



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.2242/1031/2014

Dated 22.11.2016

In the matter of:

Shri Amit K Gupta,  
M-102, Vivek Vihar, Sector-82,  
Noida-201303, Uttar Pradesh

DS23

.... Complainant

Versus

Department of Higher Education,  
Through: Additional Secretary (Tech. Edu.),  
Ministry of Human Resource Development,  
Room No.118-C, 'C' Wing,  
Shastri Bhawan, Dr. Rajendra Prasad,  
New Delhi-110001

DS24

.... Respondent

Date of Hearing – 04.10.2015

Present:

- (1) Ms. Rina Sonowal Kouli, Director, Department of Higher Education (TS-V Section), Ministry of Human Resource Development, for respondent
- (2) None appeared for complainant

**ORDER**

The above named complainant, a person with 100% locomotor disability filed a complaint dated 25.07.2012 on the Portal for Public Grievance (received in this Court on 27.06.2014) under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, hereinafter referred to as the 'Act', that there was no reservation for persons with disabilities for admission in Executive MBA [Post Graduate Programme for Executives (PGPEX), Advance Management programme, etc.] course conducted by Indian Institutes of Management (IIMs). Complainant requested this Court to issue direction for implementation of the Act so that persons with disabilities could be a part of that course.

2. Section 39 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, hereinafter referred to as the 'Act', provides as under:

*"All Government educational institutions and other educational institutions receiving aid from the Government, shall reserve not less than three per cent seats for persons with disabilities."*

3. The matter was taken up with the Directors of all 13 IIMs - Calcutta, Ahmedabad, Bangalore, Lucknow, Kozhikode, Indore, Shillong, Rohtak, Ranchi, Raipur, Tiruchirappalli, Udaipur and Kashipur to submit their respective comments to this Court ensuring that the Act is implemented in letter & spirit and persons with disabilities are not deprived of their legitimate rights.

4. The gist of the replies received from the IIMs were as under:

	Name of IIM	Reply by IIM's
1	IIM Calcutta	Denied reservation in PGPEX Course for candidates with disabilities
2	IIM Ahmedabad	The programme was conceived without any quota.
3	IIM Bangalore	Admission of candidates with disabilities is not denied who meet the qualifying criteria.
4	IIM Lucknow	Reservation is not feasible for SC/ST/OBC/PWD in this particular programme.
5	IIM Kozhikode	Considering implementation of such reservation for candidates with disabilities.
6	IIM Indore	Having specific pre-requisites for the programme, there is no reservation for candidates with disabilities.
7	IIM Shillong	Providing reservation to candidates with disabilities.
8	IIM Rohtak	Stated to have been not applicable. But did not clear whether PwD Act is not applicable or the reservation for candidates with disabilities.
9	IIM Ranchi	No restriction in admitting the candidates with disabilities.
10	IIM Raipur	Provides reservation for candidates with disabilities.
11	IIM Tiruchirappalli	Provides reservation for candidates with disabilities for PGPBM & PGPHRM course with 5% relaxation in marks.
12	IIM Udaipur	Does not grant admission to candidates with disabilities.
13	IIM Kashipur	Have not denied admission of candidates with disabilities to the course.

5. Indian Institute of Management Calcutta (IIMC) in their reply inter-alia submitted that the regular programmes PGDM and PGDCM are open for all graduates from recognized university having the stipulated qualifying marks who succeeds in Common Admission Test (CAT) conducted by the IIMs and final result in GD&PI conducted by the respective Institute. The subject PGPEX programme is different from the regular PGDM and PGDCM programme and is not open for all and admission is restricted to only executives fulfilling the stipulated eligibility criteria and recommendation from managerial personnel and that there is no scope for reservation of seats for admission in the subject programme.

6. The complainant in his rejoinder to the replies submitted by the IIMs in general and particularly to IIM, Calcutta affirmed that IIMs were complying national policy on their legacy programmes PGDM & PGDCM, but not on the programme – PGPEX that indicated not fully implementation of the Act in IIMs. He raised question why a differently abled

person should not be empowered to participate such "Centre of Excellence" in management. The unmatched capabilities are evident in multiple examples around us in our society as there are many differently-abled working executives, especially Indians, working in management field. These working executives don't get sufficient time/resources to prepare with same potential as compared to a physically fit person. To fulfil this unequal and social gap the Act was enacted. To fulfil all other UN guidelines, a new bill called – "Right of Persons with Disabilities Bill 2014" is pending with the Parliament for enactment. The complainant stated to have understood PGPEX criteria, restricted to those executives having certain years of leader/managerial experience with valid GMAT score and the programme must have pre-requisite for enrollment. But how this pre-requisite justifies no scope for reservation of seats for persons with disabilities.

7. From the replies of IIMs and the rejoinder submitted by the complainant, it was observed that there was no uniformity in implementation of Section 39 of the Act in IIMs as some of the IIMs were considering admission to the PGPEX Course for persons with disabilities as per the Act whereas some of the IIMs denied and/or not considering the admission. Also, there appeared violation of Section 39 of the Act. Therefore, this Court, vide letter dated 28.10.2015, advised the respondent, the Ministry of Human Resource Development, Department of Higher Education, to issue necessary instructions to all IIMs to consider implementation of Section 39 of the Act in letter and spirit and to provide a level playing field so that the rights of persons with disabilities were not infringed. The Ministry was also advised to submit action taken report to this Court at the earliest.

8. Since no reply was received from the respondent even after reminders dated 05.02.2016, 06.06.2016 and 03.08.2016, a Notice of Hearing dated 04.10.2016 was issued to appear before the Court on 25.10.2016.

9. On the date of hearing, Ms. Rina Sonowal Kouli, Director, Department of Higher Education, Ministry of Human Resource Development appeared for respondent and submitted the reply vide letter F.No.8/34/2014-TS.V dated 24.10.2016. In the reply it was submitted that IIMs being autonomous institutes do not have power at present to grant any degree including the Executive MBA. So far as Executive Post Graduate Programmes run by IIMs are concerned, the programmes are primarily industry oriented for working executives, designed for their career growth and are not given equivalence to the MBA degree. Further, these programmes are in the nature of self-financed programmes (by the companies/participants) and the Government do not give any aid for running these programmes in IIMs. No service tax exemption is given to the Executive PGPs. As all IIMs are separate autonomous bodies, the Society/BoG (Board of Governors) of individual IIMs takes a decision whether they can provide for reservation for persons with disabilities in these programmes. As the Government do not give grants, the issuance of instructions to all IIMs to consider implementation of Section 39 of the Act in Executive Programmes in IIMs would not be appropriate.

10. Upon considering the facts of the case, this Court is of the view that since the executive programmes in IIMs are not aided by the Government, no direction can be issued to implement Section 39 of the Act. However, if a person with disability intends to do Executive Programmes and/or PGPEX course in IIMs and fulfils the criteria for the course, he/she should not be denied on the ground of disability rather he/she should be provided a level playing field so that he/she may not feel deprived of his/her legitimate rights.

11. The case is accordingly disposed off.



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