

(2010) 12 AHC CK 0046
In the Allahabad High Court
Case No : C.M.W.P. No. 67528 of 2010

Yash Dixit and Another

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 03-12-2010

Acts Referred:

Citation : (2011) 3 AWC 2411

Hon'ble Judges : Amreshwar Pratap Sahi, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Amreshwar Pratap Sahi, J.—Heard learned Counsel for the Petitioners and Sri J.P. Gupta, advocate holding brief of Sri N.P. Singh for the Respondents.

2. These two Petitioners by means of this petition have prayed for a mandamus to admit them in Classes VI and VIII respectively in Kendriya Vidyalaya No. 3, Jhansi pursuant to the recommendation of the Respondent No. 2 dated 14.9.2010.

3. The writ petition has been contested by the Kendriya Vidyalaya Sangathan and it has been contended that the Institution namely the Kendriya Vidyalaya No. 3 is not situate within the constituency of the Hon"ble Member of Parliament who has made the recommendation in favour of the Petitioners, as such the Petitioners are not entitled for any relief.

4. It has been stated in paragraph 10 of the counter-affidavit that the Institution is situate at Gulam Gaus Marg, Railway Colony, (West) Khati Baba Road, Jhansi City which falls within the Jhansi-Lalitpur Parliamentary Constituency. The stand taken is that the Petitioners have been recommended by the Member of Parliament whose constituency is Orai Jalaun Parliamentary Constituency. The Hon"ble Member of Parliament Sri Ghanshyam Anuragi was, therefore, informed by the Kendriya Vidyalaya Sangathan that the recommendation which has been made is contrary to the guidelines issued and the aforesaid recommendation

cannot be implemented. Accordingly, the earlier recommendation made in favour of the Petitioners was cancelled.

5. The Principal of the Institution was intimated by the Deputy Commissioner Training to reconsider the question of admission of the Petitioners upon which the Principal wrote back that in view of the aforesaid legal position it will not be possible to admit the students. Accordingly, this writ petition was filed praying for a mandamus for implementation of the said recommendation. In the counter-affidavit filed the Respondents have relied on the communication dated 18th March, 2010 which is as follows:

F11019/02/2010- KVSHQ/Acad/ Dated: 18.3.2010

SPEED POST

The Assistant Commissioner

Kendriya Vidyalaya Sangathan

All Regions.

Sub : Amendment in Admission Guidelines - 2009-10.

Madam/Sir,

Please refer to Article 7 (G) and (H) of K.V.S. Admission Guideline, 2009-10 wherein it has been mentioned that each Member of Parliament has the discretion of recommending the names of 2 children for admission in a Kendriya Vidyalaya located within their Constituency and Chairman, K.V.S. can recommend 1200 admissions in an Academic Year under Special Dispensation Quota. In the 86th special meeting of the Board of Governors (BoG) held on 15.3.2010 it has been decided that both the above mentioned articles stand abolished. Accordingly, the Admission Guidelines, 2009-10 stand amended and Article 7 (G) and (H) stands abolished.

Yours faithfully, (F. Kalavathi) Deputy Commissioner (Acad) I/c

Distribution:

1. P.S. to Commissioner, K.V.S. - for information.
2. P.S. to Joint Commissioner (Admn.) - for information.
3. P.S. to Joint Commissioner (Acad.) - for information.
4. The Senior Admn. Officer (Admn.) with the request to include this letter in the A.T.R. of 86th BoG meeting.
5. All Officers and Sections of K.V.S. (H.Q.) - for information.
6. The aforesaid communication has been superseded by the order issued on 11th May, 2010 which is to the following effect:

SPEED POST

OFFICE MEMORANDUM

Sub : Scheme for Special Dispensation Admission in Kendriya Vidyalayas.

Reference to this office letter of even number dated 18.3.2010 (copy enclosed) wherein it was stated that Article 7 (G) and (H) of K.V.S. Admission Guidelines, 2009-10 related to Special Dispensation Quota of Hon''ble Members of Parliament and Hon''ble H.R.M. and Chairman K.V.S. respectively were abolished. This decision was taken in the 86th meeting of the Board of Governors (BoG) of K.V.S. held on 15.3.2010.

In the 87th meeting of the BoG of K.V.S. held on 6.5.2010 it has been decided to restore Special Dispensation Quota of Hon''ble Members of Parliament (02 admissions each). However, the Special Dispensation Quota of Hon''ble H.R.M. and Chairman, K.V.S. comprising 1200 seats still stands abolished and the privilege of recommending the names of two children, being a Member of Parliament, has also been surrendered by him.

Henceforth, each Hon''ble Member of Lok Sabha can refer 2 cases for admission under the scheme in an academic year but such recommendations will be confined to his/her constituency. The Hon''ble Members of Rajya Sabha can recommend 2 names in a Kendriya Vidyalaya located in the State from where he/she has been elected.

Special Dispensation Admission would be made at the beginning of the academic year and No. admission would be allowed after the prescribed cutoff date as applicable for general admissions. The recommendations to be made by the Hon''ble Members of Parliament shall be valid only if they are made in the prescribed format provided by K.V.S. The admission under this Quota will be over and above the Class strength.

(Avinash Dikshit) Commissioner

Distribution:

1. P.S. to Speaker, Lok Sabha.
2. P.S. to Dy. Chairman, Rajya Sabha.
3. All Hon''ble Members of Parliament (Rajya Sabha and Lok Sabha).
4. P.S. to Hon''ble H.R.M. and Chairman. K.V.S.
5. P.S. to Minister of State (H.R.D.), Shastri Bhawan, New Delhi.
6. Additional Secretary (H.E.) and Vice Chairman, K.V.S.
7. J.S. (U.T.), Min. of H.R.D. Shastri Bhawan, New Delhi.

8. All Assistant Commissioner, K.V.S. Regional Offices.

9. Principals of all Kendriya Vidyalayas.

7. The third paragraph of the subsequent Office Memorandum, even though restores the discretionary quota in favour of the Members of Parliament, yet it provides the method of allocation of such discretion differently in the case of a Member of Lok Sabha and that of a Rajya Sabha. The recital contained clearly prescribes that a Member of Lok Sabha can refer two cases for admission under the scheme in one academic year but the recommendation shall stand confined to his/her constituency. The aforesaid clause further clarifies that the Members of the Rajya Sabha can also recommend two names for any Kendriya Vidyalaya located in the State from where they have been elected. Thus, a Member of the Lok Sabha can make recommendations only to an Institution within the constituency, whereas a Member of Rajya Sabha can make recommendations in respect of any Institution throughout the State from where he has been elected. A natural corollary is, therefore, that a Member of Lok Sabha cannot make a recommendation of a candidate for admission to an Institution which falls outside the territorial limits of his constituency. In the instant case, the Institution where admission was sought and recommended falls outside the territorial limits of the constituency of the Member who had made the recommendation.

8. A combined reading of the said clause, therefore, leaves No. room for doubt that the recommendation has to be in respect of admission to an Institution falling within the territorial constituency of the concerned Member of Lok Sabha, which position which has been explained in the impugned communication. Accordingly, this Court does not find any merit in the prayer made on behalf of the Petitioners.

The writ petition fails and is hereby dismissed.