



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.3685/1031/2015

Dated:-24.05.2016

In the matter of:

Shri Amit Kumar Pathak, 071
S/o Shri Ram Pyare Pathak,
Village – Pathakpur, Post – Bhandra,
District – Sultanpur-228155
Uttar Pradesh.

..... Complainant

Versus

The Registrar, 072
Indian Institute of Technology,
Kharagpur-721302, West Bengal

..... Respondent

Date of hearing : 09.05.2016

Present:

1. Complainant absent..
2. Dr. Indrajit Dube, Associate Professor & Dr. Uday Shankar, Asstt. Professor on behalf of the Respondent.

O R D E R

The above named complainant, a person with 50% locomotor disability filed a complaint dated 05.02.2015 under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, hereinafter referred to as the Act regarding reservation of candidates with disabilities in Ph.D Programme, 2014-15 in Rajeev Gandhi School of IPR, IIT, Kharagpur.

2. The complainant submitted that he applied for Spring Semester Ph.D Programme (2014-15) of Rajiv Gandhi School of IPR, IIT, Kharagpur. He qualified the written test held on 02.12.2014 and appeared in interview. The Department declared the final result and selected 05 candidates out of which 02 were SCs and 03 were from general categories. They did not consider any candidate with disability. In response to his RTI application, he was informed that the Rajiv Gandhi School of IPR has not provided reservation to any candidate with disability since the Ph.D programme started. It was informed that the Rajiv Gandhi School of IPR is following Government of India norms regarding reservation to candidates with disabilities in Ph.D programme.

3. The matter was taken up under section 59 of the Act with the respondent vide letter dated 29.05.2015.

.....2/-



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4. The Registrar, IIT, Kharagpur vide letter No. IIT/Acad/MSJE/2015 dated 01.07.2015 submitted that they follow the Government of India's norms/policy/rules regarding reservation to persons with disabilities. At present there is no candidate with disability who are pursuing Ph.D. Programme in RGSOIPL. The complainant had applied under General category and not as a PwD. Yet he was considered in PwD category. Separate cut-off was provided for PwD candidates but the complainant, Amit Kumar Pathak could not qualify the interview and the overall cut-off for Ph.D. admission in Autumn admission cycle 2014-15. The selection criteria for Ph.D. programme followed in Autumn Semester of 2014-15 were as under:-

- (a) General candidate has to secure 80% of the total marks.
- (b) SC/ST has to secure 70% of the total marks; and
- (c) OBC and PwD has to secure 75% of total marks.

The complainant obtained overall 74.64% marks i.e. below the qualifying marks. He also submitted the details of students with disabilities admitted in the year 2012-2013, 2013-2014 and 2014-2015 with their percentage of disabilities.

5. A copy of the reply dated 01.07.2015 received from the respondent was forwarded to the complainant vide this Court's letter dated 17.07.2015 for his comments.

6. The complainant in his rejoinder (received on 10.08.2015) has inter-alia submitted that though the respondent is submitting that they are following Government norms but they have not selected any candidate from person with disability category since RGSOIPL was established. The Institute is discriminating not only in Ph.D Programme but also in recruitment and the claim that they are following Govt. norms is incorrect. He had applied in General category because there was no separate form for person with disability. He submitted all documents including copy of his Disability Certificate claiming his candidature as PwD which was accepted by the Department. The respondent has not provided the marks obtained by each candidate in written test and interview. He submitted that the respondent is not observing reservation scheme for disabled in Spring Semester Ph.D. Programme of December, 2014 and recruitments and hence, it should be considered as an act of disobedience.

7. The respondent vide this Court's letter dated 23.09.2015 was advised to submit the basic criteria for fixing the cut off marks for admission to Ph.D. Programme for all the categories i.e. General candidates, SC/ST and OBC & Persons with Disabilities

.....3/-



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8. The respondent vide his letter No. IIT/Acad/MSJE/2015/02 dated 11.01.2016 in response to this Court's letter dated 23.09.2015 has informed that the relevant information as provided by the Dean of Rajiv Gandhi School of Intellectual Property Law, IIT Kharagpur has already been forwarded to this Court vide their letter No. IIT/Acad/MSJE/2015 dated 01.07.2015. A copy of the same was also enclosed.

9. Upon considering the replies dated 01.07.2015 and 11.01.2016 of the respondent and the rejoinder/comments dated 10.08.2015 of the complainant, a hearing was scheduled on 31.03.2016 which was rescheduled for 22.04.2016 and finally for 09.05.2016.

10. On 09.05.2016, none appeared on behalf of the complainant nor any intimation was received about his inability to attend the hearing on 09.05.2016 despite the fact that the Notice of Hearing was sent on 21.04.2016 by Speed Post. This Court noted with serious concern, the utter disregard shown by the complainant by neither intimating his inability to attend the hearing nor caring to appear to explain his version of the case.

11. The representative of the respondent during the hearing filed a copy of letter No. IIT/KGP/RGR/R-1/2016/102 dated 06.05.2016, which was taken on record. He submitted that the number of students to be given admission in the Ph.D Programme for any discipline were not mentioned in the advertisement and in his opinion admissions are given on the basis of total persons qualifying for a particular discipline for Ph.D Programme. However, since they are getting grants from Ministry of HRD, separately for General candidates and the reserved categories of SC/ST/PH due care is given for selection of candidates from these categories as well. For this purpose, the criteria that is adopted is the cut off marks for each category and, in case they qualify for admission they get it. It was stated that the complainant applied under General Category but was considered under person with disability category under the relaxed standards. The cut off marks for OBC and person with disability category were 75% and the complainant secured 74.64% marks. Hence not selected.

12. After hearing the respondent, perusing the submission on record, the Court observed that the selection process was computerized. As the cut off marks for person with disability was fed in the computer as 75%, the candidature of the complainant was rejected by the software (computer) as he secured 74.64% marks which were less than the prescribed cut off. It is also an admitted fact that there was no other candidate with whom the interest of the complaint before us might clash. This Court feels that cut off of 75% marks should not come in his way for admission to the Ph.D

.....4/-



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Programme only because he secured 74.6% marks based on various components including past academic record, written test and interview etc. which is only marginally short of the cut off.

13. In view of above, the case is disposed off with the direction to the respondent to consider the candidature of complainant for admission to Ph.D course. Time period for completion of the course etc. will commence w.e.f. the actual date of his admission. A compliance report to the effect may be submitted to this Court within 60 days from the date of Order.

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

N.O.O.:

Copy to :- D.O. (A) – for record.