



सत्यमेव जयते

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**न्यायालय मुख्य आयुक्त विकलांगजन**  
**COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES**  
 विकलांगजन सशक्तिकरण विभाग / Department of Empowerment of Persons with Disabilities  
 सामाजिक न्याय और अधिकारिता मंत्रालय / Ministry of Social Justice and Empowerment  
 भारत सरकार / Government of India

Case No.: 6579/1141/2016

Dated 06.02.2018

In the matter of:

Shri Pt. Vikas Sharma,  
 1520, Shri Chandi Road, Pilakhua,  
 Uttar Pradesh – 245304  
 Email – [sharmaptvikas@gmail.com](mailto:sharmaptvikas@gmail.com)

.... Complainant

*Versus*

Ministry of Information & Broadcasting,  
 (Through: The Secretary)  
 'A' Wing, Shastri Bhawan,  
 New Delhi - 110001

.... Respondent

Date of hearing: 12.05.2017

Present:

1. Shri Rajendra Bhatt, Regional Officer, CBFC, Delhi and Shri Raju Vaidya, Regional Officer, CBFC, Mumbai for respondent
2. None appeared for the complainant.

**ORDER**

The above named complainant, filed a complaint dated 04.06.2016 under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, hereinafter referred to as the 'Act', regarding mockery of persons with disabilities in Indian Cinema – movie 'Houseful 3'

2. The complainant submitted that for the past long time the general public, particularly the persons with disabilities of this country, are aggrieved with their derogation due to degradation of comedy feature film made on persons with disabilities in the name of entertainment. He alleged that the film 'Houseful-3' made mockery of disability, keeping on edge all the physical limitations such as visual impairment, orthopedic, hearing impairment, mental retardation, etc., which is violation of the rights of persons with disabilities as well as social pragmatism.

3. This Court, under Section 59 of the Act, took up the matter with the respondent, vide letter dated 21.09.2016, to submit their comments.

4. Since no reply was received from the respondent, the case was listed for personal hearing on 12.05.2017.
5. During the hearing the Regional Officers from Central Board of Film Certification (CBFC), Mumbai appeared for the respondent and submitted the reply vide letter dated 05.05.2017 issued by the Chief Executive Officer, CBFC.
6. In the reply, the respondent submitted that as provided in the Cinematograph Act, 1952, Cinematograph (Certification) Rules, 1983 and Guidelines made under the provisions of the Act, the Committee, consisting of five members from different walks of life and two of them women, viewed the film 'Houseful 3' as per parameter laid in the Guidelines. The committee agreed to recommend the film to be exhibited with cuts and granted UA certificate (a certificate for unrestricted public exhibition subject to the condition that children below the age of 12 years watch the film under parental guidance). The film was granted UA certificate on 26.05.2016. Further, feature films are works of fiction, artistically presented through the medium of cinema. Accordingly, 'House 3' may also be treated as a work of fiction, a comedy made for artistic entertainment and does not intent to hurt or denigrate any one in real life. In this movie, cuts were ordered so that double meaning and vulgarity did not remain present in any way. Disclaimer was already added at the start of the film stating that all characters are fictitious and the movie does not intent to hurt any sentiments. CBFC is only a film certification body and suspending exhibition of films does not come under its domain. Films' exhibition is a State subject, handled by the competent agencies of the States / Union Territories.
7. In view of the submissions made by the parties, respondent is advised to issue instructions to the Examining Committee to be more sensitive while examining the films featuring persons with disabilities and if needed and the circumstances prevail, experts from disability field may be invited / included in the Committee. The respondent is also directed to issue instructions to the respective film direction houses to take care of the dignity of persons with disabilities while putting any scenes in the film related to disability.
8. The case is accordingly disposed of.



(Dr. Kamlesh Kumar Pandey)  
Chief Commissioner  
for Persons with Disabilities



*extra*

**न्यायालय मुख्य आयुक्त विकलांगजन**  
**COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES**  
विकलांगजन सशक्तिकरण विभाग / Department of Empowerment of Persons with Disabilities  
सामाजिक न्याय और अधिकारिता मंत्रालय / Ministry of Social Justice and Empowerment  
भारत सरकार / Government of India

Case No. 6050/1143/2016

Dated 08.02.2018

**In the matter of:**

Shri R.C. Sethiyan  
President,  
All India Sports Council of the Deaf,  
I-B, Institutional Area, Near Janta Flats,  
Sarita Vihar, New Delhi-110076

.... Complainant

**Versus**

Department of Sports,  
Through: Secretary,  
Ministry of Youth Affairs & Sports,  
Shastri Bhawan, C - Wing, Dr. Rajendra Prasad Road,  
New Delhi-110001

.... Respondent NO.1

Sports Authority of India,  
Through: The Executive Director (TEAMS),  
(East Gate) Near CGO Complex,  
Lodhi Road, New Delhi-110003

.... Respondent No.2

**Date of Hearing – 25.07.2017**

**Present:**

1. Shri Surendra Yadav, Section Officer, Department of Sports for respondent No.1
2. Shri Mishal Vij, Advocate, appearing for respondent No.2
3. None appeared on behalf of complainant

**ORDER**

Shri R.C. Sathiyen, President, All India Sports Council of the Deaf, New Delhi (complainant), filed a complaint dated 11.03.2016 that deaf persons in the field of sports and games feel discriminated in providing cash awards even to those deserving gold medallists in international events and also the financial assistance provided by the Government is very less in comparison to that of other sports persons with disabilities viz. Para Sports. The complainant requested to do the needful for implementation of equal protection to the deaf in sports and games as they are physically fit to compete even with the hearing counterparts.

2. The complaint was taken up with the respondents vide this Court's letter dated 29.06.2016.

3. The Department Sports, Ministry of Youth Affairs & Sports (Respondent No.1) vide their letter dated 20.09.2016 forwarded a copy of the existing scheme of the ministry on Special (Cash) Awards to Medal Winners in International Sports Events and their Coaches (amended as on 29<sup>th</sup> January 2015) and submitted that the amount of cash award is based upon the importance and level of the competitions. Deaf Sports is also included in the schemes.

4. The complainant in his rejoinder dated 05.12.2016 to the aforesaid reply filed by respondent No.1, submitted that as per the Scheme at point 1.2.1 (b) Category, Para Sports which is meant for Paralysed and other Persons with Disabilities have been allotted Rs.75 Lakh for Gold Medallists and Rs.50 Lakh for Silver Medallists and Rs.30 Lakh for Bronze Medallists proportionately for 5 various events such as Summer & Winter Para Asia Games, Commonwealth Games, IPC World Cup, etc. whereas (d) category – Deaf Sports is awarded for only one event 'Deaflympics' held once in 4 years – Rs.15 Lakh only for Gold Medallists, Rs.10 Lakh for Silver Medallists and Rs.5 Lakh for Bronze Medallists, which is highly discriminative. The complainant further submitted that the following 6 events are being participated by the Indian Deaf Sportspersons:-

- a. Deaflympics – Summer & Winter (held once in 4 years by ICSD)
- b. World Deaf Championships (Held once in 4 years by ICSD) World Deaf Championships (held once in 4 years by ICSD)
- c. Asia Pacific Deaf Games (held once in 4 years by APDSC)
- d. Asia Pacific Deaf Championships (held once in 4 years by APDSC)
- e. World Deaf Chess Championships (held annually by ICCD)
- f. Asia Pacific Deaf Chess Championships (held annually by ICCD)

The complainant further submitted that the difference between Para Sports and Deaf Sports has not been explained by the Ministry. Deaf sportspersons have only hearing disability and they are physically fit. The deaf sportspersons should not be treated below to the paralysed people and they should be treated as second category or equal to the Para Sports people.

5. Upon considering the reply received from the Respondent No.1, the rejoinder received from the complainant and no reply received from the Respondent No.2, the case was listed for hearing on 13.04.2017.

6. During the hearing the representative appearing on behalf of the Respondent No.1 reiterated their reply dated 20.09.2016 already filed. The representative of Respondent No.2 requested some more time for filing their reply.

7. The Sports Authority of India, New Delhi (Respondent No.2), filed their reply on 31.07.2017 and submitted that the issue raised is with regard to the discrimination in providing cash awards to those deserving gold medallists in international events and financial assistance provided by the government to the deaf athletes as compared to that of other para sports. The "Scheme of Special Awards to Medal Winners in International Sports Events and their Coaches" is the prerogative of the Ministry of Youth Affairs and Sports and the Respondent No.2 has no role in deciding/awarding the same.

8. In the meanwhile, the Respondent No.1 vide their letter dated 06.11.2017 further submitted that the amount of cash award is based upon the importance and level of the competitions.

9. From the reply submitted by the Respondent No.1 it appears that less importance is given to the Deaf Sportspersons and the level of competitions have not been treated at par with the para sportspersons which is discriminatory towards the Deaf Sportspersons. The Respondent No.2 is advised to consider the request of the complainant and give due weightage to deaf sportspersons for providing the cash awards and the financial assistance to the Deaf Sportspersons at par with the Para Sportspersons.

10. The case is accordingly disposed of.



(Dr. Kamlesh Kumar Pandey)  
Chief Commissioner  
for Persons with Disabilities



सत्यमेव जयते

8/12

**न्यायालय मुख्य आयुक्त विकलांगजन**  
**COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES**  
 विकलांगजन सशक्तिकरण विभाग / Department of Empowerment of Persons with Disabilities  
 सामाजिक न्याय और अधिकारिता मंत्रालय / Ministry of Social Justice and Empowerment  
 भारत सरकार / Government of India

Case No.: 8966/1041/2017

Dated 12.02.2018

In the matter of:

Smt. Monali Dhole  
 Email - [monalidhole@rediffmail.com](mailto:monalidhole@rediffmail.com)

.... Complainant

*Versus*

Controller of Examination  
 Joint Entrance Examination (Main) - 2018  
 Central Board of Secondary Education  
 H-149, Sector – 63, Noida,  
 District – Gautam Budh Nagar – 201309  
 Email - E-Mail-jeemain@nic.in

.... Respondent

Date of hearing: 10.01.2018

Present:

1. Shri Pawan Grover, Section Officer for the respondent.
2. None appeared for complainant.

**ORDER**

The above named complainant filed a complaint vide email dated 06.12.2017 under the Rights of Persons with Disabilities Act, 2016, hereinafter referred to as 'RPWD Act, 2016', regarding the provision for providing of Scribe/Reader and other facilities to the candidates with visual impairment only and not to the other candidates with disabilities whose writing speed is adversely affected to write the exam – Information Bulletin for JEE (Main) – 2018 – and violation of the guidelines for conducting written examination for persons with disabilities by the Central Board of Secondary Education (CBSE/respondent).

2. The complainant submitted that her son is dyslexic and is aspiring to appear in Joint Entrance Examination 2018. The provision mentioned in the Information Bulletin for JEE (Main) – 2018 that "Only the visually challenged candidates, who have 40% or more disability, will be provided Scribe/Reader on the request of the candidate. In no case, the candidates will be allowed to bring their own scribe". Accordingly, her son and other persons with disabilities were being deprived of the facilities provided by the Government due to the provision made in the prospectus.

3. The matter was taken up with the respondent vide this Court's letter dated 06.12.2017 and the respondent was advised to look into the matter and immediately issue corrigendum to modify the 'Clause 2.5 Provisions for Persons with Disabilities' in the information bulletin of Joint Entrance Examination (Main) – 2018' and ensure that the guidelines for conducting written examination for Persons with Disabilities issued vide Office Memorandum 16-110/2003-DD.III dated 26.02.2013 are implemented and the legitimate rights of candidates with disabilities are not infringed to write the exam. The respondent was also advised to intimate to this Court within 07 days.

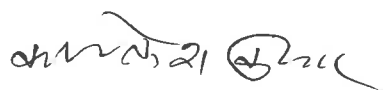
4. When no reply was received from the respondent, a personal hearing was scheduled on 10.01.2018.

5. During the hearing, the representative of the respondent filed a copy of the letter dated 10.01.2018 enclosing therewith a copy of the Corrigendum No. CBSE/JEE/2017-18 dated 10.01.2018 issued by the respondent regarding the provision of scribe mentioned in the Information Bulletin of JEE (Main) – 2018. As per the Corrigendum, the provision of scribe mentioned under para 2.5 (Provisions for Persons with Disabilities ) has been amended as below:

*"The services of a scribe (amanuensis) are available to candidates who are visually impaired, dyslexic, have disability in the upper limbs or have lost fingers / hands thereby preventing them from bubbling the optical response sheet (ORS). The Scribes will be students of Class XI from the science stream with mathematics as one of the subjects."*

*"The other provisions for persons of disabilities mentioned in the Information Bulletin of JEE (Main) 2018 remain the same."*

6. In the light of the above, since grievance has been sorted out and corrigendum has been issued by the respondent, the case is disposed of.



(Dr. Kamlesh Kumar Pandey)  
Chief Commissioner  
for Persons with Disabilities



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**न्यायालय मुख्य आयुक्त विकलांगजन**  
**COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES**  
 विकलांगजन सशक्तिकरण विभाग / Department of Empowerment of Persons with Disabilities  
 सामाजिक न्याय और अधिकारिता मंत्रालय / Ministry of Social Justice and Empowerment  
 भारत सरकार / Government of India

वाद संख्या 6491/1033/2016

दिनांक 12/02 2018

श्री टिकु कुमार,  
 द्वारा - श्री नवल किशोर प्रसाद लौज,  
 रूम संख्या 8, पक्का कुआँ,  
 गलैक्सी कोचिंग के सामने,  
 महेन्द्र, पटना - 800006 (बिहार)

R-6471

--- शिकायतकर्ता

बनाम

वैज्ञानिक तथा औद्योगिक अनुसंधान परिषद्,  
 (द्वारा-महानिदेशक)  
 अनुसंधान भवन, 2 रफी अहमद किदवई मार्ग,  
 नई दिल्ली - 110001

R-6472

---- प्रतिवादी

सुनवाई की तिथि - 19.07.2017

उपस्थित -

- 1- शिकायतकर्ता
- 2- प्रतिवादी पक्ष की ओर से कोई नहीं

आदेश

शिकायतकर्ता, 80 प्रतिशत अस्थिबाधितात व्यक्ति ने विश्वविद्यालय अनुदान आयोग द्वारा आयोजित होने वाली राष्ट्रीय पात्रता परीक्षा में दिव्यांगजन को कट-ऑफ अंक में विशेष रियायत देने हेतु वैज्ञानिक तथा औद्योगिक अनुसंधान परिषद् को सन् 2014 से अभी तक सौपी गई प्रार्थना-पत्रों को अनदेखी करने से सम्बन्धित शिकायत पत्र दिनांक 10.05.2016 निःशक्त व्यक्ति (समान अवसर, अधिकार संरक्षण एवं पूर्ण भागीदारी) अधिनियम, 1995, के अन्तर्गत इस न्यायालय में प्रस्तुत किया था।

2. शिकायतकर्ता का कहना था कि प्रतिवादी ने आरम्भ से ही कट-ऑफ अंक में दिव्यांगजन को किसी भी प्रकार का रियायत नहीं दिया और इस तरह दिव्यांगजन को उनके अधिकारों से वंचित रखा। प्रतिवादी द्वारा यह कहना कि दिसम्बर 2014 से दिव्यांगजन को कट-ऑफ अंक में रियायत दी जा रही है, आधारहीन है। सन् 2014 से कट ऑफ अंक में रियायत देने के लिए सौपी गई प्रार्थना पत्रों को प्रतिवादी द्वारा अनदेखी किया गया। नियामावली



के अनुसार, जे०आर०एफ० के लिए सामान्य वर्ग के कट ऑफ प्राप्तांक का 20% कम प्राप्तांक दिव्यांगजन जे० आर० एफ० के लिए चयनित किए जाएंगे और 10 प्रतिशत कम प्राप्तांक वाले दिव्यांगजन नेट के लिए योग्य माने जाएंगे। परन्तु जून 2015 से प्रतिवादी ने यह नियम बनाया कि 25% प्राप्तांक वाले दिव्यांगजन को भी सी०एस०आइ०आर० नेट के लिए योग्य माने जाएंगे, जो भेदभावपूर्ण है। शिकायतकर्ता ने निवेदन किया कि उन सभी दिव्यांगजन को जिन्होंने दिसम्बर 2014 में सी०एस०आइ०आर० जे०आर०एफ० नेट के लिए 25 प्रतिशत अंक प्राप्त किए हैं को योग्य मानकर चयनित किया जाए।

3. शिकायतकर्ता के उपरोक्त शिकायत को प्रतिवादी के इस न्यायालय का पत्र दिनांक 15.09.2016 के द्वारा उठाया गया और उस पर उनकी टिप्पणी माँगी गई।

4. प्रतिवादी ने पत्र दिनांक 21.10.2016 के द्वारा उत्तर प्रस्तुत किया और सूचित किया है कि सी.एस.आई.आर./यू.जी.सी. की परीक्षा द्वारा केवल फेलोशिप एवं लेक्चरशिप की पात्रता के लिए अभ्यर्थी की योग्यता को निर्धारित किया जाता है। विभिन्न विषयों में फेलोशिप हेतु कट ऑफ अंकों का निर्धारण उस विषय के लिए उपलब्ध फेलोशिप की संख्या की तुलना में योग्यता-सूची को ध्यान में रख कर किया जाता है। दिसम्बर 2014 की नेट परीक्षा से पूर्व दिव्यांग अभ्यर्थियों को परीक्षा में सम्मिलित होने हेतु शैक्षिक आर्हता, आयु सीमा तथा परीक्षा शुल्क में छूट प्रदान की जाती थी, परन्तु फेलोशिप प्रदान करने या लेक्चरशिप की योग्यता निर्धारित करने हेतु कट ऑफ अंकों में किसी प्रकार की कोई छूट प्रदान नहीं की जाती थी। राष्ट्रीय अनुसूचित जाति/अनुसूचित जनजाति आयोग के निर्देश के आधार पर दिसम्बर 2014 की नेट परीक्षा से परिषद् की परिणाम समिति द्वारा फेलोशिप तथा लेक्चरशिप की पात्रता हेतु अन्य पिछड़ा वर्ग एवं दिव्यांग अभ्यर्थियों को कट ऑफ अंकों में अनारक्षित अभ्यर्थियों हेतु निर्धारित कट ऑफ अंकों से 20% अंकों की छूट प्रदान की गई। राष्ट्रीय स्तर की परीक्षा की गुणवत्ता बनाए रखने के लिए अनारक्षित एवं अन्य पिछड़ा वर्ग के लिए न्यूनतम तल-चिन्ह/मानक (benchmark) 33% और अनुसूचित जनजाति एवं दिव्यांगों के लिए 25% रखा गया। जून 2015 की परीक्षा में परीक्षा समिति द्वारा आरक्षण मानदण्डों के अनुसार कट ऑफ अंकों का निर्धारण किया गया और फेलोशिप प्रदान करने हेतु संख्या की गणना 27%, 15%, 7.5% एवं 3% क्रमशः अन्य पिछड़ा वर्ग, अनुसूचित जाति, अनुसूचित जनजाति एवं दिव्यांगों के आधार पर की गई बशर्ते अनारक्षित श्रेणी के अभ्यर्थियों द्वारा न्यूनतम 33% तथा आरक्षित श्रेणी एवं दिव्यांगों द्वारा 25% अंक प्राप्त किए गए हों। किसी भी परिस्थिति में किसी भी श्रेणी के अभ्यर्थियों हेतु उपरोक्त निर्धारित न्यूनतम तल-चिन्ह / मानक में छूट प्रदान नहीं की जाती है। इसी परीक्षा द्वारा लेक्चरशिप की पात्रता निर्धारित की जाती है, जिसकी कोई पूर्व निर्धारित संख्या नहीं होती है एवं फेलोशिप हेतु जो कट ऑफ अंकों का निर्धारण होता है उसके 10% कम अंक प्राप्त करने वाले सभी अभ्यर्थियों को लेक्चरशिप हेतु योग्य माना जाता है। शिकायतकर्ता की माँग कि जून 2015 की परीक्षा हेतु अपनाए गए मानदण्डों को दिसम्बर

2014 की परीक्षा से पूर्वप्रभावी रूप से लागू करने को स्वीकार नहीं किया जा सकता है क्योंकि किसी परीक्षा में लिए गए निर्णय को पूर्वप्रभावी नहीं किया जा सकता। शिकायतकर्ता से प्राप्त प्रार्थना-पत्रों को प्रतिवादी के पत्रों दिनांक 18.11.2015, 11.03.2016 एवं 01.04.2016 के द्वारा उचित उत्तर दिया गया है। प्रतिवादी ने उपरोक्त तथ्यों को ध्यान में रखते हुए शिकायतकर्ता के अभ्यावेदन को अस्वीकार करने का अनुरोध किया।

5. प्रतिवादी के उपरोक्त उत्तर और उस पर शिकायतकर्ता द्वारा प्रस्तुत प्रत्युत्तर पर विचारोपरान्त इस मामले में दिनांक 19.07.2017 को सुनवाई सुनिश्चित की गई।

6. दिनांक 19.07.2017 को सुनवाई के दौरान प्रतिवादी की ओर से कोई उपस्थित नहीं हुआ। शिकायतकर्ता ने अपनी शिकायत दोहराई और प्रतिवादी द्वारा फेलोशिप एवं लेक्चरशिप की पात्रता के लिए जून 2015 में लागू की गई छूट को दिसम्बर 2014 से लागू करने के लिए पुनः निवेदन किया।

7. प्रतिवादी के अनुसार दिसम्बर 2014 की नेट परीक्षा से पूर्व दिव्यांग अभ्यर्थियों को परीक्षा में सम्मिलित होने हेतु शैक्षिक आर्हता, आयु सीमा तथा परीक्षा शुल्क में छूट प्रदान की जाती थी, परन्तु फेलोशिप प्रदान करने या लेक्चरशिप की योग्यता निर्धारित करने हेतु कट ऑफ अंकों में किसी प्रकार की कोई छूट दिव्यांग अभ्यर्थियों को प्रदान नहीं की जाती थी, परन्तु दिसम्बर 2014 से प्रतिवादी द्वारा दिव्यांग अभ्यर्थियों के लिए न्यूनतम तल-चिन्ह / मानक (मानदण्डों) का निर्धारण कर दिव्यांग अभ्यर्थियों को छूट प्रदान की जा रही है। प्रतिवादी ने जून 2015 में पुनः मानदण्डों का निर्धारण किया जिसे शिकायतकर्ता के अनुसार पूर्वप्रभावी या दिसम्बर 2014 से लागू नहीं किया जा सकता और इसमें प्रतिवादी द्वारा कोई अनियमितता या भेदभाव करना प्रतीत नहीं होता है। फाइल पर प्रस्तुत पत्रावलियों से स्पष्ट है कि शिकायतकर्ता को प्रतिवादी द्वारा समय-समय पर उचित उत्तर भी दिया गया है जिसे अनदेखी करना नहीं कहा जा सकता। फिर भी प्रतिवादी को सलाह दी जाती है कि वे यह सुनिश्चित करें कि दिव्यांगजन अधिकार अधिनियम, 2016 में प्रदत्त अधिकारों से दिव्यांगजन को वंचित नहीं किया जा रहा है।

8. इस मामले को यहीं बन्द किया जाता है।



(डॉ. कमलेश कुमार पाण्डेय)  
मुख्य आयुक्त, दिव्यांगजन



सत्यमेव जयते

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**न्यायालय मुख्य आयुक्त विकलांगजन**  
**COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES**  
 विकलांगजन सशक्तिकरण विभाग / Department of Empowerment of Persons with Disabilities  
 सामाजिक न्याय और अधिकारिता मंत्रालय / Ministry of Social Justice and Empowerment  
 भारत सरकार / Government of India

Case No.: 381/1141/2013

Dated 13.02.2018

**In the matter of:**

Shri Subir Datta,  
 Secretary, Pratibandhi Punarvas Samiti,  
 P.O. Abhayanagar, Agartala-799005, West Tripura  
 Email – [subiroo@yahoo.com](mailto:subiroo@yahoo.com)

.... Complainant

*Versus*

National Institute of Technology Agartala  
 Through: Director,  
 Agartala, West Tripura

.... Respondent No.1

Department of Empowerment of Persons with Disabilities,  
 [Through: Director (DD.III)],  
 Ministry of Social Justice and Empowerment,  
 5th Floor, B-II, Pt. Deen Dayal Antodaya Bhawan,  
 CGO Complex, Lodhi Road, New Delhi-110003

.... Respondent No.2

**Dates of Hearing – 01.06.2017**

**Present:**

1. Dr. Govind Bhargava, Registrar; and Dr. N.K. Kole, OSD to Director, National Institute of Technology Agartala.
2. None appeared for respondent No.2.
3. None appeared for complainant.

**ORDER**

The above named complainant filed a complaint dated 25.08.2013 under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, hereinafter referred to as the 'PwD Act, 1995', regarding not providing facilities to the students with disabilities in National Institute of Technology Agartala (NIT Agartala).

2. The complainant forwarded a copy of the complaint dated 16.08.2013 addressed to the Officer-in-Charge, Jirania Police Station, West Tripura. On the basis of the complaint the local police authority made a visit to NIT Agartala, inquired into the matter and the Inquiry Report was sent to the appropriate body. As per him, there was no shortage of fund required for providing lift facility as well as ramp for the students with disabilities.

All these essential set-ups were totally ignored. He raised certain allegations against the former Director.

3. Section 46 of the Persons with Disabilities (Equal Opportunities, Protection Rights and Full Participation) Act, 1995 provided as under:

*“46. The appropriate Governments and the local authorities shall, within the limits of their economic capacity and development, provide for -*

- a. ramps in public buildings;*
- b. adaptation of toilets for wheel chair users;*
- c. braille symbols and auditory signals in elevators or lifts;*
- d. ramps in hospitals, primary health centres and other medical care and rehabilitation institutions.”*

4. In view of the above, the matter was taken up with the respondent vide this Court's letter dated 23.06.2014 to look into the complaint and submit their comments.

5. The respondent filed their reply dated 05.08.2014 and submitted that the old buildings taken over from the State Government by the Government of India on 01.04.2006 were not included the facilities for the persons with disabilities. But the new constructions are inclusive of all the facilities for them. The proposed hospital of NIT Agartala also includes all facilities. NIT Agartala was carefully making proper arrangement to make the buildings accessible for the students with disabilities. The respondent assured that they would try their best to fulfill their needs.

6. The complainant in his rejoinder dated 15.09.2014 submitted that their organization made a sample survey as well as spot verification to verify the report of the Director of NIT-Agartala on 08.09.2014 and they did not find any similarity between the report of Director, NIT Agartala and their practical survey. As per their report there was no ramp for the easy access of wheel chair at the entrance of the Administrative building, no special toilet and no lift. In Academic building (2), there was no ramp at the entrance. The lift in the Virtual Class Room Building was not operating as a result students with disabilities were facing trouble to ride 1<sup>st</sup> and 2<sup>nd</sup> floors. Special Toilets made in this building were not as per the Government norms.

7. In view of the facts mentioned above, it was decided to write to the State Commissioner for Persons with Disabilities, Government of Tripura to conduct Access Audit of NIT Agartala and submit the report to this Court at the earliest possible. A letter dated 05.02.2015 was issued to the Commissioner for Persons with Disabilities, Government of Tripura along with the relevant documents. However, no response was received from the Commissioner for Persons with Disabilities, Government of Tripura despite reminders dated 22.06.2015 and 23.10.2015. Thereafter, the Director (DD.III),

Department of Empowerment of Persons with Disabilities, Ministry of Social Justice and Empowerment was requested vide this Court's letter 06.06.2016 to get an Access Audit conducted of NIT Agartala under Accessibility India Campaign to resolve the issue, but despite reminder dated 08.03.2017, no response was received from the Department.

8. To resolve the issue, the case was scheduled for personal hearing on 01.06.2017 and Notice of Hearing dated 08.05.2017 was issued to the parties.

9. During the hearing on 01.06.2017, none appeared for the complainant and Respondent No.2.

10. The representative appeared for Respondent No.1 filed a report on 'Various facilities created and made available at NIT Agartala for Persons with Disability (PwD) students & staff', containing the following –

- (a) 12 Ramps in 12 buildings;
- (b) 14 lifts installed in various buildings with proposed 14 lifts in near future;
- (c) Separate toilet facilities available in 09 buildings;
- (d) Transport facility from Hostel to Academic Buildings and vice-versa, also one ambulance specifically for students with disabilities;
- (e) All hostels at ground floor;
- (f) One meeting room in Administrative Building in Ground Floor specifically for students with disabilities;
- (g) Data for admission of PwD students –

	2014-15		2015-16		2016-17	
	Intake	Admission	Intake	Admission	Intake	Admission
B.Tech	23	12	15	12	19	10
BS-MS	2	0	1	0	2	0
BT-MT	0	0	0	0	1	0
Total	25	12	16	12	22	10

- (h) For the Session 2016-17, full waiver of tuition fee to 10 students @ Rs.1,25,000/- per annum for those PwD students;

- (i) Scholarship for students with disabilities –

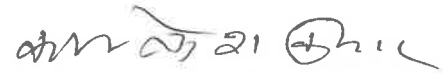
Name of the Scholarship	No. of students benefited	Session
NHFDC	6	2014-15
	13	2015-16
	1	2016-17
Post Matric Scholarship for students with disabilities (NSP)	7	2016-17

- (j) 3% reservation of seats for admission in UG and PG programmes. 3% reservation of seats for Teaching and Non-Teaching staff in recruitment; and

(k) One girl student with disability was provided a residential accommodation with 2 bed rooms to stay along with her mother in the campus.

11. In the light of the reply submitted by NIT Agartala, no further intervention is required in this case. However, since the PwD Act, 1995 has been repealed and the Rights of Persons with Disabilities Act, 2016 (RPWD Act, 2016) has been implemented w.e.f. 19.04.2017, the respondent No.1 is advised to ensure implementation of the RPWD Act, 2016 and provide facilities/benefits to the students/employees with disabilities as envisaged in the RPWD Act, 2016.

12. The case is accordingly disposed of.



(Dr. Kamlesh Kumar Pandey)  
Chief Commissioner for  
Persons with Disabilities



Exba

**न्यायालय मुख्य आयुक्त विकलांगजन**  
**COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES**  
विकलांगजन सशक्तिकरण विभाग / Department of Empowerment of Persons with Disabilities  
सामाजिक न्याय और अधिकारिता मंत्रालय / Ministry of Social Justice and Empowerment  
भारत सरकार / Government of India

Case No.: 6432/1033/2016

Dated 13.02.2018

**In the matter of:**

Shri Yogendra Soni,  
Email – [yogendra12345@gmail.com](mailto:yogendra12345@gmail.com)

.... Complainant

*Versus*

Indian Institute of Technology Roorkee,  
(Through: Director),  
Haridwar Highway, Roorkee, Uttarakhand-2476

.... Respondent

Date of Hearing 07.06.2017

Present:

1. Shri Ajay K Sharma, DR (Academics), IIT Roorkee for respondent.
2. None appeared for complainant.

ORDER

The above named complainant, a student with 40% visual disability, filed complaint through email dated 08.01.2016 under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, regarding his termination among others from Ph.D. course by Indian Institute of Technology Roorkee (respondent).

2. The complainant submitted that he joined Ph.D. Programme on 31.07.2015. He alleged that the respondent, without considering that he was a person with disability, terminated him including many other students from the programme within 5 months on the ground that he could not score 7.00 pointer GPA in first semester. He further informed that according to IIT ordinances, 15 month time was given to complete Ph.D. course. This one time rule, to complete the course in 10 months, was not mentioned anywhere in the published manual, nor was communicated either. The complainant has also alleged that the IIT Roorkee authorities are mentally harassing the students on vague ordinance.

3. The matter was taken up with the respondent vide this Court's letter dated 29.07.2016 for submission of their comments.

4. The respondent vide their letter dated 12.08.2016 filed their reply and submitted that as per Clause R4(1)&(3) of the Ph.D. Ordinances & Regulations, the complainant

could not acquire the required minimum 7.00 CGPA. Therefore, his name was struck off from the rolls of the institute in line to the said clause vide Institute's letter No.Research/2205/PF dated 31.12.2015. The respondent further submitted that the complete Ph.D Ordinances & Regulations are available on the Institute's website for ready reference of the general public and the students. Moreover, the clause was also notified amongst research scholars for information vide notification No.Acad./463/UG-15 (senate) dated 03.04.2014.

5. This Court vide letter dated 09.03.2017 further asked the respondent to clarify whether the provision of relaxation/providing reasonable accommodation to students with disabilities was there in the Ph.D. Ordinances and Regulations; and if yes, provide a copy of the same for perusal of this Court.

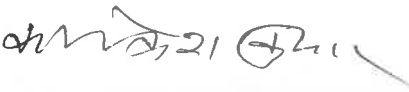
6. The respondent vide their letter dated 20.03.2017 submitted that they had already answered vide their reply dated 12.08.2016.

7. Upon considering the reply received from the respondent, the case was scheduled for personal hearing on 07.06.2017.

8. During the hearing on 07.06.2017 the representative of the respondent submitted that the students with disabilities are provided relaxation in eligibility criteria at the time of admission to Ph.D course, but no relaxation is provided in passing the examinations. At Clause 5 of the Notification dated 3/4.04.2014, it is clearly mentioned that "...The candidates will have to score a minimum CGPA of 7.00 failing which his/her registration shall be terminated. ..."

9. In the lights of the facts submitted, there appeared neither violation of any provision of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 nor the instructions issued by the Government.

10. The case is accordingly disposed of.

  
(Dr. Kamlesh Kumar Pandey)  
Chief Commissioner for  
Persons with Disabilities





सत्यमेव जयते

**न्यायालय मुख्य आयुक्त विकलांगजन**  
**COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES**  
 विकलांगजन सशक्तिकरण विभाग / Department of Empowerment of Persons with Disabilities  
 सामाजिक न्याय और अधिकारिता मंत्रालय / Ministry of Social Justice and Empowerment  
 भारत सरकार / Government of India

Case No: 8307/1022/2017

Dated : 15.02.2018  
 Dispatch No. ....

In the matter of :

Km. Atisha Singh & Others,  
 R/o . E-133, U.G.F.,  
 Mittal Chowk,  
 Pul Pehaldpur,  
 New Delhi – 110 044

.....Complainant

**Versus**

Kendriya Vidyalaya Sangathan,  
 (Through the Commissioner),  
 18, Institutional Area,  
 Shaheed Jeet Singh Marg,  
 New Delhi – 110 016

.....Respondent

**Date of Hearing :** 07.02.2018 at 12:00 Hrs

**Present :**

1. Ms. Atisha Singh, the Complainant along with her father Shri Radha Charan
2. Shri R.K. Patnik, Asstt. Commissioner, KVS (HQ) and Shri J.K. Gupta, Section Officer

**ORDER**

The above named complainants, had filed a complaint dated 28.06.2017 under the Rights of Persons with Disabilities Act, 2016 regarding transfer of their father Shri Radha Charan, a person with 80% locomotor disability, from KV NEPA Barapani (Meghalaya) to any Kendriya Vidyalayas in Delhi.

2. The Complainants submitted that their father Shri Radha Charan who has been working as Principal in Kendriya Vidyalaya, Ramgarh BSF, Jaisalmer has been transferred to Kendriya Vidyalaya, NEPA, Barapani (Meghalaya vide letter KVS' letter no. 11048/1-1/2015-KVS(Estt-I)/2770-77 dated 26.08.2016. Km. Atisha Singh is a 2nd year student of B.A. of Gargi College, University of Delhi. Her brother Master Purnendu Kumar Singh is studying in Class-XII in Kendriya Vidyalaya, Tughlakabad, New Delhi and her sister is only 10 years old. They submitted that they are facing a distressing condition on account of their father's transfer to K.V. NEPA, Barapanai, which is about 2000 kms. away from Delhi. Their father is a person suffering from 80% locomotor disability and is handicapped due to polio on both the legs. Their father is a single parent with three dependent children. They further submitted that in their father's service career of

....2/-

about 24 years in KVS, he not only served in Jammu & Kashmir but had also accepted every transfer order with true spirit. Their father has continuously been applying for his transfer to Delhi but his request has not been considered yet by KVS.

3. The matter was taken up with the Respondent under Section 75(1) of the Rights of Persons with Disabilities Act, 2016 vide letter dated 03.08.2017.

4. The Assistant Commissioner (Estt-1), Kendriya Vidyalaya Sangathan vide his dated 06.10.2017 has submitted that the complainant was transferred to KVS, N.E.P.A, Barapani vide their Office Order dated 26.08.2016. They submitted that considering the disability of the complainant and to look after his children and their education, KVS has transferred the complainant from KVS, N.E.P.A, Barapani (Meghalaya) to KVS, Harsinghpura, Haryana on 01.12.2017.

5. The complainants vide their rejoinder dated 22.11.2017 has submitted that their father is a widower and is surviving alone at his new present place of posting along with his minor daughter Kumari Tapti Singh who is 10 years old. They further submitted that the Respondent vide his reply dated 06.10.2017 has transferred their father to KVS, Harsinghpura, Haryana which is about 100 Kms from Delhi. They submitted that this posing to her father served no purpose as her father who has 80% locomotor disability cannot travel such a long distance without the help of an escort. In a city like Delhi, the children were left alone without their father or any natural guardian to take care of them. They have requested to transfer her father to any KVS in New Delhi.

6. After considering Respondent's reply dated 06.10.2017 and complainant's rejoinder dated 22.11.2017, a personal hearing was scheduled on 07.02.2018 at 12:00 Hrs.

7. The Complainant and Shri Radha Charan reiterated their earlier submissions given in their initial complaint dated 28.06.2017.

8. The Representatives of Respondent assured the Court that they will consider the posting of Shri Radha Charan in Delhi as early as possible against the vacant position available in Delhi now.

9. Considering the difficulties faced by Shri Radha Charan and his dependent Children, the Court directed the Respondent to consider posting of the Complainant to any KVS Schools near to his place of residence in Delhi within 60 days of issuance of this Order and advised the Respondent to submit a compliance report to this Court.

10. The case is disposed off accordingly.



**(Dr. Kamlesh Kumar Pandey)**  
Chief Commissioner  
for Persons with Disabilities



सत्यमेव जयते

**न्यायालय मुख्य आयुक्त विकलांगजन**  
**COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES**  
 विकलांगजन सशक्तिकरण विभाग / Department of Empowerment of Persons with Disabilities  
 सामाजिक न्याय और अधिकारिता मंत्रालय / Ministry of Social Justice and Empowerment  
 भारत सरकार / Government of India

**Case No. 7553/1011/2017**

**Dated: 16.02 2018**

**In the matter of:-**

Dr. Nitesh Kumar Tripathi  
 H.No. B – 241, B Block  
Sant Nagar Burari, Delhi – 110084  
 <niteshtripathi85@gmail.com>

Complainant

Versus

National Institute of Technology  
 Through the Director  
 NH 66, Srinivas Nagar, Surathkal  
Mangaluru, Karnataka

Respondent

**Date of Hearing: 08.01.2018**

Present:

1. Dr. Nitesh Kumar Tripathi - Complainant
2. Shri K. Ravindranath, Registrar, Shri Soumen karmakar on behalf of Respondent.

**ORDER**

The above named complainant Dr. Nitesh Kumar Tripathi filed an e-mail dated 24.01.2017 under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act 1995, hereinafter referred to as the Act regarding non implementation of provisions of Persons with Disabilities Act, 1995 by National Institute of Technology, Karnataka.

2. The complainant in his complaint submitted that National Institute of Technology, Karnataka has published an advertisement for Doctors & various other posts and the advertisement is not showing exact number of seats reserved for persons with disabilities. He has requested this court to direct the respondent to provide various faculties like full exemption from the payment of application fee, extra time during examination, travel expenses to attend interview along with an escort, disabled friendly environment during the interview and to also conduct the Special Recruitment Drive for filling up the backlog vacancies for persons with disabilities.

3. The matter was taken up with the respondent vide letter dated 24.03.2017 under Section 59 of the Persons with Disabilities Act, 1995.

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4. In response, Registrar, National Institute of Technology Karnataka vide letter dated 22.05.2017 has submitted that earlier Institute has notified some vacancies for recruitment of certain officers level positions vide advertisement dated 09.12.2014, Dr. Nitesh Kumar Tripathi has applied for Medical Officer position against the advertisement and interview was not held due to some administrative exigency. Institute again notified the position of Medical Officer vide advertisement dated 12.12.2015. Dr. OTripathi has applied once again. This time also the selection process could not took place due to the changeover of Director Position. Recently, Institute has advertised for the position of Medical Officer vide advertisement dated 16.01.2017 and no short listing was done and selection process has not been initiated till date. The issue of not shortlisting/not calling Dr. Tripathi in the selection process as per his earlier complaints does not arise at all. As the Institute has already pointed out in earlier communications that reservation clause was already mentioned in all the above mentioned notifications. In addition to that, no application fees were collected from any of the applicants. He further submitted that the Institute has been summoned by the Court of CCPD at New Delhi vide communication 3259/1011/2014 dated 20.10.2017 to appear personally on 14.02.2017 and to produce the documents. Institute has complied the order and NITK official (Group A) personally appeared before the Court and produced the documents including NIT statues, Act, Recruitment Rules, PwD roster from 1996. Further, as per the instruction received from the Ministry of HRD, Govt. of India Institute has already completed the recruitment of backlog vacancies for the PwD candidates. Separate 100 points roster is prepared in accordance with the guidelines of Govt. of India. Backlog vacancy position since the 1996 were calculated based on the Roster points. All the possible measures were taken to encourage the PwD candidates in accordance with the guidelines received from Govt. of India time to time. As per the prevailing practice no application fees were collected from the applicants at the time of application process. Disabled friendly atmosphere with basic amenities had been arranged for the candidates and their attendants to attend the selection process. For the faculty positions, the selection was held in Bangalore which is well connected with the all parts of country. In addition to that, there was arrangement for the applicants to attend the selection process through video conference.

5. Complainant vide rejoinder dated 17.09.2017 has inter-alia submitted that after going through the reply of the respondent nothing has been answered as per the issues raised in his original complaint and respondent had not considered for providing the disabled friendly atmosphere during written examination as well as interview for the PwD. Further, he has requested to schedule a personal hearing.

6. After considering the respondent's letter dated 22.5.2017 and complainant's e-mail dated 17.09.2017, it was decided to hold a personal hearing in the matter therefore, the case was listed on 08.01.2018.

7. After hearing both the parties and material available on record, the case is disposed off with the following directions:-

- NIT should ensure to provide accessibility environment in all its institutes and
- To follow the DOP&T's instructions contained in their OM No. 36035/02/2017-Estt. (Res) dated 15.01.2018 for persons with disabilities.



**(Dr. Kamlesh Kumar Pandey)**  
Chief Commissioner  
for Persons with Disabilities



सत्यमेव जयते

**न्यायालय मुख्य आयुक्त विकलांगजन**  
**COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES**  
 विकलांगजन सशक्तिकरण विभाग / Department of Empowerment of Persons with Disabilities  
 सामाजिक न्याय और अधिकारिता मंत्रालय / Ministry of Social Justice and Empowerment  
 भारत सरकार / Government of India

केस सं०: 7694 / 1013 / 2017

दिनांक: 16.02.2018

श्री मानवेन्द्र सिंह  
 85, जे.पी.विहार, मंगला रोड़  
 बिलासपुर - छत्तीसगढ़ - 495002

वादी

**बनाम**

हिन्दुस्तान पेट्रोलियम कॉर्पोरेशन लिमिटेड  
 द्वारा महाप्रबंधक  
 17, जमशेदजी टाटा रोड़, मुंबई - 400020

**सुनवाई की तिथि : 08.01.2018**

**उपस्थित :**

- श्री मानवेन्द्र सिंह तोमर - वादी
- प्रतिवादी - अनुपस्थित

**आदेश**

उपरोक्त शिकायतकर्ता और ने विधि अधिकारी पद पर नियुक्ति से संबंधित शिकायत - पत्र निःशक्तजन अधिकार अधिनियम, 2016 के अन्तर्गत इस न्यायालय में प्रस्तुत किया।

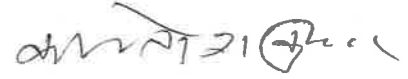
2. प्रार्थी का अपनी शिकायत में कहना था कि दिनांक 21.03.2014 को हिन्दुस्तान पेट्रोलियम ने विधि अधिकारी पद के इंटरव्यू में उसके साथ दुर्भावनापूर्वक पक्षपात किया और जानबूझकर चयन नहीं किया और इस बारे में हिन्दुस्तान पेट्रोलियम कार्यालय को उन्होंने जून 2014 से मई 2015 में 10 पत्र कोरियर पोस्ट से भेजा, लेकिन हिन्दुस्तान पेट्रोलियम कार्यालय का सहयोग नहीं मिला। प्रार्थी का आगे कहना था कि हिन्दुस्तान पेट्रोलियम ने फिर से विधि अधिकारी का विज्ञापन दिया, जिसमें बधिर विकलांग कोटा नहीं दिया। प्रार्थी का आगे कहना था कि 21 मार्च 2014 को हिन्दुस्तान पेट्रोलियम बोर्ड ने जानबूझकर उनका इंटरव्यू सही तरीके से नहीं लेकर और जानबूझकर कम नम्बर देकर उनके साथ दुर्भावनापूर्वक किया पक्षपात ही किया था। लेकिन रिकार्ड की जाँच करने पर यह पाया गया कि उप महाप्रबंधक, प्रतिभा स्त्रोत एवम् जनशक्ति आयोजना, हिन्दुस्तान पेट्रोलियम कॉर्पोरेशन लिमिटेड, मुंबई ने अपने जवाब दिनांक 06.11.2015 के माध्यम से बताया है कि उनको सरकार के दिशा-निर्देशों के अनुसार विकलांग व्यक्तियों के लिए लागू सभी छूट चयन प्रक्रिया में प्रदान की गई थी और चयन प्रक्रिया उचित एवं पारदर्शी रूप से सम्पन्न हुई थी। उन्होंने अपने पत्र दिनांक 12.11.2014 के माध्यम से चयन के लिए कट ऑफ अंक और प्रार्थी द्वारा अर्जित अंक की सूचना भेजी थी। चूंकि, प्रार्थी ने आवश्यक न्यूनतम अंक नहीं प्राप्त किये इसलिए उनकी उम्मीदवारी पर विचार नहीं किया गया।

3. उक्त मामला दिनांक 29.05.2017 को हिन्दुस्तान पेट्रोलियम कॉर्पोरेशन लिमिटेड से लिया गया। स्मरण पत्र दिनांक 04.08.2017 के बावजूद हिन्दुस्तान पेट्रोलियम कॉर्पोरेशन लिमिटेड से कोई जवाब नहीं आया इसलिए दिनांक 08.01.2018 को सुनवाई रखी गई।

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4. सुनवाई के दौरान प्रतिवादी की ओर से कोई भी उपस्थित नहीं हुआ और न ही कोई सूचना प्राप्त हुई। जबकि सुनवाई का नोटिस दिनांक 06.12.2017 स्पीट पोस्ट से दोनों पक्षों को भेजा था। इस न्यायालय ने गंभीरता चिंता के साथ नोट किया कि प्रतिवादी के द्वारा घोर उपेक्षा दिखाई गई है।

5. शिकायतकर्ता को सुनने के पश्चात् यह पाया गया कि मामले में निःशक्तजन अधिकार अधिनियम, 2016 की किसी धारा, नियम या सरकारी दिशा निर्देशों का उल्लंघन प्रतीत नहीं होता है इसलिए इस केस को खारिज किया जाता है।



(डॉ कमलेश कुमार पाण्डेय)  
मुख्य आयुक्त (दिव्यांगजन)



सत्यमेव जयते

Ex 109

**न्यायालय मुख्य आयुक्त विकलांगजन**  
**COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES**  
 विकलांगजन सशक्तिकरण विभाग / Department of Empowerment of Persons with Disabilities  
 सामाजिक न्याय और अधिकारिता मंत्रालय / Ministry of Social Justice and Empowerment  
 भारत सरकार / Government of India

Case No.: 7272/1031/2016

Dated 20.02.2018

In the matter of:

R-6947-

Dr. Nitesh Kumar Tripathi,  
 H.No.B-241, B-Block, Sant Nagar,  
 Burari, Delhi-110084  
 Email- [niteshtrpathi85@gmail.com](mailto:niteshtrpathi85@gmail.com)

.... Complainant

*Versus*

National Institute of Mental Health and Neurosciences,  
 [Through: The Director]  
 Hosur Road, Lakkasandra, Wilson Garden,  
 Bengaluru, Karnataka 560029

R-6948

.... Respondent

Date of hearing: 26.12.2017

Present:

1. Dr. Nitesh Kumar Tripathi, complainant.
2. Shri B.N. Gangadhar, Director & VC, NIMHANS for respondent.

**ORDER**

The above named complainant a person with 65% locomotor disability (lower limb) filed a complaint vide email dated 13.12.2016 under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (PwD Act, 1995) regarding non-implementation of the Act, in the admission to various PG courses by the respondent.

2. The complainant submitted that the Prospectus 2016-17, did not show the reservation status in admission to almost all courses and had given only one seat in two years in a single specialty that was not according to PwD Act, 1995. It must be in each and every specialty and each and every session of the entrance examination. Qualifying marks must be as per order of the Apex Court that had fixed 45% or percentile for candidates with disabilities in the entrance examination for admission to PG medical courses, 100 point reservation roster since 1995, the details of the candidates with disabilities who applied, appeared and got admission in all the courses offered and marks obtained by each and every candidate with disability. Full exemption from the payment of application fee as Persons with Disabilities were not exempted from Payment of application fee same as

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AIIMS , PGI , JIPMER etc., Age relaxation by at least 10 years, extra time during examination & or Interview, WC toilet & pure drinking water , all the processing must be at the ground floor, arrangement for the stay at the nearest possible site from the venue of Examination & Interview and a positive disabled friendly atmosphere, travel expenses to attend interview along with an escort & a disabled friendly environment during the examination (Interview) as per the norms of UNCRPD so that there must not be any kind of negative feeling in the heart of a PwD candidate due to his/her disability.

3. Under Section 59 of the Act, this Court, vide letter dated 27.02.2017, took up the matter with the respondent and advised him to submit comments ensuring that the legitimate rights of persons with disabilities are not infringed.

4. The respondent vide their reply dated 19.04.2017 submitted that many of the courses wherein the reservation is permissible, the number of seats are very limited and they vary from 1 to 31. In this background, it is not practically possible to provide reservations at 3% in several courses and taking into account total number of seats available and the number of candidates from physically disabled category who are found eligible and also qualified in the entrance exam, the said candidates are selected for different courses and sometimes creating a Supernumerary seats wherever it is possible. Further, the eligibility criterion for the persons with physical disabilities is fixed at 50% of the total marks in their qualifying examinations. However, the selection process is subject to the overall merit among the candidates with physical disabilities. The prospectus issued by the Institution makes it very clear that regarding the reservation of seats, Reservation Roster prescribed by the Government of India will be followed for each course as applicable. If suitable candidates are not available in the physically disabled category, they will be filled up by General category candidates as per the eligibility. In the academic year 2016-2017, 9 candidates with physical disabilities applied and among them, one Ms. Kala P. Nair was selected to the course of Ph.D. in Neurophysiology. Ms. B. Anandhi was selected for M.Phil in Psychiatric Social Work by creating a supernumerary seat. The remaining candidates, who applied, did not qualify for the selection. The Institution has been making all efforts to accommodate as many candidates as possible from physically disabled category fulfilling eligible criteria and bearing in mind the reservation provided for them as per the provisions of the PwD Act, 1995. So far as providing facilities is concerned, special care is taken to provide Ground floor for the Entrance Exam Centre for candidates with Orthopedically Disabled candidates, separate rooms for visually impaired candidates with scribe facility along with additional time of 20 minutes per hour are provided. Most of the buildings at NIMHANS are user friendly to persons with disabilities

and there are ramps in the hospital, toilets for wheelchair users, lifts with operator facility in addition to having other medical care and rehabilitation facilities.

5. Complainant filed his rejoinder vide email dated 15.11.2017 and submitted that respondent did not answer as per the issues raised in his original complaint. Since the next session of Academic year is going to be processed soon, all those must be included before publication of Advertisement and prospectus to prevent the violation of provisions of the Rights of Persons with Disabilities Act, 2016.
6. Upon considering the reply of respondent and rejoinder submitted by the complainant, the case was scheduled for personal hearing on 26.12.2017.
7. During the hearing on 26.12.2017 the complainant reiterated his complaint and submitted that respondent did not answered on the issues raised by the complainant.
8. The representative appearing on behalf of the respondent submitted a written reply which was taken on record on that day. As per their reply it has been intimated that –

- the applicants applied, appeared and joined for the Academic Year 2015-16, 2016-17 and 2017-18 as under :

Particulars of candidates with disabilities	Academic Year		
	2015-16	2016-17	2017-18
Total applied for admissions	25	17	19
Total appeared in online entrance test	14	9	16
Total qualified in online entrance test	1	2	4
Total attended in counseling	1	2	4*
Total applicants who joined various courses	1	2	3

(\* 1 candidate qualified for the Course, but did not join the course)

- The Prospectus was uploaded as on 01.12.2016 before the enactment of RPWD Act, 2016. Therefore, prospectus was followed. RPWD Act, 2016 can be applied 100% for 2017-18.
- Eligibility for candidates with disabilities in the entrance exam is 50% marks.
- Age relaxation is only for employment and not for education.
- Special care is taken to provide ground floor for the entrance examination centre for the orthopedically disabled candidates, separate rooms are provided for the candidates with visual impairment to make them comfortable. Scribe facility along with additional time of 20 minutes per hour is also provided. At the time of counseling user friendly access, ramps/lift with operator facility are provided for the persons with disabilities.

- The prospectus for the year 2018-19 has taken utmost care in addressing the issues of the persons with disability and is awaiting approval of the Ministry. On receipt of the same, it would be uploaded in the NIMHANS website as well as in the National Newspapers.
- There are 36 seats in MD Psychiatry which permits for 1 seat to be reserved for persons with disabilities (orthopedic/low vision). However, to benefit the candidates with disabilities, NIMHANS has combined the inter-disciplinary courses OF M.Phil in Clinical Psychology [21 seats] and M.Phil in Psychiatric Social Work [21 seats] to 78 seats and together to accommodate a maximum of 3% or 3 candidates.
- NIMHANS has accommodated all the candidates (100%) who had qualified under PwD category and offered the seats, even in other courses during the Academic Year 2017-18 and earlier
- As per RPWD Act, 2016, NIMHANS has proposed that Online Application Fee will be exempted from Academic Year 2018-19 onwards; Qualifying Marks will be 50% in the Online Entrance Test or as per the RPWD Act, 2016; 5% reservation of seats will be implemented as applicable based on merit of the case from Academic Year 2018-19 onwards; and 5 years relaxation will be given in upper age limit on merit of the cases from Academic Year 2018-19 onwards.

9. In the light of the submission made by the respondent, there appears no violation in terms of the provisions of RPWD Act, 2016. Moreover, the complainant's complaint is unspecific. Hence no specific direction can be given to the respondent. However, the respondent is advised to implement the RPWD Act, 2016 in its true spirit and ensure that the persons with disabilities are provided all the benefits provided in the RPWD Act, 2016.

10. The case is accordingly disposed of.



(Dr. Kamlesh Kumar Pandey)  
Chief Commissioner  
for Persons with Disabilities



सत्यमेव जयते

**न्यायालय मुख्य आयुक्त विकलांगजन**  
**COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES**  
**विकलांगजन सशक्तिकरण विभाग / Department of Empowerment of Persons with Disabilities**  
**सामाजिक न्याय और अधिकारिता मंत्रालय / Ministry of Social Justice and Empowerment**  
**भारत सरकार / Government of India**

Case No: 6488/1024/2016

Dated : 20.02.2018  
 Dispatch No. ....

In the matter of :

R-6695  
 Shri Mithlesh Choudhary,  
 S/o Late Shri Munni Choudhary,  
 C/o P & T Audit Office,  
 In front of Pani Tanki,  
 Gate No.1, Baramati Stadium,  
 Cuttack – 753 001

....Complainant

R-6696  
 The Secretary,  
 Ministry of Communication & IT,  
 Department of Posts,  
 Dak Bhawan,  
 Sansad Marg,  
 New Delhi – 110 001

....Respondent 1

R-6697  
 The Comptroller & Accountant General of India,  
 10, Bahadur Shah Zafar Marg,  
 New Delhi – 110 002

....Respondent 2

R-6698  
 The Director General of Audit,  
 Post & Telecommunications,  
 Sham Nath Marg,  
 (Near Old Secretariat),  
 Delhi – 110 054

....Respondent 3

R-6699  
 The Deputy Director,  
 P & T Audit Office,  
 GPO Complex,  
 7, Koilaghat Street,  
 Kolkata – 700001

....Respondent 4

R-6700  
 The Appointing Authority/Deputy Director,  
 Through Sr. Audit Officer-in-Charge,  
 P & T Audit Office,  
 Gate No.1,  
 Baramati Stadium  
 Cuttack – 753 001

....Respondent 5

Date of Hearings : 16.01.2018, 06.12.2017, 16.11.2017 and 01.11.2017.

Present :

1. Dr. Aurobindo Ghose, Advocate on behalf of Shri Mithlesh Choudhary.
2. Ms. Sneha Verma, Advocate on behalf of all Respondents and Shri Golmei Akhonmei, Sr. Auditor, Office of DGA, P&T, Delhi.

....2/-

ORDER

Dr. Aurobindo Ghose, the learned counsel for Shri Mithlesh Choudhary has made a complaint dated 06.06.2016 before the Chief Commissioner under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, hereinafter referred to as the Act, regarding quashing and setting aside the impugned Order dated 18.02.2016 and denial of permission to Shri Mithlesh Choudhary, a 100% visually impaired person from appearing in the Departmental Examination for promotion to the post of Auditor and Others.

2. Shri Aurobindo Ghose submitted that Shri Choudhary belongs to Scheduled Caste. He is presently working as Clerk in the Office of Deputy Director, P&T Audit Office, Cuttack. Shri Choudhary was initially appointed as temporary Clerk under seniority quota in the Office of P&T Audit Office, Cuttack. He was initially posted as Multi Tasking Force (MTS) on 01.02.2012. He was still recently working as MTS on deputation in the Office of Posts & Telecommunication (Audit), Jaipur. He was transferred back on 10.09.2015 to his original office, i.e P&T Audit Office, Cuttack. His initial appointment was made with full knowledge that the applicant is a totally visually impaired person. Shri Choudhary was not promoted to the post of Auditor whereas another employee with visual impairment has been promoted first to the post of L.D.C. then to the post of Auditor after passing the requisite examination. Shri Choudhary had also approached Hon'ble CAT. Through the interim order dated 13.02.2015 of CAT, the applicant was allowed to provisionally participate in the departmental examination for the post of Auditor. However, when the results of the applicant were opened in the final hearing before the CAT on 14.08.2015, it was found that the applicant has failed. Therefore, the O.A. had become infuctuous and was dismissed accordingly. The CAT passed the detailed order dated 14.08.2015 which was not on merits. The Central Office has intimated the complainant that the post of Auditor is not identified suitable for blind person.

3. The matter was taken up with the Respondents under Section 59 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, Act vide this Court's letters dated 17.08.2016,

4. The Respondent no. 3 vide letter dated 29.09.2016 has submitted that the prayer of the Complainant cannot be acceded to in view of the fact that the Complainant is a 100% visually impaired person and the post of Auditor is not an identified post for Blind persons. The prayer of the Complainant is barred by the C&AG's Office Circular No. NGE/13/2003 dated 20.03.2003 which categorically states that the post of Auditors is not an identified job for category of visually impaired persons. The said Circular states out a list of identified posts with disabilities permissible for each post. The parity sought by the Complainant with Shri Vinod Kumar Kesri is also not viable. The Respondent submitted that Shri Vinod Kumar Kesari was inadvertently granted promotion to the post of Auditor. Furthermore, since he has already issued a Hall Ticket for taking up the examination for Auditors for promotion to the post of Senior Auditor, the Learned Tribunal held as under.

"Since a visually handicapped person was being permitted for taking the examination by the respondents themselves, it was their duty to make necessary arrangements to enable him to take the said exam."

However, the respondent submitted that the said case is not applicable in the case of the present complainant as anything done by mistake and any benefit granted as a consequence of such an act, cannot be a precedent. The Complainant cannot seek negative quality. In the case of Shri Vinod Kumar Kesri, it was the mistake of the Department that he was promoted to the post of Auditor contrary to the Circular dated 20.03.2003 and thereafter, issued him a Hall Ticket. Hence, it was held by the Learned Tribunal that since Shri Kesri was already permitted to take an exam, he cannot later be denied of the same. Shri Vinod Kumar Kesri was appointed in the year 1987 which was much before the Circular dated 2003 came into effect. As such the appointment and service of Shri Kesri did not come under the purview of the Circular dated 20.03.2003, not being retrospective in nature. Shri Kesri was promoted from Group 'D' to Clerk and subsequently to the post of 'Auditor' on seniority quota and not through the Departmental exam. Moreover, for promotion to the post of Senior Auditor, he was already issued a Hall Ticket and was thereafter not allowed to sit in the exam for non availability of brail script. The Learned Central Administrative Tribunal, therefore, held that such an act is a reflection of carelessness on the part of the Respondent Department because since Shri Kesri was permitted to sit in the examination, it was the duty of the Respondent to make necessary arrangement enabling him to write the exam. The complainant was appointed in the post of MTS only on 01.02.2012 by which time, the Circular dated 20.03.2003 was very much applicable and effective. The respondent further stated that the complainant was allowed to provisionally appear in the Departmental Examination held in February, 2015, only as a consequence of the interim order passed by the Ld. Tribunal on 13.02.2015. As per the Circular dated 20.03.2003, the post of Auditor is suitable only for OA (One Arm & OL (One Leg) category of disabilities. Shri Choudhary is a 100% visually impaired person who is not eligible for the post of Auditor. The case of Shri Vinod Kesri cannot be taken as a precedent as Shri Kesri was allowed to take up the Departmental Examination for Auditors for promotion to the post of Senior Auditors as the Hon'ble Tribunal was of the view that since Respondents had already issued a Hall Ticket to him, he cannot be turned away from the examination hall by stating that there are no brail scripts available. The relevant portion of the judgment dated 31.03.2014 in the matter of 'Shri Vinod Kumar Kesri vs UOI' bearing OA No.984/2012 which shows the situation under which Shri Kesri was allowed to take up the examination is as under:

'4.2 in our opinion, the respondents have been extremely callous in dealing with the applicant. They have not denied that the applicant was turned away from the

examination hall in August 2009 because they could not provide him answersheet in brail script. This itself is a reflection of carelessness on the part of the Respondent. Since a visually impaired person was being permitted for taking the examination by the respondents themselves, it was their duty to make necessary arrangements to enable him to take the said exam'.

The respondent submitted that the Order dated 31.03.2014 by the Principal Bench, CAT, New Delhi could not be implemented as the official, i.e. Shri Vinod Kesri retired on superannuation on 30.10.2012. Hence, a Review Petition was filed before the Learned CAT bearing RA No.227/2014 stating that since the applicant had already superannuated, he could not be allowed to write the examination or be given promotion. In the said Review Petition, it was also reviewed that the Shri Vinod Kesri had already passed away. Hence, Review was allowed and the Order dated 31.03.2014 did not survive. The Respondent submitted that the Complainant cannot take the plea that he is otherwise eligible for the Departmental Examination as the Respondents had earlier allowed him to take up the said examination provisionally. They submitted that the Complainant was provisionally allowed to appear in the said Examination in 2015 in compliance of an Order dated 13.02.2015 passed by the Learned Central Administrative Tribunal. Allowing the Complainant to provisionally appear in the examination in compliance of a Court Order does not render the Complainant eligible for the said examination. It was the specific case of the Respondents even before the Learned Central Administrative Tribunal that the Complainant is not eligible for taking up the Departmental Examination for promotion to the post of Auditors. Hence, the Complainant is wrong in pleading that since the Respondents provisionally allowed him to appear in the examination, he is deemed eligible for the same. Since the post of Auditor is not identified for visually challenged persons, the Complainant cannot claim to have a right to appear in the Departmental Examination for promotion to the said post. It is not out of place to mention that the nature of work attached to the post of Auditor requires vision and the only disability which is allowed is OA (one arm) and OL (one leg). Further the post profile includes auditing in Central Government Offices, most of the time visiting various offices under the zone. The Complainant being 100% blind is not suitable to perform different kinds of duties like analyzing the documents of auditee departments and also the plethora of research work attached to the said Post.

5. The complainant vide his rejoinder letter dated 07.11.2016 submitted that without admitting the case of the opposite parties as reflected in their reply to the complainant of the applicant/complainant, and without prejudice to the rights and contentions of the applicant/complainant, it is submitted that the opposite parties have not complied with and hence liable for contempt of the direction of the Hon'ble Supreme Court in its judgment dated 08.10.2013. In the case titled "Union of India & Anr. Versus National Federation of

the Blind & Ors. directing "the appropriate Government to compute the number of vacancies available in all the establishments and further identify the posts for disabled persons within a period of three months from today and implement the same without default'. The opposite parties have stated in their reply to the complainant, that the post of Auditor is not an identified post for Blind persons as per C&AG's Office Circular No. NGE/13/2003 dated 20.03.2003. The complainant submitted that the reply of the Opposite parties are wrong and denied, except for matters of record. It is wrong to say that the applicant was promoted to the temporary post of clerk under seniority quota due to wrong fixation of seniority inadvertently which was resulted in reversion to the post of MTS on 23.03.2016 and again promoted to the post of clerk on 01.04.2016.

6. Upon considering the Respondent no. 3's reply dated 29.09.2016 and Complainant's replies dated 07.11.2016 a hearing in the case was scheduled on 01.11.2017 at 11:00 Hrs.

7. During the hearing the Learned Counsel for Shri Mithlesh Choudhary vide his written submission dated 10.11.2017 submitted that the Learned Counsel for the Respondent had raised the issue of maintainability of the complaints due to the twin reasons of lack of jurisdiction and non-joinder of necessary party. The Learned Counsel for the Complainant vide his written letter dated 01.11.2017, requested the Court to give a new date of hearing.

8. During the hearing, the representatives of Respondent reiterated their earlier submissions submitted in their reply dated 29.09.2016.

9. The Court adjourned the hearing to 16.11.2017 at 12:00 Hrs.

10. During the hearing, the Learned Counsel for Shri Mithlesh Choudhary reiterated his earlier submissions given in his initial complaint dated 06.06.2016.

11. During the hearing, the Legal Counsel for the Respondents vide her written submissions dated 16.11.2017 submitted that Shri Mithlesh Choudhary had filed the present complaint praying, inter alia, to quash and set aside the orders dated 18.02.2016 and to allow him to appear in the next departmental exam held for promotion for the post of Auditor. The Complainant had earlier approached the Central Administrative Tribunal in OA 616/2015 and because the Complainant did not succeed before the said Tribunal, the Complainant has now approached this Learned Commission to arm-twist the Respondents to cede to this unlawful demand. The Learned Counsel submitted that the prayer of the Complainant cannot be acceded to in view of the fact that the same is a purely service matter and the jurisdiction to entertain the present issue lies with the Central Administrative Tribunal. Hence, the present Complaint is liable to be dismissed being not



maintainable. The Complaint of Shri Mithlesh Choudhary is not maintainable also in the light of the observations made by the Delhi High Court in the matter of Directorate of Education & Anr. Vs. Mr. Karam Vir Singh Ranghi & Ors., W.P. (C) No.15226/2004. The prayer of the Complainant is not maintainable in view of the C&AG's Office Circular no. NGE/13/2003 dated 20.03.2003 which categorically states that the post of Auditors is not an identified job for category of visually impaired persons. It is a fact that the Complainant is a 100% visually impaired person and the post of the Auditor is not an identified post for blind persons. The C&AG's Office Circular no. NGE/13/2003 dated 20.03.2003 is in consonance with Section 32 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995. The said Circular of C&AG has neither been challenged nor has been sent aside by any Courts. The same has been issued to identify the posts for persons with disabilities so as to find the suitable posts for each category of disability depending on the nature of work attached to each post. As per the said Circular dated 20.03.2003, the post of the Auditor is suitable for OA (One Arm) and OL (One Leg) category of disability. Therefore, on the face of it, the Complainant is not suitable for the post of Auditor. She further submitted that there are certain duties enlisted in the Circular dated 20.03.2003 which are to be allotted as per their fitness and ability to perform the same. The nature of duties which are to be performed by an Auditor are such that the Complainant being 100% blind person will not be able to perform and hence, the Complainant is not a suitable candidate to appear in the Departmental examination for promotion to the post of Auditor. The Respondents are not violating right or privileges of visually impaired persons in any way. The Respondent have vide the circular dated 20.03.2003 have specified each position along with needs and requirements of the specific posts. The Complainant has sought parity with Shri Vinod Kumar Kesri, which is not viable. The Circular of C&AG was issued in 2003 whereas Shri Kesri was appointed in the year 1987. Hence, Shri Kesri's appointment did not even come under the purview of the said Circular. The Complainant had joined the Respondents on 01.12.2012 as MTS. The Shri Kesri was promoted from Group D to Clerk and thereafter, to Auditor under seniority quota, and not under departmental exam quota. Moreover, Shri Vinod Kesri was inadvertently granted promotion to the post of the Auditor. Hence, the Complainant cannot seek negative equality. The Learned Central Administrative Tribunal had allowed Shri Kesri to appear in the examination for Senior Auditors, only because the Respondents had already issued him the admit card. It was a mistake from the Respondents and therefore, the Learned Administrative Tribunal held that since he was already issued the admit card, he shall be allowed to take the exam. Additionally, the order passed by the Central Administrative Tribunal in the case of Shri Kesri was never implemented as Shri Kesri had expired. Hence, the order passed in the said case cannot be treated as a precedent. The Complainant was allowed to provisionally appear in the Departmental exam held in February, 2015 only as a consequence of the interim order passed by this Ld. Central Administrative Tribunal on 13.02.2015. However, since the Complainant was not successful in the said examination, his case before the Lt. Central Administrative Tribunal became infructuous.

12. The Learned Counsel for the Respondents also submitted a copy of Order passed by the Hon'ble High Court of Delhi in W.P.(C) No.15226/2004 on 11.01.2017 in the case of Directorate of Education & Anr. and Shri Karam Vir Singh Rangi & Ors. and reiterated that this Court has no power like a Court to pass judgment including direction in the nature of injunction etc and hence this case is not maintainable in this Court.

13. The Court informed Learned Counsel for the Respondent that this Case is maintainable under the Rights of Persons with Disabilities Act, 2016, as the Complainant is a person with disability. Further proceedings will continue in this matter.

14. The next hearing is adjourned to 06.12.2017 at 15:00 Hrs.

15. During the hearing as arguments were held in the Case No. 6487/1021/2016 of the Complainant, no discussions pertaining to this case could be discussed owing to the shortage of time. Therefore, It was decided to hear the matter in the next hearing. Hence the Court adjourned the next hearing to 16.01.2018 at 15:00 Hrs.

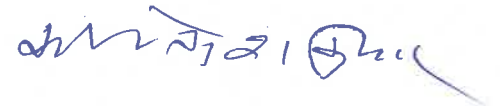
16. During the hearing the Complainant submitted that the Opposite parties have raised in the hearings dated 01.11.2017 and 16.11.2017, the issues of maintainability of the present complaint due to lack of jurisdiction and power of the Honble Court of the Chief Commissioner for Persons with Disabilities, to hear or pass any order of judgment, particularly as the present complaint relates to service matter, in view of the order of their Hon'ble High Court of Delhi in W.P. (C) No.15226/2004 dated 11.01.2017 titled "Directorate of Education & Anr. Vs Shri Karan Vir Singh Rangi & Ors". The above said Order is not relevant as it is specific and not general restraining the Chief Commissioner of Disability from passing any direction of judgment and is not a blanket bar on the Hon'ble CPD from passing any Order or direction or judgment whatsoever. Also the said Order is also not relevant because it has overlooked or by-passed the catena of judgments of Hon'ble Supreme Court and High Court upholding directions and Orders passed by the Chief Commissioner of Disabilities, which were not brought to the knowledge of the Hon'ble High Court, particularly AIR 2013 Supreme Court 3092 titled "Geetaben Ratilal Patel vs District Primary Education Officer". This judgment is significant in so far as it has positively and clearly decided the jurisdiction of the Chief Commissioner to interfere with the Order of dismissal. The supported judgment placed by the O.P. also suffers from over-reach and the vice of scrutinizing a judicial pronouncement of the Apex Court. Therefore, the Chief Commissioner of Disabilities has due jurisdiction to pass orders and directions under the provisions of Persons with Disabilities Act, 1995, and is fully empowered to dispose the present complaint before him. Further more, the Opposite parties have raised the objection that the present case is a service matter which can not be taken up by the Chief Commissioner of Disabilities. However, the Chief Commissioner in routine has taken up several hundreds of service matters in which the complainant is a person with

disability who has sought the jurisdiction of this Hon'ble Court as the complaint pertained to his/her disability. Two Orders/Judgments of the Hon'ble Chief Commissioner may be referred to in this Context, namely the case of Ms Sweety Bhalla vs. I.F.C.I. Ltd. (decided in 2006) and AIR 2013 Supreme Court 3092 titled "Geetaben Ratilal Patel vs District Primary Education Officer". The Complainant who is a 100% visually impaired person was appointed on 01.02.2012 in the Office of Respondent No.5. as MTS "to do a job which is suitable for a blind person", i.e. in the PH quota. The complainant is eligible/entitled to appointment as well as promotion in government service on the basis of the provisions of the Persons with Disabilities Act, 1995 & Rights of Persons with Disabilities Act, 2016. The appointment was made with full knowledge that the applicant was totally blind person. The said post of MTS was subject to promotional channel to the next post of Auditor after three years on the basis of the departmental examination for promotion to the post of Auditor. At the time of appointment, the applicant was never told that he is not eligible for promotion to the post of Auditor as he is a visually impaired person. At the time of appointment of the complainant in the year 2012 the Respondent No. 3, the appointing authority, was aware of the fact the one Shri Vinod Kumar Kesri who was 100% visually handicapped person, joined the Respondent No. 3 as Peon on 01.07.1987 and after up-gradation, he was promoted as Auditor on 01.01.2009. Now after the completion of three years as MTS, the complainant is not being allowed to take the departmental examination as the post of Auditor is not an identified post for the blind persons. The opposite parties by their reply dated 29.09.2016 have taken objection to the complaint as the complainant is not entitled to take the departmental examination as per the above said circular 2003. The Complainant further submitted that without admitting the case of the opposite parties as reflected in their reply to the complainant of the applicant/complainant, and without prejudice to the rights and contentions of the applicant/complainant, it is submitted that the opposite parties have not complied without and hence liable for contempt of the direction of the Hon'ble Supreme Court in its judgment dated 08.10.2013 in the case titled "Union of India & Anr. Versus National Federation of the Blind & Ors. directing "the appropriate Government to compute the number of vacancies available in all the establishments and further identify the posts for disabled persons within a period of three months from today and implement the same without default". The Opposite Parties have stated in their reply to the complaint, that the post of Auditor is not an identified post for Blind persons as per C&AG's Office Circular No. NGE/13/2003 dated 20.03.2003. It is submitted that this Hon'ble Court may kindly give time bound directions to the authorities/opposite parties to undertake an exercise to take a decisions in regard to the suitability of the post of Auditor for totally Blind person and thereby identify the post for the Blind.

17. During the hearing the Learned Counsel for Respondent reiterated the submissions made by her during the hearing on 16.11.2017.

18. After hearing both the Complainant and the Respondent, the Court considering the disability of the complainant who is a 100% visually impaired person, the Court directed the Respondents to explore the possibility of creating a suitable post and to promote Shri Mithlesh Chowdhary to the next post of his present position as Clerk.

The case is disposed off.



**(Dr. Kamlesh Kumar Pandey)**  
Chief Commissioner  
for Persons with Disabilities



सत्यमेव जयते

**न्यायालय मुख्य आयुक्त विकलांगजन**  
**COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES**  
 विकलांगजन सशक्तिकरण विभाग / Department of Empowerment of Persons with Disabilities  
 सामाजिक न्याय और अधिकारिता मंत्रालय / Ministry of Social Justice and Empowerment  
 भारत सरकार / Government of India

केस सं०: 7880/1011/2017 R-6945

दिनांक: 21.02.2018

सुश्री सना अरशद  
 पुत्री - अरशद अली खान  
 फ्लैट नं: 455, ज़ाखिर नगर  
 पश्चिम अबु बकार मस्जिद के निकट  
 नई दिल्ली - 110025

वादी

बनाम

केन्द्रीय विद्यालय संगठन मुख्यालय R-6946  
 (द्वारा आयुक्त)  
 18, इंस्टीट्यूशनल एरिया  
 शहीद जीत सिंह मार्ग, नई दिल्ली - 110016

प्रतिवादी

सुनवाई की तिथियाँ : 01.11.2017, 16.11.2017, 02.01.2018, 25.01.2018 एवं 15.02.2018

उपस्थित :

- सुश्री सना अरशद - वादी
- श्री ता.शैक, सहायक आयुक्त एवं श्री डी.के. शर्मा, एस.ओ. प्रतिवादी की ओर से।

**आदेश**

उपरोक्त शिकायतकर्ता सुश्री सना अरशद, 40 प्रतिशत दृष्टिबाधित ने केन्द्रीय विद्यालय संगठन में प्राथमिक शिक्षक भर्ती परीक्षा की ओ.एच. और वी.एच. केटेगरी की कट ऑफ मार्क्स अलग-अलग दर्शाने से संबंधित शिकायत - पत्र निःशक्तजन अधिकार अधिनियम, 2016 के अन्तर्गत इस न्यायालय में प्रस्तुत किया।

2. प्रार्थी का अपनी शिकायत दिनांक 01.05.2017 में कहना था कि दिनांक 28.04.2017 को केन्द्रीय विद्यालय संगठन द्वारा प्राथमिक शिक्षक की जो कट ऑफ सूची जारी की गई थी वह निःशक्त व्यक्ति अधिनियम 1995 के नियमों के विरुद्ध है विज्ञापन में भी ओ.एच. और वी.एच. के पद अलग-अलग ही सुरक्षित होते हैं। अतः इनकी कट ऑफ भी अलग-अलग ही दर्शाई जाए जैसे पूर्व में केन्द्रीय विद्यालय संगठन द्वारा किया जाता रहा है।

3. उक्त मामला दिनांक 19.06.2017 को केन्द्रीय विद्यालय संगठन, नई दिल्ली से लिया गया। स्मरण पत्र दिनांक 11.08.2017 के बावजूद केन्द्रीय विद्यालय संगठन से कोई जवाब नहीं आया इसलिए दिनांक 01.11.2017 को सुनवाई रखी गई।

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4. सुनवाई के दौरान प्रतिवादी की ओर से उपस्थित प्रतिनिधियों ने लिखित प्रविष्टि प्रस्तुत की जिसमें उनका कहना था कि केन्द्रीय विद्यालय संगठन ने दिनांक 24 – 30 सितम्बर 2016 के रोजगार समाचार में प्राथमिक शिक्षकों के 4348 पदों जिसमें ओ.एच. कैटेगरी के 66 तथा वी.एच. कैटेगरी के 66 पद आरक्षित थे, का विज्ञापन प्रकाशित किया। केन्द्रीय विद्यालय संगठन द्वारा विभिन्न पदों को भरने के लिए परीक्षा का आयोजन करवाने का कार्य केन्द्रीय माध्यमिक शिक्षा बोर्ड, नई दिल्ली को दिया गया था। उम्मीदवारों से ऑनलाइन आवेदन मांगे गए थे। प्राथमिक शिक्षक के पद हेतु लिखित परीक्षा के उपरांत भर्ती एजेंसी यानि सी.बी.एस.ई. द्वारा परीक्षा परिणाम उपलब्ध कराया गया। उसमें समस्त विकलांगजनों की एक ही 'पी.एच.' कैटेगरी दर्शाई गई। 'पी.एच.' कैटेगरी के कट ऑफ मार्क्स 88 है जो ओ.एच. एवं वी.एच. कैटेगरी के लिए लागू हैं। इसलिए वी.एच. कैटेगरी के कट ऑफ मार्क्स अलग से दर्शाया नहीं गया है। सुश्री सना अरशद के लिखित परीक्षा में 150 में से 80 अंक प्राप्त हुए जबकि पी.एच. कैटेगरी में प्राथमिक अध्यापक पद के लिए लिखित परीक्षा में 88 या अधिक अंक प्राप्त करने वालों को ही साक्षात्कार हेतु बुलाया गया, इसलिए कुमारी सना अरशद को साक्षात्कार हेतु नहीं बुलाया गया। प्राथमिक अध्यापक पद के लिए पी.एच. कैटेगरी के अंतर्गत 132 पदों के लिए 300 अभ्यर्थियों को साक्षात्कार हेतु चयन किया गया था।

5. दोनों पक्षों को सुनने के बाद, न्याय के हित में, प्रतिवादी को निर्देश गया कि वह निम्नलिखित जानकारी 10 दिन के अन्दर इस न्यायालय में भेज दें तथा अगली सुनवाई के दौरान दिनांक 16.11.2017 को इस न्यायालय में प्रस्तुत हों।

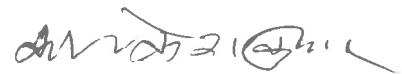
- आरक्षण रोजर की प्रति एवं संलग्न प्रारूप में सन् 1996 से वर्ग 'क', 'ख', 'ग' एवं 'घ' की भर्ती का ब्यौरा तथा संपर्क अधिकारी के प्रमाण पत्र के साथ कि आरक्षण रजिस्टर कार्मिक और प्रशिक्षण-विभाग के निर्देशानुसार दिनांक 01.01.1996 से बनाया गया है।
- अस्थि बाधित एवं दृष्टि बाधित व्यक्तियों के लिए कट ऑफ मार्क्स सन् 2013 से 2017 क्या क्या थे ?
- एस.सी., एस.टी., ओ.बी.सी. एवं पीडब्लूडी के अब के मानदंड एवं पिछले सालों के क्या थे ?

6. अगली सुनवाई दिनांक 16.11.2017 के दौरान प्रार्थी का कहना था कि केन्द्रीय विद्यालय संगठन ने 66 दृष्टिबाधित उम्मीदवारों में से केवल 17 दृष्टिबाधित उम्मीदवारों की प्राथमिक शिक्षक के पद पर नियुक्ति की। प्रार्थी का यह भी कहना था कि उक्त जानकारी उनको केन्द्रीय विद्यालय संगठन की वेबसाइट से उपलब्ध हुई है। विपक्षी का अपने पक्ष में कहना था कि कुल 122 पद विकलांगों के लिए आरक्षित थे जिसमें से 61 पद अस्थिबाधित एवं 61 पद दृष्टिबाधित श्रेणी के लिए थे। अस्थिबाधित उम्मीदवारों के सभी पद (61) भरे जा चुके हैं एवं दृष्टिबाधित श्रेणी के 61 पदों में से 59 पद भर दिये गये हैं। न्याय के हित में, प्रतिवादी को निर्देश दिया गया कि अगली सुनवाई के दौरान दिनांक 02.01.2018 को निम्नलिखित जानकारी शपथ-पत्र (Affidavit) के साथ इस न्यायालय में प्रस्तुत हों:-

- कितने दिव्यांग उम्मीदवारों को नियुक्ति प्रस्ताव दिये गये तथा उनमें से कितने दिव्यांग दृष्टिबाधित श्रेणी के थे
- अंक 80 से 88 के बीच कितने दृष्टिबाधित उम्मीदवार थे उनके नाम एवं अंक प्रस्तुत करें।
- अभी तक दृष्टिबाधित रिक्त पदों की संख्या।
- भविष्य में अग्रिम कार्यवाही।

7. अगली सुनवाई के दौरान प्रतिवादी की ओर से उपस्थित प्रतिनिधियों ने सी.बी.एस.सी. से जानकारी एकत्रित करने तथा इस न्यायालय में जमा करवाने हेतु एक माह का समय देने का अनुरोध किया ताकि वह सभी जानकारीयों इस दौरान प्रस्तुत कर सके। दिनांक 15.02.2018 के सुनवाई के दौरान प्रतिवादी के ओर उपस्थित प्रतिनिधियों ने शपथ-पत्र (Affidavit) के साथ मांगी गई जानकारी प्रस्तुत की और घोषित किया कि (1) केन्द्रीय विद्यालय संगठन द्वारा वर्ष 2017 में प्राथमिक शिक्षक के पद हेतु ओ.एच. श्रेणी के अन्तर्गत कुल 86 अभ्यर्थियों का चयन किया गया। जिसमें 25 अभ्यर्थियों का चयन अपनी मैरिट सूची के अनुसार हुआ तथा बाकी 61 अभ्यर्थियों का चयन रियायत के आधार पर हुआ। दृष्टिबाधित श्रेणी के अन्तर्गत कुल 59 अभ्यर्थियों का चयन किया गया। जिसमें 08 अभ्यर्थियों का चयन अपनी मैरिट सूची के अनुसार हुआ बाकी 51 अभ्यर्थियों का चयन रियायत के आधार पर हुआ। (2) 80 से 87 अंकों के बीच दिव्यांग श्रेणी के कुल 328 अभ्यर्थी हैं। दिनांक 25.01.2018, 31.01.2018 तथा 05.02.2018 के तहत केन्द्रीय विद्यालय संगठन ने उन सभी अभ्यर्थियों को जिनके लिखित परीक्षा में 80 से 87 अंक थे उनके ईमेल पर उनकी विकलांग सम्बन्धित श्रेणी के.वि.स. के पास दिनांक 29.01.2018, 03.02.2018 तथा 08.02.2018 तक भेजने को कहा था। दिनांक 12.02.2018 तक ओ.एच.श्रेणी के 93, वी.एच. श्रेणी के 17 तथा एच.एच. श्रेणी के 04 अभ्यर्थियों ने अपनी श्रेणी भेजी। वी.एच. श्रेणी जिन अभ्यर्थियों ने अपनी विकलांग श्रेणी भेजी है उनके द्वारा लिखित परीक्षा में हासिल अंको की जानकारी अलग दी। (3) दृष्टिबाधित उम्मीदवारों के लिए कुल 61 पद आरक्षित थे जिसमें से कुल 59 अभ्यर्थियों का चयन किया गया। 59 उम्मीदवारों की सूची में 08 उम्मीदवार अपनी मैरिट से चुने गये तथा 51 उम्मीदवार रियायत के आधार पर चयनित किए गये। दृष्टिबाधित श्रेणी के 10 पद सम्बन्धित भर्ती वर्ष में नहीं भरे जा सके। (4) वर्ष 2017 हेतु प्राथमिक शिक्षक की भर्ती का कार्य सम्पन्न हो चुका है। दृष्टिबाधित श्रेणी के जो 10 पद 2017 में नहीं भरे जा सके, वह पद अगली भर्ती में भरे जायेंगे।

8. दोनों पक्षों को सुनने के पश्चात् तथा दस्तावेजों के अध्ययन के बाद यह पाया गया कि मामले में निःशक्तजन अधिकार अधिनियम, 2016 कि किसी धारा, नियम या सरकारी दिशा निर्देशों का उल्लंघन प्रतीत नहीं होता इसलिए केस को खारिज किया जाता है।



(डॉ कमलेश कुमार पाण्डेय)  
मुख्य आयुक्त (दिव्यांगजन)



सत्यमेव जयते

*Extra*

**न्यायालय मुख्य आयुक्त विकलांगजन**  
**COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES**  
 विकलांगजन सशक्तिकरण विभाग / Department of Empowerment of Persons with Disabilities  
 सामाजिक न्याय और अधिकारिता मंत्रालय / Ministry of Social Justice and Empowerment  
 भारत सरकार / Government of India

वाद संख्या 5861/1141/2016

दिनांक 22/02 2018

मो० शाकीब रजा,  
 द्वारा - श्रीमती इमामुन निशा,  
 ग्राम - सामाचक, पोस्ट-हरौली,  
 जिला - वैशाली-844103, बिहार

--- शिकायतकर्ता

बनाम

व्यय विभाग  
 द्वारा - मुख्य सतर्कता अधिकारी, वित्त मंत्रालय,  
 नार्थ ब्लॉक, नई दिल्ली-110001

---- प्रतिवादी

सुनवाई की तिथि - 26.05.2017

आदेश

शिकायतकर्ता ने निःशक्त व्यक्ति (समान अवसर, अधिकार संरक्षण और पूर्ण भागीदारी) अधिनियम, 1995, के अन्तर्गत एक शिकायत प्रस्तुत किया। शिकायतकर्ता का कहना था कि 25 गरीब व विकलांग व्यक्तियों के समुह को 5.5 लाख रुपये के अनुदान देने का आदेश माननीय प्रधानमंत्री एवं मंत्रिमंडल सचिव ने दिया था। ग्रामिण विकास मंत्रालय ने कार्यालय ज्ञापन संख्या सी-31011/04/2013-सत. दिनांक 10.05.2013 द्वारा मुख्य सतर्कता अधिकारी, व्यय विभाग, वित्त मंत्रालय को शिकायतकर्ता, श्रीमती ईमामुन निशा का प्रार्थना पत्र आवश्यक कार्यवाही हेतु अग्रेसित किया था और शिकायतकर्ता को सलाह दी गई थी कि यदि आवश्यक हो तो आप इसके सम्बन्ध में अग्रिम पत्राचार व्यय विभाग, वित्त मंत्रालय, नई दिल्ली से कर सकते हैं। शिकायतकर्ता ने अनुदान दिलाने का निवेदन किया।

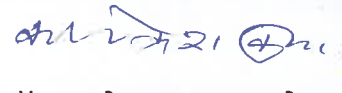
2. इस न्यायालय के पत्र दिनांक 05.05.2016 के द्वारा इस मामले में प्रतिवादी को उनकी टिप्पणी प्रस्तुत करने की सलाह दी गई।

3. प्रशासन-1 अनुभाग, व्यय विभाग, वित्त मंत्रालय ने कार्यालय ज्ञापन संख्या ए-0019/6/2006-प्रशा-11 दिनांक 24.08.2016 के द्वारा यह सूचित किया कि उपरोक्त विषय व्यय विभाग से सम्बन्धित नहीं है।

4. उपरोक्त तथ्यों के आधार पर इस मामले में सुनवाई की तिथि 07.02.2017 सुनिश्चित की गई और पक्षकारों को निर्धारित समय एवं तिथि पर उपस्थित होने के लिए सम्मन दिनांक 16.01.2017 जारी किया गया।



5. इस दौरान, सतर्कता अनुभाग, व्यय विभाग, वित्त मंत्रालय ने कार्यालय ज्ञापन संख्या फा.सं सी-18018/20/2016-विज. दिनांक 25.01.2017 के द्वारा निदेशक (प्रशासन), व्यय विभाग को मामले में की गई कार्यवाही / टिप्पणियों से इस न्यायालय को अवगत कराने का अनुरोध किया।
6. दिनांक 07.02.2017 को सुनवाई के दौरान कोई भी पक्षकार उपस्थित नहीं हुए। न्यायहित में मामले में पुनः सुनवाई दिनांक 26.05.2017 को सुनिश्चित की गई। दिनांक 07.02.2017 को हुई कार्यवाही के अभिलेख दिनांक 18/27.04.2017 पक्षकारों को भेजकर निर्धारित समय एवं तिथि पर उपस्थित होने की सलाह दी गई।
7. दिनांक 26.05.2017 को भी सुनवाई के दौरान कोई पक्षकार उपस्थित नहीं हुए। तथापि, इस न्यायालय द्वारा जारी कार्यवाही के अभिलेख दिनांक 18/27.04.2017 के संदर्भ में प्रशासन-1 अनुभाग, व्यय विभाग, वित्त मंत्रालय ने कार्यालय ज्ञापन संख्या ए-11019/4/2016-प्रशा.(खण्ड-1) दिनांक 27.05.2017 के द्वारा यह सूचित किया कि इस मामले को ग्रामीण विकास मंत्रालय, कृषि भवन, नई दिल्ली को आवश्यक कार्यवाही हेतु भेजा जा रहा है।
8. ग्रामीण विकास विभाग, ग्रामीण मंत्रालय, नई दिल्ली ने मिशन निदेशक, बिहार राज्य ग्रामीण जीविका मिशन, पटना को सम्बोधित पत्रांक संख्या J-11060/37/2016-RL दिनांक 31.05.2017 के द्वारा सूचित किया कि ग्रामीण विकास मंत्रालय, दिनदयाल अंत्योदय योजना - (राष्ट्रीय ग्रामीण जीविका मिशन [National Rural Livelihoods Mission (DAY-NRLM)]) राज्य सरकारों के माध्यम से लागू कर रहा है। प्रक्रियानुसार, राज्य अपने वार्षिक कार्य योजना, वित्तीय वर्ष के आरम्भ में अधिकृत समिति, जिसकी अध्यक्षता सचिव (ग्रामीण विकास) करते हैं, के विचारार्थ प्रस्तुत करते हैं। वार्षिक कार्य योजना के अनुमोदनोपरान्त राज्यों को निधि प्रदान की जाती है जिसे राज्य सरकार स्वयंसेवी समूहों, ग्रामीण संस्थाओं और उनके परिसंघों को प्रदान करती है। ग्रामीण विकास विभाग ने यह भी सूचित किया कि यह प्रकरण बिहार राज्य ग्रामीण जीविका मिशन से सम्बन्धित है और मिशन के निदेशक को अनुरोध किया कि इस प्रकरण में अग्रिम आवश्यक कार्यवाही अविलम्ब करें और ग्रामीण विकास विभाग, ग्रामीण मंत्रालय को सूचित करें।
9. उपरोक्त के आलोक में इस प्रकरण को राज्य आयुक्त, दिव्यांगजन, बिहार सरकार को अग्रिम आवश्यक कार्यवाही हेतु अग्रसारित किया जाता है। शिकायतकर्ता को सलाह दी जाती है कि वे राज्य आयुक्त, दिव्यांगजन कार्यालय, बिहार सरकार से सम्पर्क करें।
10. इस मामले में इस न्यायालय द्वारा अग्रिम कोई कार्यवाही अपेक्षित नहीं है अतः इसे यहाँ बन्द किया जाता है।

  
(डॉ. कमलेश कुमार पाण्डेय)  
मुख्य आयुक्त, दिव्यांगजन

प्रतिलिपि

राज्य आयुक्त दिव्यांगजन,  
बिहार सरकार,  
समाज कल्याण विभाग, सिंचाई विभाग कैम्पस,  
पुराना सचिवालय, पटना-800015, बिहार



सत्यमेव जयते

Extra

**न्यायालय मुख्य आयुक्त विकलांगजन**  
**COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES**  
 विकलांगजन सशक्तिकरण विभाग / Department of Empowerment of Persons with Disabilities  
 सामाजिक न्याय और अधिकारिता मंत्रालय / Ministry of Social Justice and Empowerment  
 भारत सरकार / Government of India

वाद संख्या 7080/1141/2016

दिनांक 22.02.2018

श्री अरविन्द कुमार श्रीवास्तव,  
 टाइप-4/65, एस.जी.पी.जी.आई.  
 लखनऊ-226014

--- शिकायतकर्ता

बनाम

भारतीय डाक, लखनऊ सर्किल,  
 द्वारा - मुख्य महा डाकपाल,  
 लखनऊ - 226001

.... प्रतिवादी

सुनवाई की तिथि - 19.09.2017

उपस्थिति - दोनो पक्ष अनुपस्थित

आदेश

शिकायतकर्ता, 55% अस्थिबाधित व्यक्ति, जो भवन संख्या सेक्टर 14/768, इन्दिरा नगर, लखनऊ का विधिक स्वामी है और उस भवन का 400 वर्ग फीट से अधिक आंशिक भाग उप डाकघर, इन्दिरा नगर के कब्जे में बतौर किरायेदारी पर है, ने डाकघर द्वारा नया किराया निर्धारण अथवा किराएदारी से डाकघर को बेदखली करने से सम्बन्धित एक शिकायत पत्र दिनांक 28.01.2017 निःशक्त व्यक्ति (समान अवसर, अधिकार संरक्षण और पूर्ण भागीदारी) अधिनियम, 1995 के अन्तर्गत इस न्यायालय में प्रस्तुत किया।

2. इस न्यायालय के पत्र दिनांक 06.03.2017 के द्वारा निःशक्त व्यक्ति अधिनियम, 1995 की धारा 59 अन्तर्गत इस मामले को प्रतिवादी के साथ उठाया गया।
3. प्रतिवादी से प्राप्त उत्तर दिनांक 12.04.2017 और शिकायतकर्ता के प्रत्युत्तर दिनांक 21.04.2017 को ध्यान में रखते हुए इस मामले में दिनांक 19.09.2017 अपराह्न 1530 बजे को सुनवाई सुनिश्चित की गई तथा दोनों पक्षकारों को सम्मन दिनांक 08.09.2017 के द्वारा निर्धारित समय एवं तिथि पर उपस्थित होने के निर्देश दिए गए।
4. दिनांक 19.09.2017 को सुनवाई के दौरान कोई भी पक्षकार उपस्थित नहीं हुए।
5. शिकायतकर्ता के कथनानुसार सर्वप्रथम लीज एग्रीमेन्ट 09.11.1994 में किया गया। लीज एग्रीमेन्ट के अनुच्छेद 15 में पक्षकारों द्वारा निम्निलिखित करार किया गया है -

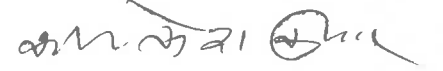
"15. Should any dispute of difference arise out concerning the subject matter of these presents or any covenant clause or thing herein contained or otherwise arising out of this lease, the same shall be referred to an Arbitrator to be appointed by the government of India and the decision of

Page - 1 - of 2

such Arbitrator shall be conclusive and binding on the parties hereto. The provisions of the Arbitration Act, 1940 or any statutory modifications thereof for the time being in force shall apply to such arbitration."

6. उपरोक्त के आलोक में यह प्रतीत होता है कि मामला सम्बन्धित जिले के जिला न्यायालय के अधिकार क्षेत्र में आता है। इस मामले में इस न्यायालय द्वारा हस्तक्षेप किया जाना उचित नहीं है। अतः शिकायतकर्ता को सलाह दी जाती है कि वे अपने जिले के सम्बन्धित जिला न्यायालय के समक्ष अपना परिवाद प्रस्तुत करें। तथापि, प्रतिवादी को सलाह दी जाती है कि वे दिव्यांगजन के प्रति संवेदनशील व शिष्ट रहें और ऐसा कोई कार्य न करें जिससे शिकायतकर्ता / दिव्यांग व्यक्ति का उत्पीड़न हो।

7. इस मामले को यहीं बन्द किया जाता है।



(डॉ. कमलेश कुमार पाण्डेय)  
मुख्य आयुक्त, दिव्यांगजन



सत्यमेव जयते

Ex 104

**न्यायालय मुख्य आयुक्त विकलांगजन**  
**COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES**  
 विकलांगजन सशक्तिकरण विभाग / Department of Empowerment of Persons with Disabilities  
 सामाजिक न्याय और अधिकारिता मंत्रालय / Ministry of Social Justice and Empowerment  
 भारत सरकार / Government of India

वाद संख्या 7860/1033/2017

दिनांक

22.02.2018

श्री अमित कुमार श्रीवास्तव  
 4/21, विशेष खण्ड, गोमती नगर,  
 लखनऊ - 226010

R-6933

--- शिकायतकर्ता

बनाम

इन्दिरा गाँधी राष्ट्रीय मुक्त विश्वविद्यालय,  
 (द्वारा - रजिस्टार)  
 मैदानगढ़ी, नई दिल्ली-110068

R-6934

---- प्रतिवादी

सुनवाई की तिथि - 12.12.2017 और 15.02.2018

उपस्थित -

- 1- श्री अमित कुमार श्रीवास्तव, शिकायतकर्ता
- 2- श्री नरेन्द्र कुमार, कनिष्ठ सहायक, इग्नू, प्रतिवादी पक्ष की ओर से

आदेश

शिकायतकर्ता, 40% अस्थिबाधित छात्र ने वर्ष 2015 के दौरान एम.एस.-92 की दोनों सत्रांत परीक्षाओं [जून-2015 और दिसम्बर-2015] और एम.एस.-92 की सत्रांत परीक्षा [दिसम्बर-2016] की उत्तर पुस्तिकाओं के मूल्यांकन एवं पुनर्मूल्यांकन में इन्दिरा गाँधी राष्ट्रीय मुक्त विश्वविद्यालय (प्रतिवादी) द्वारा लापरवाही बरतने सम्बन्धित शिकायत-पत्र दिनांक 20.04.2017 दिव्यांगजन अधिकार अधिनियम, 2016 के अन्तर्गत प्रस्तुत किया।

2. शिकायतकर्ता का कहना था कि वे इन्दिरा गाँधी राष्ट्रीय मुक्त विश्वविद्यालय, लखनऊ केन्द्र में एम.बी.ए. (प्रबन्ध पाठ्यक्रम) के विद्यार्थी [नामांकन संख्या 112331556] हैं। शिकायतकर्ता ने सत्रांत परीक्षा जून-2015 के तहत एम.एस.-92 की परीक्षा दी थी जिसमें उनको ग्रेड-ई दिया गया। चूँकि शिकायतकर्ता ने उच्च ग्रेड के अनुरूप प्रश्नोत्तर लिखे थे इसलिए पुनर्मूल्यांकन हेतु प्रतिवादी को आवेदन दिया परन्तु परिणाम से ज्ञात हुआ कि पुनः ग्रेड-ई दिया गया है। शिकायतकर्ता ने सत्रांत परीक्षा दिसम्बर-2015 के तहत पुनः एम.एस.-92 की परीक्षा दी थी जिसमें भी ग्रेड-ई दिया गया। चूँकि शिकायतकर्ता ने उच्च ग्रेड के अनुरूप प्रश्नोत्तर लिखे थे इसलिए पुनर्मूल्यांकन हेतु पुनः आवेदन दिया परन्तु परिणाम से ज्ञात हुआ कि पुनः ग्रेड-ई दिया गया है। इसके अतिरिक्त, सत्रांत परीक्षा दिसम्बर 2016 के अन्तर्गत एम.एस.-25 परीक्षा में भी उच्चकोटि के बिलकुल सही उत्तर लिखने के बावजूद उसमें भी ग्रेड-ई दिया गया। शिकायतकर्ता ने आरोप लगाया कि पुनर्मूल्यांकन में परीक्षक/परीक्षकों द्वारा जानबूझ कर विद्वेषवश लापरवाही बरती गई है और उत्तर पुस्तिकाओं के मूल्यांकन एवं पुनर्मूल्यांकन

(Page 1 of 3)

की प्रक्रिया का उल्लंघन किया गया है। शिकायतकर्ता ने निवेदन किया कि उपर्युक्त सम्पूर्ण प्रकरण की जाँच कराकर वर्ष 2015 के दौरान दोनों ही सत्रांत परीक्षा (जून 2015 एवं दिसम्बर-2015) के तहत एम.एस.-92 तथा एम.एस.- 25 की सत्रांत परीक्षा [दिसम्बर-2016] की उत्तर पुस्तिकाओं को कूटबद्ध करके इग्नू क्षेत्रीय मूल्यांकन केन्द्र लखनऊ एवं नई दिल्ली को छोड़कर किसी अन्य इग्नू क्षेत्रीय मूल्यांकन केन्द्र के परीक्षकों से पुनर्मूल्यांकन कराए जाने हेतु प्रतिवादी के निर्देश कुलपति, इन्दिरा गाँधी राष्ट्रीय मुक्त विश्वविद्यालय, नई दिल्ली को दिया जाए, अपकृत्य एवं कदाचार में संलिप्त परीक्षकों पर यथोचित दण्ड आरोपित किया जाए, आर्थिक एवं मानसिक क्षतिपूर्ति एवं वाद के खर्च हेतु 25000/- रुपये दिए जाए, सामाजिक न्याय एवं अधिकारिता मंत्रालय द्वारा जारी कार्यालय ज्ञापन संख्या 16-110/2003-डीडी.।।। दिनांक 26.02.2013 में जारी दिशा निर्देशों को इन्दिरा गाँधी राष्ट्रीय मुक्त विश्वविद्यालय में लागू किया जाए, आदि।

3. इस न्यायालय के पत्र दिनांक 15.06.2017 द्वारा प्रतिवादी से इस प्रकरण में उनकी टिप्पणी प्रस्तुत करने की सलाह दी गई।

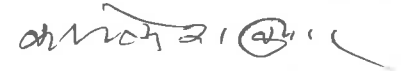
4. प्रतिवादी ने अपने उत्तर दिनांक 16.09.2017 के द्वारा यह सूचित किया कि उपरोक्त मामला सम्बन्धित निदेशक, प्रबन्ध अध्ययन विद्यापीठ को सभी दस्तावेजों सहित जाँच करने एवं उचित निर्णय के लिए भेजा था। सभी तथ्यों को ध्यान में रखते हुए विद्यापीठ ने अपना मत दिया है कि सम्बन्धित मूल्यांकन कर्ता द्वारा उपरोक्त विद्यार्थी की सत्रांत परीक्षा जून-2015 एवं दिसम्बर-2015 के तहत एम.एस.-92 की उत्तर पुस्तिकाओं का मूल्यांकन एवं पुनर्मूल्यांकन बिलकुल ठीक किया गया है और प्रदत्त किए गए ग्रेड भी उपयुक्त दिए गए हैं।

5. शिकायतकर्ता ने प्रतिवादी के उत्तर दिनांक 16.09.2017 के प्रत्युत्तर में अपनी शिकायत दोहराई और उपरोक्त विषयों की उत्तर पुस्तिकाओं के पुनर्मूल्यांकन में परीक्षक/परीक्षकों द्वारा जानबूझ कर विद्वेषवश लापरवाही बरतने का आरोप लगाया और निवेदन किया कि उन उत्तर पुस्तिकाओं को कूटबद्ध करके इग्नू क्षेत्रीय मूल्यांकन केन्द्र लखनऊ एवं नई दिल्ली को छोड़कर किसी अन्य इग्नू क्षेत्रीय मूल्यांकन केन्द्र के परीक्षकों से पुनर्मूल्यांकन कराया जाए।

6. दिनांक 12.12.2017 को 1600 बजे इस मामले में सुनवाई की तिथि सुनिश्चित की गई और दिव्यांगजन अधिकार अधिनियम की धारा 77 के अन्तर्गत सम्मन दिनांक 15.11.2017 दोनों पक्षकारों को जारी कर निर्धारित समय एवं तिथि पर सुनवाई के लिए उपस्थित रहने के निर्देश दिए गए।

7. दिनांक 12.12.2017 को सुनवाई के दौरान प्रतिवादी पक्ष की ओर से कोई उपस्थित नहीं हुए। तथापि प्रतिवादी ने फैक्स के माध्यम से पत्र दिनांक 12.12.2017 के द्वारा यह सूचित किया कि सम्पूर्ण भारत में सत्रांत परीक्षा के आयोजन एवं संचालन में विद्यार्थी मूल्यांकन प्रभाग अत्यन्त व्यस्त थे जिसके कारण किसी सक्षम अधिकारी द्वारा इस विषय को प्रस्तुत करना सम्भव नहीं था और प्रतिवादी की ओर से यह भी अनुरोध किया गया कि इस वाद में दस्तावेजों सहित वांछित उपस्थिति के लिए अगले माह के द्वितीय सप्ताह या उसके पश्चात किसी कार्य दिवस के लिए टाल दिया जाए।

8. प्रतिवादी पक्ष के निवेदन को ध्यान में रखते हुए इस प्रकरण में अगली सुनवाई दिनांक 15.02.2018 को 1200 बजे सुनिश्चित की गई। दोनों पक्षों को निर्देश दिया गया कि वांछित दस्तावेजों के साथ निर्धारित समय एवं तिथि पर सुनवाई के लिए उपस्थित हों।
9. दिनांक 15.02.2018 को सुनवाई के दौरान प्रतिवादी पक्ष की ओर से समूह 'क' स्तर का कोई अधिकारी उपस्थित नहीं हुए और न ही इस सम्बन्ध में प्रतिवादी की ओर से कोई जानकारी प्राप्त हुई। उपस्थित प्रतिनिधि (जो कनिष्ठ सहायक थे) को इस प्रकरण से सम्बन्धित कोई जानकारी नहीं थी। प्रतिवादी का व्यवहार न केवल इस न्यायालय के प्रति उपेक्षापूर्ण रहा बल्कि दिव्यांगजन के प्रति भी संवेदनहीन होना प्रतीत होता है, जिसे यह न्यायालय गम्भीरता से लेती है।
10. उपरोक्त के आलोक में, प्रतिवादी को निर्देश दिया जाता है कि इस आदेश की प्राप्ति से छः सप्ताह के भीतर शिकायतकर्ता/छात्र द्वारा दी गई एम.एस.-92 की दोनों सत्रांत परीक्षाओं [जून-2015 और दिसम्बर-2015] और एम.एस.-25 की सत्रांत परीक्षा [दिसम्बर-2016] की उत्तर पुस्तिकाओं को कूटबद्ध करके इग्नू क्षेत्रीय मूल्यांकन केन्द्र लखनऊ एवं नई दिल्ली के परीक्षकों को छोड़कर किसी अन्य इग्नू क्षेत्रीय मूल्यांकन केन्द्र के परीक्षकों से मॉडेरेशन बोर्ड के मानदण्डों के अनुसार पुनर्मूल्यांकन कराकर परीक्षाफल घोषित करें।
11. तदनुसार इस मामले का निपटारा किया जाता है।



(डॉ. कमलेश कुमार पाण्डेय)  
मुख्य आयुक्त, दिव्यांगजन



सत्यमेव जयते

*Ex 100*

**न्यायालय मुख्य आयुक्त विकलांगजन**  
**COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES**  
 विकलांगजन सशक्तिकरण विभाग / Department of Empowerment of Persons with Disabilities  
 सामाजिक न्याय और अधिकारिता मंत्रालय / Ministry of Social Justice and Empowerment  
 भारत सरकार / Government of India

Case No.: 7042/1041/2016

Dated 22.02.2018

In the matter of:

*R-695*

Ms. Seema Arora,  
 4836, Panchan Society, B-Block,  
 Sector-68, Mohali, Punjab  
 Email – [seemapseb@gmail.com](mailto:seemapseb@gmail.com)

.... Complainant

*Versus*

Central Board of Secondary Education,  
 Through: The Controller of Examination,  
 Shiksha Kendra, 2, Community Centre,  
 Preet Vihar, Delhi-110301

*R-6936*

.... Respondent

Date of hearing: 13.06.2017

Present:

1. Shri Ashok Kumar, Dy. Secy.(Coord.) and Tarun Kumar, A.S. (Coord.), CBSE for respondent
2. None appeared for complainant.

**ORDER**

The above named complainant, mother of Master Kunwar Arora, a child with 100% hearing impairment, vide mail dated 06.10.2016 filed complaint under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, hereinafter referred to as the 'Act', regarding non-implementation of Clause XV of Office Memorandum No.16-110/2003-DD.III dated 26.02.2013 issued by Ministry of Social Justice & Empowerment, by CBSE in its Circular No.Acad-06/2016 dated 18.02.2016.

2. The complainant alleged that CBSE is not implementing the guidelines for conducting written examination for persons with disabilities issued by Ministry of Social Justice and Empowerment vide Office Memorandum No.16-110/2003-DD.III dated 26.02.2013. In the Circular No.Acad-06/2016 dated 18.02.2016 wherein CBSE has extended several exemptions/concessions to Spastic, Visually impaired, Physically Handicapped, Dyslexic, Autistic and candidates with disabilities as defined in Act. But Clause XV, Office Memorandum No.16-110/2003-DD.III dated 26.02.2013 - "Alternative objective questions in lieu of descriptive questions should be provided for Hearing Impaired persons, in addition to the existing policy of giving alternative questions in lieu

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of questions requiring visual inputs, for persons with visual impairment, does not find place in the said circular of CBSE and the same was ignored. It is generally found that children with hearing impairment cannot describe/explain the ideas in a descriptive manner. The ability to express the ideas is poor due to language constraints.

3. Under Section 59 of the Act, this Court, vide letter dated 27.02.2017, took up the matter with the respondent for submission of their comments and to ensure that the legitimate rights of persons with hearing impairment are not infringed. A copy of the letter dated 27.02.2017 was also endorsed to the Director (DD.III), Department of Empowerment of Persons with Disabilities, Ministry of Social Justice & Empowerment for taking necessary action in the matter since the guidelines are under review.

4. In response to this Court's letter dated 27.02.2017, Director, Department of Empowerment of Persons with Disabilities (Divyangjan), vide letter dated 30.03.2017 requested the respondent to take measures to follow the guidelines scrupulously.

5. The respondent vide letter dated 19.04.2017 submitted their reply and intimated that the Expert Committee constituted to look into the Alternative Objective Type Questions deliberated in its meetings held on the issue and decided that this provision cannot be implemented by the CBSE at this point of time, as it may result in diluting the quality of assessment conducted by it being a Public Examination.

6. Upon considering the reply of respondent and reply received from Department of Empowerment of Persons with Disabilities (Divyangjan), a personal hearing was scheduled on 13.06.2017.

7. During the hearing, the representatives of the respondent reiterated their reply.

8. In view of the above, the respondent is advised to consider implementing the following Clause XV of Office Memorandum No.16-110/2003-DD.III dated 26.02.2013 issued by Ministry of Social Justice & Empowerment, i.e. *"Alternative objective questions in lieu of descriptive questions should be provided for Hearing-Impaired persons, in addition to the existing policy of giving alternative questions in lieu of questions requiring visual inputs, for persons with visual Impairment."* in forthcoming academic session in order to provide specific exemption/concessions for the students with hearing impairment. Necessary amendment may be accordingly incorporated in its Circular No.Acad-06/2016 dated 18.02.2016.

9. The case is accordingly disposed of.



(Dr. Kamlesh Kumar Pandey)  
Chief Commissioner  
for Persons with Disabilities





सत्यमेव जयते

**न्यायालय मुख्य आयुक्त विकलांगजन**  
**COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES**  
 विकलांगजन सशक्तिकरण विभाग / Department of Empowerment of Persons with Disabilities  
 सामाजिक न्याय और अधिकारिता मंत्रालय / Ministry of Social Justice and Empowerment  
 भारत सरकार / Government of India

Case No. 7423/1011/2017

R-7015

Dated: 28.02.2018

**In the matter of:-**

Shri M. Mallikarjuna  
 1083, 23<sup>rd</sup> Main, 11<sup>th</sup> Cross  
 Sector - 1, H.S.R. Layout, Bangalore - 560102

Complainant

Versus

Kendriya Vidyalaya Sangathan  
 (Through the Commissioner)  
 18, Institutional Area, Shaheed Jeet Singh Marg  
 New Delhi - 110016

R-7016

Respondent

**Dates of Hearings: 21.12.2017 and 21.02.2018**

Present:

1. Sri Peethambaran Ayyappan, Liaison Officer, Samarthanam Trust for the Disabled on behalf of Complainant
2. Shri Tajuddin Shaik, Assistant Commissioner (RPS) and Shri Dinesh Sharma, Section Officer on behalf of Respondent.

**ORDER**

The above named complainant Shri M. Mallikarjuna filed a complaint dated 03.01.2017 under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act 1995, hereinafter referred to as the Act about providing opportunity to persons with disabilities to apply for the various posts after modifications.

2. Complainant in his complaint submitted that Kendriya Vidyalaya Sangathan had called for appointment in their various Institutions spread across the whole of India vide their Advertisement No. 11. The same was published in Employment News dated 24 - 30 September 2016. The last date of submission of the application online was 17.10.2016. In that advertisement, it was mentioned that the posts of Music teacher to hearing impaired and the post of Art teacher to blind persons are reserved. He further submitted that KVS has issued a Corrigendum on 05.12.2016, modifying the original advertisement, by modifying the reservation pattern of the post meant for hearing impaired and visually challenged and the same was published as Corrigendum in Employment News dated 17 - 23 December 2016. He alleged that KVS has not given the opportunity for the disabled to apply for the new reserved posts after the corrigendum.

3. The matter was taken up with the respondent vide letter dated 22.02.2017 under Section 59 of the Persons with Disabilities Act, 1995.

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4. In response, Assistant Commissioner (Estt.), Kendriya Vidyalaya Sangathan has informed that KVS has applied the same method of computation for Group 'A' & 'B' posts (Principals/PGTs/TGTs). 3% of vacancies in the cadre strength are provided for in KVS Recruitment Policy. However, in Group 'B' posts, persons with hearing impairment (HH), PGTs and TGTs involved in class room teaching with blackboard writing and long calculations/lab practicals/project works are being kept identical from the reservation quota as recruitment of the persons with HH disabilities are identified as not suitable for the post. Equal distribution of reservation quota of 3% in 03 sub categories OH, VH & HH comes 1% each. He further informed that distributed the reservation quota of 3% amongst the 03 sub categories but the identical posts are not suitable for persons with HH, hence equal distribution of reservation quota i.e. 1% for persons having HH disability against the post of PGTs/TGTs is not provided as the objective of the establishment in imparting the education to the children of transferable Central Government Employees. He further submitted that KVS has identified the posts suitable for the persons with different disabilities as per the latest list circulated by M/o SJ&E.

5. Complainant vide rejoinder dated 06.05.2017 has inter-alia submitted that KVS has clearly indicated in the proforma that since 1996, they have appointed only 25 HH candidates against 356 candidates in OH category and 139 in VH category. This clearly indicates that total injustice has been done to HH category and even to some extent to VH category. He further submitted that the corrigendum was issued after the last date for submission of the applications and hence they have failed to provide the opportunity for the disabled to apply for the post of their choice as per revised corrigendum.

6. After considering the respondent's letter dated 24.03.2017 and complainant's letter dated 06.05.2017, it was decided to hold a personal hearing in the matter therefore, the case was listed on 21.12.2017.

7. During the hearing representative of the complainant and representative of the respondent reiterated their written submissions. The matter is heard by this Court and the respondent was directed to submit the following information before the next date of hearing:

- (i) Copy of the first advertisement mentioning last date of receipt of applications.
- (ii) Copy of the Corrigendum and clarify whether last date of applications submissions was extended.
- (iii) List of short listed candidates with their disabilities.
- (iv) Details of the persons selected against reserved posts category wise.

8. Respondent vide letter dated 22.01.2018 has submitted the desired documents which was sought during the hearing wherein it has been mentioned that the main advertisement was published on 24 – 30 September, 2016 and corrigendum was published on 17.12.2016. The last date of submission of application was not extended. However, as per marks obtained in the written test and cut-off marks fixed by KVS, 52 candidates PH category were shortlisted for interview. Out of 52 candidates 49 candidates appeared in the interview. Out of 49 candidates 40 candidates were from VH and 09 candidates were from OH category. 03 PH candidates were not appeared in the interview. He also submitted list of OH & VH candidates category wise wherein total 11 candidates were empanelled in the select panel under VH category. Out of 11 candidates, 09 candidates selected at their own merit and 02 candidates selected as per relax standard. In OH category, 04 candidates empanelled in the select panel. Out of 04 candidates, 01 candidate selected at his own merit and 03 candidates selected as per relax standard.

9. On the next date of hearing i.e. 21.02.2018 representative of the respondent again submitted their written version with desired documents to this Court. After hearing both the parties and material available on record, the case is disposed off with the direction to the respondent to issue an advertisement for clearing the backlog vacancies for VH & HH persons. Information with respect to advertisement may also be made available to complainant accordingly in advance to enable him/her to apply accordingly.



**(Dr. Kamlesh Kumar Pandey)**  
Chief Commissioner  
for Persons with Disabilities