



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

Dated : 17.01.2017

Case No. 6195/1011/2016

**In the matter of:**

Shri Manish Gautam,  
Dy. Director (Legal),  
Association for the Rights of Disabled Persons,  
BK-2/94, Shalimar Bagh, Delhi-110088.  
<gautamanish2011@gmail.com>

..... Complainant

Versus

Hemwati Nandan Bahuguna Garhwal University,  
Through the Registrar,  
Srinagar (Garhwal), Uttarakhand-246174

..... Respondent

Date of hearing : 09.09.2016, 21.11.2016

**Present:**

09.09.2016

1. Complainant absent..
2. Respondent. absent.

09.09.2016

1. Complainant absent..
2. Shri Suraj Kumar Prasad, Hindi Translator, on behalf of Respondent.

**ORDER**

The above named complainant, Deputy Director (Legal), Association for the Rights of Disabled Persons filed a e-mail complaint dated 08.04.2016 before the Chief Commissioner for Persons with Disabilities under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, hereinafter referred to the 'Act' regarding reservation for persons with disabilities in Hemwati Nandan Bahuguna Garhwal University.

2. The complainant has submitted that Hemwati Nandan Bahuguna Garhwal University has published an advertisement for various posts and in this advertisement University has only mentioned "One post each among Professors and Associate Professors and 05 posts from Assistant Professors will be filled up from PwD category" which is not correct as per any existing Act/Rule/Policy of PwDs. He further submitted that it is necessary to keep reserve seats for PwD in identified discipline either for PwD(OH) and PwD (VH) because teaching post is not identified for HH.

3. The matter was taken up under Section 59 of the Act with the respondent vide this Court's letter dated 30.05.2016.

4. The Respondent vide its letter No. HNBGU/2016/Adm/9970 dated 08.07.2016 submitted the roster in the prescribed proforma duly filled up in respect of posts reserved for persons with disabilities in the Hemwati Nandan Bahuguna Garhwal University.

...2/-

5.. During the hearing on 09.09.2016, no one appeared on behalf of the complainant and Respondent. Nor any intimation has been received about their inability to attend the hearing despite the fact that the Notice of Hearing was sent on 29.07.2016 by Speed Post. The Court noted with serious concern, the utter disregard shown by the Respondent by neither intimating their inability to attend the hearing nor caring to send their versions of the case.

6. In the interest of justice, the case is adjourned to 21.11.2016 at 1500 Hrs. In the event of non-appearance, this Court may be constrained either to decide the complaint on the basis of available records or take action under Section 63(1)(a) of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995.

7. During the hearing on 21.11.2016, no one 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 15/19.09.2016 by Speed Post. The Court noted with serious concern, the utter disregard shown by the Complainant by neither intimating their inability to attend the hearing nor caring to send their versions of the case.

8. The representative of the respondent submitted that the HNB Garhwal University was upgraded to a Central University w.e.f. 15.01.2009 from a State University. As per records available, during the State University period reservation rules specially reservations for people with disabilities was not followed in strict sense. After upgradation to Central University the University is committed to follow and implement all the reservation rules of Government of India including reservation for persons with disabilities. The University is following 3% reservations in all posts for persons with disabilities as per Government of India. The University has already implemented reservation policy for Scheduled Castes, Scheduled Tribes, Other Backward Classes and Persons with Disabilities for all posts of Assistant Professor, Associate Professor and Professor. Nearly 680 Non-teaching posts of the University are under active consideration of UGC for rationalization as the nomenclature, pay scale, grade pay of posts sanctioned during State University varies with cadre of Central Universities. Thus the University has withheld all promotions and recruitments. After finalization of rationalization of posts, Recruitment Rules are to be framed and Roster will be prepared following reservation rules of Government of India. In view of above facts and circumstances, it is requested to dispose off the complaint as the University is committed to follow the reservation rules of Government of India including reservation for persons with disabilities.

9. Section 33 of the Persons with Disabilities (Equal Opportunities, Protection of Rights & full Participation) Act, 1995 hereinafter referred to as the Act provides as under:-

*"Section 33. Every appropriate Government shall appoint in every establishment such percentage of vacancies not less than three per cent for persons or class of persons with disability of which one per cent each shall be reserved for persons suffering from –*

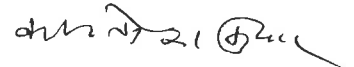
....3/-

(i) Blindness or low vision; (ii) Hearing impairment, (iii) Loco motor disability or cerebral palsy, in the posts identified for each disability;

*Provided that the appropriate Government may, having regard to the type of work carried on in any department or establishment, by notification subject to such conditions, if any, as may be specified in such notification, exempt any establishment from the provisions of this section."*

10. After hearing the representative of the respondent and the records available on the file, the case is disposed off with the following direction to the respondent :-

- (i) Prepare the Reservation Roster and calculate the backlog of vacancies since 1.1.1996.
- (ii) After approval from the UGC for rationalization of posts, conduct special recruitment drive to fill the vacancies in a time frame manner within six months from the date of hearing.
- (iii) Follow the provisions of Section 33 of the Act in letter and spirit and make efforts to fill the vacancies among three categories of disabilities in the ratio of 1:1:1 as mandated in the Act.
- (iv) Submit the compliance report with names of the selected candidates, their percentage and nature of disability.

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