



[2025:RJ-JP:35358]

**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**

S.B. Civil Writ Petition No. 8802/2025

Master Daivik Rangwani S/o Shri Tarun Rangwani, Aged About 3 Years, R/o 31/57/11 Varun Path Mansarovar Jaipur Being A Minor Through Father Tarun Rangwani S/o Prakash Rangwani Aged About 31 Years, R/o 31/57/11 Varun Path Mansarovar, Jaipur- 302020

----Petitioner

Versus

1. State Of Rajasthan, Through Secretary To Govt Of Rajasthan, Department Of School Education, Govt Secretariat Jaipur 302001.
2. Director, Department Of Secondary School Education, Govt Of Rajasthan, Samta Nagar, Bikaner- 334001
3. Chief Block Education Officer, Block Jaipur West, Behind Maharani Collage, Jaipur.
4. The Vardhman International School, Sector-3 Shipra Path Mansarovar Jaipur.

----Respondents

For Petitioner(s) : Dr.M. Naseer Khan for
Mr.Rizwan Ahmed

For Respondent(s) : Mr.Bhavya Kala for
Mr.Devansh Sharma, Dy.GC.
Mr.Udit Purohit

JUSTICE ANOOP KUMAR DHAND
Order

03/09/2025

Reportable

For convenience of exposition, this judgment is divided in the following parts:-

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**Preface:-**

Right to Education should help the student, not only to develop his capacities but also to understand his own highest interest.

a. The Right to Education falls under the hallowed walls of the fundamental right to live with dignity guaranteed under Article 21 of the Indian Constitution because education ensure a good and dignified life.

b. The Hon'ble Apex Court in the case of **Unni Krishnan J.P. & Ors. Vs. State of Andhra Pradesh & Ors.** reported in **1993 (1) SCC 645** has held that Right to Education is a fundamental right under Article 21 of the Constitution of India for the children up to the age of fourteen years. Beyond the age of fourteen years, the Right to Education becomes subordinate to the economic means of the State and its development. The Directive Principles of State Policy under Articles 41, 45 & 46 were used to define the parameters of the fundamental Right to Education.

c. To give better effect to the above judgment of the Hon'ble Apex Court in the case of Unni Krishna (supra), the Legislature passed the 86th Constitutional Amendment Act of 2002 (w.e.f. 12.12.2002) which inserted Article 21-A under Part-III of the Constitution of India envisaging the fundamental right to free and compulsory Education for children between the age group of Six to Fourteen years. Article 21-A of the Constitution of India has hailed as the most significant of all the fundamental rights, because one's ability to enforce the fundamental right comes from his education.



d. The 86th Constitutional Amendment Act, 2002 also inserted clause (k) to Article 51-A of the Constitution of India envisaging the fundamental duty of a parent or guardian to provide opportunities for education to his child or ward, between the age group of 6 to 14 years. This has added to encourage and promote the parents and the guardians to bring their children or wards to school for education.

e. In the International sphere, various treaties including Covenants, Conventions, Charters, Declaration, Recommendation, etc. have recognized the Right to Education.

Article 26 of the Universal Declaration of Human Rights (for short, "the UDHR") declares that everyone has the right to education and with the adoption of the UDHR, many international and regional treaties came into place to reaffirm the solemn Right to Education.

f. The Right of Children to Free and Compulsory Education Act, 2009 (for short, "the Act of 2009") is an important legislation that marks a watershed in the education system in India. With its enactment, the Right to Education has become a fundamental right in the country. When the Act of 2009 came into force in 2010, India has become one amongst the 135 countries where education is a fundamental right of every child.

g. The RTE Act mandates for all private schools to reserve 25% of their seats for children from socially disadvantaged and economically backward sections. This move is intended to boost social inclusion and pave the way for a more just and equal country. This provision is included in Section 12(1) (c) of the RTE Act. All schools (private, unaided, aided or special category) must



reserve 25% of their seats at the entry level for students from the Economically Weaker Sections (EWS) and disadvantaged groups. This provision is a far-reaching move and perhaps the most important step in so far as the inclusive education is concerned.

Facts of the case:-

1. The young minor petitioner through his natural guardian father has knocked the doors of this temple of justice to enforce his right to education, as guaranteed under Article 21-A of the Constitution of India, with the following prayer:-

"In view of the above cogent facts, law and circumstances of the case it is most humbly prayed that this Hon'ble Court may kindly be pleased to accept and allow this writ petition and by an appropriate writ, order or direction;

(i) The impugned action dated 8 May 2025 of Respondent no. 3 whereby the respondent no.3 rejected the application no. 4005879 of the petitioner be quashed and set aside with all consequential benefits.

(ii) The impugned non action of the respondents on grievance token no 544 of the Petitioner as well as non action on representation/Petition dated 9/05/2025 be quashed and set aside and the respondents be directed to decide grievance registered under token no.544 and representation dated 9/05/2025 with all consequential benefits.

(iii) The respondents may be directed to give admission to the petitioner under free RTE seat in the school i.e. respondent no.4.

(iv) Cost of writ petition may also be awarded in favour of petitioner,





(v) and may pass any other order(s) in the favour of the petitioner which this Hon'ble Court deems just and proper in the facts and circumstances of the case."

2. By way of filing this writ petition, a prayer has been made for issuing directions to the respondents to grant admission to the petitioner under the Right to Education Act, 2009 on free seats in the private school, i.e., respondent No.4.

Contentions of the petitioner:-

3. Learned counsel for the petitioner submits that pursuant to the provision contained under the Act of 2009, the petitioner submitted an application for getting admission in the private school, i.e., respondent No.4. Counsel submits that the application submitted by the petitioner was rejected on the ground of submission of incorrect documents on 21.04.2025, but the communication of the same was not made to the petitioner. Counsel submits that subsequently, the date of submission of the documents for verification and rejection of the application was extended till 08.05.2025. Counsel submits that objection of the respondents was that the Aadhar Card, annexed with the RTE Application, was not bearing the Ward Number where the petitioner was residing.

4. Counsel submits that on 08.05.2025 through an e-mail communication, a document, issued by the competent Authority in the form of Appendix-5, was submitted by the petitioner to the respondents, wherein it was indicated that the petitioner is a resident of Ward Number-70 of Jaipur City. Counsel submits that in spite of above, the respondents have not considered the RTE



application of the petitioner for getting admission in the private school, i.e., respondent No.4, under the provisions of the Act of 2009. Hence, appropriate directions be issued to the respondents for the aforesaid purpose.

Contention of the respondents:-

5. *Per contra*, learned counsel for the respondent-State as well as counsel appearing for the respondent No.4-private school opposed the arguments raised by counsel for the petitioner and submitted that the guidelines for admission on free seats in private schools have been framed under the provisions of the Act of 2009 and certain timeline has also been framed. Counsel submits that as per the aforesaid guidelines, the last date for submission of online application form or uploading the documents has been fixed as 07.04.2025 and the admissions are required to be given on the basis of lottery which was required to be opened on 09.04.2025. Counsel submits that clause No.9 of the guidelines deals with the procedure of verification of documents and the date of verification of document was fixed as 09.04.2025 till 28.04.2025. Counsel submits that the Aadhar Card annexed with the application by the petitioner did not indicate the Ward Number where the petitioner was residing and as per the guidelines issued by the State Government, preference is given to the students residing in a particular Ward. Counsel submits that since incorrect document was annexed with the application by the petitioner, that is why his application has been rejected. Counsel submits that though the time for verification of documents was extended till 08.05.2025, but no opportunity was granted to such candidates like the petitioner, to submit correct documents after the cut-off





date. Counsel submits that under these circumstances, the respondents have not caused any illegality in rejecting the application submitted by the petitioner.

Analysis, Discussions & Findings:-

6. Heard and considered the submissions made at the Bar and perused the material available on record.

7. Perusal of the record indicates that pursuant to the provisions contained under the Act of 2009, the petitioner submitted an application for getting admission in the school of respondent No.4 and it appears that the petitioner also attached his Aadhar Card with the aforesaid application, wherein the Ward Number of the petitioner was not mentioned and that was the precise reason for rejection of the application of the petitioner by the respondents.

8. It appears that subsequently the date was extended by the respondents for verification and rejection of the application till 08.05.2025. The record indicates that the petitioner sent an e-mail and uploaded the documents in the form of Appendix-5, wherein Ward No.70 of Jaipur City was mentioned as residence of the petitioner and the said document has been duly attested by a Gazetted Officer. However, the said document was overlooked by the respondent No.4-private school and the same was not considered for allowing the petitioner to get admission in the private school, i.e., respondent No.4.

9. In the considered opinion of this Court once the respondents have extended the date upto 08.05.2025 for verification of documents and the petitioner has submitted his correct document with regard to his Ward on 08.05.2025, the respondents were





supposed to consider the said document for the purpose of granting admission to him and inclusion of his name in the lottery process, but the respondents have miserably failed to do so.

10. Certain guidelines have been issued by the Government of India under Section 35(1) of the RTE Act as well as by the State Government in the form of the Rajasthan Right of Children to Free and Compulsory Education Rules, 2011 (for short, "the Rules of 2011") according to which it is a fundamental right of a child, who belongs to disadvantaged group to get admission under the aegis of Act of 2009 to any School situated in his/ her neighbourhood. No distinction could be made out on the basis of having residence in a particular Ward that a "neighbourhood school" is situated in a different Ward.

The Constitutional Bench of Allahabad High Court in the case of **Sudheer Kumar Vs. State of U.P. & Others** reported in **2017:AHC:108425** has held as under:

"Thus, the concept of a neighbourhood school emerges as would be consistent with Section 2(n) r/w Rule 2(f) r/w Rule 4 & Rule 7(4) of the Rules. Thus, school would be such as has been defined under Section 2(n) of the Act and "neighbourhood" such as has been defined under Section 2(f) of the Act.

Accordingly, for class 1 to 5, a 'school' shall have to be established by the appropriate government and/or the local authority in every habitation which has no school within a radial distance of 1 kilometer which has population of at least 300 and in respect of children in class 6 to 8, a school shall have to be established by the appropriate government and/or the local authority in habitation within a radial distance of 3 kilometers and which has population of at least 800.

The aforesaid stipulation would apply only to such schools as are required to be established as above and not to provide unaided schools which may be





established irrespective of stipulations as to population and distance as their establishment is based on a decision taken by their own management. The Act does not obligate any person to establish a school falling under Section 2(n) (ii), (iii) and (iv) in any area.

Thus, the concept of "neighbourhood" school is, principally relevant for the purpose of creating the minimum right in favour of every child in the age group of 6 to 14 years and that right, in the first place obligates the appropriate government and the local authority to establish such number of schools as would be necessary to effectuate the right created in favour of all children.

.....

Thus, assuming that 'neighbourhood' schools are established in all residential areas, in such number as to cover all children, even then, and despite that, the obligation created under Section 12(1)(c) of the Act would exist on the unaided schools such as the respondent school. To that extent the obligation created an unaided schools is independent of the obligation on the appropriate government and or the local authority.

.....

Only question that then survives is whether a child such as petitioner's child who lives beyond 1 kilometer from the schools has an unassailable right to be educated by respondent no. 4.

Though the concept of 'neighbourhood school' and the distance which is a criteria for establishment of 'neighbourhood' school by the appropriate Government and or the local authority has no relevance for the purpose of discharge of obligation by the respondent school, yet, by virtue of Rule 7(3), it appears, a rule has been devised to prevent arbitrary action on part of the unaided and specified category schools. Also, the said rule appears to check arbitrariness and malafide action by unaided and specified category schools.

.....

Thus, while there is no dispute to the fact that the concept 'neighbourhood' is relevant to unaided and specified category schools as well, yet, in the facts of





the present case the same cannot be relied upon by the respondent to deny admission to the 'C' for facts and reasons discussed above.

The only factual relevance of such arguments may arise if such a school as respondent school be visited with application in excess of its obligation to take in 25% of the students strength of pre-school or class 1 strength. In that case, it would be open to the respondent school to contend that it will first take in such students who are residing nearest to its campus and shall accommodate those living far or further away only if there are more seats available. Thus, the respondent school may first accommodate children who reside within the neighbourhood distance, as prescribed, and only 4 thereafter it may accommodate children living further away. Also, it may be open to the school to refuse to grant admission to a child who may be living at such a place as to be unable to be regular at school as that may itself defeat the purpose of the Act. However, such is not the case here.

Thus, I do not find any good ground for the respondent school to have refused admission to the petitioner's child for reason of the school not being located within the 'neighbourhood' of the petitioner especially when it has not filled up 25% of it's seats under Section 12(1)(c) of the Act and also, since it does have a bus service to cater to all it's students who live in different parts of the city. The only 'child' respondent no.4 claims to have admitted under the Act, is a Vartila Shukla, to class-I. Considering the number of seats available for admission to classes Nursery and I, it cannot be cited as a reason to defeat the right claimed by 'C' in view of many more vacant seats being assailable under Section 12(1)(c) of the Act."

11. Even the Delhi High Court in the case of **Jiya through her Next Friend and Natural Mother Ms.Sushma Vs. Maharaja Agarsen Model School & Anr.** reported in **2024:DHC:2312** has held in Para 25 as under:-

"25. The right guaranteed to every child under Article 21A of the Constitution or under the RTE





Act is only for free and compulsory education till the age of fourteen. The State is only obligated to ensure that every child receive such education free of charge. The child, therefore, has a right only to receive such education. Article 21A does not, however, confer, on any child, a constitutional right to be educated in a particular school of her choice. That right would arise only if the child applies to the DoE as an EWS student for admission in the entry level class for that year and is shortlisted therefor, in the computerized draw of lots conducted by the DoE."

12. The right of the petitioner, under Article 21-A of the Constitution of India and under Section 12 of the Act of 2009 cannot be curtailed merely on the account of technicalities or any other procedural irregularities. Indisputably, the right of the petitioner to be admitted in respondent No.4, i.e., private school in the EWS Category invariably flows from the Constitution of India along-with statutory mandate envisaged in the Act of 2009. A fundamental right, especially when it unequivocally accrues in favour of a citizen, cannot be tossed even on the basis of the procedural grounds or technicalities. Once the petitioner has been selected for getting admission in respondent No.4-private school, under a lottery draw, his application cannot be rejected merely on a technical count that his Aadhar Card was not carrying the number of his residency Ward. The respondents could have asked the petitioner to furnish a documentary proof with regard to his residential Ward, instead of rejecting his application. Such action



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of the respondents was quite unjustified and the same is not tenable in the eyes of law.

Conclusion & Directions:-

13. In view of the above discussions, the writ petition stands allowed. The respondents are directed to admit the petitioner the respondent No.4-private school within a period of 15 days from the date of receipt of the certified copy of this order.

14. Stay application and all pending application, if any, also stand disposed of.

(ANOOP KUMAR DHAND),J

Aayush Sharma /210