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

% *Decided on: 28th February, 2023*

+ W.P.(C) 6929/2022 & CM APPL. 21171/2022

ARTH LAKRA (MINOR) Petitioner

Through: Mr. N. K. Upadhyay and
Mr. Devendra Kumar,
Advocates (Ph. 8700781690,
9999093458)

versus

INDRAPRASTHA WORLD SCHOOL
AND ANR. Respondents

Through: Mr. Kamal Gupta, Mr. Sparsh
Aggarwal and Ms. Paridhi Bist,
Advocates for Respondent
School (M.9953116031, email:
kamalguptaandcompany@gmail.com)

Mr. Santosh Kumar Tripathi,
SC (Civil), GNCTD for DOE
with Mr. Pradyumn Rao,
Mr. Tapes Raghav,
Ms. Mahak Rankawat,
Mr. Kartik Sharma, Ms. Mehek
Rankawat and Mr. Utkarsh
Singh, Advocates (Ph.
9129829862, e-mail:
scgnctd@gmail.com)

CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

[Physical Hearing/ Hybrid Hearing]

MINI PUSHKARNA, J. (ORAL):

1. The present writ petition has been filed with prayer for direction

to the respondent school to give admission to the petitioner child in the in the Economically Weaker Section (EWS)/Disadvantaged Group (DG) category.

2. By order dated 01.06.2022, an interim direction had been passed by this Court, by virtue of which the petitioner was given admission in the respondent school.

3. It is confirmed by learned counsel for the petitioner as well as for the school that the child is continuing in the school since June, 2022.

4. This Court, while granting interim admission to the child by order dated 01.06.2022, had directed that an enquiry be conducted by the Directorate of Education (DOE) on the objection raised by the school that the petitioner was a resident of House No. 8, Pole No.21A, Shiv Hanuman Mandir, Mundka, Delhi-110041 and was not residing at the given address i.e. GH-1/346, 1st Floor, Archana Apartment, Paschim Vihar, Delhi-110063. Thus, it was the objection on behalf of the school that the petitioner's residence was not within the distance of 0-1 km radius and hence, he was not eligible for admission to the said school.

5. Pursuant to the directions of this Court dated 01.06.2022, an enquiry has come to be conducted by the DOE.

6. Mr. Santosh Kumar Tripathi, Standing Counsel (Civil), GNCTD appearing on behalf of the DOE has relied upon a report received from the DOE, wherein it has been confirmed that the petitioner is staying at the given address at Paschim Vihar.

7. It is further submitted by Mr. Santosh Kumar Tripathi, Standing

Counsel that the enquiry in question has been carried out by the Vice Principal of a local Government School. Thus, as per the report, as submitted by the DOE, the petitioner is staying at Paschim Vihar along with his family. It is further submitted by learned Standing Counsel for the GNCTD that the Aadhaar Card of the father of the petitioner child also reflects the address of Paschim Vihar.

8. Thus, it is submitted on behalf of the DOE that the contention of the petitioner with respect to their residential address in Paschim Vihar is correct.

9. Mr. Kamal Gupta, learned counsel for the respondent No. 1 school has vehemently raised objection to the report, as relied upon by the DOE. He submits that the enquiry conducted by DOE is a collusive enquiry. He submits that two families are allegedly living in the same MIG flat without payment of any rent. Further, he states that even the Other Backward Classes (OBC) Certificate which was submitted on behalf of the petitioner also shows the address of the petitioner at Mundka and not Paschim Vihar, which was the latest residential address proof. He further submits that the school reserves its right to challenge the report of the DOE.

10. This Court has heard the learned counsels for the parties.

11. This Court cannot go into any fact finding mission as regards the objections raised by the school with respect to residence of the children in question. Even otherwise, OBC/Scheduled Caste/Tribe Certificate is never considered as a proof of residence. This Court would rely upon the report as submitted by the DOE which has been submitted on the basis of an enquiry conducted by the Vice Principal

of the local Government School. The DOE is a statutory authority having supervisory jurisdiction over schools recognised by it. There is prima facie nothing on record to doubt the veracity of the exercise carried out by the DOE. Even the Aadhar card of the father of the child reflects the given address in Paschim Vihar, New Delhi.

12. It is also pertinent to note that the child has been continuing in the school since the year 2022.

13. If this Court is to doubt the genuineness of the exercise of scrutiny and investigation carried out by the DOE as regards the residence of children on the basis of such objections as raised by the school, then many children would be deprived of admission under the EWS/DG category. This would defeat the very purpose of the provisions of The Right of Children to Free and Compulsory Education Act, 2009 (RTE, 2009). The Court would accept the bonafides of the investigation and scrutiny carried out by the DOE unless some very glaring discrepancy is brought to the fore. Even otherwise, the noble object of providing good education to the economically downtrodden strata of society and to bring them in the mainstream of the society, cannot be lost sight of.

14. This Court also takes note of the fact that under the DG category, income is not the criteria but the only criteria is whether the child belongs to any schedule caste/ schedule tribe/ other backward classes.

15. Denial of admission by a school under the EWS/DG category even after allotment of school by DOE, frustrates the noble objective of the RTE Act, 2009. It violates the fundamental rights of children

belonging to EWS/DG category, as enshrined under Article 21-A of the Constitution, as also undermining the object of the RTE Act, 2009.

16. In view thereof, the present petition is allowed and it is directed that the petitioner child will continue to study under the EWS/DG category in the respondent school.

17. Considering the fact that the DOE has given a report in favour of the petitioner child that he is staying with his family at the given address in Paschim Vihar, which is within one kilometre from the respondent school, which was the only objection raised on behalf of the school, it is directed that the petitioner child who is already studying in the school since June, 2022, be allowed to continue to study in the said school under the EWS/DG category.

MINI PUSHKARNA, J

FEBRUARY 28, 2023

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