

Court No. - 7**Case :-** WRIT - C No. - 6121 of 2024**Petitioner :-** Miesha (Minor) Thru. Her Natural Guardian Shahjahan**Respondent :-** State Of U.P. Thru. Prin. Secy. Basic Education Deptt.

Lko. And 5 Others

Counsel for Petitioner :- Rama Kant Dixit, Atul Kumar, Ram Vishal Tripathi**Counsel for Respondent :-** C.S.C., Pradeep Tiwari**Hon'ble Alok Mathur, J.**

1. Heard Shri Rama Kant Dixit, learned counsel for the petitioner, learned Standing Counsel on behalf of respondents no.1 to 4 and Shri Samanvya Dhar Dwivedi, learned counsel on behalf of respondents no.5 and 6.

2. It has been submitted by counsel for the petitioner that the petitioner is a student, who is aged 4 years and comes from a very humble background and had applied for admission for the academic session 2024-25 under the Right of Children to Free and Compulsory Education Act or Right to Education (RTE) Act, 2009. It has been submitted that as per the provisions contained in the RTE Act, 2009, the State Government had issued several government orders from time to time with regard to the free and compulsory education to the children of poor family. One such government order dated 16.02.2017 has been annexed providing for the procedure of making admissions to such students in various public schools.

3. It has further been submitted that in pursuance to the Online Application submitted by the petitioner for admission to the Pre Primary Classes 2024-25, the petitioner was duly selected and list was published containing the name of the petitioner at Serial No.6701 and allotting her respondent no.5-Lucknow Public School for Pre Primary Classes.

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4. On being selected and allotted a school, the petitioner approached respondent no.5 to complete all the admission formalities but she was neither given the admission nor permitted to attend the classes. Thus, the petitioner is being denied the admission despite being duly selected and allocated school. The petitioner having no other option made several representations and Online grievances but she did not get any respite and hence, the present writ petition has been filed seeking a direction to the State Respondents to ensure admission of the petitioner in Pre Primary Class under the Right to Education (RTE) Act, 2009 in the school of respondents no. 5 and 6.

5. Shri Samanvya Dhar Dwivedi appearing on behalf of respondents no.5 and 6 has submitted that the petitioner was not entitled to have been included in the list of candidates inasmuch as only students living in the neighbourhood can be selected and allotted a school and further submits that there were several other defects in the form submitted by the petitioner, including the fact that the address of the petitioner was not given and hence, respondent no.5 was within its competence to deny admission to the petitioner. Apart from the above, the other grievance was that the income of the parents of the petitioner was such that the petitioner could not have been included under the RTE Act and accordingly, prayed for dismissal of the writ petition.

6. I have considered the rival submissions and also perused the record. The Court has also perused the provisions contained in the RTE Act, 2009.

7. Looking into the arguments of the learned counsel appearing for the other side, it is noticed that the State of Uttar Pradesh has formulated the Rules known as the U.P. Right of Children to Free and Compulsory Education Act, 2011.

8. Bare perusal of the Rules would indicate that in Chapter 4 the responsibility of schools and teachers have been provided wherein

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under Rule 7, the Schools are mandated to ensure that the children admitted in pursuance of Clause (c) of Section 12(1) of RTE Act, 2009 shall not be segregated from other children in the classroom nor shall their classes be held at place entirely different from classes held for other children and that such children are not discriminated from the list of the children and record of all such children has to be maintained by the schools. Rule 8 of the Rules of 2011 further provides that the process of admission of children shall be totally transparent and details of such children shall be maintained on a public website. It has further been provided that out of the total applicants, all the children who apply for admission but are not admitted for whatever reason shall be informed in writing with the reasons thereof and further it shall be binding for the school to follow the process of admission prescribed by the State Government from time to time.

9. Considering the entire scheme of the Act and Rules made thereunder, it is noticed that once the process of admission is completed and application forms have been duly scrutinized and list is prepared allocating the children the school and the said list being forwarded to the said school, the school has no option except to grant admission to the students.

10. In the present case, the respondent no. 5 has certain doubts with regard to the eligibility of the petitioner as to whether she would be entitled for admission under RTE Act, 2009. In this regard, it is noticed that there is no power of the Institution to sit an appeal over the list which has been sent by the Government / authority for admission to the respective school.

11. The aspect of scrutinizing the applications and selecting the students for admission has been tasked to the authority as provided for under the RTE Act, 2009 and Rules made thereunder and once a list is sent to the school, the schools have no option except to give admission to the said child. The language of Rule 8 in this regard is very clear

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wherein it is provided that it shall be binding for the schools to follow the process of admission prescribed by the State Government from time to time.

12. In light of the above, even if respondent no.5 has any doubt about the eligibility of the petitioner for being granted admission, they cannot deny admission to the petitioner and grievance if any, can be raised by the school before the prescribed authority.

13. Merely because respondent no.5 is of the opinion that the petitioner may not be eligible, does not entitle them to decline admission. No provision could be shown by the counsel for the respondents no.5 and 6 which enables them to deny admission in case they are of the view that certain conditions are not fulfilled by the candidates to whom the school has been allotted.

14. Accordingly, this Court is of the considered view that once a list has been sent by the State Government to the Institution, they should forthwith without any demur grant admission to the said child. No right has been reserved for denial of the admission by the Institution, if they have any grievance, at best, they can write to the authority concerned but even if interregnum period, they should not wait for the outcome of the result of the application and are mandated to grant admission to the student whose name finds mention in list forwarded to the school.

15. In this context, it is important to refer to the Statement of Objects and Reasons attached to the Right of Children to Free and Compulsory Education Bill, 2008, which states:

"The Right of Children to Free and Compulsory Education Bill, 2008, is anchored in the belief that the values of equality, social justice and democracy and the creation of a just and humane society can be achieved only through provision of inclusive elementary education to all. Provision of free and compulsory education of satisfactory quality

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to children from disadvantaged and weaker sections is, therefore, not merely the responsibility of schools run or supported by the appropriate Governments, but also of schools which are not dependent on Government funds. The idea that schooling should act as a means of social cohesion and inclusion is not new; it has been oft repeated. Inequitable and disparate schooling reinforces existing social and economic hierarchies, and promotes in the educated sections of society an indifference towards the plight of the poor."

16. With the rise of globalized world order, inequities in society have heightened too, aggravating the challenges for Welfare state like India. Education is the most important lever for social, economic and political transformation, the most important tool for social engineering and a key instrument for building an equitable and just society. In order to achieve Universalisation of Elementary Education, the Government of India has initiated a number of programmes and projects, the common objectives of which are to enhance access through the expansion of quality school education; to promote equity through the inclusion of disadvantaged groups and weaker sections, and to improve the quality of education.

17. It is the responsibility of the Private Unaided Schools to participate in nation building exercise by providing equal opportunity of education to disadvantaged children through affirmative action as prescribed in RTE Act, 2009. It is a general rule that welfare and beneficial legislation require substantial compliance and must be interpreted in favour of the disadvantaged. The school cannot deny admission on trivial issues that do not hamper the root of the eligibility criteria innately.

18. In light of the above, the writ petition is allowed. Respondents no.5 and 6 are directed to forthwith complete the formalities for admission of the petitioner and permit her to attend the classes.

19. Considering the fact that the petitioner comes from a very humble

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background and the parents have been forced to litigate by filing the present writ petition, the writ petition is **allowed** with the cost of Rs.3000/- to be given to the petitioner within next three weeks by respondent no.5.

Order Date :- 25.7.2024

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(Alok Mathur,J.)