

**(2012) 07 DEL CK 0020**

**In the Delhi High Court**

**Case No : Writ Petition (C) 483 of 2011**

Carmel Convent School and Anr

APPELLANT

Vs

UOI and Another

RESPONDENT

**Date of Decision : 11-07-2012**

**Acts Referred:**

Constitution of India, 1950 — Article 15(5), 226

Right of Children to Free and Compulsory Education Act, 2009 — Section 2(n)

**Citation : (2012) 07 DEL CK 0020**

**Hon'ble Judges : G.S. Sistani, J**

**Bench : Single Bench**

**Advocate :** Maninder Singh, with Mr. Kirtiman Singh, Mr. T. Singh Dev, Mr. Rohit Bhaija and Mr. Z. Anwar, for the Appellant; Himanshu Bajaj, for Respnndt No. 1, Mr. Nazmi Waziri and Mr. Vikrant Pachnanda, Advocate for GNCTD, Mr. Ravjot Singh, for UOI, Mr. Richir Mishra, in W.P.(C) 2557/2011 and Mr. Mukesh Kumar Tiwari, Advocate in W.P.(C) 2557/2011, UOI Mr. H.S. Sachdeva in W.P.(C) 2557/2011 and Mr. M.K. Mishra, advocates for respondent no. 2 in W.P.(C) 2557/2011, Ms. Manisha Dhira, in W.P.(C) 3555/2011, Ms. M. Jain, W.P.(C) 3555/2011 and Ms. Priya Singh, Advocate for respondent no. 1 in W.P.(C) 3555/2011, Mr. P. Pankaj for Mr. Sumit Chander, in W.P.(C) 8612/2011 Advocate for respondent no. 2 Mr. Amit Chadha, in W.P.(C) 8612/2011, Mr. Gautam Bhasin, Advocate for respondent-UOI in W.P.(C) 8612/2011. Ms. Inderjeet Sidhu in W.P.(C) 1571/2012 and Mr. P.N. Tiwari, Advocate for respondent no.1, Mr. Neeraj Chaudhary, in W.P.(C) 815/2011, Mr. Akshay Chandra in W.P.(C) 815/2011, for the Respondent

## Judgement

G.S. Sistani, J.—This batch of writ petitions has been filed by the petitioners under Article 226 of the Constitution of India, for issuance of writ or directions against the respondents not to compel the petitioners to create quota/reservations for 25% in its nursery admissions. As the relief sought in the above said writ petitions is common, counsel for the parties submit that all the above said writ petitions may be disposed of by a common order. Accordingly, all the above said writ petitions are being disposed of by a common order.

2. For the sake of convenience facts of the petition [WP(C)No.483/2011] are being noticed. Petitioner in the instant case is a minority school/ institution, challenges the validity and legality of guidelines dated 23.11.2010, order dated 15.12.2010 and Notification dated 07.01.2011 passed by the respondents in exercise of the powers conferred by the Right of Children to Free and Compulsory Education Act, 2009, whereby the Right of Children to Free and Compulsory Education Act, 2009, was made applicable to the petitioner/institution. Counsel for the petitioners submits that Article 15(5) of the Constitution makes it clear that respondents cannot stipulate any quota for admissions for any category in the admissions to be made by minority schools/ institutions; and provisions of Right of Children to Free and Compulsory Education Act, 2009 do not authorize respondents to act contrary to Article 15 (5) of the Constitution of India. Counsel for the petitioners submits that respondents were threatening petitioners, minority school for creating a quota of 25% of its seats for admissions for weaker sections. Hence, the act of the respondents is illegal, unconstitutional, ultravires and void-ab-initio and necessary directions are sought to be passed against the respondents.

3. Counsel for the parties have handed over a copy of the judgment passed by the Apex Court in Society for Un-aided Private Schools of Rajasthan Vs. U.O.I. & Anr. [WP(C)No.95/2010 decided on 12.04.2012]. Counsel for the petitioner submit that present writs are covered in facts and law by the decision rendered by the Apex Court, wherein it has been held that Right of Children to free and compulsory education guaranteed under Article 21A and RTE Act can be enforced against the schools defined u/s 2(n) of the Act, except unaided minority and non-minority schools not receiving any kind of aid or grants to meet their expenses from the appropriate governments or local authorities. Counsel for the respondents do not dispute the same.

4. Accordingly, all the above said writ petitions [W.P.(C) Nos.483, 815, 1362, 1369, 1371, 1887, 1888, 2557,3555 & 8612/2011 & W.P.(C) 1571/2012] are allowed.

CM APPL. 994/2011 & CM APPL. 1656/2011 in WP(C)No.483/2011CM APPL. 3460/2012 in WP(C)No.1571/2012CM APPL. 1709/2011 in WP(C)No.815/2011CM APPL. 2914/2011 in WP(C)No.1362/2011CM APPL. 2926/2011 in WP(C)No.1369/2011CM APPL. 2930/2011 in WP(C)No.1371/2011CM APPL. 4028/2011 in WP(C)No.1887/2011CM APPL. 4030/2011 in WP(C)No.1888/2011CM APPL. 5435/2011 in WP(C)No.2557/2011CM APPL. 7443/2011 in WP(C)No.3555/2011CM APPL. 19461/2011 in WP(C)No.8612/2011

In view of the order passed in the writ petitions, present applications stand disposed of.