



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.3929/2007

Dated: 23.11.2012

In the matter of:

Shri Gopal Sisodia
General Secretary
Indian Association of the Blind
154/C, Delhi Administration Flats,
Sindhora Kalan, Delhi-110052.

..... Complainant

Versus

State Bank of India, Mumbai
Banking Division, Ministry of Finance, New Delhi.

.... Respondent No.1

Respondent No.2

Department of Disability Affairs,
Ministry of Social Justice & Empowerment
Through : Secretary,
Shastri Bhawan, New Delhi.

... Respondent No.3

Case No. 65/1041/12-13

In the matter of:

Score Foundation
Through Shri George Abraham, CEO,
17/107, LGF, Vikram Vihar,
Lajpat Nagar-4,
New Delhi-110024.

..... Complainant

Versus

Department of Disability Affairs,
Ministry of Social Justice & Empowerment
Through : Secretary,
Shastri Bhawan, New Delhi.

..... Respondent

Date of Hearing : 20.11.2012

Present:-

1. Mr. George Abraham with Neha Saigal on behalf of Complainant](In Case No.65/1041/12-13)
2. None appeared on behalf of Complainant (In Case No.3929/07)
3. Shri K.V.S. Rao, Director on behalf of Respondent

ORDER

Shri Gopal Sisodia, General Secretary, Indian Association of the Blind, the Complainant filed a complaint dated 13.5.2007 (Case No. 3929/2007) under the Persons with Disabilities

(Equal Opportunities, Protection of Rights and Full Participation)Act, 1995, hereinafter referred to as the 'Act', regarding issuance of comprehensive Policy for conduct of written examinations for persons with disabilities.

2. After two hearings in the case, it was decided to implead Ministry of Social Justice & Empowerment and the following directions were issued:-

- (a) The complainant to submit a draft of the guidelines/provisions that need to be included for the scribe to MSJE by 8th November, 2007.
- (b) Ministry of Finance, in consultation with Reserve Bank of India, Indian Bank Association and the other stake holders to submit their views to MSJE by 8th November, 2007.
- (c) MSJE with their input, may circulate the draft guidelines/criteria for the scribe to respondent 1 & 2 and other stakeholders and invite their comments and thereafter finalise the guidelines for scribes, preferably within 3 months.

3. During the third hearing on 30.11.2007, the Counsel for the Complainant submitted that any policy regarding facilities to be given to visually impaired and other persons with disabilities for writing the issues should not be finalized without consulting the stakeholders, particularly the beneficiaries of the policy. The representative of the Ministry of Finance submitted that RBI and State Bank of India had submitted their comments which had been forwarded to the Ministry of Social Justice & Empowerment. Ministry of Social Justice & Empowerment informed that a number of suggestions from individuals/organizations had been received which needed to be consolidated and considered. As a considerable period of time had already elapsed, MSJ&E was advised to forward copies of all the suggestions within a week for consideration. A meeting was thereafter convened under the Chairmanship of Chief Commissioner on 19.2.2008 to hear the stakeholders and finalize the recommendations for a policy. After detailed deliberations with the stakeholders, the recommendations were forwarded to Ministry of Social Justice & Empowerment vide letter No. 1-2(Scribe)/ CCD/2007 dated 17.3.2008. After a number of correspondence, Chief Commissioner for Persons with Disabilities vide letter dated 26.9.2011 advised MSJ&E to issue the guidelines within a month of receipt of that letter.

4. In the meantime another complaint dated 6.6.2012 (Case No.65/1041/12-13) was received from Score Foundation, which was also forwarded to the Department of Disability Affairs vide letter dated 31.07.2012 with the request to issue the guidelines within one month from the date of the said letter incorporating the suggestions contained in the letter of Score Foundation dated 6.6.2012.

5. Department of Disability Affairs vide their letter dated 13.09.2012 submitted that they had decided to organize workshops/seminars through its National Institutes to gather views of persons with disabilities for making provision of a scribe before finalizing a uniform policy for persons with disabilities in various examinations. It was further stated that the consultations were

yet to commence. However, the matter was under active consideration as views of certain National Associations in this field had been received and were being deliberated upon. It was also stated that all efforts to finalize the policy were being made.

6. This Court vide letter dated 04.09.2012 requested Department of Disability Affairs to issue the guidelines on or before 20.09.2012, failing which, it was stated, this Court may be constrained to issue Show Cause Notice. Accordingly, as the guidelines were not issued, a notice of complaint to show cause and hearing was issued on 21.9.2012 with the advice to issue the guidelines by 20.10.2012; else to appear before this Court on 2.11.2012. The matter was re-scheduled for hearing on 20.11.2012 on the request of Department of Disability Affairs.

7. During the hearing on 20.11.2012, the representative of Score Foundation in case No.65/1041/12-13 reiterating his submissions envisaged in his complaint dated 23.4.2012, stressed the need for issuance of uniform and comprehensive guidelines for persons with blindness and persons with low vision as they continue to be routinely subjected to untold hardship and disadvantage for want of such uniform and comprehensive guidelines. He further submitted that the document which has been put together by Score Foundation and others could be circulated to all concerned as guidelines so that these guidelines can be used as a reference by various stake holders for developing their own norms with regard to conduct of examinations as stated above in respect of candidates with disabilities. The complainant further stated that several of the bodies conducting examinations are unaware of ways in which candidates with blindness and/or with low vision can be included in the examination process. He further added that several examination conducting Authorities under-estimate the capabilities of blind and low vision persons to participate in the examination process.

8. The representative of Department of Disability Affairs, Ministry of Social Justice & Empowerment, Government of India submitted that the guidelines forwarded by Chief Commissioner for persons with disabilities were being considered by the Ministry. He added that before taking a final view in the matter, the Ministry had convened a meeting with the recruitment authorities/agencies like Staff Selection Commission, Union Public Service Commission, CBSE and sensitized them about the proposed guidelines. These authorities were requested to send the detailed comments on each of the points made by the Chief Commissioner for persons with disabilities so that their implementation is ensured. While the comments of these authorities/agencies were received, the subsequent meeting to be held with them to finalize the matter could not be held. It was also decided by the Ministry to request the National Institutes working under the Ministry to organize consultations to discuss the guidelines framed by Chief Commissioner for Persons with Disabilities. Even this consultation could not be held so far. Recently, on receipt of a reference from Score Foundation, the matter was again examined at the highest level and it was decided to take action on the guidelines framed by Chief Commissioner for Persons with Disabilities for reaching its logical conclusion. He further stated that a meeting would be convened in the middle of December this year with the relevant recruitment and

academic bodies. After consulting these bodies, uniform and comprehensive guidelines would be issued to all concerned for compliance.

9. In the light of foregoing, this Court is pleased to observe as follows:-

- (i) That the question of issuance of uniform and comprehensive guidelines in the matter of conduct of all kinds of examinations (both recruitment related and academics related) involving persons with disabilities has been under consideration by the Respondent Department for quite a few years now as can be seen from the relevant Show Cause Notice/Notice of hearing dated 21.9.2012.
- (ii) That it goes without saying that in the absence of such uniform and comprehensive guidelines, persons with disabilities including the persons with blindness and low vision continued to be routinely subjected to prolonged and pervasive hardship and disadvantage with the result that more often than not, many candidates with disabilities have to run from pillar to post getting to fix various problems relating to taking off examinations by them such as issues around amanuenses, use of low vision aids, use of computers, extra time etc. etc.
- (iii) That this Court notes with utter dismay and shock that this matter did not move forward with the Ministry since 2008 and 2009 and it continues to hang fire compounding the hardship, disadvantage and irreparable loss faced by persons with disabilities.
- (iv) That while the instant complaints relate specifically to persons with blindness and low vision, this Court is also equally concerned about the hardships and disadvantage faced by persons belonging to other categories of disabilities as well in the matter of taking examinations.
- (v) That the guidelines put together by the Complainant Score Foundation and other concerned persons with low vision only, and they do not take on board the concerns of persons belonging to other categories of disabilities.
- (vi) That the guidelines put together by the office of the Chief Commissioner for Persons with Disabilities after elaborate consultations with primary and other stake holders including persons with blindness and persons with low vision etc.
- (vii) That this Court acknowledges that developing guidelines and norms in the matter of this ilk has to be an evolving process characterized by reasonable flexibility so as to cater to the exigencies of a given situation and also to take on board the advancement which takes place in the field of science and technology with the efflux of time.

(viii) That in view of the foregoing, the issuance of uniform and comprehensive guidelines as stated above brooks no delay.

10. This Court, therefore, directs the Respondent Department to complete all necessary processes & procedures, finalize and circulate for compliance uniform and comprehensive guidelines to all concerned put together by this Court with or without modifications as may be necessary for conduct of all kinds of examinations within two months from today.

11. Copy of this Order may be posted on the Website of this Court as soon as may be.

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