



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

Case No.3371/1141/2015

Dated 10.07.2017

**In the matter of:**

Shri Priyesh Bheda, IRS  
Assistant Director,  
Directorate General of Inspection,  
Customs & Central Excise, 4<sup>th</sup> Floor,  
Transport House, Poona Street,  
Masjid (East), Mumbai - 400009

... Complainant

**Versus**

Airport Authority of India,  
Through: Chairman,  
Central Office, Rajiv Gandhi Bhawan,  
Safdarjung Airport, New Delhi-110003

.... Respondent No.1

Central Industrial Security Force,  
Through: Director General,  
CISF Headquarters, Block 13, CGO Complex,  
Lodhi Road, New Delhi-110003

.... Respondent No.2

**Date of Hearing: 21.02.2017 at 1400 Hrs.**

**Present:**

- (i) Shri Sachin Yadav, Manager (Law), Airports Authority of India, for the respondent No.1
- (ii) Shri Ajay Kumar, Asst. Inspector General, CISF, Shri H.S. Nayal, A.C., CISF and Shri Manmohan Krishna, Insp/E CISF for the respondent No.2
- (iii) None appeared for the complainant

**ORDER**

The above named complainant, a person with locomotor disability filed a complaint dated 18.12.2014 under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, hereinafter referred to as the 'Act', regarding harassment he faced at the time of security check at the Indira Gandhi International Airport on 16.12.2014.

2. The complainant submitted that while he was at New Delhi Airport en route to Mumbai, one Sub-Inspector, Mr. Rakesh Kumar Rawat of CISF not only used

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E-mail: ccpd@nic.in ; Website: www.ccdisabilities.nic.in  
(कृपया भविष्य में पत्राचार के लिए उपरोक्त फाईल/केस संख्या अवश्य लिखें)  
(Please quote the above file/case number in future correspondence)

derogatory word but also conducted the security check in a humiliating manner. He used the following word "*Ek aur langdaa aa gaya ab isko bi pechee le jaana padega*". Even on protest to use of such language, Mr. Rawat was unapologetic and aggressive. The complainant was taken to the counter behind the check-in and was introduced to a 3-star officer. During the checking that person was more aggressive and rude. On knowing that the complainant is a public servant they aggressively told him that he would be writing to his Department to get him removed from service. They inspected his Identity Card suspiciously, concluded that the Identity Card was a counterfeit and said, "*Yeh langdaa police main kaise bharti ho gaya? Card bogus hoga.*" On protesting by the complainant once again on such behaviour, the officer got aggressive and concluded that the complainant was not a person with disability but was a smuggler who was faking disability. Then he was taken away in a corner of a room where his artificial limb was inspected and removed. Mr. Rakesh Kumar called all the constables to watch him without his artificial limb and asked all and sundry to watch the "*langdaa policewala*". The complainant also submitted that the entire Airport is under CC Television surveillance and had he indulged in illegal behaviour, then that CC recording would be sufficient protection for them. When he was walking to the aircraft, Mr. Rakesh Kumar came to him and said that they had all his details and they would ensure that the complainant would lose his job and threatened him with dire consequences if the complainant would lodge complaint against Mr. Rakesh.

3. The matter was taken up with respondent No.1 - Airports Authority of India, vide this Court's letter dated 03.06.2015.

4. Joint General Manager (Fin.) – JVC, Airports Authority of India vide letter dated 30.06.2015 intimated that the complaint was taken up with DIAL [Delhi International Airport (P) Limited] and forwarded a copy of DIAL's letter dated 12.06.2015. DIAL submitted that as per State Support Agreement (SSA), the security of the Indira Gandhi International Airport, New Delhi falls within the purview of the CISF who are supervised by CISF officers. Hence they forwarded the matter to DIG-CISF, IGI Airport, New Delhi for their necessary enquiry and action.

5. This Court vide letter dated 03.11.2015 and reminder dated 06.06.2016 asked the Airports Authority of India to submit the enquiry report. Asstt. GM (F)-JVC, Airports Authority of India inter-alia intimated that the CISF does not work under the control of AAI or DIAL and requested this Court to take up the matter directly with Director General, CISF, IGI Airport, New Delhi.

6. The matter was taken up with the Director General, Central Industrial Security Force (respondent No.2) vide letter dated 12.07.2016 followed by reminder dated 22.08.2016.
7. AIG/Airport Sector, CISF vide letter dated 05.08.2016 submitted their reply and intimated that the complainant did not disclose to CISF personnel on duty that he had a prosthetic limb before being frisked. During pre-embarkation security check using HHMD when the beep sound occurred, CISF Officer requested the complainant for search to ascertain the source of the sound. Then the complainant disclosed that he had a prosthetic limb. But he refused to co-operate with security staff and got involved in unnecessary arguments with the personnel on duty. The Shift Incharge apprised him about Bureau of Civil Aviation Security's (BCAS) guidelines for checking passengers with prosthetic limbs, then he reluctantly agreed for security check in a separate room. After removing his prosthetic limb, he started arguing with CISF staff and sarcastically uttered words like "Bomb mil gaya, Gun mil gaya". However, CISF personnel and officer remained polite and courteous. As per existing rules of Civil Aviation Security framed by the regulatory authority BCAS (Bureau of Civil Aviation Security), passengers with disabilities are not exempted from security check and are also required to undergo normal security procedures, as the possibility of hiding weapons, explosive devices or any other prohibited items in the cavity of artificial limbs or wheelchair cannot be ruled out without screening of the same through X-BIS, physical inspection or ETD checks, as the case may be. The respondent also quoted the Paras 4.7(a), 4.7(c) and 4.7(f) of Circular 23/2005 dated 11.07.2005 and Paras 3.10, 4.7, 4.8 and 4.9 of AVSEC Circular No.04/2014 dated 31.03.2014. BCAS, the regulatory authority is responsible for framing rules pertaining to security at Airports and has yet to take a decision on whether the prosthetic limb should be checked without removing or should it always be removed because without removing it, possibility of hiding prohibited items or weapons cannot be ruled out. CISF being Aviation Security Group (ASG) implements the existing rules/guidelines and circulars/orders issued by the BCAS and always follow Standard Operating Procedure, while conducting pre-embarkation security check of passengers having prosthetic limb or using wheel chair with courteous and humane behaviour.
8. The complainant in his rejoinder dated 09.12.2016 submitted that there was no question of disclosure as it was clear from his gait that he had problem in his leg. The beep sound is a very common occurrence and it occurs even due to wrist watch

and coins in pocket. The sound does not prove any offence. That particular constable and his officers were too particular to know the reasons for his disability since he has a strong personality. He requested to use the ETD small device to check and let him go, but they wanted to see his stump, as if it was an item of display. The security personnel refused to take him to a separate room and relented when warned to make a phone call to their DIG. The words "*Bomb mil gaya*", are figments of their imagination. No sane person would make such remarks when surrounded with policemen. They made videographer of his stump with their mobile and it pleased their ego as they showed it around to other staff and said "*aaaj hamne Commissioner ko Nanga Kar diya.*" "*Kya samajte hain Customs waale khud ko, yeh hamaaraa illaaka hai.*" The complainant never sought any exemption from checking. The reply was deliberately delayed so that the CC TV footage can be deleted by lapse of time. They violated Para 4.8 of BCAS Circular No.04/2014 – "*..... care should be taken that sensitive parts are not exposed.*" Quoting BCAS at this stage is like the Devil quoting the scriptures. They have taken shelter under the rules and have not pointed out the violations.

9. Upon considering the reply received from the respondent and rejoinder/comments from the respondent, the case was scheduled for hearing on 21.02.2017 and respondents were advised to submit their comments on the rejoinder/comments dated 09.12.2016 of the complainant.

10. During the hearing on 21.02.2017, the representative of respondent No.1 filed an affidavit dated 21.02.2017 of the General Manager (Security), AAI and submitted that the operation and control of the Indira Gandhi International Airport is with DIAL. Further, the administrative control of CISF is not with Airports Authority of India, so AAI is not a necessary party for the purpose of personal hearing in the matter. The respondent also submitted that the name of the Airports Authority of India may be deleted from array of the parties.

11. The representatives of the respondent No.2 submitted their comments dated 17.02.2017 on the rejoinder/comments of the complainant and reiterated their reply dated 05.08.2016. However, they added that according to Para 4.2 of BCAS Circular No.04/2014, a differently abled passenger has to disclose regarding his/her prosthetic limb to the security personnel before screening begins. As per procedure, the complainant was requested to go to separate enclosure and checked properly. During the whole procedure, CISF personnel performed their bonafide duties and due courtesy with respect and dignity had been extended to him. The sentences written in

the complaint were not uttered by CISF personnel, as Dy. Comdt. of IGI Airport had conducted an enquiry, wherein, it was revealed that the complainant, himself had argued with CISF staff and uttered the words like '*Bomb mil gaya, Gun mil gaya*' during security check process. The respondent clarified that security checks are being implemented unequivocally for all the passengers irrespective of the facts that weapons/prohibited items are concealed on the passenger or otherwise. As per BCAS order, CCTV footages are being preserved for 30 days unless any specific requirements arise for further preservation of records, thereafter it automatically deletes. The instant complaint was received on 16.06.2015 through GM Security, DIAL. Hence the allegation of delay in response to get the CCTV footage deleted by lapse of time, is baseless. The privacy aspect of passenger was very well looked after.

12. Para 4.7 of Circular 23/2005 dated 11.07.2005 and Para 4 of AVSEC Circular No.o4/2014 dated 31.03.2014 of BCAS read as under:-

Circular 23/2005 dated 11.07.2005

“4.7 Procedure for persons with special needs:

(Screening of the disabled/handicapped/sick passengers, etc.)

- a) It is reiterated that passengers who are disabled, on crutches, in wheelchairs/stretchers or use prosthetics such as artificial legs, etc. Are not exempt from normal security procedures. They also shall have to pass through the normal security channels/procedures.
- b) The airport management/representative of air carriers shall provide wheel chairs and render necessary assistance to facilitate the movement of the disabled/handicapped persons. However, they would not normally be directly taken to the aircraft, except as provided in Item No.(e) and will pass through regular security channels/procedures.
- c) Screeners should be thoroughly briefed that the possibility of carrying weapons/explosives and other dangerous materials through such passengers is higher than a normal passenger and therefore, these passengers need be checked with care.
- d) The checking of such passenger should be thorough and the supervisor, should also satisfy himself that the passenger can be cleared for boarding.
- e) Other category of such passengers are those who are ambulance cases, and are directly taken through the security gates to the aircraft for boarding due to their exceptional condition/illness, etc. In such cases as far as possible, the airport authority/airlines should provide its own ambulance. The passenger should be subjected to a pre-embarkation security check at the security gate by the Inspector/Officer In-charge of the Security Control Room or the Anti-Hijacking staff. After this check has been completed, then only the ambulance should be permitted to proceed to the aircraft

escorted by an Airport operator vehicle in case the ambulance is privately owned. The In-charge, Control Room, shall also participate in the checking to ensure that vehicle does not carry anything objectionable and is not being accompanied by unauthorized persons or persons who have no business to be in the ambulance.

- f) There is no scope for leniency in respect of invalid/disabled/sick person during the pre-embarkation screening/procedures. On the contrary, there is ample reason to be more alert and wary.

AVSEC Circular No.o4/2014 dated 31.03.2014

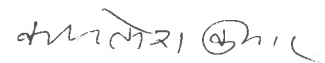
“4. Screening of passenger with prosthetics

- 4.1. During screening of prosthetics ASG/APSU may use X-ray, ETD and visual check depending on the circumstances.
- 4.2. The passenger should inform the ASG/APSU of the existence of a prosthetic, his or her ability and of any need for assistance before screening begins. Passengers can use Notification Card to communicate discreetly with security officers. However, showing this card or other medical documentation will not exempt a passenger from additional screening when necessary.”
- 4.3. Dignity and privacy of the passengers should be borne in mind during the entire process of security screening. Where the officer needs to see the prosthetic, care should be taken against exposing any sensitive areas, ASG/APSU will also use technology to test the prosthetic for traces of explosive material. If explosive material is detected, the passenger will have to undergo additional screening.
- 4.4. Passenger with prosthetics or braces/support appliances must be accompanied by an airline representative, preferable of the same gender as the passenger.
- 4.5. The staff of airline and any other accompanying person shall be frisked and checked before allowing them access to the passenger with prosthetics at the screening point.
- 4.6. The passenger will first pass through the DFMD and necessary security checks.
- 4.7. The passenger should then be taken to a private screening point and made to sit comfortably. He/she will receive additional screening including a pat-down. If necessary screening through ETD trace will be adopted. While dealing with prosthetic device and during taking off and putting on of clothes, privacy of the passenger should be maintained.
- 4.8. Screening of the prosthetic appliance will include x-ray screening, ETD detection and visual inspection. During visual inspection, care should be taken that sensitive parts are not exposed.
- 4.9. The screening in the private screening area will be carried out by two officials, one to handle to HHMD and pat-down and the other to inspect the prosthetics, braces and support appliance and subject them to additional screening.

13. From the submissions made by the parties to the case, in absence of CCTV footage and non-submission of authentic proof by the complainant, it is yet to be ascertained that the complainant was behaved appropriately or inappropriately during security check by CISF officials at Indira Gandhi International Airport, New Delhi on 16.12.2014. Complainant should have informed the ASG/APSU of the existence of his prosthetic limb for the sake of cooperation towards security check.

14. Where no compromise can be made with safety & security of the Airport, and the dignity and respect of a passenger with disability has to be maintained, the respondent is advised that security personnel need to be more careful and sensitive towards passengers with disabilities particularly at the time of removing the prosthetic limb for x-ray screening, ETD detection and visual inspection, as security personnel are well aware that removal of the prosthetic limb, which is the bone of contention, and persons with disabilities are likely to continue their protest as long as they are forced to remove the prosthetic limb. A training module should be designed and incorporated in the basic AVSEC course. Security point can be made informative enabling the passengers having prosthetic limb to inform the ASG/APSU of a prosthetic, his or her ability and of any need for assistance before screening begins. Security personnel should ensure that passengers with disabilities should not be harassed & humiliated on the ground of disability. A copy of the order be also forwarded to the Director General, Bureau of Civil Aviation Security for taking appropriate action on their part in the matter.

15. The case is accordingly disposed off.



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