
(2015) 04 KAR CK 0386

In the Karnataka High Court

Case No : Writ Petition No. 34693 of 2014 (EDN-AD)

The Brigade Foundation, A Public Charitable Trust

APPELLANT

Vs

The Principal Secretary, Department of Public Education and
Others

RESPONDENT

Date of Decision : 28-04-2015

Acts Referred:

Citation : (2015) 4 KarLJ 473

Hon'ble Judges : S. Abdul Nazeer, J

Bench : Single Bench

Advocate : Srinivasa Raghavan, for the Appellant; Vijay Kumar A. Patil,
Additional Government Advocate, Advocates for the Respondent

Final Decision : Disposed off

Judgement

S. Abdul Nazeer, J—The petitioner-a Public Charitable Trust has established three Schools at J.P. Nagar, Mahadevapura and Malleshwaram. The contention of the petitioner is that for the academic year 2014-2015, the schools have admitted 25% of their intake capacity of students to nursery classes under the Right of Children to Free and Compulsory Education Act, 2009 ("RTE Act" for short) in terms of the order passed by the respondent-authorities at Annexure-K, dated 30-3-2013. It is contended that the students, who were admitted under the RTE quota for the academic session 2014-2015 have been promoted to LKG for the current academic session 2015-2016. Therefore, the State Government cannot again send students under the RTE quota for the academic session 2015-2016 to LKG Class. It is not in dispute that insofar as School at Malleshwaram is concerned, the State Government has sent 27 students under the RTE quota for admission to LKG Class for the academic session 2015-2016.

2. As noticed above, in terms of the Government order at Annexure-K, the three schools of the petitioner have admitted 25% of their respective intake capacity under the RTE quota to nursery classes for the academic session 2014-2015. The schools have promoted them to LKG for the current academic session

2015-2016. Insofar as one of the Schools at Malleshwaram is concerned, 27 students have been sent under the RTE quota for LKG for the year 2015-2016.

3. To give quietus to the entire litigation, learned Counsel for the petitioner has filed a memo, which is as under:

"PETITIONER'S MEMO

With a view to resolve the matter and in view of children from economically weaker sections having been admitted to nursery in the petitioner's schools for academic year 2014-2015 and being promoted to LKG for 2015-2016, petitioner submits as follows:

1. Petitioner will not take/will cancel any admissions if any as per RTE Act either to nursery or to LKG at its Schools in JP Nagar and Whitefield for the academic year 2015-2016 and no allotments will be made by the respondents also for 2015-2016. Petitioner will take admissions under RTE Act to the above two schools at LKG level from the academic year 2016-2017.

2. As regards the petitioner's Schools at Malleshwaram, 27 children out of those selected by respondents by online lottery for the School at Malleshwaram under letter dated 16-3-2015 at Annexure-V will be admitted to nursery section for the year 2015-2016. Consequently, no children will be sent for admission by the respondents to this school under RTE Act for the academic year 2016-2017. From the academic year 2017-2018, petitioner will take admission at this school under RTE Act at the LKG level.

3. The respondents will not take any action and will withdraw any action/complaints initiated against the petitioner regarding non-compliance with RTE Act. Respondents will not disturb admissions made to nursery section of petitioner's Schools at JP Nagar and Whitefield upto and including for the academic year 2014-2015 and admissions made to petitioner's School at Malleshwaram upto and including for the academic year 2015-2016.

Petitioner submits that the above memo may be taken on record and the above writ petition may be disposed of issuing directions in terms of the above memo".

4. The memo is placed on record. Learned Counsel for the petitioner submits that the parents of 27 students, who have been sent under the RTE quota for admission to LKG Class for the academic session 2015-2016 at Malleshwaram School have agreed to admit their children for nursery class for the academic year 2015-2016. They will be promoted to LKG for the academic session 2016-2017. Therefore, the State Government cannot send 27 students to LKG Class to the School at Malleshwaram for the academic session 2016-2017 under the RTE quota. The State Government is permitted to send students under RTE quota to Malleshwaram School of the petitioner for LKG Class with effect from the academic session 2018-2019.

5. Insofar as the other two schools are concerned, petitioner shall not admit

students under the RTE quota to nursery class from the academic session 2015-2016 onwards. The respondents are also restrained from sending any students under the RTE quota to these two schools to LKG Classes for the current academic year 2015-2016. However, from the academic year 2017-2018, the respondents are permitted to send students under the RTE quota to LKG Class to the two Schools at J.P. Nagar and Mahadevapura.

6. Learned Counsel for the petitioner submits that petitioner will not claim reimbursement of fees in respect of the students admitted to nursery class for the present academic year 2015-2016 from the State Government. The submission is placed on record.

7. The writ petition is disposed of in the aforesaid terms.

8. In view of the disposal of the writ petition as above, the respondents shall not take coercive steps against the petitioner for non-compliance of RTE Act for the present academic year. In view of the disposal of the writ petition as above, I.A. Nos. 1 to 6 of 2015 do not survive for consideration. They are accordingly dismissed. No costs.