



2024 : DHC : 3631



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

+ **W.P.(C) 13208/2018**

**RAJAT (MINOR) THROUGH HIS FATHER AND  
NATURAL GURDIAN SHRI VIKAS** .... Petitioner

Through: **Mr Raghu Godara, Advocate**

versus

**THE SECRETARY, MINISRTY OF SOCIAL JUSTICE &  
EMPOWERMENT GOVERNMENT OF INDIA & ANR**

..... Respondents

Through: **Ms. Niharika Jauhari and Mr.  
J.P. Nahar, Advs. for R-1 with Ms. Divyani -  
Legal Consultant**

**Mr. Prateek Bajaj, Adv. for R-2**

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

**JUDGMENT (ORAL)**

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**02.05.2024**

1. This writ petition suffers from rampant misstatement and suppression of facts, which completely disentitles the petitioner to any equitable relief under Article 226 of the Constitution of India.

2. The grievance of the petitioner is that, though he had applied to the respondents for being admitted to the D. Ed. Special Education (Hearing Impairment) course, after being initially admitted to the said course, he was told that there was no vacancy therein, and was directed to take admission to the stream D. Ed. Special Education,



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ASD<sup>1</sup> course.

3. The writ petition is replete with assertions that the petitioner had never applied for admission to the D. Ed. Special Education (ASD) course but had only applied for D. Ed. Special Education (HI) course, and that, therefore, the respondent committed a serious error in asking the petitioner to join the D. Ed. Special Education (ASD) course.

4. In the counter affidavit, the respondent has pointed out that the petitioner has resorted to serious concealment of facts.

5. It has been pointed out that the petitioner initially applied for admission to D. Ed. Special Education (ASD) course but, thereafter, revised his application form and applied for D. Ed. Special Education (HI). Thereafter, taking advantage of a notification dated 27 August 2018 issued by the Rehabilitation Council of India (RCI), whereby applicants were allowed to change their streams at the stage of admission, *the petitioner chose to take admission in the D.Ed. Special Education (ASD) course. He, therefore, submitted an application form for the D. Ed. Special Education (ASD) course to the RCI. Not only that, it is averred in para 6 of the counter affidavit that, on 29 August 2018, the petitioner paid the requisite fees and took admission in the D. Ed. Special Education (ASD) course but that he had deliberately not filed his fee receipt with the present petition, as that would*

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<sup>1</sup> Autism Spectrum Disorders



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indicate that the course for which fees were paid was the D. Ed. Special Education (ASD) course. The fees receipt has been placed on record by the respondent as Annexure R-3. Thereafter, on 22 September 2018, the petitioner approached the respondent seeking to change the stream from D. Ed. Special Education (ASD) to D. Ed. Special Education (HI). This letter has also been placed on record and may be reproduced, both in vernacular as well as in its translated version, thus:

सेवा में श्रीगती प्रधानाचार्य

महोदय

RED CROSS HINDU INSTITUTE FOR EDUCATI AND  
REHABITATION OF MENTALY CHALLANG CHILDREN

SONEPAT

महोदया

: निवेदन यह है कि प्रारथी रजत पुत्र विकास. 3 H.No.1660, dec 23, bornepat का निवासी हैं। जी की आपकी संस्थान के D.EU SE A.D.S विभाग में दाखिला ले चुका हैं। परन्तु कुछ व्यक्तिगत कारणों से प्रारथी रजत D.Ed SE H.I विभाग में अपना दाखिला परिवर्तित करवाना चाहता हैं। अतः आपसे विनम्र निवेदन हैं कि प्रार्थी के द्वारा चुने हुए पिछले आवेदन को परिवर्तित करके। नए विभाग में (D.Ed.SE HI) दाखिला मानध किया जाए।

प्रारथी

रुजत,

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D.ED SE A.S.D

22. Sep. 2018

“The Principal,  
Red Cross Hindu Institute for Education  
and Rehabilitation of Mentally Challenged Children,  
Sonapat.

Ma'am,

I, Rajat S/o Vikas presently resides at H. No. 1660, sector 23, Sonapat. I have already taken admission in your Institute in the course of D. Ed. SE A.S.D. but due to some personal reasons, I, Rajat, the applicant, wants to change my course to D Ed. SE H.I. Hence, it is humbly requested to change the course of the applicant to new course (D. Ed. SE H.I.) from my earlier chosen course.

Applicant  
Rajat  
D. Ed. SE A.S.D.  
22.09.2018

Sd/-  
Forward to Principal Madam

Atul ji  
Tie up with  
Coordinator (ASD)  
and do the needful  
Sd/- (Principal)  
22.09.2018”

6. The counter affidavit points out that the petitioner was informed that his request for being permitted to switch back from D. Ed. Special Education (ASD) to D. Ed. Special Education (HI) had to be forwarded by the Respondent 2 to the RCI. It was duly forwarded.

7. In these circumstances, the counter affidavit points out that the petition makes out an entirely imaginary grievance, as it was the petitioner himself who, after having initially applied for admission to

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the D. Ed. Special Education (HI) course, chose to avail the benefit provided by the RCI notification dated 27 August 2018, and took admission in the D. Ed. Special Education (ASD) course, for which he even paid the fees and was issued a receipt in that regard. At the time he wanted to switch back to D. Ed. Special Education (HI) course, he addressed the communication dated 22 September 2018 reproduced *supra*.

8. All these facts are concealed in the petition. Paras 2 to 5 of the writ petition, which contains the complete averments of facts therein, are reproduced thus:

“2. That the respondent No.1 is the statutory body and working for the education for the children who are physically and mentally handicapped. Through the different institutions, which are being run by the respondents for impartment of the education to the children who are the hearing impaired, hard of hearing and mentally retarded in different States and one of such institutions is in Sonapat which is running in the name of Red Cross Hindu Institute, Sonapat (Haryana). As per the guidelines of the respondent No.1, the respondent No.2 held a written test called AIOAT-2018 in which application forms were displayed on the site of the respondent No.1 for different courses and two of the main courses are D. Ed. Special Education (Hearing Impairment) (DSE-H.I) and another course D. Ed. Special Education (Mental Retardation) (ASD). The copy of the Admission Form No.557076 is annexed herewith and marked as Annexure P/1.

3. The petitioner applied for the course D. Ed. Special Education (Hearing Impairment) (DSE-H.I) and got through the test and consequently he was allotted the said Diploma as professional teacher in the course D. Ed. Special Education (Hearing Impairment) (DSE-H.I) and started attending the classes in that course from 04.08.2018. The petitioner deposited the fee of Rs.25,000/- + Rs.300/- as admission fee for this diploma course.

4. That after two-three days of the allotment of the course mentioned above, the petitioner was asked by the respondent No.2 not to attend the classes in the course Hearing Impairment and he

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was told that he was entitled to attend the classes in D. Ed. Special Education, ASD. The petitioner applied for the course of Hearing Impairment as is clear from the application form and therefore he asked the respondent No.2 that he was entitled to the Hearing Impairment Course as he had not applied in the D. Ed. Special Education (Mental Retardation) ASD.

5. The petitioner was not allowed to sit in the Special Education (HI Course) and now the respondent No.2 has shown his name in the Diploma Course of D. Ed. Special Education (Mental Retardation) ASD but as he has not applied for that course, the petitioner has stopped attending the classes of the said course. The respondent No.2 has not given any letter or order in writing whereby he was not allowed to attend the classes in the D. Ed. (Special Education (Hearing Impairment) (DSE.H.) and when he asked the respondent No.2 to pass an order in this respect he was told by the respondent No.2 that the petitioner had better approach the respondent No.1 which the main authority through which the respondent No.2 is functioning.”

9. There is, therefore, in the writ petition, no mention of the fact that

- (i) after having undertaken the written examination for D. Ed. SE (HI), the petitioner, taking advantage of the Notification dated 27 August 2018 of the RCI, chose to change his stream to D. Ed. SE (ASD),
- (ii) he submitted an application form for the said purpose, and paid the admission fees for conversion from D. Ed. SE (HI) to D. Ed. SE (ASD),
- (iii) he took admission in D. Ed. SE (ASD), and
- (iv) he, thereafter, decided to switch back from D. Ed. (SE) (ASD) to D. Ed. (SE) (HI).



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This fact is categorically acknowledged by the petitioner in the letter dated 22 September 2018 extracted hereinabove, which is also concealed in the writ petition.

10. The grievance in the petition that, having never applied for admission to the D. Ed. SE (ASD) course, the petitioner could not have been admitted thereto is, therefore, premised entirely on false and misleading assertions. Quite clearly, the petitioner can have no legitimate grievance.

11. A petitioner who comes to the court with unclean hand has no right to invoke Article 226 of the Constitution of India.

12. This writ petition is accordingly dismissed.

13. Though the petition would have invited imposition of exemplary costs, given the fact that the petitioner appears to be a person of somewhat strained financial means, I refrain from doing so.

**C. HARI SHANKAR, J.**

**MAY 2, 2024**

*dsn*

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