



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.3992/1011/2016

Dated

18.04.2017

**In the matter of:**

Shri Kaushik Majumdar,  
Associate Professor,  
Systems Science & Information Unit,  
Indian Statistical Institute, 8<sup>th</sup> Mile, Mysore road,  
R.V. College Post, Bangalore-560059

.... Complainant

**Versus**

Indian Statistical Institute,  
Through: the Director,  
203, Barrackpore Trunk Road, Kolkata-700108

.... Respondent No.1

Indian Statistical Institute  
Through: the Head,  
Bangalore Centre, 8<sup>th</sup> Mile, Mysore Road,  
R.V. College Post, Bangalore-560059

.... Respondent No.2

**Date of Hearing – 14.07.2016, 15.09.2016 and 22.11.2016**

**Present:**

- 14.07.2016: 1. Shri Kaushik Majumdar, Complainant  
2. Shri Sibdas Sikdar, OSD, on behalf of the Respondent – 1 & 2
- 15.09.2016: 1. Shri Avneesh Arputham, Advocate, on behalf of the complainant  
2. Shri Sibdas Sikdar, OSD & Shri Sushil Pakkide, OSD, Indian Statistical Institute, Bangalore Centre, on behalf of the respondent – 1 & 2
- 22.11.2016: 1. Shri Avneesh Arputham, Advocate, on behalf of the complainant  
2. Shri Sibdas Sikdar, OSD & Shri P.C. Karan, Admin Officer, Indian Statistical Institute, Bangalore Centre, on behalf of the respondent – 1 & 2

**ORDER**

The complainant, a person with 85% locomotor disability (wheelchair user) and Associate Professor, Systems Science and Informations Unit at Indian Statistical Institute, Bangalore filed a complaint vide email dated 30.03.2015 under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, hereinafter referred to as the 'Act', regarding non-

compliance with the provisions of the Act by the respondents and raised the issues of reservation, inaccessible environment, discrimination, harassments, etc. and sought the following directives -

- (1) Make 3% job reservation for persons with disabilities at all levels in Indian Statistical Institute (ISI).
- (2) Extend the benefits of reservation to ISI employees with disabilities for promotions also at all levels in conformity with the laws and various orders of the Hon'ble Supreme Court of India from time to time.
- (3) Make all institutional infrastructures and facilities, including the transportation, accessible to persons with disabilities in a time bound manner. A committee should be formed for this purpose with appropriate representations.
- (4) To take disciplinary action against those ISI employees, who indulge in malicious and harmful behaviour towards the persons with disabilities.
- (5) Make participation of ISI employees with disabilities in appropriate decision making forums, committees and positions in order to adequately empower them. Otherwise, discriminatory attitudes cannot be completely done away with.

2. The matter was taken up with the respondents vide this Court's letter dated 05.05.2015 to specifically submit the comments on the points Nos.01, 03 and 05 at Para 1 above along with the details of posts filled since 01.01.1996 in Group 'A' & 'B' in the proforma with a certificate from the Liaison Officer certifying the reservation roster for the persons with disabilities was maintained as per DoP&T's instructions. The complainant was also directed to submit his rejoinder to the reply submitted by the respondents.

141

3. The Director Designate, Indian Statistical Institute (ISI), Kolkata (Respondent No.1) vide letter No.D.O./2015/376 dated 16.06.2015 submitted as under:

1. The Institute made attempt for 3% job reservation for persons with disabilities. Recruitment could be done in Group 'C' and 'D' categories only. One position of Dy. Librarian for ISI, Bangalore Centre (Group 'A' post) was failed in spite of repeated advertisements, for want of suitable candidates.
3. Shri Kaushik Kr. Majumdar was the first employee with disabilities in Bangalore Centre. After his joining, the Institute made series of changes in infrastructural facilities for him and other persons with disabilities i.e. ramp access facilities, suitable toilet facilities, hostel at

ground floor with separate pathway for persons with disabilities, etc. Shri Majumdar was provided office at the ground floor exclusively for his use.

5. Shri Majumdar was made a member of various Committees of the Centre and actively participated in making decisions.

Regarding the maintenance of Reservation Roster, the respondent submitted that a Committee was constituted and actual reservation points for persons with disabilities could be made available only after the structure with Roster was prepared and accepted by the Government/National Commission for SCs. If the number of employees recruited in Group 'A' and 'B' are required that could be furnished.

4. The complainant submitted his rejoinder dated 29.06.2015 to the reply of respondent, submitted that – (i) he never received a copy of the reply from the Director's Office despite direction of this Court, which was wilful suppression of facts and to hide lapses and non-compliance with rules in force; (ii) only one Group 'C' employee in disabled category was at Bangalore Centre and no any Group 'D' employee was in disabled category out of the total 92 permanent Staff in all categories; (iii) since he joined the Institute in May 2009, he was never included in any of the recruitment committees of the Institute; (iv) many candidates with disabilities appeared in interview for Group 'C' posts but no one was ever selected; (v) there was only one rickety, unreliable elevator in the whole campus, which restricts his regular and smooth access to his own department situated at the 2<sup>nd</sup> floor of the building; (vi) he resides in one room accommodation in the guest house whereas his colleagues reside inside the campus in B type duplex quarter; (vii) none of the accommodations and toilets in Bangalore campus is wheelchair friendly except one toilet in a far away corner on the ground floor in the entire three storied Academic Block; (viii) the excuse made by the respondent for not maintaining the Reservation Roster was unacceptable as the candidates with disabilities were refused to give reservation in all positions in accordance with the Act.

5. Upon considering the reply of the respondent and rejoinder/comments of the complainant, this Court vide letter dated 14.08.2015 forwarded a copy of the rejoinder/comments of the complainant to the respondent for submission of their comments and also directed the respondent to furnish the current position of

preparation of the roster which the respondent was mentioned in their letter dated 16.06.2015.

6. The respondent No.1 vide letter dated 05.10.2015 submitted that the Institute was founded in the year 1937 and its buildings at Headquarters were constructed in mid 1950's or prior to 1995 without making appropriate facilities for persons with disabilities. The respondent accepted that the facilities were inadequate for persons with disabilities because the structural design of the old buildings or the space constraint comes on the way of modification. The respondent intimated that to explore every possibility of finding practicable solution to make the buildings accessible for persons with disabilities, they decided to constitute a Committee. The complainant was taken into various committees so that his views could be taken to avoid grievances in future. As regards preparation of Roster, the work was in progress and it would be implemented after approval by the Nodal Ministry.

7. The complainant vide letter dated 14.10.2015 appreciated that the institute was planning to be more inclusive. However, he stated that despite working for more than six years as permanent faculty member, he was never included in the Work Advisory Committee (WAC) responsible for overseeing the planning and execution of construction works to make the campus more wheel chair friendly. The complainant also intimated that both his Office and the National Commission for Scheduled Castes (NCSC) had been demanding the reservation roster from ISI and the ISI had failed to comply with it.

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8. Respondent No.2 vide letter dated 19.10.2015 submitted that the reply dated 16.06.2015 of respondent No.1 was based on the information provided by them as the Head of Bangalore Centre and requested this Court that the same would be acceptable to this Court.

9. Upon considering the reply received from the respondent No.1, this Court vide letter dated 24.11.2015 advised to submit a copy of the reservation roster by 10.12.2015. But the respondent sought extension of time vide letters dated 19.10.2015, 31.12.2015 and 15.03.2016 and could not submit the roster, a hearing was scheduled on 14.07.2016.

10. During the hearing on 14.07.2016, the complainant reiterated his written submission and submitted that Reservation roster for the persons with disabilities in the Indian Statistical Institute was yet to be prepared. 3% reservation for persons with disabilities should be extended to promotion in all categories

including Group 'A' and Group 'B' services in view of judgment dated 30.06.2016 of the Hon'ble Supreme Court of India in the case of Rajeev Kumar Gupta and Ors. Vs. Union of India and Ors. Although Director sanctioned Rs.20,00,000/- for a new elevator in ISIO, Bangalore Centre and another Rs.5,00,000/- for making the infrastructures wheelchair friendly in the Bangalore Centre. Not a single paisa was spent on the elevator. Not a single paisa was spent to make the Petitioner's department easily accessible to him. The complainant was persistently denied transportation support when attending Ph.D. Committee meetings in National Institute of Mental Health and Neuroscience (NIMHANS), another Institute of National Importance in Bangalore where the complainant is guiding four Ph.D students. Institute drivers were never provided to drive complainant's specially modified accessible vehicle which is new and in excellent condition. The complainant was persistently kept out of the Work Advisory Committee of ISI, Bangalore Centre which is responsible for planning and execution of all the infrastructural development works in the campus. That was the reason that complainant could never participate in the process of making the campus more disabled friendly, which was actually remained neglected in the whole of ISI, not just in Bangalore. The old canteen and guest house, both came up after 2000, are inaccessible by wheelchair. Many other facilities including auditorium in Kolkata is inaccessible on wheelchair. The most uncooperative and disobedient Office Assistant in the Bangalore Centre has been dumped in the Department of the complainant since 2013, which made the day to day functioning of the complainant even more difficult, because he can keep contract with his department only by intercom phone through the Office Assistant. The complainant was never included in any of the staff selection committees despite being the only person with significant disability in the ISI Bangalore Centre. Many candidates with disabilities appeared in the selection processes in the past, but none was selected.

11. The representative appearing on behalf of the respondent submitted a revised copy of the Reservation Roster Register which was taken on record for further examination. He further submitted that the Institute made attempt for 3% job reservation for the persons with disabilities. Recruitment could be done in Group 'C' and 'D' categories only. Our efforts to recruit one position of Dy. Librarian for ISI, Bangalore Centre (Groups 'A' post) failed in spite of repeated advertisements for want of suitable candidate. The complainant was the first employee with disabilities in Bangalore Centre. After his joining, the Institute

made a series of changes in infrastructural facilities for him and other persons with disabilities. The Centre made Ramp access facilities for the main Academic Block, Guest House, Research Scholar Hostel, Old Boys' Hostel, Auditorium and Canteen. One room with suitable toilet facility was made available at the ground floor of the Guest House for the use of the complainant. Two rooms with attached bath were made available at the ground floor of Old Hostel with separate pathway for the persons with disabilities. A suitable toilet was made available for the persons with disabilities at the ground floor of Academic Block. Three rooms with attached bath and toilet were provided for the physically disabled persons at the ground floor of newly constructed Research Scholars' building. A toilet for physically disabled persons was also made available at the auditorium. The Institute was very serious about making all the provisions for the persons with disabilities in the future construction of the Institute. The complainant was a member of various Committees of the Centre and actively participated in decision making. The rest of the five points would be reviewed and immediate action would be taken before the next date of hearing. Persons with disabilities would be given first preference. The remaining vacancies would be filled up immediately according to the recruitment rules.

12. After hearing both the parties, this Court observed that though the complainant raised the issues regarding 3% job reservation for persons with disabilities in DR as well as in promotion, barrier free environment, taking disciplinary action against the employees who indulge in malicious and harmful behaviour towards the persons with disabilities and making participation of ISI employees with disabilities in appropriate decision making forums, committees etc. But during the arguments, the complainant emphasized only on the issue of barrier free environment at ISI Campus, Bangalore, its Headquarter and other institutes across the country. He also narrated his experiences faced during his visits to ISI Headquarter at Kolkata or other institutes. This Court felt that the access audit of ISI institutes and its Headquarter be got conducted by the respective Commissioner for Persons with Disabilities of the respective State within 30 days of the receipt of these Record of Proceedings and submit the report to this Court within next 15 days so that a final decision can be taken in the matter. As regards the ISI, Delhi is concerned, the same may be got conducted by this Office.

13. The complainant was informed that presently there is no reservation in promotion in Group 'A' and 'B' posts. However, there is reservation in promotion

in Group 'C' and 'D' posts only. If there is any specific case of violation of Government instructions, the same may be filed before this Court by filing a complaint as per Rule 42(1) of Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Rules, 1996 with supporting documents that substantiate the contention. This issue stands redressed.

14. The respondent was also directed to submit the following on the next date of hearing:-

- (i) The date of sanctioning the amount to Indian Statistical Institute, Bangalore for installation of lift and for the other infrastructure facilities.
- (ii) The action taken in the matter after receipt of the amount till date.
- (iii) Direct an officer of the level of Group 'A' from the Bangalore Campus to attend the next hearing, who will explain the matter.

15. The case was adjourned to 15.09.2016 at 3.00 P.M. The complainant was exempted from appearance on the next date of hearing with the direction that he would be made himself available on his mobile phone on the date and time of the hearing. A copy of the Record of Proceedings dated 22.07.2016 for the hearing held on 14.07.2016 was forwarded to the following:-

- (i) State Commissioner for Disabilities, Government of Karnataka, No. 55, 2<sup>nd</sup> Floor, "Abhaya Sankerna", Risaldar Street (Platform Road), Karnataka Slum Development Board Building, Sheshadripuram, Bangalore-560020.
- (ii) State Commissioner for the Welfare of Differently Aabled Persons, Government of Tamil Nadu, State Resource-cum-Training Centre Campus, Jawaharlal Nehru Inner Ring Road, K.K. Nagar, Chennai-600078.
- (iii) Commissioner for Persons with Disabilities, Govt. of West Bengal, 45, Ganesh Chandra Avenue, Kolkata-700013.
- (iv) Director, Indian Statistical Institute, 8<sup>th</sup> Mile, Mysore Road, R.V. College Post, Bangalore-560059.
- (v) Director, Indian Statistical Institute, 37, Nelson Manickam Road, Chateau D' Ampa, Aminjikarai, Chennai-600029.
- (vi) Director, Indian Statistical Institute, 7, S.J.S. Sansanwal Marg, New Delhi-110016.
- (vii) Director, Indian Statistical Institute, 203, Barrackpore, Trunk Road, Kolkata-700108.

16. During the hearing on 15.09.2016, Shri Avneesh Arputham, Advocate, appearing on behalf of the complainant reiterated his written submission and submitted that at the outset, the complainant particularly raised issues with respect

to the denial of facility, in particular, but specific points raised by the complainant's Counsel are as follows:-

- (i) It was emphasized that the Institute has not provided for a proper lift which is accessible by wheelchair by the complainant. It was pointed out that the lift does not align properly with the ground making it almost impossible for the complainant to access the lift and posing a threat to his safety and at the same time, violating his dignity. It is also stated that the Institute has undertaken other infrastructure projects recently including Second Floor of the Gymnasium and facilities for rain water harvesting, but no steps have been taken so for installing a new lift suitable for the use of complainant. As a result, the complainant is unable to meet his students and access the Library and other facilities on the floors above making it difficult for him to undertake his teaching work efficiently.
- (ii) It was stated that the Institute has not provided a suitable vehicle to the complainant. As a result, the complainant had to purchase his own vehicle as per his needs and he requested the Institute to provide a suitable Driver but the same was also not accepted by the Driver and he refused to drive any vehicle which is not owned by the Institute. As a result, the complainant is facing gross difficulty in his professional work as he is unable to travel outside the Institute for his professional work.
- (iii) It was also stated that the Institute has only one toilet which is suitable as per the need of the persons with disabilities. It was suggested the number of such toilets must be increased on campus and if possible each toilet combine should have a provision for use by the persons with disabilities.
- (iv) It was stated that the Institute has a Work Advisory Committee which is Incharge of the developing infrastructure on campus. It was requested that since there is no representation of any persons with disabilities in the said Work Advisory Committee as a member, the complainant should be included in that Committee.

Further, it was also pointed out that this Court must consider the Reservation Roster that has been provided by the Institute and examine whether it meets the requirements as per the norms. Further it was also stated that the Access Audit of the Bangalore Centre must be conducted at the earliest and the same will clearly



bring out the lack of infrastructure to meet the requirement of the complainant and the gross apathy of the Institute in meeting the needs of the disabled persons.

17. The representative of the respondent submitted that an amount of Rs.20 Lakhs and Rs.5 Lakhs were sanctioned in the Financial Year 2016-17 but no fund has been allocated for the specific modification of the buildings for physical challenged persons. In the year 2016-17, the ISI sent proposal for re-allocation of Budget for modification of building for physically challenged persons and asked for Rs.22 Lakhs. Work would be undertaken after approval of Head Office. Recently, we have put two devices for existing elevators in a levelled way and also bring out elevators in case of power failure and necessary financial approval will be obtained.

18. After hearing the respondent and the Counsel on behalf of the complainant, the respondent was directed to submit the following documents within one month before the next date of hearing:-

- (i) Access Audit Report from the Commissioner for Persons with Disabilities, Government of Karnataka in respect of Access Audit Bangalore Campus of Indian Statistical Institute Bangalore for perusal of this Court.
- (ii) Revised Reservation Roster with a Certificate by the Liaison Officer that the Reservation Roster has been maintained as per instructions of the Department of personnel & Training.
- (iii) Status of backlog of 3% vacancies to be filled reserved for persons with disabilities each group-wise and category-wise (HH, VH & PH) as on date from 1.1.1996.

19. The case was adjourned to 22.11.2016 at 1600 Hrs. with the direction that an officer of Group 'A' level from the Bangalore Campus would explain the matter on the next date of hearing. The complainant was exempted from appearance on the next date of hearing but advised to make himself available on his mobile phone on the date and time of hearing. A copy of the Record of Proceedings dated 07.10.2016 for the hearing held on 15.09.2016 was forwarded to the State Commissioner for Persons with Disabilities, Government of Karnataka for providing a copy of the Access Audit Report after completion of Access Audit of Bangalore Campus of Indian Statistical Institute.

20. During the hearing on 22.11.2016, the learned Counsel appearing on behalf of the complainant submitted that a copy of the Access Audit Report and a copy of the Reservation Roster be provided so that the complainant could assess the investigation done in the Access Audit Report and make suitable suggestions to the same. The representative of the complainant also brought to the notice of this Court that the complainant had to undertake teaching assignment at ISI Bangalore from January, 2017 onwards and requested this Court to provide a vehicle with driver suitably to take the assignment. He further submitted that a lift easily accessible with wheel chair be provided in the building so that the complainant's need could be fulfilled. It was also brought to the notice of this Court that Rs.22.00 Lakh was sanctioned for the purpose of renovation/upgradation of the facilities in the Institution to meet the requirements of the persons with disabilities. The learned Counsel requested that the amount sanctioned for the purpose be implemented at the earliest and the complainant be made a member of the Work Advisory Committee which is responsible for planning and execution of all the infrastructural development works in the campus. The learned Counsel also requested that a copy of the reservation roster be provided to the complainant.

21. The representative appearing on behalf of the respondent submitted in writing point-wise reply on the proceedings held on 15.09.2016, signed by the Head ISI, Bangalore Centre containing inter-alia that Re-appropriation of Budget for the year 2016-17 was approved by the competent authority and necessary work would be undertaken. The work for Ramp access to the Dias in the 2<sup>nd</sup> Floor auditorium was undertaken. First Device i.e. V3F Mode Pack was installed successfully and Second Device i.e. Emergency Rescue Device (ERD) had been procured and it would be installed shortly. These Devices would minimise the discomfort for the persons with disabilities during the power failure. Infrastructural Access Audit for persons with disabilities of ISI Bangalore Centre was conducted on 26.09.2016 and the State Commissioner for Persons with Disabilities, Government of Karnataka informed that the same had been sent to this Court. The Chairman, ISI Council nominated Dr. Majumdar as the member of Works Advisory Committee of ISI, Bangalore Centre for the term 2016-18. Other administrative matters raised by Dr. Majumdar were stated to have been addressed with a view to make office functioning smooth.

22. As per directions issued in this Court's Record of Proceedings dated 22.07.2016 and 07.10.2016, the State Commissioner for Persons with Disabilities,

Government of Karnataka vide letter No.PDA/V-2/07/2016-17/1036 dated 03.11.2016 forwarded the Access Audit Report of Indian Statistical Institute, Bangalore conducted by the Association for People with Disability (APD), Karnataka on 29.09.2015. In the report, recommendations have been made as under:

- Provide ramp and handrails for every stage and open discussion space.
- Provide handrails & grand bars in every corridor, staircase, open space and every ramp as per the CPWD guidelines.
- Provide directional tactile contrasting colour arrange pathway in entrance to connect all premises in the building.
- Provide audible & Braille signage's in lift.
- There should be some such arrangements in office, labs, seminar halls, Library for some adjustable furniture for the PwDs which can be easily access to them.
- Provide enough space hydraulic lift to access the other floors including audible & Braille signage's facilities.
- Fix two side handrails in every toilets commode including general toilets also.
- Provide the general and Braille signages for PwDs at every room corner of the left side including classrooms and toilets, very entrance blocks.
- Provide evac chair at every floor in case any type of emergency for PwDs.
- Provide suitable quality wheelchair in entrance of the building.
- Congested space be provided L-shape ramp to access the stage.
- Provide disable vehicle parking place near the building.
- Provide special Gym equipments to accommodate ground floor.
- Provide general and Braille signage's in every entrance of the blocks.
- Vision glass of doors panel should be at accessible level for the wheel chair users.
- Provide accessible website with information about the building/facilities with web standards.
- Need to train staff members in basic sign language.
- Need to train staff on disability; sensitization sessions are part of the staff induction programme.

23. Section 46 of the Act provides that the appropriate Governments and the local authorities shall, within the limits of their economic capacity and development, provides for-

- (a) ramps in public buildings;
- (b) adaptation of toilets for wheel chair users;
- (c) Braille symbols and auditory signals in elevators or lifts;

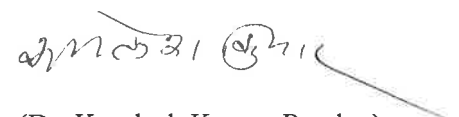
- (d) ramps in hospitals, primary health centres and others medical care and rehabilitation institutions.

24. Section 30(b) of the Act reads, “the removal of architectural barriers from schools, colleges or other institution, imparting vocational and professional training.”

25. DoPT’s OM No. 36035/3/2013-Estt.(Res.) dated 31.03.2014 provides, “In addition to the guidelines for modification in all public buildings including Government offices to provide easy accessibility and barrier free environment for PWDs as per the provisions of the PWD Act, all Government offices should take special steps to provide barrier free and accessible work stations to persons with disabilities employees, access from main building entrance to their work stations and access to common utility areas such as toilets, canteens etc. Lifts/elevators should be made accessible by providing Braille signage and audio outputs. Wherever required, suitable colour contrast may also be made available in buildings, utilities, staircases, etc. for the benefit of low vision employees.

26. After hearing the representative of the respondents and perusing the records available on the file, it is advised to the respondents to ensure that the barrier free facilities be provided in accordance with the specifications given in Model Building Bye Laws prepared and circulated by Ministry of Urban Affairs, Government of India. The recommendations of Association for People with Disability (APD), Karnataka in the Access Audit Report should be implemented and ensured that the employees with disabilities are provided barriers free environment at work place. Further, the Liaison Officer appointed to look after the issues of the SCs/STs should also deal with the matters relating to persons with disabilities and ensure that the persons with disabilities shall not be deprived of their legitimate rights. Transportation support should be provided to the complainant as per the extant rules.

27. The case is accordingly disposed off.

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