

**CORAM: S.V.GANGAPURWALA &  
R.N.LADDHA, JJ.**

**JUDGMENT RESERVED ON - SEPTEMBER 29, 2022**

**JUDGMENT PRONOUNCED ON - OCTOBER 13, 2022**

**JUDGMENT (PER : S.V.GANGAPURWALA,J.)**

1 Mr.Bhavake the learned Counsel for the Petitioners submits that the Petitioners have studied 5<sup>th</sup> standard in the district where the Petitioners are seeking admission in the Jawahar Navodaya Vidyalaya (JNV for short), Sangli, Sindhurg and Ratnagiri. In August, 2021 guidelines were published for admission for the academic year 2022. Last date for filling in Form was 30.11.2021. Petitioners being eligible, were issued the Admit Card in 2<sup>nd</sup> week of April, 2021. Exam was scheduled on 30.04.2022. Tests were conducted. Petitioners were selected upon declaration of the result. Respondents are seeking permanent residence certificate from the Petitioners. According to the learned counsel for the Petitioners, said condition does not apply to the students like the present Petitioners. Permanent residence certificate is required for the students seeking admission through NIOS (National Institute of Open Schooling). The learned counsel, to substantiate his contention, relies upon clause 2.1(iii) of the guidelines. So also clause 3.1 and 3.6. Relying upon clause 3.6 of the guidelines, it is

submitted that candidates selected on the basis of the Tests will be admitted only in the JNV located in the district from where they are studying in class V and appearing for the JNVST. Under no circumstances, the selected candidate will be given admission to any other JNV. The learned counsel further relies on clause 4.3 and submits that a candidate appearing for selection test must be studying in Class-V for the whole of the academic session 2021-22 in the Government /Government aided or other recognized schools or 'B' certificate competency course of National Institute of Open Schooling in the same district. He further submits that under the heading, 'documents to be submitted after selection', clause 4 requires residence certificate under prescribed proforma in case of NIOS studies only. The learned counsel further relies upon the form for the residence certificate. Said form is also meant only for the students who seek admission to studies in NIOS. According to the learned counsel, none of the guidelines require the students like the Petitioners to submit permanent residence certificate of the same district. The only mandatory condition is that the Petitioners should have completed Class-V from the same district. Petitioners complied with the said condition.

2 According to the learned Counsel for the Petitioners, the Respondents are misinterpreting clause 4.1 of the Prospectus 2022.

The said clause has to be read with other clauses. The only predominant condition for a student to be eligible to take admission, he should have passed Class-V from the same District where JNV Institute is situated. The proof of residence is for the students who have passed their 5<sup>th</sup> standard from NIOS and the form for residence proof is also provided for those students and not for the other students. The Petitioners herein qualify the eligibility criteria of having passed Class V standard from the District where they have applied to JNV. To substantiate his contention that the condition that the student should be resident of the same District is applicable only to NIOS students. Reference is made to sub clause 2.1. The proforma is also referred to of 'Residence Certificate'. Same is applicable only to NIOS. Even under the caption 'Documents to be submitted after Selection', the residence certificate in prescribed proforma is required only in case of NIOS students. The Petitioners are legitimately selected. Cancelling their admission is improper. The name of the Petitioners appear in the merit list. As such, they are entitled to get admission in the Respondent Institution. The Respondents already granted admission to the students selected from the merit list of JNVST-2022 at Sr.No.7, 19 and 45 who are not permanent residents of Sanlgi District.

3 Learned advocate for the Respondents submits that it was

within the right of the Respondents to ask for the residence proof of the Petitioners. The object of establishing JNV is to provide good quality modern education including a strong component of culture, inculcation of values, awareness of the environment, adventure activities and physical education to the talented children predominantly from rural areas and to serve in each district as focal point for improvement in quality of school education in general. The learned Counsel relied upon clause 4.1 of the Prospectus and submits that it is only the candidates from the District concerned where the JNV has been opened are eligible to apply for admission. The said requirement is the basic requirement.

4 The learned advocate further submits that the JNV is opened in every District in the country except the State of Tamilnadu with avowed object of providing quality education more particularly to the students from rural areas and downtrodden. Passing Class V from the same District is one of the conditions of eligibility. The policy decision of the Government of India for establishing JNVs in each District as a focal point is not challenged in the present petition. The Petitioners are from Kolhapur District and if they are given admission in Sangli District, entire reservation quota of the Sangli District will be disturbed causing great prejudice to the students of the concerned District who are kept in mind by the policy makers

while making policy to attain certain welfare meant for them under the policy. The learned advocate relying upon the Supreme Court judgment in the case of *Maharashtra State Board of Secondary and Higher Secondary Vs. Paritosh Bhupesh Kumar Sheth etc. (1984) 4 SCC 27* submits that the courts would not examine the merits or demerits of the policy. It is exclusively within the province of the legislature and its delegate to determine as a matter of policy. The NV Samiti schools are not meant for free and compulsory elementary education for each child but for education with specific purposes to be imparted to the selected children who fulfill the eligibility criteria. The NVs are special schools under NV Samiti, an autonomous organisation under Ministry of Education and are governed by the different rules issued by the Ministry of Education, Government of India and not under the Right to Education Act. The Petitioners failed to submit the requisite documents including residence certificate within the stipulated time frame. As the Petitioners failed to submit the residence proof, their candidature is rightly rejected. In order to apply for JNVST Class VI admission 2022, the students have to fulfill eligibility criteria in the first place viz. only students belonging to the District where the JNV is located are eligible to apply for admission and to get admission in JNV for the District only. The students studying in the Government /

Government aided or other recognized schools are required to give residence proof as per paragraph 2.1(i) and the students studying in B Certificate competency course of NIOS are required to produce either residence proof or residence certificate. The learned advocate submits that no error has been committed by the Respondents.

5 The substratum of the matter for adjudication is “whether the students not residing in the District can seek admission in the JNV situated in the said District”. The Petitioners it appears have passed 5<sup>th</sup> standard from Sangli District. They seek admission in the JV at Sangli. They appear to be residents of Kolhapur District.

6 Clause 4.1 of the Prospectus for JNVST 2022 provides that only the candidates from the District where the JNV has been opened are eligible to apply for admission. Clause 3.6 provides that the children selected on the basis of the test will be admitted only in the JNV located in the District from where they are studying in Class V and appearing for JNVST. The selected candidates will not be given admission to any other JNV. It further provides that no request for shifting of students on account of medium of instruction in the JNV concerned, shifting of parents / guardians to other Districts / States etc. will be entertained. Clause 4.3 further provides that a candidate appearing for the selection test must be

studying in Class V for the whole of the academic session 2021-2022 in a Government / Government aided or other recognized schools or B Certificate competency course of NIOS in the same District where he is seeking admission.

7 So far as reservation of seats is concerned, the Prospectus provides that 75% of the seats in the District are filled in by the candidates selected from rural areas and remaining seats will be filled in from the urban areas of the District. The reservation of the seats in favour of the children belonging to SC/ST is provided in proportion to the population of the District concerned. It would appear that 75% of the seats in a District are filled by candidates selected from rural areas and the remaining seats are filled from urban areas of the District. The same appears to be in consonance with the object of the scheme. The object of the scheme is to provide good quality modern education including a strong components of culture, inculcation of values, awareness of the environment, adventure activities and physical education to the talented children predominantly from rural areas. The Petitioner is harping more on clause 2.1(iii) under the caption 'How to Apply for JNVST' wherein the candidates from NIOS are required to be resident of the same District where he or she is seeking admission. It is contended that the said clause provides for residence proof and the requirement of

residence of the same District only to the candidates from the NIOS and not the candidates passing from a recognized Government or Government aided institution.

8 The object of the scheme along with all clauses will have to be read in harmony to arrive at a conclusion. The clauses cannot be read in a manner that one of the clauses is rendered redundant or a dead letter. All the clauses will have to be read in a manner that none of the clause is rendered nugatory or otiose. The object of the scheme is to provide quality modern education to the children predominantly from the rural areas. Keeping in mind the said objective, 75% of the seats in a District are reserved for the candidates from rural areas and remaining seats are filled in from the urban area of the District.

9 Clause 4.1 under the caption 'Who is Eligible' also provides insights for interpreting the clauses. It states that only the candidates from the District concerned where the JNV has been opened, are eligible to apply for admission. The general rule under the said Prospectus is that only the candidates from the District concerned where the JNV has been opened, are eligible to apply for admission. Clause 3.6 further provides that the children selected on the basis of District will be admitted only in the JNV located in the



District from where they are studying in class 5 and appear for the JNVST. Reading clause 3.6 and 4 conjointly and harmoniously, irresistible conclusion that can be drawn is that a candidate will be required to satisfy the twin test for being eligible to get admission in the JNV; (i) the candidate should have passed 5<sup>th</sup> standard from the District where the JNV is located; and (ii) only the candidates from the District concerned where the JNV is opened, are eligible to apply for admission. The condition of residence certificate in the prescribed proforma in case of NIOS i.e. the candidates should obtain 'B' certificate and residence should be in the same district where he is seeking admission, as provided in clause 2.1 is an additional condition imposed for clarification purpose. NIOS is a correspondence course for the students who are not able to pursue regular classes. For the said purpose, additional precautions appears to have been undertaken. The general rule of eligibility has been laid down in clause 4.1. Clause 4.1 starts with the term 'only'. It states that 'only the candidates from the district concerned where the JNVs are opened are eligible for admission'. The word 'only' implies that the students other than the District where the JNV is situated are excluded. No other interpretation is possible. We cannot persuade ourselves to accede to the arguments of the Mr. Bhavake, the learned Advocate for the Petitioners that even

though the student may not be the resident of the same District where the JNV is situated and if he has passed 5<sup>th</sup> standard from the district where the JNV is situated is eligible to be admitted. Such an interpretation would be against the object and the tenor of the clauses in the prospectus. The aforesaid discussion leads us to conclude that the candidate seeking admission to the JNV must satisfy the twin test (i) he must be studying in class V in Government / Government aided or other recommended schools or B Certificate Competency Course of NIOS in the same District where the JNV is situated and (ii) he must be resident of the same district where the JNV is situated and is seeking admission.

10 In light of the above, the Writ Petitions fail. The Writ Petitions, as such are dismissed. No costs.

**(R.N.LADDHA, J.)**

**(S.V. GANGAPURWALA, J.)**