
(2020) 08 DEL CK 0095

In the Delhi High Court

Case No : Letter Patent Appeal No. 208 Of 2020, Civil Miscellaneous No. 19343 Of 2020

Vishaka Through: Natural Guardian Shyam Singh

APPELLANT

Vs

Central Board Of Secondary Education & Anr

RESPONDENT

Date of Decision : 18-08-2020

Acts Referred:

Citation : (2020) 08 DEL CK 0095

Hon'ble Judges : Dhirubhai Naranbhai Patel, CJ; Prateek Jalan, J

Bench : Division Bench

Advocate : Rajesh Pathak, Amit Bansal, Seema Dolo, Pramod Gupta, Janhavee Joshi

Final Decision : Dismissed

Judgement

D. N. Patel, CJ

Proceedings in the matter have been conducted through video conferencing.

C.M.No.19344/2020 (exemptions)

For the reasons stated in the application and in view of the present prevailing situation, the present application is allowed. However, the applicant is

directed to file the requisite Court fee within a period of 72 hours from the date of resumption of regular functioning of the Court.

The application is disposed of.

LPA 208/2020 & C.M.No.19343/2020(addl. relief)

1. This appeal has been preferred by the original petitioner whose writ petition being W.P.(C) No.2454/2020 was dismissed by the learned Single

Judge vide judgment and order dated 4th March, 2020 (Annexure A-1 to the memo of this appeal). The prayers in the said writ petition read as under:-

â??a. Direct the respondent no. 1 to register her in CBSE and further to direct the respondent no. 2 to consider the petitioner for re-

admission in class IX for the academic session 2019-2020 in S. D. Public School, Patel Nagar, Delhi and appear in the exam.

b. pass such further or other orders which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case in the interest of justice.â??

2. Having heard the learned counsel for the parties and looking to the facts and circumstances of the case, it appears that this appellant preferred

W.P.(C) No.2454/2020 for getting admission in Class-IX of S.D.Public School, Patel Nagar, New Delhi in the academic session 2019-20 and for

appearing in the examination.

3. The petitioner had to discontinue her education in the said school sometime in October 2019 due to non-payment of fees. The petitionerâ??s father

had filed an earlier writ petition, being W.P.(C) 7877/2019 in this regard. It appears that despite indulgence shown by the learned Single Judge by

granting interim orders whereby the installments were granted for the payment of the fees, the appellantâ??s father had not paid the fees. As a

result, the admission of appellant for the academic session 2019-20 in Class-IX was discontinued by the aforesaid school. The said academic session is

also now over.

4. Now this appellant is again seeking admission in Class-IX for the academic session 2019-20 which is not permissible in the eyes of law. Paragraphs

7 and 8 of impugned order passed by the learned Single Judge while finally disposing of the writ petition reads as under:-

â??7. I must also indicate that in the instant writ petition, all orders passed by me in W.P.(C) No.7877/2019, in particular, orders dated

11.9.2019 and 13.9.2019, have not been placed on record.

8. A perusal of these orders would show that an opportunity was given to the petitionerâ??s father i.e. Mr. Shyam Singh at the relevant

time to deposit the fee in instalments. It was after the petitioner was unable to pay the fee, with the consent of the petitionerâ??s father,

order dated 14.11.2019 was passed and directions were issued to admit the petitioner in a school which was adjoining to respondent no.2

school i.e. S.S.D. Girls School.â??

5. The counsel appearing for the appellant stated that the appellant did not avail of the admission in S.S.D. Girls School in terms of the order dated

14.11.2019 passed in W.P.(C) 7877/2019. However, he submitted that the appellant should now be granted admission in Class X in S.D. Public

School, taking the benefit of the Circular issued by respondent No.1/CBSE dated 1st April, 2020 (Annexure A-3), wherein promotion to Class X has

been provided in certain categories of cases.

6. Looking to the facts and circumstances of the case, the Circular dated 1st April, 2020 issued by CBSE is not applicable in the case of this appellant.

The benefit is sought to be taken by the appellant without continuing further study with effect from October, 2019, without appearing in the internal

assessment examination undertaken by the said school and without paying tuition fee for the academic session 2019-20. Hence this relief cannot be

granted.

7. Looking to the aforesaid aspects of the matter and the fact that the opportunity was also given to this appellant to get admission in the adjoining

school in the same locality, which was not availed by this appellant, no further relief can be granted in this case. Moreover, we have enquired from

learned counsel for the appellant whether the appellant would like to avail of admission in Class IX in S.S.D. Girls School, where this appellant could

have got admission as per the order passed by this Court. However, learned counsel states upon instruction that the said option is not acceptable to

this appellant.

8. Thus, we see no reason to interfere with the order passed by the learned Single Judge as no error has been committed by the learned Single Judge

while passing the impugned judgment and order dated 4th March, 2020.

9. The appeal is accordingly dismissed along with the pending application.