

(2014) 04 DEL CK 0171

In the Delhi High Court

Case No : W.P.(C) 3773/2013 and CM Appl. 7064/2013

Master Samin Chaudhary

APPELLANT

Vs

Chairman, Air Force School and Others

RESPONDENT

Date of Decision : 25-04-2014

Acts Referred:

Citation : (2014) 04 DEL CK 0171

Hon'ble Judges : Manmohan, J

Bench : Single Bench

Advocate : R.M. Tufail, Mr. Farooq Chaudhary, Mr. Shoeb Shakeel and Mr. Vishal Raj Sehijpal, Advocate for the Appellant; Rekha Palli and Ms. Punam Singh, Advocates for R-1 and 2, Advocate for the Respondent

Final Decision : Dismissed

Judgement

Manmohan, J.—Present writ petition has been filed seeking a direction to the respondent-Air Force Bal Bharati School (hereinafter referred to as "respondent-School") to disclose its policy, criteria and priority for granting admission to thirty-five candidates in Class-1 in academic year 2013-2014. Petitioner has also prayed for a direction to admit him in Class-1 of respondent-School.

2. The facts of the present case are that respondent-School has been established primarily to provide educational facilities to the wards of Air Force personnel and officers.

3. Respondent-School has drawn up a priority list of admission. Only after exhausting all students in the first priority category, are admissions granted to students belonging to next/lower category. The priority of admission of respondent-School is reproduced hereinbelow:-

Priority of Admission

(a) Children of deceased AF personnel (While in service).

(b) Children of Ex-AF personnel.

(c) Children of serving Army Navy, DSC & wards of deceased Army/Navy/DSC personnel (While in service).

(d) Children of Ex-Army/Navy/DSC personnel.

(e) Children of Civilian paid out of Defence Estimates, Paramilitary and MES Personnel.

(f) Children of Employees of IAF NPF.

(g) Children of Central/State Govt.

(h) Children of Professor/Doctor/Advocate/Teacher.

4. In the present academic year, children belonging only till Category "g" have been admitted.

5. Mr. R.M. Tufail, learned counsel for petitioner stated that petitioner is aggrieved by the fact that the respondent-School had not disclosed the total number of seats to be filled in Class-1 and further they had displayed the final list of thirty-five candidates on 27th May, 2013 without disclosing the categories from which the candidates had been selected.

6. Mr. Tufail contended that favouritism had been practiced inasmuch as though it was the respondent-School's stand that no child belonging to Category "h" had been admitted, yet Master Kaushik Narayan Mishra and Laya Varshiri whose fathers are stated to be working in private jobs, had been granted admissions.

7. Mr. Tufail lastly stated that seven seats were still vacant in Class-1 of respondent-School as only twenty-eight out of thirty-five candidates declared successful had opted for admission.

8. Ms. Rekha Palli, learned counsel for respondent-School stated that respondent-School had been established primarily to provide educational facilities to children of Air Force Personnel and Officers. According to her, every effort was made to accommodate children of serving Air Force Personnel and only in the event vacant seats were available, the same were filled up by granting admission to non-Air Force Categories and even in the non-Air Force Categories, priority was given to children of deceased Air Force Personnel, Ex-Air Force Personnel and thereafter children of serving/retired/deceased Defence Forces/Paramilitary Forces as stated in the priority of admission.

9. Ms. Palli stated that since the respondent-School starts from UKG, it had a fixed number of available seats only in UKG whereas in Class 1--wherein the petitioner had sought admission--the available seats kept fluctuating depending upon the transfer of Air Force Personnel and Airmen.

10. Ms. Palli stated that keeping in view its past experience and the fluctuating number of vacancies available for admission to Class 1, the respondent-School knew that all children selected for admission from the non-Air Force category would not finally take admission. Therefore, though a list of thirty-five students

had been displayed on the respondent-School's website, yet based on the number of vacancies available only twenty-eight children were granted admission.

11. Ms. Palli stated that the last child from the list who had been granted admission was at Serial No. 17 of "G" Category. She asserted that no seat was vacant as of date.

12. Ms. Palli clarified that Master Kaushik Narayan Mishra, son of Mr. Yogesh Mishra, whose name was at Serial No. 1 of the list actually belonged to Category "c" of the non-Air Force category as his father is a serving L/Nk in the Indian Army and the word "Private Job" written against his father's status was a typographical error.

13. She stated that similarly, Laya Varshiri is a child of a Commandant in CRPF and due to a typographical mistake, the status of the father had been shown as an Executive instead of Category "e".

14. After hearing the parties, this Court is of the view that as respondent-School is a Private Unaided Public School, it has the right to reserve seats for the wards of Specific Government services like Armed Forces/Paramilitary Forces. From a perusal of the pleadings, it is apparent that respondent-School is primarily meant for Air Force Personnel and only left over vacancies are filled by non-Air Force category. The list of categories priority wise are brought to the knowledge of all parents and printed in the admission form itself.

15. Keeping in view the transferable nature of the job of Air Force Personnel and Airmen, this Court is in agreement with the contention of the learned counsel for respondent-School that it is difficult to predict in advance with certainty the exact number of vacancies to be filled in Class-1. Further, the petitioner has not placed on record any material to rebut the respondent-School's contention that any seat in Class-1 is vacant as of today.

16. From the documents on record, it is apparent that for the academic year 2013-2014 the list of non-Air Force Category for admission in Class 1 was finalized on 10th May, 2013 and in accordance with the priority schedule given in the admission notice, children only till Category "g" were offered admission and no child from Categories "h" or "j" was offered admission.

17. It is apparent that petitioner could not be given admission due to a limited availability of vacancies in Class 1 in the respondent-School and due to a large number of applications from students falling in sub-Categories "c" to "g"; who all were above the sub-Category "h" to which the petitioner belongs. In view of the explanation and the category-wise list of admissions filed by the respondent-School, this Court is of the view that allegations of favouritism are mis-conceived.

18. Consequently, the present writ petition and pending application being bereft of merits, are dismissed, but with no orders as to costs.