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

% *Decided on: 31st May, 2023.*

\+ **W.P.(C) 7953/2023 & CM APPLs. 30622-30623/2023**

TARUN KUMAR & ANR. ..... Petitioners

Through: Mr. Devendra Kumar and Mr.N.K. Upadhyay, Advs. (M:8744880124, Email:devverma4522@gmail.com)

Versus

THE PRINCIPAL HAPPY HOURS SCHOOL & ORS. ..... Respondents

Through: Mr.Santosh Kumar Tripathi, SC, GNCTD with Mr. Utkarsh Singh, Adv. for DOE. (M:9129829862, Email:gnctd@gmail.com)

Mr. B.C. Pandey and Mr. S.P. Kamrah, Advs. for R-1, (M:9811007851, Email:bcpandey29@gmail.com)

Ms. Manika Tripathy, for R-5, SC/DDA, (M:9811831835, Email:manikatripathy@yahoo.com)

**CORAM:**
**HON'BLE MS. JUSTICE MINI PUSHKARNA**
**[Physical Hearing/ Hybrid Hearing]**

**MINI PUSHKARNA, J. (ORAL):**

**CM APPL. 30622/2023 (Application filed on behalf of the petitioners under Section 151 of the Code of Civil Procedure for exemption from filing the original/certified copies)**

1. Allowed, subject to just exceptions.

2. Application is disposed of.

**W.P.(C) 7953/2023 & CM APPL. 30623/2023 (Application under Section 151 CPC for Ex-parte directions to the respondent No. 1/school to make provisional admission/to keep two seats vacant for the wards of the petitioners in Class-I herein under EWS/DG Category in the current Session 2023-2024)**

3. The present writ petition has been filed with prayer for directions to the respondent No.1 school to grant admission to the petitioners under the Economically Weaker Section (EWS) category/Disadvantaged Group (DG) category in Class – 1. It is the case on behalf of the petitioners that despite being successful in the draw of lots conducted by the Directorate of Education (DOE) and having been allotted the school in question, they have been denied admission.

4. Issue notice. Notice is accepted by ld. Counsels appearing of the respondents.

5. Mr. B.C. Pandey, learned counsel appearing for the respondent No.1 school submits that the residence of the petitioners is approximately 4 kms. away from the school in question. Therefore, he submits that the petitioners do not fulfil the neighbourhood criteria and cannot be granted admission on that account.

6. On the other hand, learned counsel for the petitioners submits that the petitioners are willing to travel 4 kms. distance in order to study in the respondent school.

7. Per contra, learned counsel appearing for the respondent school

submits that the school does not provide any transportation to the areas where the petitioners reside.

8. Learned counsel appearing for the DOE submits that schools are allotted under the EWS/DG category as per the choice of the schools as given in the application form by the applicants. It is further submitted that the criteria of neighbourhood is not followed in the strict sense by the DOE at the time of allotment of schools under the EWS/DG category, in view of the fact that there are large number of applicants under the said category, while number of seats available under the said category are much low.

9. This Court has considered the submission made on behalf of the respondent school that the petitioners in question are residing at approximately 4 kms. distance from the school. This Court notes that only limited seats are available for admission under EWS/DG category in each of the school, whereas the number of applicants who desire to seek admission under the EWS/DG category are far more in number than the seats available. Therefore, while allotting seats for admission under the EWS/DG category, it may not be possible for the Directorate of Education (DOE) to follow the criteria of neighbourhood strictly. Therefore, it is held that in cases of admission under the EWS/DG category, the schools in question may not insist upon following the neighbourhood criteria strictly.

10. This Court notes that in the present social milieu, the demand for admission under the EWS/DG category is much higher as compared to the number of seats that are available for allotment under the EWS/DG category. Therefore, if seats in a particular school are

available under the EWS/DG category, then the DOE is required to allot such schools to the applicants who have applied for admission under the said category. If seats under the EWS/DG category are allowed to go waste, merely on the ground that the applicants who have been allotted such seats do not meet the neighbourhood criteria strictly, then the whole purpose of reservation of seats for admission under the said category will be defeated. The court cannot be oblivious of the noble purpose with which criteria has been developed for reservation of seats under the EWS/DG category. The social purpose of reservation of seats under the EWS/DG category cannot be allowed to be lost, if such objections with regard to the applicants not meeting the neighbourhood criteria, are entertained especially when admissions under the EWS/DG category are involved.

11. This order is being passed keeping in view the fact that the children belonging to the weaker sections of the society are to be given equal opportunities for education in good schools, so that such students are able to come in the mainstream of the society. However, it is directed that the DOE shall make endeavour, as far as possible, to allot schools which are nearest to the residence of the students in question.

12. In view of the aforesaid, the objections as raised by the respondent school with respect to the distance of the residence of the two petitioners from the school in question, is rejected. The respondent school is directed to forthwith grant admission to the two petitioners in Class – 1 under the EWS/DG category.

13. The petitioners are directed to approach the respondent school

forthwith with all the requisite documents.

14. It is clarified that since it is the case on behalf of the respondent school that the school does not provide any transportation to the area in question where the petitioners reside, the petitioners shall make their own arrangements for travel from their residence to the school and shall not insist for providing transportation to them, in case no transportation is provided by the school to the area in question, where the petitioners reside.

15. With the aforesaid directions the present writ petition is disposed of, along with pending application.

**MINI PUSHKARNA, J**

**MAY 31, 2023**
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