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

% **Judgment reserved on : 02.09.2025**
Judgment delivered on: 23.09.2025

+ **LPA 499/2025 & CM APPLs. 47640-41/2025**

G.D. GOENKA PUBLIC SCHOOLAppellant

Through: Mr. Kamal Gupta, Mrs. Tripti Gupta,
Mr. Sparsh Aggarwal, Ms. Madhulika
Singh and Ms. Sabrina Singh, Adv.

versus

AADRITI PATHAK & ANR.Respondents

Through: Mr. Ashok Agarwal, Mr. Kumar
Utkarsh, Mr. Manoj Kumar and Ms.
Ashna Khan, Adv.
Mr. Tushar Sannu, SC with Mr.
Parvin Bansal and Ms. Aqsa, Adv.
for IHBAS.
Ms. Shahzadi Malhotra, Clinical
Psychologist, IHBAS (through VC)
Mr. Sameer Vashisht, SC, GNCTD
with Ms. Harshita Nathrani, Adv.

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

J U D G M E N T

DEVENDRA KUMAR UPADHYAYA, CJ

1. This intra-court appeal has been filed taking exception to the judgment and order dated 01.07.2025 passed by the learned Single Judge



whereby, W.P.(C) 13490/2024, instituted by the respondent no.1 has been allowed. While allowing the writ petition the learned Single Judge has directed the appellant/school (*hereinafter referred to as 'the school'*) to re-admit respondent no.1 (*hereinafter referred to as 'the child'*) in Class-I or in an age-appropriate class as a fee paying student. The Court has further directed that the child shall be permitted to attend the school with the assistance of a parent appointed shadow teacher subject to the school's basic norms of decorum and safety.

2. A direction has also been issued by the learned Single Judge to the Department of Education (*hereinafter referred to as 'DoE'*) of Delhi Government to monitor re-integration of the child and ensure that the school provides inclusive and non-discriminatory environment in accordance with Sections 3 and 16 of the Rights of Persons with Disabilities Act, 2016 (*hereinafter referred to as 'the RPwD Act'*). The school has also been required to file a compliance affidavit detailing steps taken to accommodate and support the child, as directed.

3. The child who instituted the proceedings of the writ petition through her mother was born as a normal child on 08.05.2017, however, she experienced delayed achievement of certain milestones of growth such as sitting, walking and speech. In November, 2019 a Doctor suspected the child to be suffering from Autism and thereafter, she was subjected to therapy but such therapy got interrupted by the pandemic caused by Covid-19.

4. The child, however, was admitted to the school in the Academic Session 2021-2022 under the "Sibling Clause". In December, 2021 child



was diagnosed with mild autism at Ram Manohar Lohia Hospital, New Delhi which followed recommendation for various therapies.

5. On account of Covid-19, classes were conducted online which are said to have been attended by the child and offline classes resumed in April, 2022. It is at the resumption of offline classes in April, 2022 that the parents of the child submitted her diagnosis and assessment reports to the school administration. The facts which can further be culled out from the pleadings available on record are that the school administration shared its concerns about child's behaviour with her parents whereupon, the mother of the child met the principal of the school requesting support in the form of a shadow teacher or allowing special educator to assist her but such request did not yield any support from the school. Parents of the child consulted Dr. Imran Noorani at Sir Ganga Ram Hospital who assessed the child and is said to have assured that the child was a capable child who could thrive in an integrated system with appropriate support. Dr. Noorani thus, recommended in his child development report that, *"To explore child's assets and build on them there should be an integrated and multidimensional approach from home, school and the therapists for future goals."*

6. It was pleaded thus, on behalf of the child, that on account of constant pressure and lack of support from the school her education was discontinued from 01.01.2023 though, fee was paid till March, 2023. When legal notice sent on behalf of the child through her mother to the school also resulted in non-resumption of her Class-I studies in the Academic Year 2024-2025, the writ petition was filed. It is to be noticed that in reply to the legal notice, the school had sent a reply *vide* letter dated 11.09.2024, which reads as under:-



“1. Disclosure of Disabilities: Aaditri Pathak was admitted to GD Goenka Public School on March 22, 2021, for the academic session 2021-22 in Grade Nursery. ***It is pertinent to note that at the time of admission, there was no disclosure of any disabilities in the admission form. The absence of this information would have ordinarily led to a cancellation of admission. Nevertheless, in line with our inclusive education policy, the school decided to accommodate Aaditri Pathak in all fair means.*** xxx xxx
xxx ***3. Behavioural Issues and Withdrawal:*** During her time at school, Aaditri Pathak exhibited severe behavioural issues, including aggression towards staff and students, as well as disruptive behaviour. Despite several interventions and multiple meetings with her parents to address these concerns, her behaviour did not improve. On December 14, 2022, the safety concerns associated with Aaditri Pathak's behaviour were thoroughly discussed with her parents, including the risk of selfharm. ***Following these discussions, the parents voluntarily withdrew Aaditri Pathak from the school. Accordingly, there was no continuity of Baby Aadriti Pathak since then and more particularly for entire session 2023-24, it clearly implies Baby Aadriti Pathak was off the school records and stands withdrawn accordingly.*** ***4. No Current Enrolment:*** Given the circumstances outlined above, Aaditri Pathak has not been enrolled in any academic session subsequent to her withdrawal. As such, there is no basis for her to resume studies in Class 1 for the 2024-25 academic year at G D Goenka Public School Model Town.”

7. Thus, it was informed by the school that at the time of admission there was no disclosure made regarding any disability of the child in the admission form and that non-disclosure of such information would have led ordinarily to cancellation of her admission, however, in line with school's inclusive education policy, it was decided to accommodate the child in all fair means. In the reply, the school also reported certain behavioral issues associated with the child by stating that she exhibited severe behavioral issues including aggression towards staff and students as well as disruptive behaviour. The reply further stated that certain discussions took place between the parents of the child and the school administration and thereafter, the parents voluntarily withdrew the child from the school and



2025:DHC:8442-DB



accordingly, there was a break in her studies, more particularly for the entire Academic Session of 2023-2024. According to the reply, admission of the child stood withdrawn and further that she had not been enrolled in any Academic Session subsequent to her withdrawal and therefore, there was no basis for the child to resume studies in Class-I in the Academic Session 2024-2025.

8. Learned Single Judge after analyzing the facts, passed an order on 19.02.2025 in presence of the principal as well as the administrator of the school and also the child's mother directing the inclusive education branch of the Directorate of Education (DoE) to appoint a Board which would interact with the child and furnish a report as to what would be in the best interest of the child – whether she should study in the present school/integrated school or admitted in a special school. The relevant extract of the order dated 19.02.2025 passed by learned Single Judge is as follows:-

“Ms. Rima C. Ailawadi, Principal of respondent/school and Ms. Bhawna, Administrator have appeared in person and submitted that it is not in the interest and welfare of the petitioner to continue in the integrated school. It has been submitted that the petitioner needs to be admitted in a special school.

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Without going into all these contentions, Inclusive Education Branch under Directorate of Education is directed to appoint a board who shall give a report after interacting with the petitioner/child that what is in the best interest of the child that she be entitled to study in the present school/integrated school or she should be admitted in a special school. The board shall also interact with the parents of the petitioner and the Principal/Administrator of school.”



9. In compliance of the said order dated 19.02.2025 passed by learned Single Judge a report was furnished which has extensively been quoted by learned Single Judge in the impugned order wherein it was opined as under:-

“It is in the best interest of the child that she gets age appropriate class placement to study in the present school along with Shadow Teacher's support. In addition, the school must ensure that the child avails all the accommodations/adaptations, a child with special needs is entitled for.”

10. It is also to be noticed that parents of the child tried her admission under “children with special needs” category (*hereinafter referred to as ‘CWSN’*). The DoE issued a circular for admission under 24.04.2024 for admission in the Academic Session 2024-2025 in entry level classes pursuant to which the child applied for her admission online in Class-I under CWSN Category and opted four schools and in the draw of lots the child was again allotted a seat with the school for the Academic Session 2024-2025. However, the child was not granted admission in the school under CWSN Category.

11. Learned Single Judge has also noticed in the impugned judgment that reason for such denial by the school to admit the child as per the stand taken by DoE was that the school informed the DoE that the child was already studying in the school under the General Category having taken admission in the Academic Year 2021-2022, however, she showed aggressive and unpredictable behaviour. The school is also said to have informed the DoE that though, it had received names of six students in Class-I under economically weaker section/disadvantaged group/child with special needs category though no vacant seat in the said category was available and therefore, the school requested DoE to withdraw all six allotted students



belonging to the said categories. Thereafter, another draw of lots was held and the child was allotted another school, namely, MaxFort School, Parwana Road, Pitampura, Delhi. The candidature of the child was rejected by MaxFort School allegedly for the reason that the child did not provide valid documents.

12. Having discussed the factual aspects as pleaded before learned Single Judge and analyzed the purpose and object and the scheme of RPwD Act, learned Single Judge has held that not offering admission to the child by the school would amount to violation of various rights of the child, specially those embodied in Sections 3, 16, 17 and 31 of the RPwD Act. The learned Single Judge referring to the statement of objects and reasons of RPwD Act in the impugned judgment has held that Section 16 of the Act makes it obligatory on the part of the appropriate Government and local authorities to make an endeavour that all educational institutions, funded or recognised by the Governments should provide “inclusive education” to the children with disabilities. It has also been noticed by learned Single Judge that RPwD Act provides that to achieve the object of the Act, schools shall admit such children without discrimination and provide education and opportunities for sports and recreation activities equally with others and that the educational institutions are mandated to provide necessary support individualized or otherwise in an environment that maximizes academic and social development consistent with the goal of full inclusion.

13. Having discussed various provisions of RPwD Act, learned Single Judge has also observed that the child at the time of birth was a normal child and that the school had taken a stand in the reply submitted by it to the legal



notice sent on behalf of the child that despite non-disclosure of the child's disability in the admission form, the school had decided to accommodate her in all fairness in line with its inclusive educational policy. Accordingly, it has been held by learned Single Judge that the question of the school raising an objection of non-disclosure of the disability of the child does not arise at all.

14. Learned Single Judge has also noticed the recommendation made by the Board appointed under the order dated 19.02.2025, and returned a finding that child has a disability, however, she can flourish in the right environment and that she has to be integrated into the school community. Learned Single Judge has also observed that the behavioral issues flagged by the school should have triggered support rather than invoking apprehensions and further that school's response seems to have been one of distancing which has resulted in deprivation of child's statutory rights without justifiable reasons.

15. Learned Single Judge in the impugned judgment and order has also observed that actions of the schools reveal an institutional approach that fail to evolve in consonance with the needs of the child as a person with disabilities.

16. It is in the background of the aforesaid discussion, where the learned Single Judge not only has noticed the facts leading to discontinuance of the studies of the child but has also discussed at great length various beneficial provisions under the RPwD Act and the mandate for providing inclusive education to children with disabilities, that the direction has been issued to



re-admit the child and to permit her to attend the school with the assistance of a shadow teacher to be appointed by the parents.

17. In this appeal, this Court passed an order on 05.08.2025, taking note of the apprehensions expressed by the appellant/School to the effect that in case the child is admitted in the school, her continuance may not be conducive for her classmates considering certain past incidents and her present mental condition. Noticing the report submitted by the Board (Designated Committee) which comprised of *inter alia* two supervisors of inclusive education, a clinical psychologist and an occupational therapist, taking note of the reliance placed by the appellant/school on a report dated 17.07.2025 authored by Senior consultant Psychiatrist, Department of Mental Health and Life Skills Promotion, Moolchand Medicity, New Delhi and in order to allay apprehensions in the mind of the administration of the appellant/school, we ordered constitution of a committee to be headed by an Associate Professor, Institute of Human Behaviour & allied Sciences (IHBAS), New Delhi, Ms. Aarushi Sikri, Clinical Psychologist. Ms. Anushka Tyagi, Occupational Therapist, Ms. Anureet Kaur, School Counsellor and mother of the child.

18. The Court in its order dated 05.08.2025, requested the Associate Professor, IHBAS to take into account views of all other members of the Committee and submit a report to the Court. The order dated 05.08.2025, passed by the Court is extracted herein below:-

“1. *Heard the learned counsel for the parties.*

2. *By the impugned judgment dated 01.07.2025, learned Single Judge has issued the following directions: -*



“i) The respondent no. 1/school is directed to readmit the petitioner, Aadriti Pathak, in Class I or in an age-appropriate class, as a fee paying student, within two weeks from the date of this judgment.

ii) The petitioner shall be permitted to attend school with the assistance of a parent-appointed shadow teacher, subject to the school's basic norms of decorum and safety.

iii) The DoE shall monitor the reintegration of the petitioner and ensure that the school provides an inclusive and non-discriminatory environment in accordance with Sections 3 and 16 of the Act.

iv) The respondent no. 1/school shall file a compliance affidavit within four weeks, detailing steps taken to accommodate and support the petitioner as directed.”

3. Learned counsel for the appellant has expressed certain apprehensions to the effect that in case the child is admitted in the school, considering certain past incidents and her present medical condition, her continuance in the school may not be conducive for her classmates.

4. During the pendency of the proceedings of the writ petition before learned Single Judge, in terms of an order passed by the Court the child was clinically examined and evaluated by a designated Committee which comprised of (1) Supervisor Inclusive Education District (West-A), (2) Supervisor Inclusive Education Zone (Zone-X, North West A), (3) PGT-SET, (4) Clinical Psychologist and (5) Occupational Therapist. The designated Committee after evaluation expressed its opinion to the effect that child is fit for inclusive education with the assistance of a shadow teacher.

5. Learned counsel for the appellant, however, relies on a report dated 17.07.2025 authored by Senior Consultant Psychiatrist, Department of Mental Health and Life Skills Promotion, Moolchand Medicity, New Delhi, wherein it has been opined that, “at this critical stage of neurodevelopment, it is imperative that early and progressive education, intensive clinical intervention must take precedence over progressive IEPs. A specialised holistic developmental program and a supportive environment may be improvised to ensure safety, developmental progress and long-term well-being for the child”.



6. Though, the report dated 17.07.2025 is based on documents without any clinical evaluation of the condition of the child, however to allay the apprehensions in the mind of the appellant/school, we propose to constitute a Committee, which will comprise of experts as also mother of the child and the counsellor of the appellant/school. The said Committee shall accordingly evaluate and give its categorical opinion as to whether the child can be admitted in the appellant/school or she has to be given admission to a school meant for children with special needs. The said Committee will comprise of the following: -

- (i) Dr. Shahzadi Malhotra, Associate Professor, Clinical Psychology, Institute of Human Behaviour & Allied Sciences [IHBAS'], Delhi.
- (ii) Ms. Aarushi Sikri, Clinical Psychologist.
- (iii) Ms. Anushka Tyagi, Occupational Therapist.
- (iv) Ms. Anureet Kaur, School Counsellor; and
- (v) The mother of the child.

7. We request the Director, IHBAS, Delhi to nominate and permit Dr. Shehzadi Malhotra to undertake the said study as is being directed by the Court and submit the report.

8. We also request Dr. Malhotra to take into account the views of all other members of the Committee and accordingly submit her report to the Court. We further request Dr. Malhotra to clinically examine the child and conduct whatever study is required to come to the conclusion as to whether the child can be admitted in the school or she needs to be admitted in a school meant for children with special needs.

9. We also provide that the child shall be clinically examined at an appropriate place to be determined by Dr. Malhotra.

10. The said report shall be filed in these proceedings through Mr. Tushar Sannu, learned Standing Counsel, IHBAS. We also request Mr. Tushar Sannu to coordinate with Dr. Malhotra and all other Committee members. The clinical evaluation and other ancillary study including the interaction with the child as also her mother shall be conducted within a week from today and the report shall be submitted by the next date of listing. We request learned counsel, Mr. Tushar Sannu to communicate this order to Dr. Malhotra as also to the Director of the said Institute.

11. List on 19.08.2025.

12. The matter shall be placed 'High on Board'."



19. The said Committee comprising of expert from IHBAS and other experts, School Counsellor and the mother of the Child submitted its report dated 14.08.2025 and recommended that considering the child's behavioral observations and other relevant aspects, the child can be placed in the school or any other inclusive school along with the shadow teacher attached with the child initially during the entire schools hours and need of shadow teacher may be reviewed periodically. It was also opined by the said Committee that the child should be placed in a school grade/class deemed appropriate to her current academic level to be ascertained by the school in coordination with the parent and child's special educator and shadow teacher. It was also recommended by the Committee that therapeutic interventions like occupational therapy, behavioral therapy, and speech therapy be continued to address child's sensory and behavioral issues from any health facility as per the choice of her mother. The report of the said Committee dated 14.08.2025 is extracted herein below:-

"CONFIDENTIAL"

Assessment and Committee Report

Date for Committee Meeting: 14/08/2025

Time: 11:00 A.M.

Name: Aadriti Pathak Age: 08 yr 03 months Gender: Female

Name of the concerned Court/Authority:

Hon'able The Chief Justice,

Hon'able Mr. Justice Tushar Rao Gedela, The High Court of Delhi, New Delhi

Reason for referral by the court:

- 1) Opinion on whether the child can be admitted in the appellant school or needs to be given admission to a school meant for children with special needs*



I) Background

As per the directions of the Honourable High Court of Delhi, regd. LPA 499/2025 & CM PPL.s.47640-42/2025, order dated 05.08.2025, a committee was constituted to give categorical opinion as to whether the child, Aadriti Pathak can be admitted in the appellant/school or she has to be given admission to a school meant for children with special needs.

The said committee comprised of the following members:

- 1) Dr Shahzadi Malhotra, Associate Professor, Clinical Psychology, IHBAS*
- 2) Ms. Aarushi Sikri, Clinical Psychologist*
- 3) Ms Anushka Tyagi, Occupational Therapist*
- 4) Ms Anureet Kaur, School Counsellor; and*
- 5) The mother of the child*

The meeting of the Committee was held on 14/08/2025 at IHBAS. All above member attended (attendance sheet enclosed).

II) Clinical Assessment at IHBAS:

The Child was assessed by a multidisciplinary team at IHBAS (registered at IHBAS on 08/08/2025 vide registration number 20250075329) and detailed evaluation by the Psychiatry department followed by assessment by the Clinical Psychologist. Ms Aadriti Pathak, 08 years old female born out of non-consanguineous marriage through normal full term delivery, with immediate birth cry and average birth weight with no reported pre, peri or postnatal complications. Reportedly, according to the mother, the child had delayed developmental milestones (sitting without support at 9 months, standing- 11 months and walking at 17 months). As per the mother, child started speaking single words at around 2 years 4 months. She started speaking full sentences at 6 years of age.

There is reported history of poor eye contact since early childhood, with repetitive stereotypical motor movements. Currently there is significant improvement in eye contact and there are reductions in repetitive stereotypical behaviours. Child has age appropriate fear and recognizes danger. Child indicates and expresses pain. She also indicates that she is in pain and needs to be taken to the doctor. As per the mother, the child is independent in her Activities of Daily Living – brushing, bathing, dressing (once given a command to do the activity, she does the activity).



On Mental Status Examination: Patient is well kempt, conscious. Psychomotor activity was slightly increased, with hand flapping. Eye to eye contact was made but not maintained. She was able to comprehend simple instructions, identify and name colors, letter of the alphabet.

Clinical Psychology Assessment - The assessments were carried out using standardise assessment tools for autism – INCLIN and Indian Scale for Assessment of Autism (ISAA), which are the notified tests for diagnosis and severity assessment of Autism in India as per Gazette of India notification dated 26 April 2016 and also outlined as the tests to be used in the disability assessment guidelines dated 14th March 2024. On INCLIN child is found to be having Autism. On ISAA, the child has obtained a total score of 106, indicating Mild Autism.

Opinion of the Clinical Team of IHBAS

During the hospital visit on 08/08/2025 and 11/08/2025 it was observed that the child's attention could be aroused and sustained for adequate duration that was required for the instructions that were being given to her. She could follow commands and comprehend the given instructions. She gave intermittent eye contact to the Clinical Psychologist assessing her. The child herself asked for sheet of paper, pencil and colours and during the entire duration of the session (each session lasted for approximately one and a half hours) she could keep herself occupied in various paper pencil activities. Once one sheet of paper was over, she demanded for another sheet so as to continue with her tasks. She did not leave the tasks without completing them. She also responded to verbal questions being asked to her by the clinician. On 08/08/25, the child visited the hospital at around 11:00 A.M. and was at IHBAS till 4:00 P.M. but the child did not show any kind of exaggerated behaviours and was well settled throughout the assessment process. Also, at one point during the assessment, when asked "do you need something" the child reported "Tofee" and attempted to write it phonetically. Based on the clinical assessment, standardized psychological tests and behavioural observation, a diagnosis of Mild Autism was made.

III) Observations of the Committee Members

- i) All members were of the opinion that the child can be placed in an inclusive school, including the appellant school with a Shadow Teacher attached with the child during the entire school hours.
- ii) The school counselor raised certain apprehensions including –
 - She expressed her concerns regarding whether the child will be suitable for an inclusive set up



2025:DHC:8442-DB



- The counselor had concerns regarding safety of child and her peers
- She also raised concerns regarding need for individualized attention to the child, developmental impact and the need for parents to pre-inform the school regarding any ongoing medications that the child was taking.

iii) The school counselor's concerns were addressed by experts from Clinical Psychology and Occupational Therapy who clarified and emphasized the role of shadow teacher.

IV) Committee's recommendations:

- 1) Considering the child's behavioural observations, history and observation report from the special educator, currently the child can be placed in the appellant school (or any inclusive school), along with a Shadow Teacher attached with the child, initially during the entire school hours. The need for shadow teacher may be reviewed periodically.
- 2) She should be placed in a school grade/class deemed appropriate to her current academic level, to be ascertained by the school in coordination with the parent and child's special educator/shadow teacher.
- 3) Apart from schooling, it is recommended that therapeutic interventions like Occupational therapy, Behavior therapy, Speech therapy be continued to address the child's sensory and behavioural issues, from any health facility (as per mother's choice)

ARUSH SIKRI
CLINICAL PSYCHOLOGIST.
Member

ANUSHKA TYAGI
OCCUPATIONAL THERAPIST
Member

Anureet Kaur
Member

Dr. Shahzadi Malhotra
Associate Professor, IHBAS
Member

Sadhana Sharma
Mother

INSTITUTE OF HUMAN BEHAVIOUR & ALLIED SCIENCES (IHBAS)

Meeting Subject & Date: Meeting of Committee constituted by Hon'ble High Court for G D Goenka vs Aadriti Pathak case order dated 05/08/2025

Meeting date- 14/08/25

Time: 11:00 AM



2025:DHC:8442-DB

**ATTENDANCE SHEET**

<i>Sl. No.</i>	<i>Name</i>	<i>Designation</i>	<i>Signature</i>
1	<i>Dr. Shahzadi Malhotra</i>	<i>Associate Prof. (Clinical Psych), IHBAS</i>	<i>Signed</i>
2	<i>Ms. Anureet Kaur</i>	<i>School Counsellor</i>	<i>Signed</i>
3	<i>Sadhana Sharma</i>	<i>Mother</i>	<i>Signed</i>
4	<i>Anushka Tyagi</i>	<i>Occupational Therapist</i>	<i>Signed</i>
5	<i>Arushi Sikri</i>	<i>Clinical Psychologist</i>	<i>Signed</i>

20. During the course of hearing of this appeal on 19.08.2025, certain objections were expressed by the appellant/school regarding non-participation of the school Counsellor in the proceedings of the Committee formed in terms of order dated 05.08.2025 and accordingly the Court requested the head of the said Committee, namely. Dr. Shehzadi Malhotra, Associate Professor, Clinical Psychology, IHBAS to file a written note giving details of the process which was adopted by the Committee for assessment and evaluation of the child in terms of the order dated 05.08.2025. The appellant/school was also permitted to file objections to the report as also to the note to be submitted pursuant to the order dated 19.08.2025.

21. The order dated 19.08.2025 passed by the Court is extracted herein below:-

“1. Pursuant to our order dated 05.08.2025, Assessment Committee Report has been filed which is on record.



2. We request Dr. Shahzadi Malhotra, Associate Professor, Clinical Psychology, IHBAS to file a written note under her signature through the learned Standing Counsel Mr. Tushar Sannu, giving the details of the process which was adopted by the Committee for assessment and evaluation of the child concerned in terms of our order dated 05.08.2025. The said note shall be filed within a period of 02 days after serving a copy thereof upon the learned counsel for the appellant.

3. Learned counsel for the appellant states that the appellant also intends to file objections to the Report. Let the objections to the Report, as also to the note, which may be filed under this order, be filed by the next date of listing.

4. Let a copy of the aforesaid Report be provided to learned Standing Counsel representing respondent no.2/DoE along with a copy of the note, who may file objections to the same, if any, by the next date.

5. List on 26.08.2025.

6. Let the matter be placed 'High on Board'."

22. Dr. Shehzadi Malhotra, accordingly filed her written note giving details of the process adopted by the Committee for assessment and evaluation of the child. The said written note filed in compliance of the order dated 19.08.2025 is also extracted herein below:-

**“WRITTEN NOTE IN COMPLIANCE OF ORDER DATED
19.08.2025**

The instant Note is being filed by the undersigned in compliance with the directions of this Hon'ble Court vide Order dated 19.08.2025, in LPA No. 499/2025, titled 'G.D. Goenka Public School v Aadriti Pathak & Anr.' The operative excerpt of Order dated 19.08.2025 is reproduced hereunder:

“[...]

1. Pursuant to our order dated 05.08.2025, Assessment Committee Report has been filed which is on record.

2. We request Dr. Shahzadi Malhotra, Associate Professor, Clinical Psychology, IHBAS **to file a written note under her signature through**



the learned Standing Counsel Mr. Tushar Sannu, giving the details of the process which was adopted by the Committee for assessment and evaluation of the child concerned in terms of our order dated 05.08.2025. The said note shall be filed within a period of 02 days after serving a copy thereof upon the learned counsel for the appellant.
[...]"

The present Note is in furtherance and in addition to the Assessment & Committee Report of the meeting held on 14.08.2025, which was filed on 16.08.2025.

Process adopted by the Committee for assessment & evaluation of child:

08.08.2025

1. Patient's mother was contacted telephonically on 07/08/2025 by the IHBAS counsel to visit for detailed evaluation on 08/08/2025.
2. The child, accompanied by her mother, arrived in IHBAS at 11:00 A.M and visited the Medical Records Department, where the child's case was registered under Registration No. 20250075329 in the Department of Psychiatry, under Child Guidance Clinic, IHBAS.
3. A detailed history of the child was obtained by Dr. Preeti, PG Junior Resident, pursuing her M.D. in Psychiatry. This process took approximately 1.5 hours for a comprehensive psychiatric work-up, following which the case was discussed with Dr. Shipra Singh, Associate Professor of Psychiatry at IHBAS. Based on the assessment, a diagnosis of Autism was made. During this process, she was given adequate breaks for refreshment and washroom visit.
4. The evaluation process conducted by the Psychiatry team concluded by 2:30 p.m., following which the child was referred to the Department of Clinical Psychology, IHBAS, for further assessment. For this purpose, she attended the Behaviour Therapy Unit at IHBAS.
5. When the child visited the Behaviour Therapy Unit of the Clinical Psychology Department, she was initially asked to wait in the waiting hall for 10 to 15 minutes in order to observe her behavior in an unstructured environment. During this period, the child remained comfortably seated. Her interactions with family members, activity levels, and adaptability to the new and unfamiliar setting were observed.



6. Thereafter, the child was called in the undersigned's cubicle along with her mother where a detailed psychological assessment was carried out.

11.08.2025:

7. The second session of the psychological assessment was conducted on 11.08.2025. In addition to the administration of standardized, gazette-notified tests (Indian Scale for assessment of Autism) and photographs of the child's play behavior with family members, including those taken during birthday celebrations, were reviewed. Her interactions with her mother and special educator were also observed during this session.
8. A detailed psychological assessment was conducted by the undersigned in the Behaviour Therapy Unit, which offers ample space for the child to move freely and is equipped with materials such as toy cars, colours, papers, blocks, and balloons. During the assessment, it was observed that the child's attention could be adequately aroused and sustained for the duration required to follow the given instructions. She was able to comprehend and follow commands appropriately. The child independently selected colours and paper, made a few drawings, and was allowed the freedom to move around during the session.

14.08.2025:

9. Following the detailed evaluations conducted by the Psychiatry and Clinical Psychology teams, a committee meeting was convened on 14.08.2025 at 11:00 a.m. in the Activity Room of IHBAS, as arranged by the counsel for IHBAS. The meeting was held at the said venue.
10. On 14.08.2025, the committee members arrived between 11:10/11:15 a.m., while the child, accompanied by her mother and private special educator, arrived at approximately 11:30 a.m. During this period, all four professionals discussed their respective observations. The school counsellor, however, expressed apprehensions that were primarily based on the school's experiences during the child's previous admission nearly three years ago.
11. Dr. Shahzadi Malhotra, Ms. Aarushi Sikri, and Ms. Anushka Tyagi explained to the School Counsellor that over the past three years, the child has undergone intensive therapies, including Applied Behaviour Analysis (ABA) and special education, and that none of the three experts have observed the behaviors reported by Ms. Anureet Kaur, the School Counsellor. Despite this, the counsellor continued to focus on incidents that had occurred three years back.



12. When the child and her mother arrived, the undersigned requested the counsellor to interact with the child. The counsellor greeted her by saying, "How are you, Adriti?" to which the child responded with a handshake and verbally replied, "I am fine." The counsellor interacted with the child in the presence of the undersigned for few minutes. The counsellor was provided ample opportunity both in the presence of all three committee members as well as separately to interact with, evaluate, and assess the child through modalities considered appropriate by the school counsellor. When the undersigned returned back to the meeting venue, the counsellor herself told the undersigned that she has had a detailed interview with the mother and has observed the child.
13. The school counselor spent approximately one and a half to two hours interacting with the mother, the child, and the child's special educator, following which the report was finalized and signed at around 1:50 p.m.
14. The counselor signed the Committee Report placed before this Hon'ble Court only after an exhaustive interaction with both the mother and the child. It is pertinent to note that the concerns raised by the School Counsellor were duly addressed, as reflected in the Committee Report under a separate heading at page 3, section III(ii), with an explicit mention at page 3, section III(iii), confirming that her concerns were adequately resolved.
15. That the child's score could have probably decreased to 106 from 136 following intensive therapeutic interventions, including Applied Behavior Analysis (ABA) and special education, starting at a very early age. The earlier the therapeutic interventions begin, the better are the results.
16. The Committee has recommended the presence of a shadow teacher for the child, despite mild autism, as she has not attended school until now. A shadow teacher will support her in adjusting to the school environment, while also facilitating the adjustment of the school, her peers, and herself to one another. And therefore, it has also been recommended to review the need for shadow teacher periodically.
17. The existence of shadow teacher is not as a class teacher or teacher for certain subjects, but as a teacher who is also a companion, facilitator, motivator, partner and source of role model, (Wilyanita et al., 2022).
18. The counselor was explained that even in the case of a normally developing child, there can be no assurance that a behavior observed on one day will necessarily remain same/repeated on the next day, nor can it be guaranteed that an otherwise obedient, compliant child will never



display disobedience/aggression or not cause harm to another child or not display any negative behaviour. And same holds true for any child – whether normally developing or a child with any neurodevelopmental disorder including child with any severity of Autism.

*Dated: 21.08.2025
At: New Delhi*

*Dr. Shazadi Malhotra,
Associate Professor,
Clinical Psychology,
IHBAS, Delhi”*

23. Objection to the report dated 14.08.2025 as also to the written note dated 21.08.2025 was filed by the appellant/school whereby, the contents, recommendations and conclusion of the report was denied as being incorrect. The contents of the written note were also denied not only in respect of the procedure followed and but also the correctness of the said written note. In the said objections it has been stated by the appellant/school that the procedure followed by the Committee was in violation of the Court’s order dated 05.08.2025 and that no opportunity at any stage was granted to the School Counsellor to have a meaningful interaction with the child. It has also been stated that the methodology followed by IHBAS was incorrect, inadequate, improper and incomplete and various tests ought to have been conducted to give a holistic picture of the child which were not conducted. Along with the objections, comments made by one Dr.Jitender Nagpal, Moolchand Hospital dated 25.08.2025 and also a review of the note submitted by IHBAS, dated 25.08.2025 was also filed along with the objections. A report by the School Counsellor, Ms.Anureet Kaur, was also filed along with the said objections.



24. Having heard the learned counsel for the parties and examined the documents and material available on this intra-court appeal, we are unable to appreciate the approach of the appellant/school in denying admission to the child. The approach adopted by the appellant/school is in complete violation of various mandates embodied in RPwD Act, which also denies the child her rights available under the said Act.

25. As already discussed by learned Single Judge in the judgment and order under challenge herein, RPwD Act, 2016 has been enacted by the parliament with the purpose and object of empowering persons with disabilities and for ensuring respect for their inherent dignity, individual autonomy, non-discrimination, full and effective participation and inclusion in the society. Such an approach is contrary to the concept of “inclusive education” as defined in Section 2(m) of RPwD Act, which means a system of education where students with an and without disability learn together and system of teaching and learning is suitably adopted to meet the needs of different types of students with disabilities.

26. Section 2(m) of RPwD Act reads as under:-

“Section 2(m) RPwD Act

(m) “inclusive education” means a system of education wherein students with and without disability learn together and the system of teaching and learning is suitably adapted to meet the learning needs of different types of students with disabilities;”

27. Rights and entitlements of persons with disabilities have been provided for in Chapter 2 of the said Act, Section 3 thereof, mandates the Government to ensure that persons with disabilities enjoy right to equality,



life with dignity and respect for integrity equally with others. It also mandates that Government shall take steps to utilize capacity of such persons by providing appropriate environment and that no person with disability shall be discriminated. Section 3 of RPwD Act is extracted herein below:-

“Section 3 of RPwD Act

3. Equality and non-discrimination. - (1) *The appropriate Government shall ensure that the persons with disabilities enjoy the right to equality, life with dignity and respect for his or her integrity equally with others.*
(2) *The appropriate Government shall take steps to utilise the capacity of persons with disabilities by providing appropriate environment.*
(3) *No person with disability shall be discriminated on the ground of disability, unless it is shown that the impugned act or omission is a proportionate means of achieving a legitimate aim.*
(4) *No person shall be deprived of his or her personal liberty only on the ground of disability.*
(5) *The appropriate Government shall take necessary steps to ensure reasonable accommodation for persons with disabilities.”*

28. Section 4 of the Act is in respect of rights of women and children with disabilities which mandates the Government and local authorities to take measures to ensure that women and children with disabilities enjoy their rights equally with others. Section 4 of the RPwD Act reads as under:-

“Section 4 of RPwD Act

4. Women and children with disabilities. - (1) *The appropriate Government and the local authorities shall take measures to ensure that the women and children with disabilities enjoy their rights equally with others.*
(2) *The appropriate Government and local authorities shall ensure that all children with disabilities shall have right on an equal basis to freely express their views on all matters affecting them and provide them appropriate support keeping in view their age and disability.”*



29. A separate chapter, namely, Chapter 3 exists in RPwD Act which is in relation to provisions concerning education of persons with disabilities. Section 16 directs the Government and local authorities to make endeavour that all education institutions, funded or recognized, shall provide “inclusive education” to the children with disabilities and for achieving the said purpose, institution shall admit them without discrimination and provide education and opportunities for sports and recreation as well, equally with others. The said provision also mandates that the Government and the local authorities shall also provide “reasonable accommodation” according to the individual’s requirement and further that necessary support, individualized or otherwise, shall also be provided in an environment that maximizes academic and social development in tune with the goal of full inclusion.

30. Another mandate to the Government and local authorities in terms of Section 16 is that they shall detect specific learning disabilities in children at the earliest and take suitable pedagogical and other measures. Section 16 of the RPwD Act is quoted here under:-

“Section 16 of RPwD Act

16. Duty of educational institutions. - *The appropriate Government and the local authorities shall endeavour that all educational institutions funded or recognised by them provide inclusive education to the children with disabilities and towards that end shall—*

- (i) admit them without discrimination and provide education and opportunities for sports and recreation activities equally with others;*
- (ii) make building, campus and various facilities accessible;*
- (iii) provide reasonable accommodation according to the individual's requirements;*
- (iv) provide necessary support individualised or otherwise in environments that maximise academic and social development consistent with the goal of full inclusion;*



- (v) ensure that the education to persons who are blind or deaf or both is imparted in the most appropriate languages and modes and means of communication;*
- (vi) detect specific learning disabilities in children at the earliest and take suitable pedagogical and other measures to overcome them;*
- (vii) monitor participation, progress in terms of attainment levels and completion of education in respect of every student with disability;*
- (viii) provide transportation facilities to the children with disabilities and also the attendant of the children with disabilities having high support needs.”*

31. Under Section 17 the Government and the local authorities are also under mandate to take certain measures for the purposes of implementation of the provisions contained in Section 16.

32. Section 31 of the RPwD Act provides that every child with benchmark disability between the age of six to eighteen shall have right to free education in a neighborhood school or in a special school of his choice irrespective of the provisions of rights of children to Free and Compulsory Education Act, 2009. Section 31 of the RPwD Act reads as under:-

“Section 31 of RPwD Act

- 31. Free education for children with benchmark disabilities.** - (1) *Notwithstanding anything contained in the Rights of Children to Free and Compulsory Education Act, 2009 (35 of 2009), every child with benchmark disability between the age of six to eighteen years shall have the right to free education in a neighbourhood school, or in a special school, of his choice.*
- (2) *The appropriate Government and local authorities shall ensure that every child with benchmark disability has access to free education in an appropriate environment till he attains the age of eighteen years.”*

33. Hon’ble Supreme Court had the occasion to consider the scheme, the object and purpose of enacting RPwD Act in the case of ***Avni Prakash v. National Testing Agency (NTA) and Others, (2023) 2 SCC 286***. After



discussing various aspects of the Act it has been observed in ***Avni Prakash (supra)*** that education plays a key role in social and economic inclusion and effective participation in the society and therefore, “inclusive education” is indispensable for ensuring universal and non-discriminatory access to education. Quoting the definition of ‘inclusive education’ as occurring in Section 2(m) of the Act, Hon’ble Supreme Court in paragraph 40 observes as under:-

40. *“Education plays a key role in social and economic inclusion and effective participation in society. Inclusive education is indispensable for ensuring universal and non-discriminatory access to education. The Convention on Rights of Persons with Disabilities recognises that inclusive education systems must be put in place for a meaningful realisation of the right to education for PwD. Thus, a right to education is essentially a right to inclusive education. In India, the RPwD Act, 2016 provides statutory backing to the principle of inclusive education. Section 2(m) defines “inclusive education” as:*

“2(m) ‘inclusive education’ means a system of education wherein students with and without disability learn together and the system of teaching and learning is suitably adapted to meet the learning needs of different types of students with disabilities;”

34. In ***Avni Prakash (supra)*** the Apex Court has also observed that RPwD Act contains selective provisions, so far as the rights of persons with disabilities to “inclusive education” is concerned. In the said case it has been observed by Hon’ble Supreme Court further that right to “inclusive education” can be realised through the provision of “reasonable accommodation” which is defined in Section 2(y) of the RPwD Act. Paragraph no.43 of the judgment in ***Avni Prakash (supra)*** is extracted below:-



43. “Above all, the RPwD Act, 2016 contains provisions mandating reasonable accommodation. The expression “reasonable accommodation” is defined in Section 2(y), which reads as under:

“2(y) ‘reasonable accommodation’ means necessary and appropriate modification and adjustments, without imposing a disproportionate or undue burden in a particular case, to ensure to persons with disabilities the enjoyment or exercise of rights equally with others;”

The right to inclusive education is realised through the provision of reasonable accommodation. In Vikash Kumar, this Court emphasised that reasonable accommodation is at the heart of the principle of equality and non-discrimination espoused under the RPwD Act, 2016. The denial of reasonable accommodation to PwD amounts to discrimination. It is the positive obligation of the State to create the necessary conditions to facilitate the equal participation of disabled persons in society. This Court observed thus: (SCC p. 399, para 44)”

35. Having regard to the purpose, object and scheme of RPwD Act coupled with the observations of the Hon’ble Supreme Court in the case of **Avni Prakash (supra)**, it is difficult to agree with the stance taken and approach adopted by the appellant/school denying admission to the child. The Court, being conscious of the apprehensions expressed by the appellant/school, in addition to the report submitted by the Board constituted by learned Single Judge vide his order dated 19.02.2025, further directed by means of order dated 05.08.2025 for another examination and assessment of the child by a Committee which was headed by an Associate Professor, Clinical Psychology, IHBAS, the said Committee also consisted of a clinical psychologist and occupational therapist. The School Counsellor and mother of the child were also associated with the said Committee. The Committee after appropriate evaluation and assessment of the child in its report clearly recommended that child can be placed in the appellant/school along with the shadow teacher attached with her with a further provision that need for



shadow teacher may be reviewed periodically. It is also the opinion of the said expert Committee that the child shall be placed in a grade/class which is deemed appropriate to her current academic level which is to be ascertained by the school in coordination with the parents and child's special educator/shadow teacher.

36. The objections to the said report were raised on behalf of the appellant/school initially about the process adopted by the said Committee in evaluating and assessing the child and it is in this background that the Court requested the Chairperson of the Committee to submit a note, who in her note has elaborately given the procedure which was adopted by the Committee for assessing the child. In the said note, it was clearly stated that the School Counsellor signed the Committee's Report only after an exhaustive interaction both with the mother and with the child and further that the concerns raised by the School Counsellor were duly addressed as reflected in the Committee's Report. The Chairperson of the Committee in her note also stated that earlier the therapeutic interventions begin, the better will be the results and further that the Committee had recommended presence of the shadow teacher despite only mild autism, for the reason that she has not attended school until now and that the shadow teacher would support the child in adjusting to the school environment while also facilitating her adjustment with the school with her peers and herself to one another. Quoting a research study, the Chairperson of the said Committee, who as noticed above, is an Associate Professor in Clinical Psychology, IHBAS, Delhi also stated that shadow teacher is not a class teacher or a



teacher for certain subjects but is a teacher who will be a companion of the child, a facilitator, a motivator, a partner and source of role model.

37. Having gone through the note submitted by the Chairperson of the said Committee submitted to the Court in compliance of the order dated 19.08.2025, we find the objections raised to the said note as also to the Report of the Committee by the appellant/school unfounded. The objection only reflects the non-cooperative approach of the appellant/school resulting in denial of right of the child as available to her under RPwD Act. We may also note that various rights made available by the parliament by enacting RPwD Act are embodiment of human rights and have been conferred on persons with disabilities not only to ensure non-discrimination but also to provide space and opportunity for their inclusion in the society. The provision therein are to achieve “inclusive education” as defined in Section 2(m) of the RPwD Act and to provide “reasonable accommodation “in terms of Section 2(y) of the RPwD Act.

38. RPwD Act contains various mandates not only to the Government and local bodies but also to the educational institutions (Section 16 of the RPwD Act) which include that institution should provide “reasonable accommodation” according to the individuals requirement and further that they shall admit persons with disabilities without discrimination and provide education and opportunities equally with others for sports and recreational activities as well. It is also noticeable that such a mandate as contained in Section 16 of the RPwD Act is not confined to only funded educational institutions, rather it extends to institutions “recognized” by the Government or the local bodies. Accordingly, applicability of Section 16 of the RPwD



Act to a completely private and non-funded educational institutions cannot be denied on any count.

39. One of the mandates to educational institutions as contained in Section 16 (vi) of the RPwD Act is that institution shall detect specific learning disability in children and shall take suitable pedagogical and other measures to overcome them. Accordingly, it thus, becomes incumbent upon the appellant/school not only to detect and recognise the learning disabilities of the child but also to take suitable pedagogical and other measures so that such a child is able to overcome such learning disabilities.

40. As already noticed above, “inclusive education” as mandated in RPwD Act can be achieved with “reasonable accommodation” of children with disabilities. “Reasonable accommodation” requires necessary and appropriate modification and adjustment to ensure that persons with disabilities enjoy and exercise their rights equally with others.

41. Having carefully examined the facts and circumstances of the case, we are of the considered opinion that the approach of the appellant/school from the very inception has been to deny the rights to the child which she is otherwise entitled to under various provisions of RPwD Act as discussed above.

42. We may also state that the expert Committee formed under our order dated 05.08.2025 was headed by an Associate Professor of IHBAS which is an institution of behavioral and allied sciences working under Delhi Government and has been established for promoting mental health, neuro sciences, and behavioral and allied sciences. The institute provides high quality patient care through multi-disciplinary approach. The aims and



objectives of the institute are to provide high quality super specialty health care with state of the art technology in mental health, neuro sciences, behavioral and allied sciences and also to conduct research of high standard in such fields. It also has been entrusted with providing comprehensive training for MD, DM, M.Phil. and PhD courses in the aforementioned fields. The Court *vide* its order dated 05.08.2025, had, thus, appointed the Committee to evaluate and assess the child which was headed by an Associate Professor of the said institute which comprised of other experts and even the School Counsellor and mother of the child were also associated with it. In these circumstances we do not have any reason whatsoever to have even an iota of doubt on the report submitted by the Expert Committee and the note tendered by its Chairperson.

43. For the discussion made and reasons given above, we are in complete agreement with the judgment and order passed by the learned Single Judge which is under appeal herein and find that the appeal is unmerited.

44. Resultantly, the appeal is dismissed with a direction to the appellant/school to ensure compliance of the judgment and order passed by the learned Single Judge within two weeks from today.

45. Costs made easy.

(DEVENDRA KUMAR UPADHYAYA)
CHIEF JUSTICE

(TUSHAR RAO GEDELA)
JUDGE

SEPTEMBER 23, 2025/MJ