

**GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI
DIRECTORATE OF EDUCATION
(PRIVATE SCHOOL BRANCH)
OLD SECRETARIAT, DELHI-110054**

F. No.DE.15(1085)/PSB/2022/ 10297 - 10303

Dated: 26/12/22

ORDER

Sub:- Regarding EWS/DG admissions at entry level classes in Private Un-aided Recognized Schools in Delhi in compliance of Hon'ble High Court of Delhi order dated 16.12.2022 (No. 2022/DHC/00590).

And whereas, vide circular no.DE.15/(255)/PSB/2021/1246-1252 Dated 11.03.2022 issued by DoE it was emphasized that as per section 12(1) (C) of RTE Act, 2009, all Private Unaided Recognized schools are under obligation to admit, at the entry level classes, at least 25% of the strength of that class, children belonging to weaker sections and disadvantaged groups in the neighborhood and provide free and compulsory education till its completion.

And whereas, accordingly the DoE, after getting the declared strength of each Private Unaided Recognized school, allot the candidates through computerized draw who applied online under EWS/DG/CWSN category to all such schools with the direction to admit these candidates in their allotted schools.

And whereas, during the academic session 2022-23 a large number of candidates have been kept under In-waiting category or rejected by the respective allotted school citing the reason that they have lesser general admission and also referring clause-16 of the circular dated 15/06/2021 regarding guidelines for admission of EWS/DG & CWSN category students in Private Unaided Recognized Schools of Delhi at entry level classes for the academic session 2021-22 selected through computerized draw of lots. This was in violation of spirit of RTE Act, 2009 admission.

And whereas, after considering the grievances of non-admitted candidates/parents, directions vide circular dated 09.07.2021 were issued to all private unaided recognized schools *to grant admissions to all the eligible candidates allotted to them as per declared strength of the entry level classes by school through computerized draw of lots. Further, if any school requires exemption from granting admission to all eligible candidates allotted to them specifically on the ground of lesser general admission, the school shall seek specific permission from concerned DDE/District, after following all steps/due process in pursuant to*

the order of Hon'ble Delhi High Court in W.P.(C) No.3358 of 2013 and W.P.(C) No. 5172 of 2013 Sovereign School Case in letter and spirit.

And whereas, instead of admitting the allotted candidates several schools used this circular dated 09.07.2021 as a shield for not admitting or delaying the admission of EWS/DG/CWSN Category candidates and filed representations before district DDEs for exemption from granting admission to all the EWS/DG/CWSN Category candidates on ground of lesser General Category admission. All the aforesaid requests were examined and rejected by the respective District DDEs with proper orders directing the school concerned to admit all the allotted candidates. But the concerned Private un-aided recognized schools did not comply the orders and kept on denying the admission on flimsy grounds.

And whereas, subsequently in LPA 5/2022 & CM APPLs. 474-477/2022, 481/2022 titled JUSTICE FOR ALL Vs VENKATESHWAR GLOBAL SCHOOL & others, Division Bench of Hon'ble High Court of Delhi has passed an order dated 26/05/2022 directing that (Para-4) *in the circumstances, every endeavor shall be made by the State to ensure that the backlog of unfilled seats in private schools, both on private and government lands, is filled-up in the next five years in a phased manner; i.e., 20% of the vacancies each year, in addition to the mandated annual 25% intake.*

(Para-5) - The State shall ensure that the 25% seats in the EWS category students shall be filled up on the basis of declared sanctioned strength at the entry level (Pre-school/Nursery/ Pre-primary/KG and Class-I), irrespective of the actual number of students admitted in the General category. . Vide para-5 it has been ordered that the state shall ensure that the 25% seats in the EWS category students shall be filled up on the basis of declared sanctioned strength at the entry level (Pre-school/Nursery/Pre-primary/KG and Class-I), irrespective of the actual number of students admitted in the General category.

And whereas, accordingly, the circulars dated 02/06/2022 and 24/06/2022 were issued by DoE to all DDEs District to ensure the admissions of all pending/remaining selected/allotted eligible EWS/DG & CWSN candidates in the respective private schools within 10 days positively in compliance to the order dated 26.05.2022 of Hon'ble High Court, Delhi.

And whereas, in compliance to the above circulars, several schools have admitted the eligible/allotted candidates however a few others schools are still not admitting the candidates and defying the order of Hon'ble High Court, Delhi as well as directions issued by the DoE.

And whereas, SLPs were filed before the Hon'ble Supreme Court SLP (C) No:- 11264/2022, SLP (C) No:- 13592/2022 & SLP (C) No:- 13629/2022 titled Venkateshwar

Global School Vs Justice For All & Ors. against order dated 26/05/2022 passed by the Hon'ble High Court, Delhi.

And whereas, Hon'ble Supreme Court of India while disposing of all the SLPs/Appeals passed order dated 01/09/2022 as under:-

"We are thus of the view that the final call will have to be taken in the main matter and it cannot be a subject matter of the nature of interim relief as granted."

"The result of the aforesaid is we set aside the impugned order qua directions contained in paragraphs 4 and 5, leaving the parties to bear their own costs."

"The Court is free to take appropriate view in the main matter."

And whereas, now various petitions have been filled before Hon'ble High Court, Delhi by different students against number of schools and clubbing all such petitions, the Hon'ble High Court vide neutral citation number 2022/DHC/005590 pronounced an order in this regard on 16.12.2022 reiterated as under:-

(Para-123) ".....In view of the aforesaid analysis as well as to alleviate and ameliorate the miserable state of affairs as prevalent in the NCT of Delhi qua implementation of the RTE Act at elementary education level, it is pertinent to exercise the powers of this Court under Article 226 of the Constitution to issue directions to the DoE for ensuring admission to the poor children belonging to weaker sections. It is accordingly directed as under:

a. All the schools within the meaning of Section 2(n) of the RTE Act shall ensure that the provisions of the Act as interpreted herein shall be given effect in letter as well as in spirit;

b. All such schools as aforementioned shall also ensure that no student, belonging to "Weaker Sections" as defined in the RTE Act and recommended by the DoE for being admitted in an Academic Session, shall be denied admission or treated with conduct that is unwelcoming of them on any pretext whatsoever including that of suspicion of credentials;

c. Any exemption/waiver if required by the schools under the provisions of the RTE Act, in the most exceptional and unforeseen circumstances, can be availed by making such request to the DoE as per the scheme as delineated below:

i. The Application must be made within one week of recommendation and the notification of admission of a particular student under the "weaker section" quota to the neighborhood school.

ii. The said Application must state the reasons and circumstances under which the limited liberty or onetime limited exemption is being sought, or in any format as the DoE may deem fit including other details therein in addition to the reasons for the request.

iii. Upon receiving the said Application, the DoE shall give an opportunity of hearing to the concerned school within a week and decide the said application within a week thereafter, upon ascertaining that the prayers and reasons asserted therein are bona fide and stand the test of most exceptional circumstances and accordingly to its satisfaction, if deemed fit, grant a one-time limited exemption to the concerned school.

iv. It is, however, made clear that no such exemption would be granted at the cost of causing prejudice to the admission of the child and shall only be passed after admitting the child, who would otherwise be aggrieved, to an alternate school that is in the closest neighborhood.

d. The DoE shall exercise its powers under the Act and Rules to ensure that the provisions are duly complied with;

e. The DoE shall ensure that all the students shortlisted and notified to be admitted in a neighborhood school shall be admitted at the earliest within one month or within the period prescribed by the appropriate authority subject to the provisions of the Act;

f. In case of erring schools, the DoE shall issue strict directions as may be necessary to ensure the implementation of the RTE Act in a time-bound manner;

g. The DoE shall not hesitate in initiating the process of de-recognition of the schools which have been found to be indulging in any acts/omissions in contravention of the RTE Act and the Delhi RTE Rules.

(Para-124). *The schools have inter alia raised a contention regarding frauds being committed by the parents of the students seeking admission, misrepresenting themselves as belonging to weaker section by forging documents and adopting other scrupulous means. In that regard, having considered the entire scheme of Act as well as the Rules and the various rulings passed by the Courts, this Court deems it fit, under the provisions/scheme as notified under the RTE Act/Delhi RTE Rules, to direct the DoE to carry out necessary screening as well as to mandate the submission of necessary documents to authenticate the credentials of the child and his/her parents and to verify the facts regarding eligibility while shortlisting, allotting and notifying the candidates who are found fit for admission to respective neighborhood schools under the said quota.*

(Para-125). *However, it is made clear that the admission of a student shortlisted and allotted under the said category by the DoE for being admitted shall not be denied for want of satisfaction of bona fides of the candidate by the school. Mere suspicion or doubt on the credentials of the candidate on the basis of fact-finding exercise carried out by the school, cannot be a ground to deny admission, otherwise it will render a death knell to the spirit of the*

RTE Act. The schools as such, in the matters of admission under the Act/Rules, cannot bestow upon themselves the roles of the complainant, advocate as well as the adjudicator in such cases. Rather, if despite the due process adopted by the DoE for screening, in case the school, after admitting the child, suspects fraud being committed by the ward or their parents, they can seek recourse to legal remedies as available."

And whereas, several Private Un-aided Recognized school have represented to re-adjust the declared seats under EWS/DG/CWSN Category which the DoE has considered on the basis of admission-data of last 05 years of such schools.

And whereas, in compliance to the aforesaid order dated 16/12/2022 of the Hon'ble High Court, Delhi regarding the contention raised by some of the school regarding frauds being committed by the parents of the students seeking admissions, representing themselves as belonging to weaker section by forging documents, the matter has been referred to the Revenue Department, GNCT of Delhi to issue necessary direction to the authorities issuing certificates pertaining to Income/EWS/DG, to issue certificate with due verification and diligence.

In pursuance of the above, I, Bhupesh Chowdhary, Director of Education, Delhi in exercise of the powers so conferred upon me under Sub-section (1) of section 3 of the Delhi School Education Act, 1973 read with Rule 43 and Rule 50 (xviii) of Delhi School Education Rules, 1973 and Rule 26 and Rule 27 of Delhi Right of Children to free and Compulsory Education Rules, 2011, with objective to safeguard and ensure that the mandate of Section 12 (1) (C) of RTE Act, 2009 is implemented in private unaided recognized schools in Delhi in letter and spirit, order with immediate effect that:

1. The Managing Committee of all the Private Unaided Recognized School (Except Minority Schools) must ensure that the directions passed by the Hon'ble High Court of Delhi in sub para's a, b & c of para 123 & para 125 vide order dated 16.12.2022, regarding admission of EWS/DG/CWSN category candidates under section 12 (1) (c) of RTE Act, 2009 have to be complied with strictly, failing which an appropriate action under relevant provisions of section 24 (4) of DSEA, 1973 read with Rule 56 of DSER, 1973, shall be taken against the defaulter schools .
2. To admit all the allotted / eligible EWS/DG/CWSN category candidates without any further delay latest by 31.12.2022 positively.
3. All the allotted EWS/DG/CWSN candidates must be contacted immediately and the management of the school should facilitate their admission by deploying proper well

oriented staff at the Reception & Entrance gate of the schools for such students/parents of EWS/DG/CWSN category.

4. A compliance report of admission of all such EWS/DG/CWSN category candidates must be sent to the concerned DDE (Zone) latest by 31st .December, 2022 (3.00 P.M.).

(BHUPESH CHAUDHARY)
DIRECTOR OF EDUCATION

To,

The Manager/Principals
Private Un-aided Recognized Schools.
(Except Minority Schools)

No. DE.15 (1085)/PSB/2022/ 10297 - 10303

Dated: 26/12/22

Copy to:-

1. Secretary (Education). Govt. of NCT of Delhi, Old Sectt., Delhi.
2. Divisional Commissioner (Revenue), Govt. of NCT of Delhi for compliance of directions passed by Hon'ble High Court vide order dated 16/12/2022 in neutral Citation No. 2022/DHC/005590.
2. P.A. to Director (Education), Dte. of Education, Govt. of NCT of Delhi, Old Sectt., Delhi.
3. DDE (Private School Branch) Dte. of Education, GNCTD, Old Sectt., Delhi.
4. All RDEs/DDEs (Distts)/DDEs (Zones) with the direction to serve this order and get compliance of above orders from the Private Schools.
5. O.S. (IT) with the request to upload the order on the website of the Department.

ADDI. DIRECTOR OF EDUCATION (PSB)