2026:DHC:2773-DB

$~80

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Date of Decision : 25.03.2026*

\+ **LPA 810/2024, CM APPL. 48040/2024, CM APPL. 48041/2024 & CM APPL. 66934/2025**

POOJA AS GUARDIAN OF BABY DEVANSHI JAISAWAR .....Appellant

Through: Mr. Aayush Agarwala and Mr. Vipul Singh, Advocates.

versus

AADHARSHILA VIDYAPEETH & ANR. .....Respondents

Through: Ms. Jyoti Taneja, Adv for R-1.
Mr. Dhruv Rohatgi, PC, GNCTD with Ms. Chandrika Sachdeva and Mr. Dhruv Kumar, Advocates for R-2.

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE TEJAS KARIA

TEJAS KARIA, J. (*Oral*)

CM APPL. 48039/2024 (*Delay*)

1. Heard the learned Counsel for the Parties and perused the averments made in the instant Application.

2. The prayer made is allowed and the delay of 72 days in filing the present Appeal stands condoned.

3. Accordingly, the Application is disposed of.

LPA 810/2024

4. The present *intra court* Appeal is directed against the Judgment and Order dated 08.05.2024 ("**Impugned Judgment**") passed in W.P.(C)

13354/2023 ("**Writ Petition**"), whereby the learned Single Judge dismissed the Writ Petition relying upon the judgment of this Court in ***Ankit Kumar v. GNCTD***, Neutral Citation: 2024:DHC:3161.

5. The Appellant has filed this Appeal specifically to challenge the conclusions reached in Paragraph Nos. 5 to 8 of the Impugned Judgment. The Impugned Judgment observed that although Respondent No. 1 – School lacked a legitimate basis for refusing admission to the Appellant's ward, the expiration of the relevant Academic Year precluded the Court from issuing an order for admission in the subsequent Academic Year. The Appellant maintains that she has been unjustly penalized as her Writ Petition was filed within the same Academic Year in which the admission was denied. Accordingly, the Appellant has prayed for moulding the relief to ensure justice is delivered to her ward.

6. The Appellant had applied for admission of her ward in Respondent No. 1 – School in EWS / DG / CWSN category for Class I for the Academic Year 2023-2024 by submitting necessary documents such as caste certificate, income certificate, etc. During the draw of lots conducted by Respondent No. 2, Directorate of Education ("**DoE**"), held on 14.03.2023, name of the Appellant's ward was selected for admission in Respondent No. 1 – School.

7. The Appellant had approached Respondent No. 1 – School for verification of the documents and complete the admission process, but she was denied entry and advised that she would receive further communication from Respondent No. 1 – School. The Appellant subsequently sent multiple communications to Respondent No. 1 – School and Respondent No. 2 – DoE, requesting admission for her ward. Despite being allotted a seat at

Respondent No. 1 – School, the Appellant was informed that admission for EWS children could not be granted until all seats for the general category were filled. Accordingly, the Appellant's ward was placed on a waiting list to be admitted only after the general category seats had been filled.

8. Accordingly, the Appellant filed the Writ Petition on 07.10.2023 before this Court seeking direction against Respondent No. 1 – School to grant admission in terms of the list of selected candidates through the draw of lots conducted by Respondent No. 2 - DoE, for the Academic Year 2023-2024.

9. On the first date of hearing of the Writ Petition, the learned Counsel appearing for Respondent No. 1 – School sought time to take instructions as to the availability of seat in Class I. On 15.12.2023, the learned Counsel for Respondent No. 1 – School requested for adjournment, however, the learned Counsel appearing on behalf of Respondent No. 2 - DoE, submitted that as per the data circulated by the DoE, there were vacancies in Respondent No. 1 – School in Class I for the Academic Year 2023-2024.

10. On 21.12.2023, the learned Counsel for Respondent No. 1 – School informed the learned Single Judge that the name of the Appellant's ward was not in the list of seats allotted to Respondent No. 1 – School and, accordingly, the Respondents were directed to file the Counter Affidavit.

11. On 04.03.2024, the learned Single Judge passed the following order in the Writ Petition:

> "*1. This is a case in which, after a draw of lots was conducted by the Director of Education (DoE) for allocating EWS students to Class I in various schools, and allocations were made, including the allocation of the petitioner to Respondent 1 school, the DoE accepted the later representation made by Respondent 1 school and*

reduced the number of EWS seats available in the said school from 4 to 2.

2. The school is seeking to capitalize on this decision to say that the petitioner cannot now seek a direction to the school to admit her.

3. If the DoE is to accept the representations after draw of lots for a particular year is already conducted and EWS students informed of the schools to which they are assigned and, accepting the representations, is to reduce a number of EWS seats available, it can create a situation of utter chaos. This is what has happened in the present case.

4. I do not see how, once, on the basis of data placed by the DoE in the public domain, and after the schools have been given a chance to seek correction in the data within a stipulated time, whereafter alone the computerized draw of lots is conducted and, on the basis of the said draw of lots, EWS children are allocated to different schools, the DoE can revisit the decision and reduce the number of EWS seats in one or more of the schools to which the allocation has already taken place.

5. At this juncture, Mr. Anil Johnson submits, on behalf of the Respondent 1 school that, in fact, the representation which came to be allowed by the DoE and on the basis of which a number of EWS seats in Respondent 1 school were reduced, was actually preferred much prior to the allocation of the petitioner to Respondent 1 school. He submits that, in fact, in the present case, it is the DoE which is in error as it allocated EWS students to Respondent 1 school in excess of the number of seats which had been communicated by Respondent 1 school to the DoE. When the Respondent 1 school noticed this, they promptly wrote to the DoE requiring the DoE to size down the number of EWS seats available with the Respondent 1 school for the year 2023-2024 in Class I. It is that representation which has come to be allowed subsequently.

6. If that be so, Respondent 1 school may be entitled to the benefit of the subsequent order of the DoE.

7. Mr. Narang, learned Counsel for the petitioner submits that the petitioner was allocated to the Spring Fields School by the DoE, but that school provides education only till Class VIII.

8. Mr. Utkarsh Singh, learned Counsel for the DoE submits that it cannot lie in the mouth of the petitioner to raise any objection in that regard, as the Spring Fields School was one of the schools identified by the petitioner for admission at the time when he filled up his EWS form.

9. It is not in dispute that the DoE does not indicate, on its website, the classes upto which the schools available for allocations to EWS students, impart education. An EWS student, or her or his parents, cannot be expected to surf the web and find out the details of the various schools available for admission. The DoE is required, therefore, to clearly mention the class upto which the various schools, available for allocation of EWS students in a particular year, provide education.

10. If, therefore, the respondents cannot be compelled to admit the petitioner, Mr. Utkarsh Singh has been put on notice that the DoE would have to allocate the petitioner an alternate school, which provides education till Class XII.

11. Mr. Utkarsh Singh seeks some time to place his stand on affidavit.

12. A further and final opportunity of four weeks is granted to the DoE to file its reply with advance copy to learned Counsel for the petitioner. Rejoinders to the replies of both the respondents may be filed before the next date of hearing."

12. When the Writ Petition was next taken up by the learned Single Judge, the Impugned Judgment was passed as under:

"*1. The petitioner is a student belonging to the Economically Weaker Section (EWS). In accordance with Section 12 of the Right of Children to Free and Compulsory Education Act, 2009 ("the RTE Act") read with various circulars issued by the Directorate of Education (DoE), the petitioner applied for admission to Class I in, among others, the respondent school, as an EWS category student.*

2. A computerized draw of lots was conducted by the DoE, following which the petitioner was found entitled to admission to Class I in the respondent school against KG/Pre-primary seats in

the year 2022-2023, which had not been filled by the respondent school. The principle of carry forward of such seats has been affirmed by this Court in a number of decisions including Siddharth International Public School v. Motor Accidents Claim Tribunal1 , rendered by a Division Bench.

3. Despite having been thus shortlisted for admission to the respondent school, the respondent school declined to admit the petitioner resulting in the petitioner being compelled to approach this Court by means of the present writ petition seeking a mandamus to the respondent school in accordance with outcome of the computerized draw of lots conducted by the DoE.

4. However, there was neither any order of provisional admission passed by this Court in favour of the petitioner nor was any seat in Class I reserved in her favour on the basis of the computerized draw of lots conducted by the DoE.

5. In such a case, this Court has already held in para 15 of its judgment dated 22 April 2024 in Ankit Kumar v. GNCTD2 that it is not possible to issue a mandamus to the respondent school to accommodate the petitioner in Class II in the year 2024-2025. The benefit of the result of the computerized draw of lots conducted by the DoE, though in favour of the petitioner, would enure in her favour only till the end of 2023-2024, inasmuch as the computerized draw of lots was conducted for that year. The seat in Class I for 2023-2024, which remained unfilled, would be included in the carry forward seats for 2024-2025 and would be available for being filled by any EWS candidate in 2024-2025, including the petitioner, should she choose to apply. The petitioner would, therefore, have to compete with all other EWS candidates for the said seats.

6. In that view of the matter, it is not possible to grant the relief sought in this writ petition.

7. The petition is accordingly dismissed. However, this shall not preclude the petitioner from applying with the DoE as an EWS candidate for admission to Class II for the year 2024-2025 and including, in her application, to the respondent school. In case such an application is made, it shall be furnished and decided by the DoE as per the procedure established in that regard."

13. The Impugned Judgment has observed that in absence of any order of provisional admission or reservation of the seat in Class I in favour of the ward of the Appellant, it was not possible to accommodate the ward of the Appellant in Class II in the Academic Year 2024-2025 as held in ***Ankit Kumar*** (*supra*). It was further held that the EWS seats in Class I for the Academic Year 2023-2024, which remained unfilled, would be included in the carry forward seats for the Academic Year 2024-2025 for Class I and would be available to any EWS candidate, including the ward of the Appellant, if she chooses to apply. Accordingly, the Writ Petition was dismissed on the ground that it was not possible to grant the relief sought in the Writ Petition as the same was restricted to Academic Year 2023-2024, which was over by the time the Writ Petition was decided.

14. It is this part of the Impugned Judgment that is under challenge in this Appeal. It is the case of the Appellant that the ward of the Appellant ought to have been given admission in Respondent No. 1 – School in Class II for the Academic Year 2024-2025 by moulding the relief sought in the Writ Petition.

15. When the present Appeal was taken up for hearing on 09.12.2025, Respondent No. 2 – DoE was directed to file an additional affidavit stating its case. In terms of the said direction, the additional affidavit has been filed on behalf of the Respondent No. 2 – DoE, which is directed to be taken on record.

16. As per the additional affidavit filed by Respondent No. 2 – DoE, the ward of the Appellant had been allotted Spring Field Public School, Pitampura, Delhi which was one of the preferred Schools chosen by the

Appellant in the application form for the admission in Class I under EWS / DG category for Academic Year 2023-2024 and despite having been given admission on 01.07.2023, the ward of the Appellant did not report to the said School.

17. During the course of the hearing, the learned Counsel for Respondent No. 2 – DoE submitted that DoE is willing to give admission to the Appellant's ward in any Municipal School, if the Appellant is willing to take the admission.

18. However, learned Counsel for the Appellant, on instructions, declined the proposal and stated that the Appellant is unwilling to accept admission at any institution other than Respondent No. 1 – School since the Appellant's ward was denied admission despite there being no fault of the Appellant, thereby entitling the Appellant to admission regardless of the fact that the relevant Academic Year for which admission was granted had concluded. Additionally, it was argued that due to the pendency of both the Writ Petition and the present Appeal, the Appellant should be granted admission to a higher class at Respondent No. 1 – School.

19. The learned Counsel for the Appellant has relied upon the decision in ***S. Krishna Sradha v. State of Andhra Pradesh & Ors.***, (2020) 17 SCC 465, which holds as under:

> "*13. In light of the discussion/observations made hereinabove, a meritorious candidate/student who has been denied an admission in MBBS course illegally or irrationally by the authorities for no fault of his/her and who has approached the Court in time and so as to see that such a meritorious candidate may not have to suffer for no fault of his/her, we answer the reference as under:*
>
> > *13.1. That in a case where candidate/student has approached the court at the earliest and without any delay and*

that the question is with respect to the admission in medical course all the efforts shall be made by the court concerned to dispose of the proceedings by giving priority and at the earliest.

13.2. Under exceptional circumstances, if the court finds that there is no fault attributable to the candidate and the candidate has pursued his/her legal right expeditiously without any delay and there is fault only on the part of the authorities and/or there is apparent breach of rules and regulations as well as related principles in the process of grant of admission which would violate the right of equality and equal treatment to the competing candidates and if the time schedule prescribed — 30th September, is over, to do the complete justice, the Court under exceptional circumstances and in rarest of rare cases direct the admission in the same year by directing to increase the seats, however, it should not be more than one or two seats and such admissions can be ordered within reasonable time i.e. within one month from 30th September i.e. cut-off date and under no circumstances, the Court shall order any admission in the same year beyond 30th October. However, it is observed that such relief can be granted only in exceptional circumstances and in the rarest of rare cases. In case of such an eventuality, the Court may also pass an order cancelling the admission given to a candidate who is at the bottom of the merit list of the category who, if the admission would have been given to a more meritorious candidate who has been denied admission illegally, would not have got the admission, if the Court deems it fit and proper, however, after giving an opportunity of hearing to a student whose admission is sought to be cancelled.

13.3. In case the Court is of the opinion that no relief of admission can be granted to such a candidate in the very academic year and wherever it finds that the action of the authorities has been arbitrary and in breach of the rules and regulations or the prospectus affecting the rights of the students and that a candidate is found to be meritorious and such candidate/student has approached the court at the earliest and without any delay, the court can mould the relief and direct the admission to be granted to such a candidate in the next academic year by issuing appropriate directions by

directing to increase in the number of seats as may be considered appropriate in the case and in case of such an eventuality and if it is found that the management was at fault and wrongly denied the admission to the meritorious candidate, in that case, the Court may direct to reduce the number of seats in the management quota of that year, meaning thereby the student/students who was/were denied admission illegally to be accommodated in the next academic year out of the seats allotted in the management quota.

13.4. Grant of the compensation could be an additional remedy but not a substitute for restitutional remedies. Therefore, in an appropriate case the Court may award the compensation to such a meritorious candidate who for no fault of his/her has to lose one full academic year and who could not be granted any relief of admission in the same academic year.

13.5. It is clarified that the aforesaid directions pertain to admission in MBBS course only and we have not dealt with postgraduate medical course."

20. Having considered the submissions made on behalf of the Appellant as well as the learned Counsel for Respondent No. 2 – DoE, we are of the opinion that no interference is required with the Impugned Judgment for the reason that the Appellant was allotted an alternate School by Respondent No. 2 – DoE on 01.07.2023 itself, which was one of the preferred schools chosen by the Appellant in her application form. Further, the said school was at the same distance from the residence of the Appellant as Respondent No. 1 – School. Despite being accommodated in one of the preferred Schools chosen by the Appellant on 01.07.2023, the Appellant did not report to the said School and filed the Writ Petition on 07.10.2023. The Appellant has relied upon the provisions of Right of Children to Free and Compulsory Education Act, 2009 ("**RTE Act**") for seeking the admission in Respondent No. 1 – School.

21. There is no cavil that the RTE Act is a beneficial legislation with an objective to achieve social inclusion and to ensure that School becomes a common space for children's education not differentiated by barriers of caste, ethnic group, or caste lines. However, such a right to education cannot be translated into right to select a particular school.

22. In the facts of the present case, upon failure by Respondent No. 1 – School to grant admission, Respondent No. 2 – DoE accommodated the ward of the Appellant in another School, which was amongst the preferred schools selected by the Appellant at the time of filing up the application form. Although the Appellant was informed that the ward of the Appellant was granted a seat in Respondent No. 1 – School through draw of lots, when Respondent No. 1 – School did not grant admission, the Appellant was given admission in another school in the interest of the education of the ward of the Appellant. However, the Appellant did not accept the admission in Spring Field Public School, Pitampura, Delhi, despite the same being one of the schools selected as preferred school by the Appellant herself and instead filed the Writ Petition specifically seeking admission for Class I in Academic Year 2023-2024.

23. By the time the Writ Petition came up for hearing on 08.05.2024, the relief sought in the Writ Petition could not have been granted due to efflux of time. In absence of any provisional admission or reserving the seat during the pendency of the Writ Petition, the Court had no power to create an additional seat for a particular Academic Year.

24. In ***Ankit Kumar*** (*supra*), this Court has observed as under:

> *"6. I may note, here, that students who approached the Court seeking admission on the basis of an allotment made by the DoE*

consequent on the computerised draw of lots fall into three categories.

7. The first two categories relate to students who approach the Court during the academic year in respect of which the allotment is in their favour. Of these students, one category of students would be those in whose favour the court passes an interim order of provisional admission. The second category of students would be those in favour of whom there is no order of provisional admission, but the court passes an order reserving a seat for the student concerned in the class in respect of which the allotment has been made by the DoE.

8. In both these cases, even if the writ petition is taken up after the academic year is over, it is possible for the Court to direct admission of the student in the next academic year.

****** ******* ******

13. If the Court passes an interim order directing provisional admission of the student in accordance with the result of the DoE allotment, there is no difficulty, as the student would, during the pendency of the writ petition, also be entitled to progressive promotion to higher classes, of course subject to the outcome of the writ petition. If, therefore, the Court finds the denial of admission to the student by the school to be legally unsustainable, it can allow the writ petition by finally directing admission of the student in the class in which the student is studying, in School X, at that point of time, thereby making the interim order absolute.

****** ******* ******

15. If, however, there is neither any interim order of provisional admission or directing reserving of a seat for the petitioner passed by the Court, then, after the academic year is over, the right of the student to be granted admission to the school would perish with the coming to an end of the 2023-2024 academic year. The petitioner would not have any seat allotted by the DoE in her favour in Class I in the school for 2024-2025. Further the unfilled seats in Kg/Pre-primary in 2023- 2024, even if carried forward, would then be available for all EWS students who seek admission in class I for the academic year 2024- 2025, as no seat has been reserved for the

> *petitioner under any interim order of the Court. It would be unfair, therefore, to deny such EWS applicants for the 2024-2025 academic year one seat merely because there was an allotment in KG/Pre-primary in 2023-2024 in favour of the petitioner which did not fructify. That seat, even if carried forward, would be available for being filled by all EWS students who would have to apply and compete in the computerised draw of lots held by the DoE.*"

25. In view of the above, in the cases where there is no interim order of provisional admission or direction of reserving of a seat passed by the Court during the pendency of the petition, the right of the student to be granted admission in the school allotted by the DoE would perish after the Academic Year is over.

26. In the present case, there was neither any interim order of provisional admission nor direction for reserving a seat in favour of the Appellant. Once the Academic Year 2023-2024 was over, the right of the Appellant to seek admission in Respondent No. 1 – School stood extinguished as the relief sought in the Writ Petition was specific for grant of admission for Academic Year 2023-2024.

27. The reliance placed by the Appellant upon the decision in ***S. Krishna Sradha*** (*supra*) is misplaced as the same involved admission in the MBBS course and considering the exceptional circumstances and to do complete justice, the Supreme Court granted admission by increasing the seats in the same year and provided that any direction for increasing the seat can only be in the same Academic Year and that too be passed within one month from the cut-off date. The facts of the present case are different as the Academic Year was over by the time the Writ Petition came up for final hearing. Hence, the Court had no ability to grant admission as the Academic Year was already over by then. Accordingly, we do not find any infirmity with the

Impugned Judgment. Consequently, the present Appeal along with the pending Applications stand dismissed. There shall be no order as to costs.

TEJAS KARIA, J

DEVENDRA KUMAR UPADHYAYA, CJ

MARCH 25, 2026
ap