petition and written representation submitted on the day of appearance before the department, it is found that the enrolment of the school has been reduced in past years and the school is not getting general category admission at par with the declared seats.

That the said school has submitted the following strength of students in its school as on 15.03.2023:-

Class strength of The Sovereign School for the session 2022-23			
Class	Gen.	EWS	Total
Pre-School	61	25	86
Pre-Primary	38	13	51
I	53	21	74
II	60	25	85
III	55	26	81
IV	54	23	77
V	31	33	64
VI	66	27	73
VII	39	36	95
VIII	42	23	65
IX	47	41	88
X	64	31	95
XI	31	5	36
XII	34	6	40
Grand Total	675	335	1010

Therefore, in view of the aforesaid submissions and going through the factual matrix of the issue of below par admission in general category, I Binla Kumari, Deputy Director (PSB), Directorate of Education, GNCTD, hereby dispose off the representation of The Sovereign School, pocket-17, phase-III, sector-24, Rohini Delhi-110085 with the following directions to the school:



2024:DHC:7137



**Backlog seats of EWS/DG/CWSN allotted in KG (10 seats) and Class 1st (24 seats) are waived off for the session 2023-24. Further, school is directed that it will take any fresh general category admission with prior information to the Directorate of Education and requisite number of EWS/DG/CWSN seats will be allotted to the school".*

This issues with the prior approval of Director (Education)

BIMLA KUMARI
Dy. DIRECTOR OF EDUCATION"

20. It is further to be noted that this waiver order was issued after considering the lower-than-expected general category admissions in the school, a factor that directly impacts the EWS quota under Section 12(1)(c) of the RTE Act. The provision mandates that unaided private schools reserve 25% of their seats at the entry level for students under the EWS category. However, as held in case of *Anjali Pandey (supra)*, it was clarified that this 25% reservation applies to the actual number of students admitted in the general category in a given year, not the total available seats.

21. The DoE has drawn this Court's attention to the fact that the policy regarding carry-forward of EWS seats was introduced by the DoE in the academic session 2017-2018, aiming to ensure that any unfilled seats under the EWS/DG category at the entry-level classes would not be wasted and could be filled in subsequent years, and the said policy was upheld in case of *Neeraj Kumar (supra)*. Be that as it may, the waiver granted to the respondent School herein nullifies the obligation of the School to admit students against carry-forward or backlog seats for the academic year 2023-2024. The waiver order



2024:DHC:7137



dated 17.04.2023 has not been challenged till date, and thus, the same would remain binding on all the parties.

22. Nonetheless, to resolve the controversy in this case, it would be pertinent to note that in an earlier decision by a Coordinate Bench of this Court in *Master Prayana Nagarwal & Ors. v. Sovereign School & Anr. W.P.(C) 13988/2023*, provisional admission was granted to a similarly placed petitioner under the EWS category. That petitioner therein, also denied admission by the respondent School, had sought relief from this Court, and the Coordinate Bench had granted provisional admission.

“11. In the meantime, considering the circumstances of the case, and in view of what has been submitted by learned counsel appearing for DoE above, respondent No.1 school is directed to grant provisional admission to petitioner No.1/ Priyank Nagarwal in Class Nursery/Pre-School, petitioner No.2/ Shruti in Class: KG/Pre Primary, and petitioner No.3/ Garvita in Class-1 for Academic Section 2023-24 in the EWS/DG Category...”

23. However, the respondent School had challenged these orders before the Division Bench of this Court in LPA No. 760/2023, on the ground that the school had already fulfilled its EWS obligations and that the waiver granted by the DoE had absolved it from admitting further EWS students for the academic session 2023-2024. The Division Bench, in its order dated 30.11.2023, agreed with the contentions of the School and held that the waiver granted by the DoE was lawful, based on a legitimate administrative decision, and could not be disregarded without judicial review. The relevant observations, as recorded in order dated 30.11.2023, read as follows:

“8. The aforesaid order dated 17th April, 2023 was



2024:DHC:7137



issued by the respondent no.1 in pursuance to the representation of the appellant school. By the said order, the DoE took into account the fact of below par admissions in General Category in the appellant school. Thus, the DoE decided to waive of the bucking seats of EWS/DG category allotted to the appellant/school for the academic session 2023-24.

9. This Court also notes that the order dated 13th September, 2023 passed in case of Anjali Pandey (supra) I directing the appellant school to grant admission to petitioner therein, clearly mentions that the said order is being passed in the unusual circumstances obtaining in the matter and that the said order will not form a precedent in any other case. Therefore, reliance by respondent no.1 on the said order, is clearly misplaced.

10. As canvassed before this Court, the appellant/school has already fulfilled the requisite requirement for admitting students in EWS/DG category in terms of its the respondent no. I vide Circular dated 13th January, 2023.

11. In view of the aforesaid detailed discussion, operation of the impugned orders dated 20th October, 2023 and 07th November, 2023 giving interim directions to appellant/school to grant admission to respondent nos. 2 to 4 are stayed. However, the respondent no. 1/DOE is at liberty to grant admission to respondent nos. 2 to 4 in some other school...”

24. The Division Bench had stayed the operation of the order of Coordinate Bench, noting that the respondent School had complied with its obligations under Section 12(1)(c) for the relevant academic year. Furthermore, the Bench had directed the DoE to accommodate the petitioners in alternative schools if possible. Therefore, it has been held that no provisional or permanent admissions could be granted against the carry-forward seats in the Respondent No. 1



2024:DHC:7137



School herein, for the academic session 2023-2024.

25. The aforesaid decision of the Division Bench had a ripple effect on similar cases. In *Ashok v. GNCTD & Anr.* W.P.(C) 9026/2023 and *Ravinder Kumar v. GNCTD & Anr.* W.P.(C) 8955/2023, the Coordinate Bench had applied the same rationale, and followed the decision of the Division Bench in denying provisional admissions to other similarly placed petitioners. The order dated 20.12.2023 in case of *Ashok (supra)* is as follows:

“1. Mr. Namit Suri, learned counsel appearing for respondent No.2/Sovereign School ('school') submits that the school has received waiver in respect of the carry-forward/backlog seats in the EWS/DG Category for Class: KG/Pre-Primary and Class-I for the Academic Session 2023-2024, based on which, vide order dated 30.11.2023 made in LPA No. 760/2023 titled Sovereign School vs. Directorate of Education, Govt. of NCT of Delhi & Ors., a Division Bench of this court has stayed the operation of orders dated 20.10.2023 and 07.11.2023 made in W.P.(C) No.13988/2023, whereby this court had granted provisional admission to the petitioners in that case.

2. Mr. Suri submits that the same principle would apply in the present case; and therefore no provisional admission be granted to the present petitioner's ward either.

3. In view of order dated 30.11.2023 made by the Division Bench, as aforesaid, no provisional admission can be granted to the present petitioner's ward.

4. In the circumstances, Ms. Perna Tandon, learned counsel appearing for the petitioner submits that the DoE may be directed to try and accommodate the petitioner's ward in some other school by allotting an alternate seat...”

26. Therefore, considering the aforesaid decisions of Division



2024:DHC:7137



Bench as well as Coordinate Bench of this Court, the petitioner cannot seek admission in respondent School, on the strength of allotment made by the DoE, moreso in view of waiver order dated 14.03.2023 as noted hereinabove.

27. However, even if the petitioner's case had been meritorious, the fact that the present petition was filed in January 2024, and no provisional admission had been granted to her, and since the academic session 2023-24, for which she was allotted the respondent School, is already over, no relief can be granted to her. In this regard, this Court takes note of the decision of the Coordinate Bench of this Court in case of *Ankit Kumar v. Government of NCT of Delhi & Anr.* W.P. (C) 5523/2024, wherein it has been held as under:

“4. Unfortunately, the 2023-2024 academic year is over. The allotment made by the DoE consequent on the computerised draw of lots was for the year 2023-2024.

5. The petitioner has not submitted any application for the year 2024-2025, and there is no allotment in his favour in any school as an EWS student for the 2024-2025 academic session.

6. I may note, here, that students who approached the Court seeking admission on the basis of an allotment made by the DoE consequent on the computerised draw of lots fall into three categories.

7. The first two categories relate to students who approach the Court during the academic year in respect of which the allotment is in their favour. Of these students, one category of students would be those in whose favour the court passes an interim order of provisional admission. The second category of students would be those in favour of whom there is no order of provisional admission, but the court passes an order reserving a seat for the student concerned in the class in respect of which the allotment has been made by the DoE.

8. In both these cases, even if the writ petition is taken up after the academic year is over, it is possible for the Court to direct admission of the student in the next academic year.



2024:DHC:7137



9. Take a student who applies for admission as an EWS candidate to KG/Pre-Primary class for the academic year 2023-2024. A computerized draw of lots is conducted by the DoE, in which her name is shortlisted for admission to KG/Pre-Primary, as the entry level class, in School X. A Petition instituted during the 2023-2024 academic session, but comes up for final hearing after the 2023-2024 academic session is over.

10. School X refuses to admit the student, whereupon she institutes a writ petition before this Court, before the end of the 2023-2024 academic session. The writ petition, however, comes up for hearing after the 2023-2024 academic session is over.

11. In such a situation, the Court cannot, quite obviously, direct School X to admit the petitioner in the 2023-2024 academic session. Can the Court, then, direct the petitioner to be admitted in Class I (the next higher class) in the 2024-2025 academic session, though the petitioner never applied for, and does not have in her favour, any allotment by the DoE to Class I in School X for 2024-2025?

12. The issue is tricky, and decisions of learned Single Judges of this Court have not all been one way.

13. If the Court passes an interim order directing provisional admission of the student in accordance with the result of the DoE allotment, there is no difficulty, as the student would, during the pendency of the writ petition, also be entitled to progressive promotion to higher classes, of course subject to the outcome of the writ petition. If, therefore, the Court finds the denial of admission to the student by the school to be legally unsustainable, it can allow the writ petition by finally directing admission of the student in the class in which the student is studying, in School X, at that point of time, thereby making the interim order absolute.

14. Even if the Court passes an interim order not directing provisional admission, but directing reserving of a seat in KG/Pre- primary for the petitioner, and the writ petition is taken up after the academic year 2023-2024 is over, the Court may nonetheless be in a position to finally direct the school to grant admission to the student in Class I for the academic year 2024-2025. This is because the unfilled KG/Pre-primary EWS seats in the school for the academic year 2023- 24 would be carried forward to the year 2024-2025. If, among those seats, the Court has already reserved a seat for the petitioner in



2024:DHC:7137



KG/Pre-primary in 2023-2024, that seat would remain reserved for the petitioner among the carried forward seats of 2023-2024. That seat would not, therefore, be available to the general EWS applying public for admission. As that seat would remain reserved in the petitioner's name in Class I for the year 2024-2025, the Court is empowered to finally direct the school to admit the petitioner in class I against that seat in 2024-2025.

15. If, however, there is neither any interim order of provisional admission or directing reserving of a seat for the petitioner passed by the Court, then, after the academic year is over, the right of the student to be granted admission to the school would perish with the coming to an end of the 2023-2024 academic year. The petitioner would not have any seat allotted by the DoE in her favour in Class I in the school for 2024-2025. Further the unfilled seats in Kg/Pre-primary in 2023- 2024, even if carried forward, would then be available for all EWS students who seek admission in class I for the academic year 2024- 2025, as no seat has been reserved for the petitioner under any interim order of the Court. It would be unfair, therefore, to deny such EWS applicants for the 2024-2025 academic year one seat merely because there was an allotment in KG/Pre-primary in 2023-2024 in favour of the petitioner which did not fructify. That seat, even if carried forward, would be available for being filled by all EWS students who would have to apply and compete in the computerised draw of lots held by the DoE.

16. This position would apply, equally, where the petitioner has approached the Court, on the basis of an allotment to KG/pre-primary by the DoE for 2023-2024, but after the 2023-2024 academic year is over. The present petitioner falls in this last unfortunate category. Though the petitioner was allotted a seat by the DoE in its computerised draw of lots for 2023-2024 in the respondent-school, the petitioner did not seek to enforce that right, by approaching this Court, in the 2023-24 academic year, during which alone the right subsisted.

17. Accordingly, the seat in the respondent school, which was allotted in favour of the petitioner by the DoE would now be carried forward to Class I in the respondent school. As that seat has not been reserved in favour of the petitioner by any order passed this Court, the seat would be available along with all other carried forward seats in class I in the respondent school to be filled by the entire pool of EWS students who seek admission to class I.



2024:DHC:7137



18. Needless to say, the petitioner would also be at liberty to apply as an EWS student in class I for the academic session 2024-2025 with the DoE...”

(Emphasis supplied)

28. In the above-quoted decision, it was held that the allotment made by the DoE for the academic year 2023-2024 was only valid for that year. It was further observed that the students who approach the court, based on an allotment made by the DoE after a computerized draw of lots, fall into different categories, depending on the timing and type of court order obtained. If a student files a writ petition for admission during the relevant academic session, but the case is heard after the session has ended, the court cannot direct admission for the academic session which has already concluded. In such situations, the court must determine whether it can direct admission in the next academic year, even if the student did not have an allotment for that year. However, it was observed that if there is no interim order reserving a seat for the petitioner or directing provisional admission during the relevant academic session, the student’s right to admission ends with the conclusion of that academic year. The unreserved seat, even if carried forward, becomes available to other applicants for the following academic year.

29. Thus, from the aforesaid decision, it is evident that the relief, claimed by the petitioner in the present writ petition, pertaining to the allotment made by DoE for the previous academic year i.e. 2023-2024, unfortunately, cannot be granted at this stage.

30. The respondent DoE, however, is requested to ensure that



2024:DHC:7137



petitioner herein secures admission in a nearby government school this year, as per rules and procedure in this regard, and that the petitioner is advised to apply for the draw of lots to be conducted for the next academic session, if she so wishes.

31. Accordingly, the present writ petition stands dismissed.

32. The judgment be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

SEPTEMBER 18, 2024/at