



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.5110/1031/2015

Dated:-01.11.2016

In the matter of:

Shri Vikkee,
Room No. 117, Hostel No. 5, ^{D465}
National Institute of Technology,
Kurukshetra, Haryana – 136119.

..... Complainant

Versus

National Institute of Technology Hamirpur, ^{D466}
Through : The Director,
Anu Road, Hamirpur,
Himachal Pradesh – 177005.

..... Respondent

Date of hearing : 05.08.2016

Present:

1. Complainant absent..
2. Dr. Ashwani K. Rana, Associate Prof. & Chairman, SPGC & Shri Sanjay Jamaal, A.R. on behalf of the Respondent.

O R D E R

The above named complainant, a person with 50% locomotor disability filed a complaint dated 31.08.2015 under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, hereinafter referred to as the Act regarding admission to Ph.D in NIT, Hamirpur.

2. The complainant submitted that he has done his M. Tech from NIT Kurukshetra and in June, 2015 applied for admission to Ph.D. in NIT, Hamirpur. He was shortlisted for the written examination held on 29.07.2015 and after clearing the exam he gave the interview. He was the only candidate with disability who faced the interview against one seat reserved for persons with disabilities for admission to Ph.D. The complainant's contentions are (i) why NIT, Hamirpur did not disclose the result of interview for admission to Ph.D. on the website and (ii) why he was not selected for the one seat reserved for persons with disabilities.

3. The matter was taken up under section 59 of the Act with the respondent vide letter dated 21.09.2015.

4. The respondent vide letter dated 06.10.2015 submitted that Ph.D information brochure-2015 duly stipulated with admission process and eligibility criteria for admission in Ph.D programme at NIT, Hamirpur was displayed on the institute website (www.nith.ac.in) as per the clause 2.2 of Ph.D. admission brochure point (b) which clearly states that "those who qualify in the written test shall only

....2/-

be eligible for Stage-II and the list of such candidates will be displayed on the notice board of concerned department/centre on same day" which has been strictly adhered to by the department of E&CED of NIT Hamirpur and displayed the copy of office order of shortlisted candidates for Stage-II on the notice board of the department on same day i.e. 29.07.2015. The Departmental Selection Committee (DSC) of various departments/centers have strictly followed the procedure and the candidates who were eligible have been selected on the basis of vacancies as well as the criteria of merits fixed by the concerned DSCs. The guidelines of eligibility criteria of the institute and merit list of candidates in interview and presentation process under Stage-II for kind information and reference please. As per Clause 2.2(c) of the information Brochure, Departmental Selection Committee of Electronics and Communication Engineering Department recommended only 06 candidates (getting more than 25 marks out of 50 marks in Stage-II for all categories) depending upon the performance of the candidates in the interview and Presentation (Stage-II) of the Selection Process. The candidate Mr. Vikkee Kumar was not recommended by the Departmental Selection Committee as he scored less than 25 marks in Stage-II and does not fulfill the criteria. Hence, the seat reserved for SCPH candidate remains vacant. Besides this, other seats viz. General-05, SC-01, ST-01 and OBC-03 of MHRD grant also remained vacant because of the poor performance of the candidates in the interview/presentation. Whereas in term of section 39 and Section 59 of the Persons with Disabilities Act, this institution is strictly followed the mandatory provision for all categories in admission as fixed by the Government of India from time to time. Similarly, the reservations as per the percentage of PwD categories have been allotted in Ph.D programme on the total seats as mentioned in the information brochure clause 2.2.

5. The complainant in his rejoinder dated 10.10.2015 has inter-alia submitted that NIT, Hamirpur in their Academic Regulation 2.10 has mentioned that the policy of admission is prescribed by Government of India/MHRD but they did not follow the rules. As per him, Clause 2-c and 2-d of MHRD's Office Memorandum No.17-1/2011-U, the minimum qualifying marks should be different for SC, OBC and General category. NIT, Hamirpur is not following the MHRD Rules.

6. This Court letter dated 15.12.2015 advised the respondent to submit the status of non-implementation of Section 39 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 regarding admission of candidates with disabilities in July/August, 2015 within 15 days from the date of receipt of this letter.

7. Upon considering the replies dated 06.10.2015, 06.01.2016 and 15.06.2016 of the respondent and complainant's rejoinder dated 10.10.2015, a hearing was scheduled on dated 05.08.2016.

8. During the hearing on 05.08.2016, none appeared on behalf of the complainant. Nor any intimation has been received about his inability to attend the hearing on 19.07.2016 despite the fact

that the copy of the Notice of Hearing was sent on 02.06.2016 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 versions of the case.

9. The respondent submitted that there is no fundamental any such violation or non-compliance of the Section 39 of the Persons with Disabilities Act, 195 as the institute has already followed strictly the reserving 3% of the total seats for PwDs in the admission of Ph.D. programme,. Therefore, the matter is purely outside the purview of the Court. The Institute respondent has prescribed the complete selection procedure in its prospectus available/published on the institute website wherein it has been specifically stipulated that after eligibility every candidate has to undergo the selection process of Stage I and Stage II therein. The relaxation can only be provided at the eligibility stage and in the present case since the candidate was non-suited and not recommended at Stage II, so in the light of recommendations of DSC, the candidate was not found to be suitable in accordance with merit recommended by DSC Therefore, there is no any such vested right/claim of any of the unsuccessful candidate to claim admission in the Ph.D programme which is somewhat different from other PG course like M.Tech, MBA etc.

10. After hearing the parties and perusal of the record, this Court observed that though there were 136 seats but respondent admitted only 25 candidates. As per record, only one student with disability was appeared for interview but his candidature was also rejected stating that the complainant's name was not recommended by the Departmental Selection Committee as he scored 23 marks instead of 25 marks out of 50 marks. Section 39 of the Act provides that all Government educational institutions and other educational institutions receiving aid from the Government shall reserve not less than three percent seats for persons with disabilities. Accordingly, the respondent is directed to consider the name of complainant for Ph.D by providing suitable relaxation and be admitted in the Ph.D. The respondent is also directed that in future, they may consider for providing some relaxation to the students with disabilities applying for the Ph.D Degree Programme.

11. The case is disposed off accordingly.



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