
(2015) 08 OHC CK 0061
In the Orissa High Court
Case No : Writ Petition (C) No. 8918 of 2015

Rashmita Barik

APPELLANT

Vs

Kendriya Vidyalaya Sangathan and Others

RESPONDENT

Date of Decision : 18-08-2015

Acts Referred:

Citation : (2015) 2 ILR Ori 780 : (2015) 2 OLR 547

Hon'ble Judges : B.R. Sarangi, J

Bench : Single Bench

Advocate : Jaydev Sengupta, G. Sinha and D.K. Panda, for the Appellant; S.K. Pattnaik, Sr. Adv., P.K. Pattnaik, S.P. Das and S. Das, Advocates for the Respondent

Final Decision : Allowed

Judgement

B.R. Sarangi, J—The petitioner, who is the mother of twin girl child has filed this application challenging the action taken by the opposite parties in admitting one girl child ignoring the other though both are treated as single girl child as per clause-viii of norms of the admission prescribed by the Kendriya Vidyalaya.

2. The short fact of the case in hand is that the petitioner being the mother of a twin girl child, namely A. Gloria and A. Razia pursuant to the notice issued by the opposite party No. 2 for admission in to Class-I during the academic session 2015-16 applied for registration of her twin daughters in two separate forms along with all the documents as required in the notice. After receipt of the registration forms, opposite party No. 2 prepared a list of forms received which are complete in all respect and published the provisional select list for the academic session 2015-16. Under RTE Quota as many as 30 candidates were selected which included one of the twins of the petitioner, namely, A. Gloria but the other one was not selected even her name did not figure in the waiting list prepared for admission to Class-I. Hence, this application.

3. Mr. D.K. Panda, learned counsel for the petitioner submitted that clause-viii of

the special provisions contained in Part-B of the guidelines for admission in Kendriya Vidyalayas specifically provides that single girl children in class-I and from class-VI onwards subject to a maximum of two per section in Class-I and two per class in class VI and onwards which includes twin girl children also would be admitted over and above the class strength except where stated otherwise in the provision meaning thereby, the twin girl children will be taken into consideration as single girl children. It is stated that since one child of the petitioner, namely, A. Gloria has already taken admission, the other one namely A. Razia should have been given admission being treated as single girl children in the institution. It is further stated that though representation was filed, the same has not yet been considered. Therefore, the petitioner has approached this Court by filing the present writ petition seeking for a direction to the opposite parties to allow her other girl child within the meaning of single girl child to prosecute her study in class-I in Kendriya Vidyalaya as per clause-viii of special provision under Part-B of the guidelines for admission in Kendriya Vidyalaya.

4. Mr. S.K. Pattnaik, learned Sr. Counsel for the opposite parties states that the Kendriya Vidyalaya Sangathan established Kendriya Vidyalayas in different States and Union Territories with a primary view to provide uniform education facility to the children of Central Govt. employees who are transferable throughout the country. The employees of autonomous bodies and public sector undertakings fully financed by the Central Govt. or where Govt. has more than 50% share are also entitled to admit their children into the Central Schools so established. Where children of Central Govt. and public sector undertaking are not available, if seats remain vacant, the children of State Govt. employees and public sector undertakings of State Govt. may be given admission as per priority of admission under the guidelines of Kendriya Vidyalaya under part-A of general guidelines. It is admitted that the petitioner gave birth to twin girls namely, A. Gloria and A. Razia and made application to admit them into class-I of Kendriya Vidyalaya No. 3, Bhubaneswar and the names of two girls appear in sl. Nos. 96 and 97. A. Gloria has been selected against 30 seats reserved for RTE quota as serial No. 29 of provisional selection list under Annexure-4 and the other child namely A. Razia was not selected. It is stated that special provision has been made by the K.V.S. for giving admission to children belonging to special category as provided in Clause-1 of Part-B of the admission guidelines. Under sub-clause (viii) of Clause-I, single girl children in Class-I and from Class-VI onwards are entitled to be admitted subject to a maximum of two per class over and above the class strength and it includes twin girl children also. Clause-vii and viii of Education Code of Kendriya Vidyalayas provide that after admitting the candidate up to the full make capacity as per norms, if there are single female children left among the unsuccessful applicants, up to two single female children may be admitted over and above the sanctioned intake in each section of class-I. For selection on this basis, inter se priority among such single female children shall be as per the categorization in Part-3(A) of the Admission Guidelines. In view of that since three sections in Class-I in K.V. No. 3 are available, six single girl children could

have been admitted in that quota. All those six seats were exhausted by single girl children belonging to priority category-I as has been indicated in Annexure-8 and when one of the single girl child did not take admission, one student belonging to priority category-I I was selected for admission. The second girl child of the petitioner, A. Razia belonged to priority category-V for Which her turn could not come for admission as against girl child quota of six in class-I of the K.V. No. 3. Therefore, second girl child of-the petitioner could not be admitted in class-I of Kendriya Vidyalaya No. 3.

5. On the basis of the facts pleaded above, it is to be considered whether the twin child of the petitioner can be taken into account as single child and if one child has already taken admission, the second one can be given admission as single child as per clause-viii of the guidelines of admission under part-B of special provision of the Kendriya Vidyalaya.

6. For admission into the Kendriya Vidyalaya Sangathan guidelines were framed, which have been annexed as Annexure-A to the counter affidavit filed by the opposite parties, In Part-A of general guidelines under clause 3-(A), priorities in admission has been prescribed. Therefore, while admitting the students the following priorities shall be followed in granting admission, which reads as follows:--

"3-A. KENDRIYA VIDYALAYAS UNDER CIVIL/DEFENCE SECTOR.

1. Children of transferable and non-transferable Central government employees and children of ex-servicemen. This will also include children of Foreign National officials, who come on deputation or transfer to India on invitation by Govt. of India.

2. Children of transferable and non-transferable employees of Autonomous Bodies/Public Sector Undertaking/Institute of Higher Learning of the Government of India.

3. Children of transferable and non-transferable State Government employees.

4. Children of transferable and nontransferable employees of Autonomous Bodies/ Public Sector Undertakings/Institute of Higher Learning of the State Governments.

5. Children from any other category including the children of Foreign Nationals who are located in India due to their work or for any personal reasons. The children of Foreign Nationals would be considered only in case there are no Children of Indian Nationals waitlisted for admission.

Note: Preference in Admission towards will be based on the number of transfers of the parents in the last 7 years."

7. Under Part-B, special provisions have been made for admission in Kendriya Vidyalayas. Sub-clause-viii of Clause- 1 for Admission in Kendriya Vidyalaya reads as follows:

"viii. Single girl children in class I and from class VI onwards subject to a maximum of two per section in class I and two per class in class VI and onwards. It includes twin girl children also."

8. Admittedly the petitioner has blessed with twin girl children and out of them one has been selected by following due procedure of selection, whose name finds place in Sl. No. 29 of the select list as mentioned in Annexure-4 to the writ petition and she has been admitted to class-I of Kendriya Vidyalaya No. 3, namely, A. Gloria. So far as second girl child, namely, A. Razia is concerned, she was not admitted into the school even though clause-1 of special provisions under Part-B of the Kendriya Vidyalaya for admission guidelines is applicable to her. Perusal of provisions contained in sub-clause viii of clause-1 of Part-B of special provisions, clearly indicates that single girl children in class I and from class VI onwards subject to a maximum of two per section in class I and two per class in class VI and onwards which includes twin girl children also can be admitted over and above the class strength. If the first one, namely, A. Gloria has been granted admission pursuant to her position in the merit list, A. Razia, the second girl child of the petitioner could not or should not have been ignored on the ground that as per priorities in admission under Part-A of the general guidelines under clause-3(A) has to be followed scrupulously.

9. The petitioner has not disputed the provisions contained in Part-A of the general guidelines as per clause-3(A) of the guidelines for admission into Kendriya Vidyalaya tout at the same time if the twin girl children are considered as single girl children and out of them one has been admitted into class-I, the second one could not have been ignored as per sub clause viii of clause-1 of Part-B of special provisions. Nowhere in Part-B of special provisions contained that only one child amongst the twin girl children will take admission and other will not rather it is just reverse one. If the twin girl children can be considered as single girl children and one has taken admission, the other could not have been ignored by the authority. The purpose of indicating the special provision is to facilitate the twin girl children to prosecute their study in one school considering as single girl child. Therefore, once one of the twin girl children has been admitted into class-I, namely, A. Gloria then in that case taking into account the single girl children concept, the second girl child, namely, A. Razia should not have been ignored and the authority should have admitted A. Razia under single girl children concept which includes twin girl children as per sub clause viii of clause-1 of Part-B of special provisions of the guidelines for admission in Kendriya Vidyalaya.

10. In view of the aforesaid facts and circumstances, this Court is of the considered view that the opposite parties should admit A. Razia, the other girl child of the petitioner within the meaning of single girl children within a period of fifteen days from the date of communication of this judgment and I direct accordingly.

11. The writ petition is allowed.