

21.08.2025
Item No.04
Court No.11
Avijit Mitra

MAT 1110 of 2025
with
IA No.CAN 2 of 2025

Zishan Rana Halder
- Versus -
Union of India & ors.

Mr. Shibjit Mitra,
Ms. Mounita Chandra
...for the appellant
Mr. Pulakesh Bajpayee
...for the respondent nos.1 to7 & 9
Mr. U.S. Menon,
Mr. Abhirup Chakraborty
....for the respondent no.2

The present appeal has been preferred challenging an order dated 24th April, 2025 passed by the learned single Judge in the writ petition being WPA 9123 of 2025. The said writ petition was affirmed on 23rd April, 2025 primarily praying for issuance of necessary direction upon the respondents '*to take immediate steps for admission of the petitioner in Class-VI (2025-2026) in the said school, namely Jawahar Navodaya Vidyalaya-II, P.O. Jibantala, South 24 Parganas forthwith*'.

Upon contested hearing, the learned single Judge observed *inter alia* that no case has been made out on behalf of the appellant that he should be treated as '*OBC Rural*' category candidate and that in terms

of the law prevailing he can at best be treated as '*Open Unreserved (Boy)*' category candidate. The Court further observed that no relief can be granted to the appellant since the cut-off of marks for '*Open Unreserved (Boy)*' category is 97.5 and he did not achieve such cut-off marks in order to be considered under '*Open Unreserved (Boy)*' category.

Mr. Mitra, learned advocate appearing for the appellant strenuously argues that the appellant applied for participation in the admission process under '*Rural-OBC*' category, as would be explicit from his application and the admit card issued in his favour annexed at pages 33 and 55 of the stay application. In view thereof, the learned single Judge ought to have directed the authorities of Navodaya Vidyalaya Samiti (hereinafter referred to as the said Samiti) to consider the appellant under '*Rural Open*' category instead of '*Open Unreserved (Boy)*' category.

He further argues that indisputably the appellant secured 95% marks and as the cut-off marks for '*Rural-UR*' category is 92.5, he clearly came within the zone of consideration for admission under the said category. However, the authorities of the said Samiti had not taken into consideration the merit of the appellant. Such argument, as urged, was glossed

over by the learned single Judge and no finding was returned on the same.

He contends that one Mahabub Molla and one Mujtahid Molla appearing under '*Rural Open*' seats had admittedly obtained lesser marks than the appellant. The cut-off marks in '*Rural-UR*' category was 92.5 whereas the appellant scored 95% marks and as such the denial of admission to the appellant stands out to be an instance of utter discrimination.

Mr. Bajpayee, learned advocate appearing for the authorities of the said Samiti, however, denies and disputes the arguments of Mr. Mitra and submits that the appellant, at the time of verification, failed to produce a valid OBC certificate. In view of such failure, there was no obligation of the authorities to consider him under any category moreso when no option was exercised by him for altering his category in spite of the fact that a window to that extent was kept open upto 7th October, 2024.

He argues that the merit of the '*Open*' area seat is higher than the '*Rural*' area seat since both Rural and Urban area candidates compete for the '*Open*' seat. On the other hand, the merit of a '*Rural*' seat is low as a '*Rural*' seat is reserved for rural area candidates only to uphold the minimum reservation

quota for rural candidates i.e. minimum 75% of the total seats in a JNV.

Drawing the attention of this Court to the averments made in the paragraph (f) of the report, Mr. Bajpayee submits that before the order passed in the writ petition, admission of all candidates under '*Rural Open*' seats was completed on 18th July, 2025 and presently there is no vacant seat.

Mr. Menon, learned advocate appearing for the respondent no.2 submits that the respondent no.2 is an expert body and it was assigned the duty to conduct the examination on the basis of the admission procedure as set by Jawahar Navodaya Vidyalaya (hereinafter referred to as JNV).

We have heard the learned advocates appearing for the respective parties and considered the materials on record.

The appellant, at the time of verification, could not produce a valid OBC Certificate. However, as he secured 95% marks, he could have been considered under '*Open-UR*' seats but the cut-off under the said category was more than 95% being 97.5 and as such question of accommodation to the appellant in the said category was an impossibility. In the Provisional Select List, as annexed to the stay application, the appellant's name featured at serial no.12 under

'Open Backward Class' quota seats. Any direction to treat him as a candidate under *'Rural Open'* seats would have been prejudicial to the other candidates empanelled in the *'Open Backward Class'* quota and that as such the learned single Judge observed that at best the appellant could have been considered in respect of *'Open-Unreserved (Boy)'* seats. We do not find any infirmity in such observation of the learned single Judge. Furthermore, by the time the writ petition was heard, admission under *'Rural-Open'* category was complete. In the said conspectus, we are not inclined to exercise any discretion in favour of the appellant.

Accordingly, the appeal and the connected application are dismissed.

There shall, however, be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the learned advocates for the parties.

(Reetobroto Kumar Mitra, J.) (Tapabrata Chakraborty, J.)