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

+ W.P.(C) 12401/2022 & CM APPL. 37244/2022

PRAGATI GOSWAMI THROUGH HER NEXT FRIEND AND

NATURAL FATHER RAVINDER SINGH Petitioner

Through: Mr. Ashok Agarwal, Mr. Kumar
Utkarsh and Mr. Manoj Kumar,
Advocates

versus

GOVERNMENT OF NCT OF DELHI & ANR. Respondents

Through: Mr. Santosh K. Tripathi, Standing
Counsel (Civil) for GNCTD with Mr.
Arun Panwar, Mr. Siddharth Krishna
Dwivedi, Mr. Pradeep and Ms.
Mahak Rankawat, Advocates for R-
1/DoE

CORAM:

HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER

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26.08.2022

1. The instant civil writ petition under Article 226 of the Constitution of India has been filed on behalf of the petitioner seeking *inter alia* the following reliefs:-

“i) issue any appropriate writ, order or direction thereby setting aside the admission criteria for admission in Class-XI in Science Stream (Biology) in Rajkiya Pratibha Vikas Vidyalaya (RPVV) for session 2022-23 as laid down in impugned circular dated 27.07.2022 (Annexure P-1) of the Govt. of NCT of Delhi

and direct the respondent government to issue fresh admission criteria in accordance with law;

ii) issue any appropriate writ, order or direction directing the respondents to grant admission to the petitioner, namely, Pragati Goswami in Class-XI in Science Stream (Biology) in Rajkiya Pratibha Vikas Vidyalaya (RPVV) for session 2022-23 in the academic year 2022-23 in respondent school, namely, Rajkiya Pratibha Vikas Vidyalaya (School Id: 1104149), Yamuna Vihar, Delhi – 110053;... ”

2. The petitioner is before this Court challenging the validity and constitutionality of a Circular of the Government of NCT of Delhi/respondent no. 1 dated 27th July 2022 (hereinafter “impugned Circular”), whereby the respondent no. 1 has mandated minimum 71% marks for admission in Science Stream in Class XI in respondent no. 2 School for the academic year 2022-23.

3. Learned counsel appearing on behalf of the petitioner submitted that the petitioner belongs to the OBC Category (Non-Creamy Layer) and was admitted to the respondent no. 2 School in Class VI. The petitioner appeared for Class X CBSE examinations in 2022 and secured 81.80%, however, she was denied admission in the Science Stream stating the reason that she secured 69 marks in Science and admission in Science Stream required a minimum of 71 marks, as per the impugned Circular.

4. Learned counsel for the petitioner submitted that the petitioner belongs to the SC/ST/OBC category and shall be eligible for 5% relaxation in marks, as per the terms of Circular dated 7th February 2022. The petitioner has made several representations, however, the respondent has not considered the case of the petitioner.

5. It is submitted that respondent no. 1 has issued different Circulars for admission in Class XI in schools under it and is hence, creating discrepancy in education between students studying in school run by the Government. There are different types of schools running by the respondent no. 1 however, categorisation of schools run by the same authority is discriminatory in nature and hit by Articles 14, 21 & 21-A of the Constitution of India. Certain other schools, such as Sarvodaya Vidyalaya has a requirement of 50% marks in Science subject for admission in Science Stream in Class XI. The learned counsel for the petitioner has relied upon the Circular dated 26th Jul 2022. It is further submitted that similar standards should be set in all schools run by the respondent no. 1.

6. Learned counsel for the petitioner submitted that imposition of different criteria for admission in the respondent no. 2 School and other schools is not valid or legal.

7. It is submitted that there is only a 2 mark difference between the marks secured and the minimum marks required for admission in Science Stream in Class XI. It is further submitted that the petitioner wishes to become a Doctor in future and serve the needy, therefore, wants to continue her further education in Science Stream.

8. It is therefore, submitted that the impugned Circular is liable to be quashed since the inaction on part of the respondents is irrational, arbitrary, discriminatory, unjustified, against public interest, opposed to public policy, unconstitutional, contrary to the object underlying therein unethical, and violative of Articles 14 & 21 of the Constitution of India read with the provisions of Delhi School Education Act, 1973 and Right of Children to Free and Compulsory Education Act, 2009.

9. *Per Contra*, learned Standing Counsel appearing on advance notice on behalf of the respondent vehemently opposed the submissions made and contentions raised on behalf of the petitioner and submitted that there is no error in the admission criteria set out for the respondent no. 2 School and hence, the instant petition is liable to be dismissed for being devoid of any merit.

10. Heard learned counsel for the parties and perused the record.

11. I have perused the impugned Circular and found that the same has been issued by the respondents setting out the criteria for admission in different streams for Class XI in the respondent no. 2 School. The Circular set out the following requirements for admission in Class XI-

Science Stream	Commerce Stream	Humanities
Mathematics: 71%	Mathematics: 61%	There will be no minimum requirement of marks for admission in Humanities. Note:- Economics subject in humanities will be offered to the students who have secured at least 55% marks in aggregate in five subjects (excluding additional subjects)
Science: 71%	Social Science: 61%	
English: 61%	English: 51%	
Social Science: 51%	Science: 51%	
Hindi: 51%	Hindi: 51%	

12. The respondent laid out the abovementioned criteria for students to be eligible for admission in the respective subjects. Securing the stipulated minimum marks allowed the students to apply for admission as per the requirements of the respondent no. 2 School, in consonance of Circular of

the respondent no. 1.

13. Every school, including schools under the Government of a State, has the liberty and autonomy to maintain the standards it has set out for itself. Laying down an eligibility criterion for admission in different classes cannot be said to be arbitrary or illegal. Moreover, this discretion lies with the school or any other authority under which the said school lies.

14. In the instant matter, for admission in Science Stream for Class XI in respondent no. 2 School the requirement was for 71% marks in Science subject, however, the petitioner was not able to secure the requisite marks. In absence of the minimum qualifying marks, the petitioner did not meet the eligibility criteria and hence, was not able to secure admission in Science Stream in respondent no. 2 School. Since, the petitioner could not meet the edibility criteria she chose to challenge the criteria itself, however, such a challenge does not stand ground since the School had only exercised its discretion to set out the minimum requirements for admission in Class XI.

15. Further, as the petitioner pointed out that there are different categories of schools under the respondent no. 1, the Circular dated 7th February 2022 was issued with respect to the Schools of Specialised Excellence. Upon perusal of the said Circular, it is found that the reservation for the categories of SC/ST/OBC (Non-Creamy Layer)/Divyang Children, was for this specific category of schools and was not to be made universally applicable on all schools under the respondent no. 1. The different criteria and relaxation for admission in this category of schools is justified since it requires a more rigorous assessment and evaluation of students, such as passing of aptitude tests etc., who seek admission in these schools. This categorisation of schools cannot said to be discriminatory or illegal.

16. Keeping in view the submissions made on behalf of the parties as well as the contents of the impugned Circular, this Court does not find any cogent ground or reason to interfere or quash the impugned Circular dated 27th July 2022. There is no error, illegality or impropriety found in the eligibility criteria provided for in the impugned Circular. Further, this Court is not convinced that the respondents should be directed to grant admission to the petitioner, in so far as the petitioner did not meet the eligibility criteria and nor was the relaxation for SC/ST/OBC and other categories available to her as per the admission requirements of the respondent no. 2 School.

17. In light of the above, the instant petition is dismissed.

18. Pending application also stands disposed of.

CHANDRA DHARI SINGH, J

AUGUST 26, 2022

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