



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.5249/1083/2015

Dated:-08.02.2017

In the matter of:

Shri Anil Chawla, *0762*  
C/o 87-S/4, Gole Market,  
New Delhi-110001.

..... Complainant

**Versus**

New Delhi Municipal Council,  
(Through the Chairman), *0763*  
Palika Kendra,  
Sansad Marg,  
New Delhi-110001.

..... Respondent

**Date of hearing : 20.10.2016, 25.11.2016, 09.12.2016, 05.01.2017, 23.01.2017**

20.10.2016

1. Shri Anil Chawla, Complainant.
2. Shri Nilesh Sawhney, Advocate on behalf of Respondent.

25.11.2016

1. Complainant absent.
2. S/Shri Nilesh Sawhney, Advocate and Alok Bhatnagar, on behalf of the Respondent.

09.12.2016

1. Shri Anil Chawla, Complainant.
2. S/Shri Nilesh Sawhney, Advocate and Alok Bhatnagar, on behalf of the Respondent.

05.01.2017

1. Shri Anil Chawla, Complainant.
2. S/Shri Nilesh Sawhney, Advocate and Alok Bhatnagar, on behalf of the Respondent.

23.01.2017

1. Shri Anil Chawla, Complainant.
2. S/Shri Alok Bhatnagar and Nilesh Sawhney, Advocate on behalf of Respondent.

**ORDER**

The above named complainant, a person with 40% visual impairment filed a complaint dated 15.09.2015 under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, hereinafter referred to as the 'Act' regarding denying him the opportunity in allotment of shop/stall or license fee.

2. The Complainant submitted that he has applied for allotment of Shop/Stall on License Fee basis to the New Delhi Municipal Council against their advertisement in an English daily dated 11.01.2015. He submitted that license fee quoted for the Shop/Stall reserved for persons with

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disabilities is quoted on higher side than the license fee quoted for general public. He further submitted that the cost of application form is Rs.1,000/- and the Earnest Money charged is Rs. 1 Lakh which are against the interests of persons with disabilities. The complainant has prayed vide letter dated 13.02.2015 to the Chairman, NDMC to give concession to persons with disabilities in cost of application form, Earnest Money, License Fee and to allot him a Shop/Stall by NDMC. The matter was taken up with the respondent vide this Court's letter dated 12.10.2015.

3. As no reply was received from the respondent and after considering complainant's request letter dated 19.01.2016, a hearing was scheduled on 13.09.2016. Which was further rescheduled on 20.10.2016.

4. During the hearing on dated 20.10.2016 the complainant has submitted that he had requested the Chairman, NDMC vide letter dated 13.02.2015 for allotment of shops/stalls on license fee as applicable to persons with disabilities and allow concession in earnest money, application fee and license fee etc. The NDMC had advertised reserved shops on license fee of Rs.26,000/- which is unaffordable to a person like him, whereas there are shops available at Sr. No. 2,3, 57 and 59 with low license fee. He submitted that, therefore, NDMC may allow low rent shops to disabled persons which a poor disabled person can afford. The complainant has requested that the above concessions in license fee/earnest money in preferential allotment be allowed under Section 43 of Persons with Disabilities Act, 1995. NDMC being a government body may consider these provisions and allow allotment of shops/stalls to disabled persons on lower rent/license fee with concessions as allowed to persons with disabilities like in other government departments like, Indian Railways etc. The complainant has submitted that NDMC has deprived him of this opportunity to own a small shop to earn his livelihood.

5. The Counsel appearing on behalf of Respondent submitted that the complainant has not even applied for a shop as alleged and they have not even received a copy of the complaint and other documents. The Counsel submitted that the letter dated 13.02.2015 allegedly written by the complainant to the Chairman, NDMC was not available with them and requested to provide the copies of these documents to him. The Counsel submitted that on receipt of the complainant's documents, the respondent will file the reply.

6. The copy of Complaint with all enclosures has been handed over to the Counsel for the Respondent for filing the reply. The Respondent's Counsel is directed to file the reply and also to provide the following information w.e.f. 01.01.1996 to this Court:-

- (i) How many advertisements for allotment of Shops/Stalls were released by NDMC.
- (ii) How many Shops/Stalls were allotted.
- (iii) How many Shops/Stalls were reserved for Persons with Disabilities.
- (iv) How many Shops/Stalls were allotted to Persons with Disabilities.
- (v) The criteria for reserving the Shops/Stalls for Persons with Disabilities.

The case was adjourned for 25.11.2016.

7. During the hearing on 25.11.2016, none appeared on behalf of the complainant nor any intimation has been received about their inability to attend the hearing despite the fact that the Record of Proceedings was sent on 02.11.2016 by Speed Post. The Court noted with serious concern, the utter disregard shown by the Complainant by neither intimating his inability to attend the hearing nor caring to send his version of the case.

8. The Counsel appearing on behalf of the Respondent submitted that the information sought vide para 3 of the Record of Proceedings on dated 02.11.2016 of this Court, we require some time as the information sought is of 20 years old. He further submitted that though the draft reply is being prepared, however, the comments from the Central Diary Section with regard to letter dated 13.02.2015 as claimed by the complainant to have been sent to the Chairman, New Delhi Municipal Council, are still awaited. Therefore, a short date may please be granted.

9. Considering the request of the Counsel of the respondent, the Court adjourned the case till 09.12.2016. The Complainant and Respondent are directed to appear on the next date of hearing on 09.12.2016 alongwith all the relevant information/record.

10. During the hearing, the complainant reiterated his written submissions and submitted that I apologize for not being able to attend last date of hearing on 25.11.2016 as I was held in the queue in front of my Bank for withdrawal of money and could not reach in time in this Court for hearing. Sorry for inconvenience caused. On today during the hearing, I have received reply from the respondent NDMC. I need time to file the rejoinder. Therefore, 10-15 days may be granted to file the rejoinder. However, it is submitted that NDMC has taken two years to file this reply. I have submitted a letter in this Court on today dated 9.12.2016 in the aforesaid matter, which may also kindly be taken into account while deciding the case. I still required more time to submit the complete reply in the matter. This is a serious matter and the Court may take serious view on this.

11. The representative of the respondent submitted a reply to the complaint of the complainant on today, which was taken on record, a copy of which was also handed over to the complainant. And submitted that as far as the query raised in Para 3 of the Record of Proceedings dated 02.11.2016 is concerned, the relevant file containing the information was tagged with some other file, on which decision was to be taken by the office of the Chairman. The same file has been received back on dated 08.12.2016. The entire information will be furnished on or before the next date of hearing. The complainant may be directed to supply the advance copy of the rejoinder to be filed by the complainant to the respondent.

12. After hearing the parties, the Court observed that the respondent's Counsel has filed the reply in the matter, copy of which has been given to the complainant for filing his rejoinder. Respondent is directed to file the reply to the queries made by this Court vide Record of Proceeding dated 02.11.2016, for which the Counsel of the respondent sought two weeks time, which is granted. The case was adjourned for 05.01.2017.

13. During the hearing the complainant submitted that he filed his rejoinder dated 19.12.2016 to the interim reply filed by the NDMC on 09.12.2016. He submitted that NDMC filed its reply in the matter which he received on 04.01.2017. The complainant submitted that NDMC has not provided full information as ordered by this Court during its first hearing on 20.10.2016. He submitted that the NDMC in its final reply has stated that they have allotted 259 Shops/Stalls during the last 15 years and only out of seven Shops/Stalls were reserved allotted to persons with disabilities. Backlog of six Shops/Stalls are yet to be allotted to persons with disabilities. No visually impaired person has been allotted Shops/Stalls during the last 20 years. It is further submitted that NDMC has not explained the basis of selecting/reserving Shops for persons with disabilities. The logic of this criteria is still a mystery. The complainant submitted that the NDMC may be asked to give details of Shops/Stalls which are pending for backlog allotments. He further submitted that NDMC has been violating the provisions of Persons with Disabilities Act, 1995. The complainant requested this court to look into the matter. He further submitted that he will file his rejoinder to the final reply of NDMC.

14. The Counsel appearing on behalf of the Respondent in his written submission dated 02.01.2017 submitted that despite the best efforts, NDMC could only collect information from 2002 onwards to the directions given in para 3 of Record of Proceedings dated 02.11.2016. He submitted that after May, 1994, the Respondent pursuant to the Gazette published by the authority of Delhi Govt., was making reservations as per following details with respect to properties allotted by the NDMC.

a.	12.5% reserved for SC & ST
b.	2% reserved for Physically Handicapped persons
c.	2% reserved for War Widows
d.	2% reserved for Freedom Fighters
e.	2% reserved for Ex-Servicemen

The Attorney submitted that Directorate of Estate vide letter dated 06.09.2002 had revised the policy for disposal of shops in case of SC/ST and physically handicapped in the following manner :

- a. 22.5% reserved for SC/ST
- b. 3% reserved for Physically Handicapped persons.

15. Thereafter, the Respondent NDMC vide Council decision dated 11.10.2002 had decided to follow the policy as adopted by the Govt. of India, Ministry of Urban Affairs and Employment. Since then NDMC had been following the revised policy as mentioned above and the details of the total advertisements for allotment of Shops/Stalls released by the NDMC, allotment of the same, the reservation and allotment of the Shops/Stalls for persons with disabilities as mentioned below;

S. No	Information asked	Reply
1.	How many advertisements for allotment of shops/stalls were released by NDMC?	Allotment Record of the period 1996-97 to 2001-2002 (04 years) is not traceable.  During the period from 2002-2003 to till date (16 years), 11 advertisements were published for allotment of shops/stalls by the NDMC.
2.	How many shops/stalls were allotted	259 (year wise details enclosed)
3.	How many shops/stalls were reserved for Persons with Disabilities?	07 (As per statement enclosed)
4.	How many shops/stalls were allotted to Persons with Disabilities.	01
5.	The criteria for reserving the shops/stalls for persons with disabilities?	As per the policy of the Govt. of India, 3%

S.No	Year of advertisements of allotments of shops/stalls.	Shops/Stalls allotted	Shops/Stalls reserved for persons with disabilities	Shops/Stalls allotted to persons with disabilities
1	2001-2002	9	*NIL	NIL
2	2002-2003	4	*NIL	NIL
3	2002-2003	3	*NIL	NIL
4	2002-2003	3	*NIL	NIL
5	2005-2006	11	01	NIL
6	2007-2008	51	01	NIL
7	2008-2009	24	01	NIL
8	2009-2010	16	01	NIL
9	2010-2011	58	01	NIL
10	2013-2014	54	01	NIL
11	2014-2015	26	01	01
	<b>11</b>	<b>259</b>	<b>07</b>	<b>01</b>

( \*Nil unit reserved for PH reflects as 3% criteria was not even forming a single unit and fractions could not be quantified)

The attorney further submitted that since the complainant has given his rejoinder today, and is willing to file another rejoinder, he will make his submissions after and going through the same. The case was adjourned for 23.01.2017.

16. During the hearing on 23.01.2017, the complainant reiterated his written submissions and submitted that NDMC cannot absolved its guilt in the matter of allotment of shops/stalls in 2015 by its lame excuses. It is reiterated that facts of the case have clearly proved that NDMC has been flouting the provisions of Persons with Disabilities Act, 1995 for the last 15 years in the matter of allotment of shops/stalls. As a proof, only one shop has been allotted in the last 15 years to the persons with disabilities against the 14 reserved shops for the persons with disabilities. NDMC has utter disregards for the laws for the persons with disabilities and a dismal regard in the allotment of shops/stalls to the

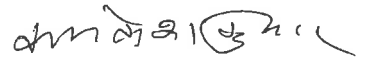
persons with disabilities in the last 15 years and no visually disabled person has ever been allotted a shop/stall in the last 15 years and no effort has been made to clear the backlog of allotment of shops/stalls to the persons with disabilities. As submitted in my rejoinder, it is reiterated that I have been discriminated in the matter of allotment of shops in the year 2015 as persons with disability and that caused me harassment, humiliation, mental agony and I have been unnecessarily victimized due to malafide practices followed by NDMC towards persons with disabilities in utter violation of Persons with Disabilities Act, 1995 and my fundamental right under Article 14 of the Constitution has been violated. I pray before the Hon'ble Court to consider the facts and protect my rights and provide me relief in the interest of justice. It is prayed that NDMC may be directed to allot me a suitable shop being a person with disability as I was very much a part of the process of allotment of shops/stalls in the year 2015 as I had applied vide my application dated 13.02.2015 well before the closing date to Chairman, NDMC for concessions and preferential allotment of an affordable shop as per the provisions of Persons with Disabilities Act, 1995. I pray for justice and relief from the Hon'ble Court in view of the facts stated above.

17. The Counsel appearing on behalf of the Respondent submitted that NDMC from May, 1994 is following the Gazette published by the authority of Delhi Government in which 2% reservation was meant for the physical handicapped persons and thereafter Government of India, Ministry of Urban Affairs and Employment, Directorate of Estate vide letter dated 06.09.2002 has revised the Policy for disposal of shops for SC/ST and PH, wherein 3% reservation was kept for physically handicapped persons. Accordingly, NDMC vide its Council's decision dated 11.10.2002 had adopted the policy of the Government of India, Ministry of Urban Affairs and Employment, Directorate of Estate. Right from the beginning, the complainant is misleading this Court by submitting that he has applied vide application 13.02.2015. Admittedly, the alleged application was not as per the advertisement published by NDMC. Moreover, through the said letter, the complainant only requested the Chairman, NDMC for concessions in the allotment of shop, more particularly, with regard to the rent and the earnest money. It is pertinent to mention that the NDMC being a Government body as the name itself suggests that it is a Council of number of members wherein all the decisions are taken by the Council through vigorous process and the policy decisions such as allotment of shops cannot be altered/varied merely because on an application of an individual. Moreover, admittedly, the said letter was written after one month of the said advertisement when the whole process was already in motion. If the prayer of the complainant as made in his complaint is allowed and as prayed, any shop is directed to be given to him then it will be sheer discrimination not only with the general public but also with the physically disabled persons as no person can be allotted a shop without even applying for the same merely because abusing the process of law and exploiting the salutary provisions of Persons with Disabilities Act. Therefore, in view of the above, it is prayed that the complaint of the complainant be dismissed.

18. After hearing the party and perusal of the record of the case, the Court observed that the complainant did not apply for the allotment of shop in the prescribed proforma and simply made the

query by writing letter to the Chairman, NDMC. Therefore, this Court does not find any violation of any provision of the Persons with Disabilities Act, 1995 and Government instructions. Hence, no relief can be granted to the Complainant. However, the Respondent is directed to clear the backlog of shops/stalls as per the provisions of Section 43 of the Persons with Disabilities Act, 1995.

19. Ordered accordingly.



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