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

% *Decided on: 28th February, 2023*

+ W.P.(C) 16191/2022 & CM APPL. 50655/2022

SAMAR DEVAL Petitioner

Through: Mr. Arkaneil Bhaumik, Mr. Rayadurgam Bharat, Mr. Amol Acharya, Advocates for Dr. Amit George, Advocate (M:9643484092)

versus

DIRECTORATE OF EDUCATION & ANR. Respondents

Through: Mr. Santosh Kumar Tripathi, SC (C) GNCTD with Mr. Tapesh Raghav, Mr. Utkarsh Singh, Mr. Praduman Rao, Mr. Kartik Sharma, Ms. Mehek Rankawat, Advocates for DOE (M:9129829862)

Mr. Vikas, Education Department, Zone-13 (M:9811431189)

Ms. Swati Surbhi, Advocate for R-2

Ms. Tina Garg, Adv. for R-4

CORAM:
HON'BLE MS. JUSTICE MINI PUSHKARNA
[Physical Hearing/ Hybrid Hearing]

MINI PUSHKARNA, J. (ORAL):

1. In the present case, admission is being sought to the respondent No.2 School on the ground that the petitioner has been successful in draw of lots for admission to the said school under the Disadvantaged

Group (DG) category. Attention of this Court has been drawn to school allotment letter, wherein, the petitioner has been allotted the respondent No.2 School by the Education Department, Government of NCT of Delhi (GNCTD). Further, attention of this Court has also been drawn to the Scheduled Caste Certificate issued in favour of the father of the petitioner.

2. Ld. Counsel appearing on behalf of respondent No.2 School submits that Scheduled Caste Certificate shows the residential address of the petitioner, which is approximately 8 to 10 Kms away from the school in question. Ld. Counsel for school also raises a plea that school in question did not have any recognition for granting admission to Nursery and Pre-Primary/KG classes. Thus, she submits that in view thereof admission could not be granted.

3. Mr. Santosh Kumar Tripathi, Id. Standing Counsel, GNCTD appearing on behalf of the Department of Education, (DOE) submits that once a school has been allotted in the draw of lots, the school in question is bound to give admission.

4. I have heard Id. Counsels for the parties.

5. Considering the fact that Scheduled Caste Certificate has been issued in favour of the father of the petitioner and that petitioner is successful in draw of lots for admission to the respondent No.2 school, there is no justification for not granting admission to the petitioner under the DG category.

6. The objection of the respondent No.2 school with respect to the fact that Scheduled Caste certificate gives the address of a different place, is not justified. A Scheduled Caste certificate is not a proof of

residence. Even otherwise, once a school has been allotted by the DOE and requisite exercise has been carried out on behalf of the DOE, GNCTD, this Court will not sit as a fact finding body with respect to any objections as may be raised by the school, unless some glaring and prima facie discrepancy is pointed out.

7. Mr. Santosh Kumar Tripathi, Id. Standing Counsel GNCTD further submits that even though there may not be any permission from the DOE for admission in the Nursery and Pre-Primary/KG classes, however, once a school has been allotted by the DOE itself, it was the duty of the school to grant admission.

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, 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.

12. In view of the aforesaid submissions, the present petition is allowed. However, considering the fact that the current academic session 2022-2023 is already at its fag end, the petitioner is directed to be granted admission in the Nursery class for the academic session 2023-2024. Ld. Standing Counsel appearing on behalf of Department of Education submits that Department of Education has no objection if admission is granted to the petitioner in Nursery Class for the academic session 2023-2024.

13. Accordingly, the present petition is disposed of with the aforesaid directions along with pending applications.

MINI PUSHKARNA, J

FEBRUARY 28, 2023/au