

Pp International School vs Govt. Of Nct Of Delhi & Ors on 2 December, 2021

Author: Prateek Jalan

Bench: Prateek Jalan

\$~67 (2021 Cause List)

* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(C) 13665/2021

PP INTERNATIONAL SCHOOL

..... Petitioner

Through: Ms. Jyoti Taneja, Ms. Sayesha
Suri, Ms. Isha Arora, Ms. Bhavya
Vijay Tangri, Advocates.

versus

GOVT. OF NCT OF DELHI & ORS.

..... Respondents

Through: Mr. Santosh Kr. Tripathi, SC
(Civil) GNCTD with Mr. Arun
Panwar, Mr. S.K. Dwivedi,
Advocates.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

% 02.12.2021 The proceedings in the matter have been conducted through hybrid mode [physical and virtual hearing].

CM APPL. 43158/2021(for exemption) Exemption allowed, subject to all just exceptions. The application stands disposed of.

W.P.(C) 13665/2021 with CM APPL. 43157/2021(stay)

1. Issue notice. Mr. Santosh Kumar Tripathi, learned Standing Counsel, accepts notice on behalf of the respondent No. 1-Government of NCT of Delhi ["GNCTD"] and the respondent No. 2-Directorate of Education ["DOE"]. The respondent No. 3-Delhi Commission for Protection of Child Rights be served by all permissible modes, and through Standing Counsel or nominated counsel, if any.

2. The petitioner-School ["the School"] challenges an order dated 18.08.2021 by which its application for partial exemption from admission of Economical Weaker Sections ["EWS"]/Disadvantaged Groups ["DG"] category candidates was rejected by the DOE.

3. The admission of EWS/DG category candidates to private schools under the Right of Children to Free and Compulsory Education Act, 2009 is the subject matter of several circulars issued by the GNCTD. While the obligation to admit 25% candidates from the EWS/DG category is not disputed by the School, a question has arisen as to whether the ratio of 25% has to be computed on the basis of the total sanctioned strength of general category students, or on the basis of the number of general category students actually admitted. The case of several schools, including the petitioner-School herein, is that they have been unable to admit a sufficient number of general category candidates despite their best efforts. They rely upon the judgment of this Court dated 30.09.2013 in W.P.(C) 3385/2013 [The Sovereign School vs. Directorate of Education Govt. of NCT of Delhi], wherein this Court had held that a school would be entitled to an exemption from admission of all EWS/DG category candidates in the event it had made a genuine effort to admit general category candidates but was unable to do so.

4. The DOE has issued a circular dated 09.07.2021 which contemplates an application to be made by schools for exemption from granting admission to all eligible candidates allotted to them in the EWS/DG category on the ground of lesser general category admission.

The aforesaid circular has been challenged before this Court by way of W.P.(C) 10839/2021 [Action Committee Unaided Recognized Private Schools vs. Directorate Of Education Govt of NCT of Delhi], and this Court has passed the following interim order on 24.09.2021:

"6. Read in this context, I am of the view that the impugned circular is not contrary to the judgment in Sovereign School (supra). The direction in the second paragraph to grant admission to all eligible candidates allotted to the schools, is subject to the qualification contained in the following paragraph that a school can seek exemption from the DOE on the ground of lesser general admission. The circular, in fact, itself makes reference to the judgment in Sovereign School. On a holistic reading of the circular, it requires schools to admit all the EWS/DG candidates whose names have been forwarded by the DOE, subject to the exemption granted on the ground of lesser general category admissions. The circular to this extent incorporates the judgment of this Court in Sovereign School.

7. Mr. Santosh Kumar Tripathi, learned Standing Counsel for the DOE, who appears upon advance notice, also confirms that this is the interpretation placed upon the circular by the DOE itself.

8. The mechanism of the circular appears to be that if a school despite its best effort is unable to admit the sanctioned number of candidates in the general category, then it may seek exemption from admitting all the eligible EWS/DG category candidates. The school will naturally be required to admit the number of EWS/DG category candidates forwarded by the DOE corresponding to the number of general category candidates admitted. In the event the school contends that it has been unable to admit the sanctioned number of general category candidates despite its best efforts, it may make an application for exemption to DOE and the admission to the balance

number of EWS/DG category candidates will be subject to the result of the exemption application, which is required to be considered in terms of the parameters laid down in Sovereign School."

5. The School made an application on 29.06.2021 for exemption, even prior to the aforesaid circular dated 09.07.2021. Various efforts made by the School to attract general category candidates were outlined in the aforesaid communication. Several reminders have also been placed on record. After the issuance of the circular dated 09.07.2021, the School also addressed a communication dated 13.07.2021 to the DOE. An endorsement has been made on the said representation on 18.08.2021, which reads as follows: -

"With the remarks that your request has not been considered for exemption due to insufficient proof of efforts taken to increase admission of Gen. category students. They should try next year for reduction in General category seats."

6. The Principal of the School thereafter received a communication on 12.10.2021 [by WhatsApp] requiring the School to submit further information, once again including details of the efforts made by the School for admission of general category candidates. Several specific items of information were sought. The School replied to the aforesaid message on 13.10.2021 and responded with the details, including as to advertisements published in the newspaper, the vacancy position shown on the notice board of the School and outside the gate of the School and also its requests made to the DOE to provide candidates to fill the remaining seats in the general category.

7. I find prima facie that the reply dated 13.10.2021 details various efforts which the School claims to have made in respect of each of the queries raised by the DOE.

8. Ms. Jyoti Taneja, learned counsel for the School, has handed over a recent communication dated 29.11.2021 by which the School's application has once again been rejected. A copy of the document is taken on record, and Ms. Taneja is directed to file the same in the Registry. The said document reads as follows:

"ORDER Whereas, the Principal/Authorized Signatory, P.P. International School (1411255), LD-Block, Pitampura, Delhi vide letter dated 13.07.2021 has requested for grant of exemption from admitting all the eligible EWS/DG/CWSN category students allotted by DoE to the school for admission in entry level classes on account of lesser general category admission during the session 2021-22.

And whereas, the document submitted by the school authenticating the efforts made by the school for increasing general category admissions during 2021-22 have been thoroughly examined in the light of Hon'ble Delhi High Court Order in W.P. (C) No. 3358/2013 and W.P. (C) No. 5172/2013, in pursuance of office circular No.DE.15(22)/PSB/ 2021-22/ 2318-2323 dated 09.07.2021.

And whereas, the documents/efforts provided by the school failed to substantiate the claim of the school for grant of such exemption from admitting all the eligible EWS/DG/CWSN category students allotted by DoE to the school for admission in entry level classes on account of lesser general category admission during the session 2021- Now therefore, the request made by the Principal/ Authorized Signatory, P.P International School, LD-Block, Pitampura, Delhi for grant of such exemption from admitting all the eligible EWS/DG/CWSN category students allotted by DoE to the school for admission in entry level classes on account of lesser general category admission during the session 2021-22, is hereby rejected.

Accordingly, Principal/Manager of P.P. International School (1411255), LD-Block, Pitampura, Delhi are hereby directed to ensure admission of all eligible EWS/DG/CWSN category students allotted by DoE for admission in the entry level classes during 2021-22 within a week and update the status of admission on the online portal, without fail.

This issues with the prior approval of the DDE/NWB-

9. I am prima facie of the view that the aforesaid communications dated 18.08.2021 and 29.11.2021 do not disclose any reasons for rejection of the petitioner's claims. They only recite a conclusion without adequate supporting rationale. The purpose of the circular dated 09.07.2021 of the DOE itself is to lay down modalities by which the judgment in Sovereign School (supra) is to be implemented. The DOE has not laid down any guidelines which schools may follow in order to satisfy the DOE as to the efforts made by them to secure general category admissions. In this situation, the least that is expected from the GNCTD is to consider the request for exemption and take a reasoned decision thereupon. This is necessary in the interest of transparency and also to enable the schools to fill the gaps which the DOE perceives in their efforts.

10. Having regard to the aforesaid, the impugned communications of the DOE rejecting the petitioner's applications for exemption are stayed until the next date of hearing.

11. The DOE is also directed to consider publishing a set of guidelines, which schools may follow in order to ensure that the availability of general category seats is adequately publicised. I have also put it to Mr. Tripathi that the DOE may consider including information regarding vacant general category seats on its own website in order to ensure transparency and availability of information to the parents of prospective students. The DOE is directed to present a proposal to the Court in consideration of these aspects on the next date of hearing.

12. List on 17.12.2021.

PRATEEK JALAN, J DECEMBER 2, 2021 'bp'/'