



सत्यमेव जयते

न्यायालय मुख्य आयुक्त निःशक्तजन
In the Court of the Chief Commissioner for Persons with
Disabilities
सामाजिक न्याय एवं अधिकारिता मंत्रालय
Ministry of Social Justice & Empowerment
निःशक्तता कार्य विभाग / Department of Disability Affairs

Case No. 464/1141/13-14

Dated: 17.09.2013

In the matter of:

Suo motu

Versus

Department of Disability Affairs,
Ministry of Social Justice & Empowerment,
Through Secretary,
Government of India,
Shastri Bhawan,
New Delhi-110001.

.... Respondent

Date of Hearing – 24.07.2013, 02.09.2013

Present :

24.07.2013

S/Shri P.Bhaktavabalam, S.O. (DD-III) and Ajay Nagpal, Assistant, D/O D.A. on behalf of the respondent.

02.09.2013

S/Shri Nitin Gupta, Under Secretary and Ajay Nagpal, Assistant, D/O D.A. on behalf of the respondent.

O R D E R

Section 64(2) of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, hereinafter referred to as the 'Act', provides as under:-

"The Central Government shall cause the annual report to be laid before each House of Parliament along with the recommendations explaining the action taken or proposed to be taken on the recommendation made therein so far as they relate to the Central Government and the reasons for non-acceptance, if any, of any such recommendation or part."

2. The matter was taken up with the respondent vide this Court's letter No.8-3/CCD/2012 dated 22.03.2012 for submitting information as to whether the Annual Reports relating to the period 2007-08, 2008-09 and 2009-10 respectively were duly tabled before both the Houses of Parliament together with action taken reports as mandated vide Section 64(2) of the Act followed by letters of even number dated 20.12.2012 and 14.03.2013.

.....2/-

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(कृपया भविष्य में पत्राचार के लिए उपरोक्त फाईल/केस संख्या अवश्य लिखें।)
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1. On 02.09.2013, the representatives of the respondent Department submitted a Status Report with regard to the Annual Reports, based on which the following is observed:-

3. As no reply was received from the Ministry despite above mentioned letters, a Notice of to Show Cause dated 11.04.2013 was issued. Since it also did not elicit a response, a hearing was scheduled on 24.07.2013.

4. On the date of hearing, the Section Officer, who, though is not an officer of appropriate rank as was mentioned in the Notice of Hearing dated 21.05.2013 submitted that the Director, Department of Disability Affairs was not available as he had to attend a case in some other court, and, the Under Secretary concerned was away attending a mandatory training of 2 months duration. He further submitted that while a status report in respect of the progress made about tabling of the Annual Report together with the State Governments' Action Taken Report before the Parliament will be filed very soon, the Action Taken Report in respect of the Annual Report of the Chief Commissioner for the year 2006-07 has already been approved by the Hon'ble Minister and will accordingly be tabled in the ensuing Session of the Parliament. He added that the Action Taken Report in respect of the Annual Report of the Chief Commissioner for the year 2007-08 has been put up to the Hon'ble Minister for approval and inputs from the State Governments in respect of the Chief Commissioner's recommendations in the Annual Reports for the year 2008-09, 2009-10 and 2010-11 (3 years) are still awaited.

5. It was observed that the respondent Department had initiated action in respect of tabling of the Annual Reports of the Chief Commissioner together with the Action Taken Report on or around the time communication from this Court in the matter was sent to the respondent Department. In some cases the respondent Department waited for months, perhaps in some cases for years for the inputs of the State Governments. Incidentally, it is the primary responsibility of the Central Government to act on the recommendations of the Chief Commissioner and table an Action Taken Report alongwith Chief Commissioner's corresponding Annual Report before the Parliament in so far as they relate to the Central Government. Therefore, the respondent's plea that the respondent was awaiting inputs from the State Governments stands only on sand's foundation. It was improper to attribute the delay/omission/lapse on the part of the respondent to the State Governments. Therefore, this Court, taking a very serious view of the matter in which the statutory institution of the Chief Commissioner created under an Act of Parliament and vested with some judicial powers was being taken lying down by the respondent Department which is solely dedicated for the advancement and empowerment of persons with disabilities. This was evidenced from the fact that the respondent Department did not depute an officer of an appropriate rank to represent itself. Even in the past, there had been occasions in relation to some other case, where not only the Department of Disability Affairs did not depute any representative at all but it also did not bother to show the minimum courtesy of sending a written communication asking for an adjournment, etc. Even some important communications sent out by this Court failed to elicit any response despite more reminders than one.

6. This Court therefore directed the respondent Department to represent itself by deputing an officer of an appropriate rank to personally explain the status of Action Taken Report on the recommendations of the Chief Commissioner on the aforesaid Annual Reports in the next date of hearing on 02.09.2013 at 04.00 P.M.

7. On 02.09.2013, the representatives of the respondent Department submitted a Status Report with regard to the Annual Reports, based on which the following is observed:-

- (i) As on 02.09.2013, as many as four Annual Reports pertaining to the years 2007-08, 2008-09, 2009-10 and 2010-11 respectively were pending with the Department of Disability Affairs for being laid before the Parliament.
- (ii) The Annual Report of the Chief Commissioner for the year 2006-07 was sent to the Lok Sabha & Rajya Saba Secretariat for tabling on 29.08.2013.
- (iii) There has been inordinate delay in laying of the Annual Reports of the Chief Commissioner together with the Action Taken Report of the Government on the part of the respondent.
- (iv) The respondent's plea that the respondent Department did not receive materials/responses from the various State Governments despite several reminders being sent is not tenable in as much as Section 64(2) makes it obligatory on the part of the Central Government to table the Annual Reports before the Parliament together with Action Taken Report in so far as they relate to the Central Government. Therefore, the expression "so far as they relate to the Central Government" is operative and relevant here.
- (v) The Department of Disability Affairs should, in fact, set an example for the State Governments to follow by timely compliance with various provisions with Persons with Disabilities Act, 1995.

8. In the above view of the matter, the Department of Disability Affairs is hereby directed to ensure that all the Annual Reports of the Chief Commissioner pending with it are duly laid before both the Houses of Parliament together with corresponding Action Taken Report of the Government of India as mandated under Section 64(2) of the Act on or before 31.03.2014. The respondent Department is further directed to furnish copies of Action Taken Reports to this Court while ensuring total compliance with Section 64 of the Persons with Disabilities Act, 1995.

9. The matter is disposed off with the above directions.

(P.K. Pincha)
Chief Commissioner for
Persons with Disabilities

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