



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.6222/1141/2016

Dated:- 15.02.2017

In the matter of:

Dr. Satendra Singh, *0798*
Coordinator, Enabling Unit,
Equal Opportunity Cell,
University College of Medical Sciences,
(University of Delhi) & Guru Teg Bahadur Hospital,
Delhi-110095.

..... Complainant

Versus

Maruti Suzuki India Limited, *0799*
Through Dy. General Manager (CRM),
1, Nelson Mandela Road, Vasant Kunj,
New Delhi-110070..

..... Respondent No.1

Department of Heavy Industry, *0800*
Through Under Secretary (AEI Section),
Ministry of Heavy Industries & Public Enterprises,
Udyog Bhawan, New Delhi-110001.

..... Respondent No. 2

Central Board of Excise & Customs,
Through : Chairman, *0801*
North Block, Defence Headquarters,
New Delhi-110001.

..... Respondent No. 3

Department of Empowerment of Persons with Disabilities,
Through : Director (DD.III), *0802*
Ministry of Social Justice and Empowerment,
5th Floor, B-II, Paryavaran Bhawan,
CGO Complex, Lodhi Road, New Delhi-110003.

..... Respondent No. 4

Date of hearing : 14.10.2016

Present :

1. Dr. Satendra Singh, Complainant.
2. Shri Gaurav Kaushik, DM-Legal), (MSIL) on behalf of Respondent No. 1.
3. Shri B. P. Satayapathy, US (Auto), Sh. Ajay Kumar Gaur, US(AEI), DOHI, on behalf of Respondent No. 2.
4. S/Shri Sameer Jain (Standing Counsel) CBEC and Mark Wright, Advocates, on behalf of Respondent No. 3.
5. Shri D.K. Panda, US, Department Of Empowerment of Persons with Disabilities, on behalf of Respondent No. 4.

ORDER

The above named complainant, Dr. Satendra Singh, Coordinator, Enabling Unit, Equal Opportunity Cell, University of Delhi, a person with 70% locomotor disability, filed complaint dated 16.04.2016 under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full

...2/-

Participation) Act, 1995, hereinafter referred to as the Act purchase of car, issuance of manufacturer certificate, excise duty concession and other related issues for mobility of persons with disabilities.

2. The complainant submitted that he booked auto transmitted Baleno Delta CVT form Nexa, Akshardham. When he asked the procedure for availing the manufacturer certificate, MSIL showed him discriminatory guidelines that such facility only exists for customers with left leg disability. The Govt. of India circulars do not mention between right and left leg disability. As per the guidelines of Department of Heavy Industry, the applicants are required to submit a medical certificate, an affidavit and a manufacturer's certificate. The complainants has claimed reliefs from the respective respondents and requested this Court to issue directions to the respondents.

3. In response to this Court's letter dated 10.06.2016, replies have been received from the respondent No. 2 and respondent No.3. No reply has been received from the respondent No. 1 and respondent No. 4.

4. Respondent No. 2, Ministry of Heavy Industries & Public Enterprises vide letter dated 06.07.2016 has inter-alia submitted that to facilitate for early issue of certificate to persons with disabilities, they have amended the guidelines to the extent of honouring certificate from concerned Road Transport Authority henceforth, in the case of retrofitted vehicle after purchase, in lieu of Manufacturing Certificate. Accordingly, the complainant submitted his application dated 06.06.2016 and he was issued the desired certificate on 13.06.2016 to avail benefit of excise duty concession for purchase of vehicle as per the scheme of Government.

5. Respondent No.3, Central Board of Excise and Customs vide letter dated 18.07.2016 has submitted para-wise reply of the complaint. It has been intimated that the Department of Heavy Industries is the concerned administrative Ministry and an officer not below the rank of Deputy Secretary in the Ministry certifies that the particular car is capable of being used by a handicapped person subject to fulfillment of other conditions. Department of Revenue has no authority to instruct the manufacturers, including MSIL to be disabled friendly and modify their guidelines. Departmental Circulars have binding nature only on departmental officers and not on any assessee, including MSIL. Therefore, it is not feasible to seek any explanation form MSIL.

6. The complainant vide e-mail dated 19.07.2016 has submitted his rejoinder to the reply submitted by respondent No. 2. He has accepted to have received the manufacturer certificate issued by Department of Heavy Industries and has inter-alia submitted that the amendment allows the concession on automatic transmission, retrofitted vehicle or those wearing prosthesis. But there are still problems with other persons with disabilities. He has requested that the excise duty concession should be given to a disabled person using a driver, a disabled person who can drive car (manual transmission) as well as to disabled persons who can drive cars after suitably modified.

7. Upon considering the replies of Respondent No.2 and Respondent No. 3 dated 06.07.2016 and 18.07.2016, a hearing was scheduled on dated 14.10.2016..

8. During the hearing on 14.10.2016, the complainant reiterated his written submissions and submitted that his complaint is to be read in line with decision of Hon'ble High Court of Rajasthan in the case of "Vijay Raj Khariwal Versus Union of India & Ors." CW Case No. 2697 of 2005 whereby they upheld the right of complainant with disability with similar complaint as his against MSIL. Despite this decision, MSIL continues to harass people with disabilities and this should be viewed as contempt of Court. The MSIL should be directed to make special vehicles for customers with disabilities as no car manufacturer carries out this social responsibility. He appreciates respondent No. 2 (DHI) who extend all possible help to make life easier for customers applying for excise duty concession. However, one statement in the medical certificate needed to avail excise duty concession is defeating the purpose of granting benefits to the disabled. He prayed before this Court to consider sympathetically the fact that no manufacturer modifies/retrofits vehicles for persons with disabilities. The moment we get modification done, it nullifies eligibility for third party insurance cover or claims. There is no benefit to the public/disabled persons of governmental benefits in such scenarios when the insurance is lost. The Court may take a broader view on the plight of people with disabilities and may pass a landmark decision directing Respondent No. 4 (MSJE) to make manufacturers complaint with third party insurance cover or claims in all modified/retrofitted vehicles.

9. The representative of Respondent No. 1, Maruti Suzuki India Limited submitted that the complainant is asking for the reimbursement of Excise Duty from Maruti on which he has been informed that the same could not be reimbursed by the Government of India i.e. Excise Department. The Manufacturer Certificate which earlier was to be issued by the Manufacturer, is now dispensed with and now the same Certificate is being issued by the RTO. Therefore, Maruti has no role in issuing of any Certificate. The Complainant has already got the Certificate from the RTO and nothing remains as of now. It is, therefore, most humbly prayed that this Hon'ble Court may graciously be pleased to dismiss the present complainant.

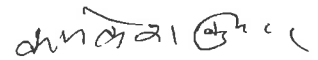
10. The Counsel appearing on behalf of the Respondent No.3, Central Board of Excise & Customs during the hearing, requested the Representative appearing on behalf of Maruti Suzuki India Limited to be more disabled friendly and complainant, for which the guidelines already issued by Central Board of Excise & Customs to assist people with disability to get concession on Excise Duty. On this, Shri Gaurav Kaushik, DM-Legal, the representative appearing on behalf of Maruti Suzuki India Limited submitted that Maruti has been cooperating and supporting disabled people by apprising them how to get Excise duty concession and have always been disabled friendly. He further submitted that people with disability have already benefited from Excise Duty concession from the instructions issued by the CBEC.

11. The Representative appearing on behalf of Respondent No. 2, Ministry of Heavy Industries & Public Enterprises submitted that based on the representation received from the complainant, Dr. Satendra Singh, the Department of Heavy Industries arranged a meeting with Society of Indian

Automobile Manufacturers (SIAM) and Car Manufacturing Companies on 22.04.2016 to sort out the grievance of the Complainant. On the basis of decision of the meeting, it has been decided to dispense with the Manufacturing Certificate in case of Retrofitted vehicles after purchase. Accordingly, the existing policy has been amended to the extent that Certificate from Road Transport Authority would be sufficient in place of Manufacturing Certificate in such cases. In pursuance to amended guidelines, the Complainant has applied for Concession Certificate afresh on 06.06.2016 and therefore, a certificate for availing Excise Duty concession by the complainant has already been issued on 13.06.2016 by the Department of Heavy Industries to the Complainant. In view of the above, there is nothing pending on the part of Department of Heavy Industries, Respondent No. 2 to this case.

12. After hearing the arguments of the parties and perusal of the office record, the court expressed its limitation on being able to frame any sort of legislation on the subject of Excise Duty and disabled friendly vehicles. Yet the Court is empowered to represent before the concerned Ministry to apprise the absence of such standing laws and would advised the respondents to consider legislation on the subject and would pursue the same from time to time.

13. The case is disposed off accordingly.



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