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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 6451/2026 & CM.APPL. 31840/2026**
MASTER SORABH RATHOR THROUGH HIS GUARDIAN SMT
SAVITRI

.....Petitioner

Through: Mr. Khagesh B Jha, Ms. Shikha
Shrama Bagga, Ms. Shivani , Advs.

versus

NORTH DELHI PUBLIC SCHOOL AND ORS

.....Respondents

Through: Mr. Dhruv Rohatgi, Panel Counsel
GNCTD with Ms. Chandrika
Sachdeva, Mr. Dhruv Kumar, Advs.
Ms. Punita, Principal (through VC) for
R-1/ School
Mr. Narang. Adv. (appearance not
given)

CORAM:

HON'BLE MR. JUSTICE JASMEET SINGH

ORDER

09.07.2026

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1. This is a writ petition filed under Article 226 of the Constitution of India seeking the following prayers:

“a. issue a Writ of Certiorari or any other appropriate writ, order, or direction, quashing the impugned circular, Order F.No.DE.15(1025)/PSB/2023/7435-7439 dated 22/08/2023, issued by the Respondent No. 2, to the extent it creates a class of “essential repeater” to discontinue the education of child in the school where he has admitted



under section 12(1)(c) of RTE Act, 2009 and having the right to continue and complete the education in the same school;

b. issue a Writ of Mandamus or any other appropriate writ, order, or direction, directing the Respondent No. 1 school to forthwith allow the Petitioner, to attend classes in class-VI of the respondent school and continue his education without any hindrance;

c. issue a Writ of Mandamus or any other appropriate writ, order, or direction, directing the Respondent No. 1 school to immediately provide the Petitioner with the complete set of free textbooks, notebooks, writing materials, and school uniforms in every academic session as per his entitlement under RTE Act, 2009;

d. direct all the respondents to assist the petitioner in pursuing and completion of the education in school by removing all barriers in compliance of directions of the Hon'ble Supreme court passed from time to time in SMWP No. 6/2020..."

2. The brief facts of the case are that the petitioner is a minor child and was admitted to the respondent No. 1 School under the Economically Weaker Section ("**EWS**") category.
3. It is stated that the petitioner is from an extremely vulnerable impoverished background with family issues and is under the care and custody of his grandmother, who survives on a meagre old age pension of Rs. 2,500/- per month.



4. At the end of the previous academic session i.e., 2025-2026, the petitioner failed in class V and has been detained in the same class.
5. Mr. Jha, learned counsel for the petitioner, states that the action of respondent No. 1 School in detaining the petitioner in class V is violative of the Right of Children to Free and Compulsory Education Act, 2009 (**“RTE Act”**) and more particularly Section 16 of the same.
6. He also states that the respondent Nos. 2 and 3 are required to frame rules under Section 16(3) for guidelines in order to detain/hold back a student in class V. Hence, the present petition has been filed.
7. Mr. Narang, learned counsel for the respondent No. 1 School, draws my attention to the counter affidavit, which states that in the academic session of the year 2022-2023 when the petitioner was studying in Class III, he secured only 12% marks in that examinations but was promoted to the next class. Thereafter, in the academic session of 2023-2024, while studying in class IV, the petitioner secured 7% marks and even though he failed as per the academic standards, but was again promoted to the next class.
8. Thereafter, in 2024-25, the petitioner again secured 7% marks in the Class V examinations. The petitioner was given another attempt for clearing the said Class V but failed, wherein the marks improved to 8%. Hence, the petitioner was detained in class V.
9. Section 16 of the RTE Act is important and reads as under:
"16. Examination and holding back in certain cases.
(1) There shall be a regular examination in the fifth class and in the eighth class at the end of every academic year.
(2) If a child fails in the examination referred to in



sub-section (1), he shall be given additional instruction and granted opportunity for re-examination within a period of two months from the date of declaration of the result.

(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.

(4) No child shall be expelled from a school till the completion of elementary education."

10. Ms. Punita, principal of the respondent No. 1 School who joins through video conferencing mode, states that after the examinations the petitioner was given an opportunity twice in form of fresh examinations on 25.05.2026 and 05.06.2026 but the first attempt was not availed by the petitioner and in the second attempt afforded by the respondent No.1 school, the petitioner secured 12% marks only.
11. As per Ms. Punita, the petitioner was also offered additional classes but he did not avail the same.
12. I am of the view that Section 16 of the RTE Act needs to be read in a meaningful manner and the purpose of Section 16 is that in elementary classes, a larger latitude must be given to the children from EWS category in order to afford them an opportunity to move ahead in their academic careers.



13. To my mind, in the factual matrix of the present case, the petitioner has been afforded enough opportunities to improve and secure adequate marks to be promoted. However, the petitioner somehow has not been able to overcome the hurdles and qualify the same.
14. It is not a case where the petitioner is being expelled or thrown out of the school to disrupt his academic career. The petitioner is only being asked to repeat class V, so that the petitioner is able to understand and comprehend the basic subjects like Mathematics, English, E.V.S. and Hindi.
15. I have also perused the answer sheets of the petitioner annexed with the counter affidavit and the same suggests that the petitioner, as of today, is not able to comprehend even the basics/fundamentals of mathematics.
16. For the said reasons, the petition is disposed of with a direction that the petitioner shall repeat Class V at respondent No. 1 school and the respondent No. 1 shall ensure that the EWS mandate and entitlements are adequately fulfilled.
17. The court has not examined the prayer Clause 'A' of the present petition as the main prayer of the petitioner stands answered.
18. The petition is disposed of, along with pending applications, in the aforesaid terms.

JASMEET SINGH, J

JULY 9, 2026/sp