

(2024) 09 BOM CK 0041

In the Bombay High Court

Case No : Writ Petition No. 9565 Of 2024

Pradhumman Balasaheb Wadwale, U/G Father Balasaheb
Baburao Wadwale And Another

APPELLANT

Vs

State Of Maharashtra Through Principal Secretary And Others

RESPONDENT

Date of Decision : 05-09-2024

Acts Referred:

Citation : (2024) 09 BOM CK 0041

Hon'ble Judges : Ravindra V. Ghuge, J;Y. G. Khobragade, J

Bench : Division Bench

Advocate : M. B. Kolpe, S. R. Wakale, B. B. Bhise

Final Decision : Allowed

Judgement

Ravindra V. Ghuge, J

1. Leave to delete Respondent Nos.6 and 7. Deletion be carried out forthwith.

2. We considered the submissions of the learned Advocates for the respective sides, at length, yesterday. We noticed that Respondent No.5/Block Development Officer, Panchayat Samiti, Dharashiv had cancelled the admissions of these two young students/Petitioners, who are 6 and 7 years old, having been admitted in Sahyadri International School, Dharashiv and Abhinav English School, Dharashiv, respectively. Therefore, we questioned the source of power that can empower the Block Development Officer, Respondent no.5, to cancel the admissions of these Petitioners, already confirmed by the Competent Committee. The learned Advocate for Respondent No.5, had sought an overnight pass-over.

3. Today, the learned Advocate for the Block Development Officer submits that, entire admission of the students is done in consonance with the Circular dated 16/05/2024, issued by the Directorate, Primary Education, Maharashtra Government, Pune. He has painstakingly tried to convince us by reading Clauses 4 and 10 of the said Circular, which clearly indicate that the Block Development Officer does not have the power to cancel the admission of the students. Clauses

4 and 10 of the said Circular, read thus :

Clause 4:

"४. सोडत (लॉटरी) झाल्यानंतर पडताळणी समितीला आरटीई पोर्टलवर त्यांच्या लॉगीनला विद्यार्थ्यांची नावे व मोबाईल क्रमांक दिले जातील. विद्यार्थ्यांच्या नावापुढे ज्या दिनांकास विद्यार्थ्यांना प्रवेशासाठी बोलविले आहे त्या पालकांकडून मूळ कागदपत्रे व एक छायांकित प्रत पडताळणी समितीने प्राप्त करून घ्यावी.

. कागदपत्राची प्राथमिक तपासणी करून योग्य असल्यास विद्यार्थ्यांच्या च्या नावापुढे ऑनलाईन नोंद करावी तसेच पालकाकडील अलॉटमेंट लेटरवर तात्पुरता प्रवेश दिला असे नोंद करावे व ती नोंद करून पालकांना परत करावे तसेच पालकांकडून हमीपत्र भरून घ्यावे."

Clause 10:

" १०. समितीने संबंधित विद्यार्थ्यांची कागदपत्रे तपासणी करून प्रमाणित केल्यानंतर सदर विद्यार्थ्यांना प्रवेश देण्याची सुविधा आर.टी.ई. पोर्टलवर करण्यात येत आहे. पडताळणी समितीने तपासणी केलेले पात्र विद्यार्थी गटशिक्षणाधिकारी यांचे स्वाक्षरीचे पत्र घेवून शाळेत जातील. शाळा स्तरावर कोणत्याही कागदपत्रांची तपासणी करण्यात येणार नाही . जे विद्यार्थी कागदपत्रे तपासणीमध्ये अपात्र होतील त्यांची निवड रद्द करण्यात यावी व अशा रद्द झालेल्या विद्यार्थ्यांना शिक्षणाधिकारी (प्राथमिक) यांचेकडे तक्रारीची दाद मागता येईल. शिक्षणाधिकारी (प्राथमिक) यांचा निर्णय मान्य नसल्यास विभागीय शिक्षण उपसंचालक यांचेकडे दाद मागता येईल व त्यांचा निर्णय अंतिम राहील. शासन निर्णय दिनांक २१.०४.२०१४ नुसार शिक्षणाधिकारी (प्राथमिक) यांनी जिल्हा, तालुका व न.पा./न.पा. स्तरावर तक्रार निवारण केंद्र व मदत केंद्राची स्थापना करावी."

4. The facts as regards the admission process and the application forms of these two students having been filed before the last date, are undisputed. The Petitioners had applied prior to the cut-off date 04/06/2024. The fathers of both these Petitioners claim to be belonging to the Economically Weaker Section. After confirming the eligibility of all applicants, a Lottery method was resorted to. Their application forms were in order. The Competent Committee had scrutinized the application forms and in terms of Clause 4 of the Circular dated 16/05/2024, a Lottery method was adopted by the Committee. Once these Petitioners cleared the lottery method, the Scrutiny Committee uploaded their names and mobile numbers on their login under the RTE Portal.

5. The parents of the students were called upon to submit their original documents for scrutiny and verification. Once their documents were found to be in order, both the Petitioners have been admitted and are presently taking education in the respective schools under the Right of Children to Free and Compulsory Education Act, 2009.

6. We have perused the letters at page Nos. 22 and 23 of the Petition paper book, dated 28/07/2024, issued to the parents of both these students, which indicate that, schools were allotted to these students through the online lottery system under the RTE 25% scheme. It is mentioned that, all required documents are verified by the Block Education Committee appointed by the Government of Maharashtra. It is, therefore, communicated that the child is admitted through the admission portal. For ready reference we are reproducing the above stated remark, hereunder :-

"Your school is allotted to the child mentioned below through online lottery under RTE 25% scheme.

All Required documents are verified by Block Education Committee appointed by Government of Maharashtra. The child is admitted through online portal."

7. It is undisputed that Petitioner No.1 submitted the income certificate, on 17/06/2024 and Petitioner No.2 submitted it, on 24/07/2024. The verification and scrutiny occurred and it is in this backdrop that the above letters were issued to the Petitioners and the admissions were confirmed.

8. In view of the above, though no power is vested in the Block Development Officer, Respondent No.5 herein, he cancelled the admission of both these Petitioners, illegally, unjustifiably and high-handedly.

9. The fathers of these Petitioners are from the lower income group. Father of Petitioner No.1, though a legal practitioner, is said to be earning Rs.60,000/- per year and the father of the second Petitioner is an Auto Rickshaw Driver. Both had to spend on litigation for no fault on their part only because of the high handed action of Respondent No.5.

10. In view of the above, this Writ Petition is allowed. The impugned order dated 14/08/2024, is quashed and set aside. The admission of both these Petitioners is confirmed.

11. For the unauthorized, unjustified and high-handed impugned action, Respondent No.5/Block Development Officer, Panchayat Samiti, Dharashiv, shall pay costs of Rs.7500/- to each of these Petitioners. This amount shall be paid directly to both Petitioners, namely, Balasaheb Baburao Wadwale and Asif Salim Tamboli, at Dharashiv, vide 'Account Payee' cheques, drawn from the Salary Bank Account of Respondent No.5, on or before 30/09/2024.