

Anjali Pandey vs Govt Of Nct Of Delhi & Anr on 13 September, 2023

Author: Anup Jairam Bhambhani

Bench: Anup Jairam Bhambhani

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* IN THE HIGH COURT OF DELHI AT NEW DELHI
+ W.P.(C) 5194/2023
ANJALI PANDEY

Through: Mr. Aayush Agarwala
Auritra Mukherjee,

versus

GOVT OF NCT OF DELHI & ANR.

Through: Mr. Santosh Kr. Tripathi
Counsel (Civil) GNCTD
Utkarsh Singh, Ms.
and Mr. Arun Panwar
R-1/DoE.
Mr. Namit Suri, Mr.
Raja and Ms. Purnima
Advocates for R-2.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI
ORDER

% 13.09.2023 Further to what was recorded in order dated 11.09.2023, Mr. Santosh Kumar Tripathi, learned Standing Counsel (Civil) GNCTD has appeared for respondent No.1/Directorate of Education ('DoE') in the matter and submits, that in his view, the waiver of „backlog seats granted by the DoE to respondent No.2/Sovereign School vide order dated 17.04.2023 was not warranted.

2. The court has heard Mr. Aayush Agarwala, learned counsel appearing for the petitioner; Mr. Namit Suri, learned counsel appearing for respondent No.2/Sovereign School; as well as Mr. Tripathi, learned Standing Counsel appearing for DoE on various countervailing aspects in relation to the „carried-forward or „backlog seats from one The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 18/09/2023 at 20:52:19 year to another in the EWS/DG/CWSN Category, in order to understand the predicament faced both by the students as well as the schools by reason of fewer admissions being made in the general category.

3. These issues are far from simple; and require to be considered in detail.

4. What is observed at this point however, is that on a prima-facie reading of the statutory provision, viz section 12(1)(c) of the Right of Children to Free and Compulsory Act 2009, schools are required to grant admission to students from the EWS/DG/CWSN Category "to the extent of at least

twenty-five per cent of the strength of that class". This provision has been interpreted in Rameshwar Jha vs. Principal Richmond Global School and Others¹ by a Co-ordinate Bench of this court, which has observed that to interpret „strength“ of a class to mean the students actually admitted in an academic session is fallacious, since the intent of the statute is to ensure that a minimum of 25% of children admitted belong to weaker and disadvantaged sections. It has accordingly been held that the 25% limit prescribed is not an upper limit but the minimum number of students that are required to be admitted in the EWS/DG/CWSN Category. Also, it has been held that if the 25% proportion is to relate to the number of students actually admitted, that number would remain variable, instead of being pegged to the declared / approved strength of the class at the beginning of the academic session.

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5. As recorded in order dated 11.09.2023, in the present case, the petitioner s - Amitanjali - has been denied admission to the school three years in a row, despite having been allotted a seat each year by the DoE. She has accordingly lost-out on her pre-school education in its entirety.

6. In the circumstances, while the present matter is considered further, respondent No.2/Sovereign School is directed to grant to the petitioner s ward - Amitanjali - provisional admission in Class-I in the Academic Session 2023-2024 in the EWS/DG/CWSN Category, which will be subject to the final outcome of the petition.

7. It is made clear that the present order is being passed in the unusual circumstances obtaining in the matter as mentioned hereinbefore; and to ensure that the child does not lose yet another year of her education; and will not form a precedent in any other case.

8. Counter-affidavits on behalf of both respondents are on record.

9. Mr. Agarwala submits that no rejoinder is required to be filed.

10. Re-notify for consideration on 11th January 2024.

11. In the meantime, counsel are directed to file brief synopses of their respective submissions, alongwith a list of judicial precedents they seek to rely upon, not exceeding 03 pages, before the next date; with copies to the opposing counsel.

ANUP JAIRAM BHAMBHANI, J SEPTEMBER 13, 2023/ak The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 18/09/2023 at 20:52:19