



2025:DHC:3526



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

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*Judgment Delivered on 07.05.2025*

+ W.P.(C) 4201/2025

MOHD ASHQIN

.....Petitioner

Through: Mr. Narendra Kumar Upadhyay and  
Mr. Sanjay Singh, Advocates.

versus

THE PRINCIPAL DAV PUBLIC SCHOOL  
AND ANR

.....Respondents

Through: Mr. Shanti Prakash, Library Assistant  
from the School

**CORAM:**

**HON'BLE MR. JUSTICE VIKAS MAHAJAN**

### **JUDGMENT**

**VIKAS MAHAJAN, J (ORAL)**

**CM APPL. 19460/2025**

1. Allowed, subject to all just exceptions.
2. Application stands disposed of.

**W.P.(C) 4201/2025 and CM APPL. 19461/2025**

3. The present petition has been filed by the petitioner seeking following reliefs:

*“a. Issue a Writ of Mandamus or any other appropriate writ in favour of the petitioners and against the respondent thereby directing the respondent especially respondent no.1/school to allow the provisional admission to the ward of the petitioner namely Mohd Arsh in class NURSERY/PRE-SCHOOL under EWS/DG/CWSN category in the academic session 2024-25 in the said school without any further delay.”*



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4. The case set out by petitioner in the present petition is that petitioner applied for admission of his son under the EWS/DG/CWSN category pursuant to the circular dated 26.04.2024 issued by respondent no.2/DOE for admission under the said category in entry level class for the academic session 2024-25.
5. Respondent no.2/DOE declared the result of draw of lots, in which the petitioner's son was successful and was allotted a seat in respondent no.1/School. Petitioner visited the respondent no.1/School with the allotment letter, but despite several visits, the request of the petitioner was not acceded to. Accordingly, petitioner was constrained to approach the Office of the Zonal and District Deputy Directors.
6. Subsequently, Deputy Director of Education, Zone-XI sent an e-mail dated 02.09.2024 to the Principal of the respondent no.1/School with a direction to admit the petitioner's son immediately and submit an Action Taken Report within three days from that said date. The aforesaid e-mail was followed by another reminder/e-mail dated 18.01.2025 by the DDE, Zone-XI.
7. Learned counsel appearing on behalf of the petitioner submits that despite petitioner's repeated efforts, petitioner's son was not admitted by the respondent no.1/School.
8. Mr. Shanti Prakash, who is a Library Assistant in the respondent no.1/School has appeared pursuant to the notice issued by this Court along with an Authority Letter issued by the Principal of the School. The Authority Letter dated 07.05.2025 has been handed over at Bar, the same is taken on record. He submits that in case the Court directs for the admission of petitioner's child in the School, the said direction will be complied with by the respondent no.1/School.
9. Evidently, the petitioner has been pursuing the matter with the



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respondent no.1/School as well as the respondent no.2/DOE and he did not sleep over his right.

10. On a query posed by the Court, the learned counsel appearing on behalf of the petitioner submits that the petitioner did not apply for admission of his child under the EWS/DG category for the next academic session, i.e., 2025-2026. This is apparently for the reason that the petitioner was diligently pursuing the matter with the respondent no.1/School, as well as, DoE with the hope that his grievance would be redressed and his child's statutory right to elementary education will be protected and given effect to. Clearly, the child will lose two years if he is not accommodated against the seat allotted to him in the respondent no.1/School for the academic session 2024-2025.

11. Unquestionably, the respondent no.1/School was under a statutory obligation to grant admission to petitioner's child under the EWS/DG/CWSN category, after he had succeeded in the draw of lots and was allotted a seat by the respondent no.2/DOE in the said School.

12. In view of the above discussion, this Court is of the view that the present petition deserves to be allowed.

13. However, considering the fact that the academic session 2024-2025 has already come to an end, the son of the petitioner could be admitted against a seat allotted to him for the academic session 2024-2025 and can be promoted to the next class in the present academic session i.e. 2025-2026 since as per the mandate of Section 16(3)<sup>1</sup> the Right of Children to Free and Compulsory Education Act, 2009 (hereinafter 'the Act'), no child can be detained or held back at the elementary level, except for Class V and VIII.

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<sup>1</sup> 16.(3) The appropriate Government may allow schools to hold back a child in the fifth class or in the eighth class or in both classes, in such manner and subject to such conditions as may be prescribed, if he fails in the re-examination referred to in sub-section (2): Provided that the appropriate Government may decide not to hold back a child in any class till the completion of elementary education.



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Further, this course can also be adopted in view of the provision of Section 4<sup>2</sup> of the Act, which provides for admission of a child in a class appropriate to his or her age and further mandates that special training be imparted to the child who could not complete his or her elementary education and is directly admitted in a class appropriate to his or her age. The purpose of the said provision appears to ensure elementary education to every child, and to bring him at par with other children of his age.

14. This Court in *Ravi Kumar vs. VSPK International School and Anr.*<sup>3</sup> has already taken a view that cut off date of 31<sup>st</sup> December for admission under the EWS/DG/CWSN category will not come in the way of the Court while exercising its jurisdiction under Article 226 of the Constitution to protect the statutory right of a child to elementary education where the same has been denied by the school for legally untenable reasons.

15. In view of the above discussion, respondent no.1/School is directed to grant admission to the petitioner's child in pre-school under the EWS/DG category against the seat allotted to him for the academic session 2024-2025 and promote him to the next class i.e. pre-primary in the ongoing academic session 2025-26.

16. However, to make up for the studies which the child of the petitioner has lost on account of denial of admission by the respondent no.1/School for the academic session 2024-2025, the latter is directed to ensure special attention and training to the child to enable him to integrate with the pre-primary class, emotionally and academically.

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<sup>2</sup> **4. Special provisions for children not admitted to, or who have not completed, elementary education.**—Where a child above six years of age has not been admitted in any school or though admitted, could not complete his or her elementary education, then, he or she shall be admitted in a class appropriate to his or her age: Provided that where a child is directly admitted in a class appropriate to his or her age, then, he or she shall, in order to be at par with others, have a right to receive special training, in such manner, and within such time-limits, as may be prescribed: Provided further that a child so admitted to elementary education shall be entitled to free education till completion of elementary education even after fourteen years.

<sup>3</sup> 2025:DHC:2434 [W.P (C) 2833/2025 dated 28.03.2025]



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17. The petition and the application stands disposed of in the above terms.

**VIKAS MAHAJAN, J**

**MAY 7, 2025/ljg**