



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

D.O.No.16-7/CCD/2013

Dated: 21st June, 2013

Dear Shri Mishra,

1. Purpose:- The purpose of this letter is to impress upon you the definite & distinct need for effecting appropriate modifications in Para 6 of the O.M. No.36035/3/2004-Estt. (Res) dated 29.12.2005 of your department with a sense of urgency.

2. Para 6 of O.M. No. 36035/3/2004-Estt. (Res) dated 29.12.2005:- Para 6 of the said O.M. is reproduced below:-

“APPOINTMENT AGAINST UNRESERVED VACANCIES: In the posts which are identified suitable for persons with disabilities, a person with disability cannot be denied the right to compete for appointment against an unreserved vacancy. Thus a person with disability can be appointed against an unreserved vacancy, provided the post is identified suitable for persons with disability of the relevant category.”

3. Justification/Reasons for seeking modification in the aforesaid Para 6 of the said O.M.:- One necessary implication of the provisions of Para 6 of the said O.M. is that while a person with a disability can be appointed against an unreserved vacancy provided that the post is identified suitable for persons with disability of the relevant category, she/he cannot be appointed against an unreserved and unidentified post despite she/he getting selected purely on merit. Clearly therefore, to my humble way of thinking, this provision runs counter not only to the letter & spirit of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, but also to the fundamental rights enshrined in the Constitution of India. Besides such a provision is neither in consonance with the U.N. Convention on the Rights of Persons with Disabilities which India has since ratified nor it is in consonance with the principle that list of identified posts is only illustrative & not exhaustive as enunciated in Ministry of Social Justice and Empowerment Notification No.16-25/99-N.I.-I dated 31.05.2001. The fact of the matter is that if a person with disability succeeds in convincing the selection panel that she/he can smoothly and effectively perform the functions & duties attached to a given job/post and if she/he gets selected purely on merit, she/he has a definite & distinct right to get recruited to the post irrespective of whether that post is identified or not. Identification of posts as envisaged in Section 32 of the PwD Act, 1995 is relevant only to reservation of vacancies as envisaged in Section 33 of the said Act.

Contd....2

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4. Nature of modification required:- In the above view of the matter, Para 6 of the said O.M. of your department should be modified in a manner which does not debar a person with a disability from applying, competing, and if selected purely on merit against an unreserved and unidentified post, to get recruited to that post.
5. Action taken in respect of the matter may kindly be intimated.

Yours sincerely,

Sd/-
(P.K. Pincha)

Shri P.K. Mishra,
Secretary to the Govt. of India,
Department of Personnel and Training,
Ministry of Personnel, Public Grievances and Pensions,
North Block,
New Delhi – 110 001

Copy to: Secretary, Department of Disability Affairs, Ministry of Social Justice & Empowerment,
Govt. of India, Shastri Bhawan, New Delhi-110 001



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. 464/1141/13-14

Dated: 11.04.2013

In the matter of:
Suo-Motu

Vs.

Department of Disability Affairs
Ministry of Social Justice & Empowerment
Through Secretary
Government of India
Shastri Bhawan,
New Delhi - 110001

.... Respondent

Whereas, Section 64.(2) of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, hereinafter referred to as the 'Act', makes it obligatory on the part of the Central Government to lay before both the Houses of Parliament the Annual Report of the Chief Commissioner for Persons with Disabilities alongwith his recommendations explaining the action taken or proposed to be taken on the recommendations made therein so far as they relate to the Central Government and the reasons for non-acceptance, if any, of any such recommendation or part thereof;

2. And whereas, this Court vide letter No.8-3/CCD/2012 dated 22nd March, 2012 (copy enclosed) addressed to the Secretary, Ministry of Social Justice & Empowerment, Govt. of India had requested information as to whether the Annual Reports relating to the period 2007-08, 2008-09 and 2009-10 respectively were duly tabled before both the Houses of Parliament together with action taken reports as mandated vide Section 64.(2) of the Act followed by letters of even number dated 20th December, 2012 and 14th March, 2013;

...2.....

3. And whereas, despite the aforesaid three letters, no response has been forthcoming from the Department of Disability Affairs, Ministry of Social Justice and Empowerment, Govt. of India;

4. And whereas, the Annual Report for the year 2010-11 has also been sent to the government in the meantime;

5. And whereas, the action taken report in respect of the recommendations of the Chief Commissioner for Persons with Disabilities as contained in her/his Annual Reports is reflective of the government's thinking and initiative regarding the recommendations of the Chief Commissioner apart from the seriousness and importance with which such recommendations are taken;

6. Therefore, the Chief Commissioner for Persons with Disabilities, Govt. of India has directed issuance of this show cause notice to the Department of Disability Affairs, Ministry of Social Justice and Empowerment to show cause as to why the said Department has not responded to his letter dated 22nd March, 2012 and the two subsequent letters/reminders and why this Court should not pass appropriate orders/directions in the matter by 30.04.2013. The said Department is further directed to let this Court know whether the Annual Reports of the Chief Commissioner together with the corresponding action taken reports relating to the years 2007-08, 2008-09, 2009-10 and 2010-11 respectively have been tabled before both the Houses of Parliament as mandated under Section 64.(2) of the Act. Copies of the action taken reports, if any, for the years 2007-08, 2008-09, 2009-10 and 2010-11 respectively which may have been tabled before both the Houses of Parliament also be enclosed with the reply.

Sd/-
(T.D. Dhariyal)
Dy. Chief Commissioner



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: 10413929/2007
65/1041/12-13

Dated: 18.03.2013
Dispatch No: _____

To

Shri A.S. Bhattacharya,
Director,
Institute of Banking Personnel Selection,
IBPS House,
Behind Thakur Polytechnic,
Kandivali (E), Mumbai-400 101.

Sub:- **Guidelines for conducting written examination for persons with disabilities.**

Sir,

I am directed to refer to your letter No. 12635 dated 12.03.2013 on the above mentioned subject seeking clarification on clauses IV, V, VI, VII, VIII, XI and XV of the guidelines issued vide Ministry of Social Justice and Empowerment, Department of Disability Affairs's OM No. 16-110/2003 DD-III dated 26.02.2013. The said guidelines are comprehensive and self explanatory. If and when any issue arises in their implementation, the same may be resolved by relying on the principle of need-based flexibility, keeping in view the need for providing reasonable accommodation or by referring the same to Ministry of Social Justice and Empowerment, Department of Disability Affairs.

2. Regarding clause XI the facility of scribe/reader/lab assistant is meant for only those candidates with disabilities who have physical limitation to write including that of speed. The additional time would be applicable only to such candidates.

Yours faithfully,

Sd/-
(T.D. Dhariyal)
Dy. Chief Commissioner

Copy to: All concerned



न्यायालय मुख्य आयुक्त निःशक्तजन

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Ministry of Social Justice & Empowerment
निःशक्तता कार्य विभाग / Department of Disability Affairs

Notice of hearing u/s 63 of PWD Act, 1995

Case No: 117/1015/12-13

Dated: 30.01.2013
Dispatch No.

In the matter of:-

1. Dr. Bhimasen Hantal
Q. No. 1/2, Type V, OFK Estate
West Land, Khamaria
Jabalpur, M.P. – 482005

Complainant

Versus

Ministry of Personnel, P.G. & Pensions
Department of Personnel & Training
Through Secretary
North Block, New Delhi

Respondent

Case No: 141/0151/12-13

In the matter of:-

2. Shri K.K. Bhargava
Laxmi Niwas
Beechla Road, Ajmer
Rajasthan

Complainant

Versus

Ministry of Personnel, P.G. & Pensions
Department of Personnel & Training
Through Secretary
North Block, New Delhi

Respondent

...2....

Case No: 144/1015/12-13

In the matter of:-

3. Shri Ramesh Gorakh Gholap
Solapur, Maharashtra
e-mail: rggholap@gmail.com

Complainant

Versus

Ministry of Personnel, P.G. & Pensions
Department of Personnel & Training
Through Secretary
North Block, New Delhi

Respondent

Case No: 884/1011/12-13

In the matter of:-

4. Shri R.D.Meena
Scientist (NRCSS), Tabiji
Ajmer (Raj) - 305206

Complainant

Versus

Ministry of Personnel, P.G. & Pensions
Department of Personnel & Training
Through Secretary
North Block, New Delhi

Respondent

Case No: 911/1011/12-13

In the matter of:-

5. Kumari Bhagyashree Banayat
Qtr. No. B/21/3, Govt. Colony
Ravi Nagar, Nagpur, Maharashtra

Complainant

Versus

Ministry of Personnel, P.G. & Pensions
Department of Personnel & Training
Through Secretary
North Block, New Delhi

Respondent

...3...

Whereas the above named complainants filed complaints under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, hereinafter referred to as the Act for not giving any preference to candidates with disabilities who have been allocated IAS on the basis of Civil Services Examination over the candidates without disability of their community in allocation of home cadre;

2. And whereas, under Section 59 of the Act, the above complaints were taken up with DoP&T vide letters dated 26.10.2012, 14.11.2012, 10.12.2012 and 11.12.2012 (copies enclosed);

3. And whereas no reply has been received from DoP&T despite lapse of sufficient time;

4. Now therefore, it has been decided to hold a personal hearing in the matter and the parties are directed to appear in this Office at **Sarojini House, 6, Bhagwan Das Road, New Delhi - 110001** in person or through a representative (not below the level of Group 'A'/Class-I officer in the case of respondent) or a counsel well versed with the case at **4.00 p.m. on 12.02.2013** to present their case alongwith relevant documents.

5. Take notice that in default of appearance on that day, this office may be constrained to decide the complaints *exparte*.

Encl: a/a

Sd/-
(S.S.Sinha)
Dy. Chief Commissioner



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.9/1104/12-13

Dated: 23rd January, 2013

To

Chief Secretaries/Administrators of all the States/UTs

Subject: Regarding making all Government websites accessible to citizens/persons with disabilities.

Reference: News item published in The Hindustan Times dated 22nd January, 2013.

Sir,

In inviting your attention to the subject and reference captioned above, I am directed to state as under:-

1. That the Chief Commissioner for Persons with Disabilities, Department of Disability Affairs, Ministry of Social Justice & Empowerment, Govt. of India has taken suo-moto cognizance of the inaccessible status of most of the Government websites on the basis of a news item published in the Hindustan Times dated 22nd January, 2013 (copy enclosed for ready reference).
2. That it appears that most of the Government websites are inaccessible to citizens/persons with disabilities with the result that citizens/persons with disabilities are unable to access useful information which is available to others.
3. That the office of the Hon'ble Prime Minister of India, appreciating the need and urgency of making all Government websites accessible to all citizens/persons with disabilities is understood to have passed an order about three years back recommending that all Government websites be made accessible to the disabled.

Contd...2

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4. The National Informatics Centre (NIC), Govt. of India had also issued guidelines that all Government websites should conform to the international accessibility standards, the World Wide Web Consortium (W3C) and the Web Content Accessibility Guidelines (WCAG) 2.0.
5. That it appears that despite the order by the PMO, and despite the guidelines issued by NIC, most of the Ministries/Departments have done virtually nothing to make all Government websites accessible to the citizens/persons with disabilities.

In the above view of the matter, the Chief Commissioner for Persons with Disabilities has advised as follows:-

- (a) That the Chief Secretary may be pleased to issue directives to all the Ministries/Departments to make all Government websites accessible to citizens/persons with disabilities within a defined time frame.
- (b) That action taken in the matter may be intimated to this Court/office within 30 days from the date of this communication.

Yours faithfully,

Encl.: As stated above.

Sd/-
(S.S. Sinha)
Dy. Chief Commissioner

Copy to: Commissioners for Persons with Disabilities of all the States/UTs



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.9/1104/12-13

Dated: 22nd January, 2013

To

The Cabinet Secretary,
Cabinet Secretariat,
Govt. of India,
Rashtrapati Bhawan,
New Delhi – 110 004

Subject: Regarding making all Government websites accessible to citizens/persons with disabilities.

Reference: News item published in The Hindustan Times dated 22nd January, 2013.

Sir,

In inviting your attention to the subject and reference captioned above, I am directed to state as under:-

1. That the Chief Commissioner for Persons with Disabilities, Department of Disability Affairs, Ministry of Social Justice & Empowerment, Govt. of India has taken suo-moto cognizance of the inaccessible status of most of the Government websites on the basis of a news item published in the Hindustan Times dated 22nd January, 2013 (copy enclosed for ready reference).
2. That it appears that most of the Government websites are inaccessible to citizens/persons with disabilities with the result that citizens/persons with disabilities are unable to access useful information which is available to others.
3. That the office of the Hon'ble Prime Minister of India, appreciating the need and urgency of making all Government websites accessible to all citizens/persons with disabilities is understood to have passed an order about three years back recommending that all Government websites be made accessible to the disabled.

Contd...2

: - 2 - :

4. The National Informatics Centre (NIC), Govt. of India had also issued guidelines that all Government websites should conform to the international accessibility standards, the World Wide Web Consortium (W3C) and the Web Content Accessibility Guidelines (WCAG) 2.0.
5. That it appears that despite the order by the PMO, and despite the guidelines issued by NIC, most of the Ministries/Departments have done virtually nothing to make all Government websites accessible to the citizens/persons with disabilities.

In the above view of the matter, the Chief Commissioner for Persons with Disabilities has advised as follows:-

- (c) That the Cabinet Secretary may be pleased to issue directives to all the Ministries/Departments to make all Government websites accessible to citizens/persons with disabilities within a defined time frame.
- (d) That action taken in the matter may be intimated to this Court/office within 30 days from the date of this communication.

Yours faithfully,

Encl.: As stated above.

Sd/-
(S.S. Sinha)
Dy. Chief Commissioner

Copy to:

1. Director-General, National Informatics Centre, A-Block, CGO Complex, Lodhi Road, New Delhi-110003
2. The Hindustan Times, HT Media Ltd., Hindustan Times House, 18-20, K.G. Marg, New Delhi-110001

Despite PMO order, most govt websites not disabled friendly

HT Correspondent
whreporters@hindustantimes.com

NEW DELHI: Three years after the prime minister's office passed an order recommending all government websites to be made accessible to the disabled, most websites still remain out of reach for them.

The National Information Centre (NIC) had also issued guidelines, that all government websites should conform to the international accessibility standards, the World Wide Web Consortium (W3C) and the Web Content Accessibility Guidelines (WCAG) 2.0.

BarrierBreak Technologies — which works towards making technology accessible to all — conducted an audit of 10 government websites which claim to be disabled friendly, and found that none of them was accessible.

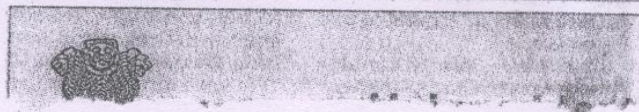
"The websites were chosen on the basis of the accessibility claims stated on their web pages to verify if these sites were actually accessible for persons with disabilities," said Shilpi Kapoor, managing director at Barrier-Break Technologies.

BARRIERBREAK TECHNOLOGIES CONDUCTED AN AUDIT OF 10 GOVT WEBSITES AND FOUND THAT NONE OF THEM WAS ACCESSIBLE

"Of the 7000 government websites, even the few that claim accessibility, don't meet the international standards. Government websites should be accessible, otherwise people with disabilities will be left out of the digital world," she said.

The survey found that important websites like the National Portal of India (www.india.gov.in), Ministry of Tourism (www.tourism.gov.in) and Ministry of Human Resource Development (www.mhrd.gov.in) were inaccessible to the disabled.

"What is most ironic is that some of them have made tall claims about being 'accessible' and when tested, failed miserably," said Javed Abidi, honorary director at National Centre for Promotion of Employment for Disabled People (NCPEDP)



THE HINDUSTAN TIMES

22/01/2013



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.421/1141/12-13

Dated: 16th January, 2013

To

The Vice Chancellor,
University of Delhi,
Delhi – 110 007

Subject: **Representation by Sambhavana Organization seeking intervention by this Court/Office on their representation to Delhi University authorities.**

Sir,

While enclosing herewith a copy of an elaborate petition/representation (which is self-explanatory) dated 14 January, 2013 by an organization called Sambhavana, I am directed to state as under:-

1. That a reading of the enclosed comprehensive petition/representation by Sambhavana reveals that students/teachers/non-teaching employees with disabilities studying/working in Delhi University have certain grievances/demands and they want them to be redressed/met by the Delhi University authorities.
2. That it is also clear from the enclosed petition/representation that the petitioner organization wants that Delhi University authorities (i) to constitute an Empowered Committee for drafting a time-bound action plan for the resolution of issues mentioned in their comprehensive petition/representation dated 08 Jan 13 to the Vice Chancellor; and (ii) to announce a date on which it would organize a "Disability Summit" where disabled persons would get an opportunity for directly sharing their grievances with the Empowered Committee so that it can propose a well-formulated time-bound action plan.
3. That expressing their animosity over the alleged indifference by the Delhi University authorities to their grievances/demands/the enclosed petition/representation alleges that Delhi University authorities are intimidating those disabled persons/students who are registering their protests. Following is the extract from the enclosed petition/representation which is relevant in this regard:

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“The situation is worst this time, because University has not only failed to make any promise, but it is threatening those students who participated in the 8th January protest demonstrations. The X Proctor, who is also the Coordinator of Equal Opportunity Cell (EOC), the Deputy Proctor, and the Deputy Dean who is also serving as the OSD in EOC are intimidating the students on either phone or whenever they visit the DU NTPC Resource Center. The students are being told that the University has prepared the video recording of the demonstrations; and the University will not consider the names of those students who participated in the demonstration for any benefit/facilities vis-à-vis other students. We have been also told that while intimidating the students, they are using derogatory and anti-disabled language. This attitude of Delhi University authorities is strictly anti-disabled and deplorable. We think that they should endeavour for resolving the genuine issues disabled are fighting for, instead of threatening the students, which would further compel them to intensify the struggle. Both, our demands as well as our protest demonstrations are democratic, legal and our constitutional rights. University should respect these rights. It should enable us to exercise and enjoy these rights, instead of crushing them through intimidation and harassment. If Delhi University fails to positively respond and address the immediate issues mentioned above, we will be compelled to intensify the struggle through a hunger strike on Friday (18/01/2013) in DU and a march to MHRD on Friday (8th February 2013).”

4. That Section 59 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 mandates the Chief Commissioner for Persons with Disabilities on his own motion or on application of any aggrieved person or otherwise to look into the complaints inter-alia, with respect to matters relating to deprivation of rights of persons with disabilities and to take steps to safeguard the rights and facilities made available to them.
5. That India has since ratified an International Human Rights Treaty called the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) which, inter-alia, incorporates the following principles:-
 - (a) Respect for inherent dignity, individual autonomy including the freedom to make one's own choices, and independence of persons;
 - (b) Non-discrimination;
 - (c) Full and effective participation and inclusion in society;
 - (d) Respect for difference and acceptance of persons with disabilities as part of human diversity and humanity;
 - (e) Equality of opportunity;
 - (f) Accessibility;
 - (g) Equality between men and women;
 - (h) Respect for the evolving capacities of children with disabilities and respect for the right of children with disabilities to preserve their identities.

....3.....

.....3.....

6. In the above view of the matter, the Chief Commissioner for Persons with Disabilities, Govt. of India has advised that the matter be looked into with a sense of urgency in order to ensure that rights of persons with disabilities are not infringed/violated in any manner. Action taken in respect of the matter may please be communicated to this Court within 30 days from the date of receipt of this communication.

Yours faithfully,

Encl: As stated above

Sd/-
(S.S. Sinha)
Dy. Chief Commissioner

Copy to:

1. Shri Nikhil Jain, President, Sambhavana Organization, 350, Pocket – 5, Sector-2, Rohini, Delhi – 110 085 [Email: Sambhavana.group@gmail.com]
2. Prof. Vikas Gupta [Email: vikasedu@gmail.com]



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

Ref.No.8-3/CCD/2012

Dated: 20th December, 2012

To

Secretary,
Department of Disability Affairs,
Ministry of Social Justice & Empowerment,
Govt. of India, Shastri Bhawan,
New Delhi-110001

Subject: Action taken on the recommendations of the Chief Commissioner for Persons with Disabilities made in the Annual Reports.

Madam,

While seeking a reference to this office earlier letter of even number dated 22nd March, 2012 (copy enclosed for ready reference) on the subject captioned above, I am to state that no response whatsoever has so far been received from your end in respect of such an important matter though nearly nine months have elapsed since the letter under reference was sent to Ministry of Social Justice & Empowerment. This explains why I request you in right earnest to kindly provide the information sought vide the said letter under reference and also to furnish this office with Action Taken Reports of the Ministry of Social Justice & Empowerment on the Annual Reports of the Chief Commissioner for Persons with Disabilities which the Govt. of India may have tabled before the Parliament as required under Section 64.(2) of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995.

Yours faithfully,

Sd/-

Encl.: As stated above.

(P.K. Pincha)
Chief Commissioner



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. 859/1011/12-13

Dated: 01/11/2012

Dispatch No: _____

In the matter of:

Suo-motu

Versus

Ministry of Social Justice & Empowerment

Department of Disability Affairs

Through : Secretary

Shastri Bhawan, New Delhi

.....Respondent

Sub: Re-scheduling of Personal Hearing

Sir,

I am directed to refer to this office Notice of complaint to show cause & hearing of even no. dated 17.09.2012 and to say that on consideration of the request of the Department of Disability Affairs, the hearing in the above case has been adjourned to **20.11.2012 at 11.00 AM.**

Yours faithfully,

Sd/-

(T.D. Dhariyal)

Dy. Chief Commissioner



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: 01/11/2012

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

Ministry of Social Justice & Empowerment

Department of Disability Affairs

Through : Secretary

Shastri Bhawan, New Delhi

.....Respondent

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

Ministry of Social Justice & Empowerment

Department of Disability Affairs

Through : Secretary

Shastri Bhawan, New Delhi

.....Respondent

Sub: Re-scheduling of Personal Hearing

Sir,

I am directed to refer to this office Notice of complaint to show cause & hearing of even no. dated 21.09.2012 and to say that on consideration of the request of the Department of Disability Affairs, the hearing in the above cases has been adjourned to **20.11.2012 at 12.00 Noon.**

Yours faithfully,

Sd/-

(T.D. Dhariyal)

Dy. Chief Commissioner



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

Notice of Complaint to Show Cause & Hearing

Case No. 3929/2007

Dated: 21.09.2012

In the matter of:

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

Complainant

Versus

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

Respondent

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

Ministry of Social Justice and Empowerment
Department of Disability Affairs
Government of India
Through Secretary
Shastri Bhawan, New Delhi

Respondent

Whereas the above named complainant filed a complaint dated 13.05.2007 (copy enclosed) 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;

7. And whereas vide letter dated 31.07.2012 (copy enclosed) a complaint dated 06.06.2012 (Case No.65/1041/12-13) received from Score Foundation was also forwarded to the Department of Disability Affairs with the request to issue the guidelines within one month's time from the date of that letter incorporating the suggestions contained in the letter of Score Foundation dated 06.06.2012;

8. And whereas expressing his utter disappointment over inaction on the part of Department of Disability Affairs, Ministry of Social Justice and Empowerment, Govt. of India, in respect of the matter, Shri George Abraham of Score Foundation vide his said letter dated 06.06.2012 had forwarded a set of uniform guidelines for conducting examinations (practical and/or theory) for persons with blindness and low vision which he claims have been put together by a group of non-governmental organisations and which according to him enjoy the support of over 70 organisations across the country.

9. And whereas it is common knowledge & experience that persons with disabilities, including persons with blindness and persons with low vision continue to suffer untold hardship and irreparable loss in the absence of uniform guidelines/norms for conduct of all kinds of examinations including those relating to academics and recruitments;

10. And whereas different, dissimilar and sometimes unreasonable sets of guidelines/norms are followed by some Universities, Boards of Education, Central & State Public Service Commissions and other establishments etc.;

11. And whereas many establishment do not follow any guidelines/norms in respect of the examinations (both academic & recruitment related);;

12. And whereas this Court continues to receive any number of complaints every now and then, more particularly from persons with blindness and persons with low vision regarding denial of the facility of amanuensis/scribe as mandated under Section 31 of the said Act and/or grant of extra time to persons with disabilities during examinations;

13. And whereas more than 16 years have elapsed since the said Act has come into force in the whole of India except the State of Jammu & Kashmir;

14. And whereas this matter continues to hang fire with the erstwhile Disability Division, now Department of Disability Affairs, Ministry of Social Justice and Empowerment, Govt. of India for a disproportionately long period of time despite explicit references made to it by this Court from time to time in the past;

15. And whereas absence of uniform, fair & reasonable norms for conduct of examinations (both academic & recruitment related) for persons with disabilities not only runs counter to the letter & spirit of the said Act; but absence of such guidelines/norms is also against the established and recognised norms of propriety & natural justice;

16. And whereas, now Department of Disability Affairs and erstwhile Disability Division, Ministry of Social Justice and Empowerment neither issued any guidelines/norms to all concerned nor did it even respond to the various communications that have been sent from this Court to it from time-to-time over the last four years or so except a very recent response to this Court's letter No.3929/2007 dated 04.09.2012;

17. And whereas these guidelines/norms have not been forthcoming despite this Court letter dated 12.01.2012 and 04.09.2012 respectively addressed to Joint Secretary (DD), Ministry of Social Justice and Empowerment;

18. And whereas it is a well known principle of law that justice delayed is justice denied; and that justice should not only be done but should also appear to have been done;

19. And whereas a large number of complaints received in respect of the matter are from persons with blindness and from persons with low vision, and, they pertain to refusal to allow a proper scribe or any amanuensis/scribe at all; refusal to grant extra time; refusal to allow such persons to use computers for writing in the examinations; refusal to allow persons with low vision to use low vision aids such as electronic aids, magnifiers etc.;

20. And whereas the Department of Disability Affairs, Ministry of Social Justice and Empowerment, Government of India vide their D.O. No.16-110/2003-DD.III dated 13.09.2012 in response to this Court's letter No.3929/2007 dated 04.09.2012, without giving any definitive and defined time frame within which the finalisation, adoption and circulation of the policy/comprehensive guidelines for conduct of examinations (both academic and recruitment related) for persons with disabilities despite the fact that the matter has been pending with the erstwhile Disability Division now Department of Disability Affairs, Ministry of Social Justice and Empowerment, Government of India for more than four years;

21. And whereas it is understood that the erstwhile Disability Division now Department of Disability Affairs, Ministry of Social Justice and Empowerment, Government of India did undertake consultations in the past;

22. And whereas it will be absolutely prejudicial to the interest of persons with disabilities to allow the matter to continue to hang fire;

23. And whereas the Department of Disability Affairs, Ministry of Social Justice and Empowerment, Govt. of India is the Nodal Department for coordination of implementation of the said Act, the United Nations Convention on the Rights of Persons with Disabilities which India has since ratified, and also for implementation of various other disability related schemes;

24. And whereas as per Section 59 (a) of the Act, Chief Commissioner may of his own motion or on the application of any aggrieved person or otherwise look into complaints with respect to deprivation of rights of persons with disabilities;

25. And whereas Section 63 of the said Act says as under:-

(1) *The Chief Commissioner and the Commissioners shall, for the purpose of discharging their functions under this Act, have the same powers as are vested in a court under the Code of Civil Procedure, 1908 while trying a suit, in respect of the following matters, namely :-*

- (a) summoning and enforcing the attendance of witnesses;*
- (b) requiring the discovery and production of any document;*
- (c) requisitioning any public record or copy thereof from any court or office;*
- (d) receiving evidence on affidavits; and*
- (e) issuing commissions for the examination of witnesses or documents.*

(2) *Every proceeding before the Chief Commissioner and Commissioners shall be a judicial proceeding within the meaning of section 193 and 228 of the Indian Penal Code and the Chief Commissioner, the Commissioner, the competent authority, shall be deemed to be a civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.*

26. And therefore, as directed by the Chief Commissioner for Persons with Disabilities, take this show cause notice and explain as to why the Department of Disability Affairs, Ministry of Social Justice and Empowerment, Govt. of India, should not be directed to finalise, issue & circulate to all concerned comprehensive and uniform guidelines/norms for conduct of all examinations (both academic & recruitment related) as soon as may be keeping in mind, among other things, the suggestions of the complainants; and, pending finalisation, issuance and circulation of such comprehensive guidelines/norms, to circulate to all concerned the proposed guidelines/norms submitted by Score Foundation vide their letter dated 06.06.2012 for persons with blindness and persons with low vision and evolved by several organisations including Score Foundation on or before 20.10.2012 under intimation to this Court. The respondent department's reply should also explain reasons for the inordinate delay in finalisation, issuance and circulation of such comprehensive and uniform guidelines/norms for all persons with disabilities.

27. The Chief Commissioner for Persons with Disabilities has further directed the respondent Department to appear before the Court of the Chief Commissioner for Persons with Disabilities in person or through a representative (not below the level of Group 'A'/Class-I officer) or a counsel well versed with the case and with all the related documents on 02/11/2012 at 3.00 p.m. to present the case unless uniform and comprehensive policy for conduct of all kinds of examinations for all persons with disabilities is duly finalised and notified before that date.

Encl.: As above

Sd/-
(T.D. Dhariyal)
Dy. Chief Commissioner



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

Notice of Complaint to Show Cause & Hearing

Case No.859/1011/12-13

Dated: 17.09.2012

Dispatch No. _____

In the matter of:

Suo motu

Versus

Department of Disability Affairs
Ministry of Social Justice and Empowerment
Through : the Secretary
Shastri Bhawan,
New Delhi – 110001

Respondent

Whereas Section 32 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 hereinafter referred to as the Act, provides as under:-

“Every appropriate Government shall (a) identify posts in the establishments which can be reserved for the persons with disability; (b) at periodical intervals not exceeding three years, review the list of posts identified and up-date the list taking into consideration the developments in technology”.

2. And whereas the list of identified posts for persons with disabilities under Section 32 of the said Act was last issued vide Ministry of Social Justice and Empowerment's Notification Nos. 16-70/2004-DD-III dated 18.01.2007 for Group A and B and dated 15.03.2007 for Group C and D respectively;

3. And whereas going by the mandate of Section 32 of the said Act, issuance of a revised/updated list of identified posts in Group A and B fell due on 17.01.2010 and in Group C and D on 14.03.2010;

4. And whereas more than two-and-a-half years have elapsed since issuance of said notification of identified posts fell due;

.2....

5. And whereas the Department of Disability Affairs, Ministry of Social Justice & Empowerment, Govt. of India, has not complied with the mandate of Section 32 of the said Act;

6. And whereas Chief Commissioner for Persons with Disabilities vide letter No.9-10/CCD/2008 dated 11.07.2012 (copy enclosed) inter-alia suggested to the Department of Disability Affairs, Ministry of Social Justice and Empowerment, Govt. of India, that since the issuance of notification of revised/updated list of identified posts under Section 32 of the Act is long over due, it should be notified within one month from the date of the said letter;

7. And whereas the Department of Disability Affairs, Ministry of Social Justice & Empowerment, Govt. of India, neither complied with the advice of the Chief Commissioner nor did they respond to the Chief Commissioner's letter dated 11.07.2012;

8. And whereas the Chief Commissioner was constrained to issue a reminder vide letter No.9-10/CCD/2008 dated 29.08.2012 reminding the said Department to issue/notify the list of identified posts in compliance with Section 32 of the Act giving the said Department further 15 days time for this purpose;

9. And whereas the Department of Disability Affairs, Ministry of Social Justice & Empowerment, Govt. of India, while responding to the Chief Commissioner's letter No. 9-10/CCD/2008 dated 29.08.2012 have not given any definitive time frame within which the notification of revised/updated list of identified posts will be issued in compliance with the mandate of Section 32 of the Act;

10. And whereas as per Section 59 of the Act, Chief Commissioner may of his own motion or on the application of any aggrieved person or otherwise look into complaints with respect to matters relating to non-implementation of laws, rules, bye-laws, regulations, executive orders, guidelines or instructions made or issued by the appropriate Governments and the local authorities for the welfare and protection of rights of persons with disabilities and take up the matter with the appropriate authorities;

11. And whereas Section 63 of the said Act says as under:-

(1) The Chief Commissioner and the Commissioners shall, for the purpose of discharging their functions under this Act, have the same powers as are vested in a court under the Code of Civil Procedure, 1908 while trying a suit, in respect of the following matters, namely :-

- (a) summoning and enforcing the attendance of witnesses;*
- (b) requiring the discovery and production of any document;*
- (c) requisitioning any public record or copy thereof from any court or office;*
- (d) receiving evidence on affidavits; and*
- (e) issuing commissions for the examination of witnesses or documents.*

(2) Every proceeding before the Chief Commissioner and Commissioners shall be a judicial proceeding within the meaning of section 193 and 228 of the Indian Penal Code and the Chief Commissioner, the Commissioner, the competent authority, shall be deemed to be a civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

12. And therefore, as directed by the Chief Commissioner for Persons with Disabilities take this show cause notice and explain as to why the Department of Disability Affairs, Ministry of Social Justice & Empowerment, Govt. of India, should not issue notification containing revised/updated list of identified posts in compliance with Section 32 of the said Act latest by 15.10.2012 under intimation to this Court; and why this inordinate and disproportionate delay in complying with the provisions of Section 32 of the Act;

13. The Chief Commissioner for Persons with Disabilities has further directed that in the event of failure to comply with the above directions, the respondent is to appear before the court of the Chief Commissioner for Persons with Disabilities in person or through a representative (not below the level of Group'A'/Class-I officer) or a counsel well versed with the case and with all the related documents on **01/11/2012 at 3.00 p.m.** to present the case.

Encl.: As above

Sd/-
(T.D. Dhariyal)
Dy. Chief Commissioner



**OFFICE OF THE CHIEF COMMISSIONER FOR PERSONS WITH
DISABILITIES**
Ministry of Social Justice and Empowerment
Govt. of India
(Department of Disability Affairs)

Ref.No.14-2/CCD/2012

31st July, 2012

To

Secretary (Personnel) of all States/UTs

Madam / Sir,

We often receive complaints from persons with disabilities alleging discrimination and non-compliance with various provisions of the law or the instructions/guidelines relating to concessions, relaxations etc. in respect of persons with disabilities. While all such complaints may not necessarily be factually correct we do come across cases where there had been inadequate appreciation of the situation of the candidates with disabilities in the interview boards for selection to various posts.

In order to assist the members of the Selection Boards on the issues concerning persons with disabilities and to ensure the candidates with disabilities of non-discrimination and any bias against them on the ground of their disabilities, I suggest that at least one of the members of the Public Service Commission and the Selection Boards/Committees etc. is preferably a persons with disability or a person who has worked in the disability sector for a reasonable period of time & who is well conversant with disability rights issues including disability specific legislations, etc.

Yours Sincerely,

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

Copy to:

1. Chief Secretary of all States/UTs
2. Commissioner for Persons with Disabilities of All States/UTs



**OFFICE OF THE CHIEF COMMISSIONER FOR PERSONS WITH
DISABILITIES**

Ministry of Social Justice and Empowerment
Govt. of India
(Department of Disability Affairs)

Ref.No.14-2/CCD/2012

Dated: 27th July, 2012

To

Secretary (Education) of all States/UTs

Madam / Sir,

We often receive complaints from persons with disabilities alleging discrimination in the matter of admissions of children with disabilities, inappropriate curriculum, examination system and provision of various facilities to students with disabilities. In many cases, it is seen that such instances occur primarily on account of inadequate knowledge & appreciation of the situation of the candidates with disabilities in the interview boards for selection to various courses.

In order to assist the members of the Selection Boards on the issues concerning students with disabilities and to ensure the non-discrimination and any bias against them on the ground of their disabilities, I suggest that at least one of the members in all Education Boards etc. is preferably a persons with disability or a person who worked in the disability sector for a reasonable period of time & who is well conversant with disability rights issues including disability specific legislations, etc.

Yours Sincerely,

Sd/-
(P.K. Pincha)
Chief Commissioner

Copy to:

1. Chief Secretary of all States/UTs
2. Commissioner for Persons with Disabilities of all States/UTs

प्रसन्न कुमार पिन्चा
मुख्य आयुक्त
(निःशक्त जन)



सामाजिक न्याय और
अधिकारिता मंत्रालय
भारत सरकार

Prasanna Kumar Pincha
Chief Commissioner
For Persons with Disabilities

Ministry of Social Justice
and Empowerment
Government of India

Ref.No.14-2/CCD/2012

Dated: 27th July, 2012

Dear Prof. Ved Prakash,

We often receive complaints from persons with disabilities alleging discrimination in the matter of admissions of children with disabilities, inappropriate curriculum, examination system and provision of various facilities to students with disabilities. In many cases, it is seen that such instances occur primarily on account of inadequate knowledge & appreciation of the situation of the candidates with disabilities in the interview boards for selection to various courses.

In order to assist the members of the Selection Boards on the issues concerning students with disabilities and to ensure the non-discrimination and any bias against them on the ground of their disabilities, I suggest that at least one of the members in UGC, all Education Boards etc. is preferably a persons with disability or a person who worked in the disability sector for a reasonable period of time & who is well conversant with disability rights issues including disability specific legislations, etc.

With regards,

Yours Sincerely,

Sd/-
(P.K. Pincha)

Prof. Ved Prakash,
Chairman,
University Grants Commission,
Bahadur Shah Zafar Marg,
New Delhi-110002

प्रसन्न कुमार पिन्चा
मुख्य आयुक्त
(निःशक्त जन)

Prasanna Kumar Pincha
Chief Commissioner
For Persons with Disabilities



सामाजिक न्याय और
अधिकारिता मंत्रालय
भारत सरकार

Ministry of Social Justice
and Empowerment
Government of India

Ref.No.14-2/CCD/2012

Dated: 27th July, 2012

Dear Smt. Vaish,

We often receive complaints from persons with disabilities alleging discrimination in the matter of admissions of children with disabilities, inappropriate curriculum, examination system and provision of various facilities to students with disabilities. In many cases, it is seen that such instances occur primarily on account of inadequate knowledge & appreciation of the situation of the candidates with disabilities in the interview boards for selection to various courses.

In order to assist the members of the Selection Boards on the issues concerning students with disabilities and to ensure the non-discrimination and any bias against them on the ground of their disabilities, I suggest that at least one of the members in UGC, all Education Boards etc. is preferably a persons with disability or a person who worked in the disability sector for a reasonable period of time & who is well conversant with disability rights issues including disability specific legislations, etc.

With regards,

Yours Sincerely,

Sd/-
(P.K. Pincha)

Smt. Anshu Vaish,
Secretary (Education),
Department of School Education & Literacy,
Ministry of Human Resource Development,
Shastri Bhawan,
New Delhi-110001

प्रसन्न कुमार पिन्चा
मुख्य आयुक्त
(निःशक्त जन)

Prasanna Kumar Pincha
Chief Commissioner
For Persons with Disabilities



सामाजिक न्याय और
अधिकारिता मंत्रालय
भारत सरकार

Ministry of Social Justice
and Empowerment
Government of India

Ref.No.14-2/CCD/2012

Dated: 27th July, 2012

Dear Shri Mishra,

We often receive complaints from persons with disabilities alleging discrimination and non-compliance with various provisions of the law or the instructions/guidelines relating to concessions, relaxations etc. in respect of persons with disabilities. While all such complaints may not be necessarily factually correct we do come across cases where there had been inadequate appreciation of the situation of the candidates with disabilities in the interview boards for selection to various posts.

In order to assist the members of the Selection Boards on the issues concerning persons with disabilities and to ensure the candidates with disabilities of non-discrimination and any bias against them on the ground of their disabilities, I suggest that at least one of the members of the UPSC, SSC, Railway Selection Boards, PESB etc. is preferably a persons with disability or a person who has worked in the disability sector for a reasonable period of time & who is well conversant with disability rights issues including disability specific legislations, etc.

With regards,

Yours Sincerely,

Sd/-
(P.K. Pincha)

Shri P.K. Mishra,
Secretary to the Govt. of India,
Department of Personnel & Training,
Ministry of Personnel, P.G. and Pensions,
North Block,
New Delhi-110001

प्रसन्न कुमार पिन्चा
मुख्य आयुक्त
(निःशक्त जन)



सामाजिक न्याय और
अधिकारिता मंत्रालय
भारत सरकार

Prasanna Kumar Pincha
Chief Commissioner
For Persons with Disabilities

Ministry of Social Justice
and Empowerment
Government of India

No.10-5(W.B.)/CCD/2005

Dated : 17th July, 2012

Dear Shri Ghosh,

I owe a very special debt of gratitude to you for your time during my recent visit to Kolkata undertaken to understand the status of implementation of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 in the State of West Bengal. Kindly allow me to place on record my sincere appreciation for you for the interest & sensitivity with which you so kindly heard me out with regard to my broad observations in respect of the status of implementation of the said Act in the State of West Bengal. I have noted with immense satisfaction that you have agreed to favourably consider some important measures which will significantly contribute to the implementation of the said Act in your State and also therefore, to the advancement and well being of persons with disabilities.

While I understand the minutes of the various meetings that I had during my said visit are being prepared by the State Commissioner for Persons with Disabilities, I would express the hope that you will so kindly be pleased to personally ensure that action is initiated in respect of some important measures which figured prominently during my discussions with you on the 13th instant.

With deep personal regards.

Yours Sincerely,

Sd/-
(P.K. Pincha)

Shri Samar Ghosh,
Chief Secretary to the Govt. of West Bengal,
Writers' Building,
Kolkata – 700 001 (West Bengal)

Copy to:

1. Secretary, Department of Women and Child Development and Social Welfare, Govt. of West Bengal, Writers' Building, Kolkata – 700 001
2. Smt. Mita Banerjee, Commissioner for Persons with Disabilities, Govt. of West Bengal, Office of the Commissioner for Persons with Disabilities, 45, Ganesh Chandra Avenue, Kolkata – 700 013 (West Bengal)

प्रसन्न कुमार पिन्चा
मुख्य आयुक्त
(निःशक्त जन)



सामाजिक न्याय और
अधिकारिता मंत्रालय
भारत सरकार

Prasanna Kumar Pincha
Chief Commissioner
For Persons with Disabilities

Ministry of Social Justice
and Empowerment
Government of India

No.10-1(KR)/CCD/2005

Dated: 17th July, 2012

Dear Shri Ranganath,

Kindly refer to my letter of even number dated 30.01.2012 regarding special recruitment drive to fill up backlog of reserved vacancies in various establishment in the State of Karnataka following my visit to Bangalore from 27.01.2012 to 29.01.2012 undertaken to understand the status of implementation of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 in the State of Karnataka. I once again wish to place on record my abiding gratitude to you for your time and for agreeing to favourably consider certain important measures for ensuring expeditious and effective implementation of the said Act in the State of Karnataka.

As quite a few months have elapsed since my said visit to Bangalore, I am passionately eager to know the progress with regard to the aforesaid matter in particular and other matters in general. If I remember correctly, you had indicated during my meeting with you that you would be convening a meeting with various departmental heads to sort out the issues. I am not aware if that kind of meeting has happened.

I am enclosing herewith a copy of the minutes (the said minutes are being sent alongwith the hard copy of this letter by post) of my meeting with various departmental officials during my said visit to Bangalore. The said minutes were put together by the State Commissioner for Persons with Disabilities.

Looking forward to a prompt and positive response from your end.

With deep personal regards.

Yours Sincerely,

Sd/-

Encl.: As stated above.

(P.K. Pincha)

Shri S.V. Ranganath,
Chief Secretary, Govt. of Karnataka,
3rd Floor, R.No.320,
Vidhan Souda, Secretariat,
Bangalore – 560001

Copy to:

1. Principal Secretary, Women & Child Development, Govt. of Karnataka, Secretariat, Bangalore
– 560 001
2. Shri K.V. Rajanna, Commissioner, Disabilities, Govt. of Karnataka, No.40, Thambuchetty
Road, Cox Town, Bangalore – 560005

प्रसन्न कुमार पिन्चा
मुख्य आयुक्त
(निःशक्त जन)



Prasanna Kumar Pincha
Chief Commissioner
For Persons with Disabilities

सामाजिक न्याय और
अधिकारिता मंत्रालय
भारत सरकार

Ministry of Social Justice
and Empowerment
Government of India

No.10-19(Assam)/CCD/2005

Dated 17th July, 2012

Dear Shri Das,

This is with reference to my meeting with you on 28.05.2012 wherein I got an opportunity to apprise you of my broad feelings with regard to the status of implementation of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 in the State of Assam against the backdrop of my visit to Guwahati between 16.02.2012 to 19.02.2012. It goes without saying that I could not meet you during my said visit in February due to unavoidable reasons.

I was deeply touched by the passionate concern, sensitivity and interest in the well being and advancement of persons with disabilities with which you heard me out during our meeting on 28.05.2012. It is indeed heartening to note that subsequent to our meeting, you were pleased to ensure that the concerned department, namely, the Department of Social Welfare, Govt. of Assam, convened a meeting of the State Coordination Committee constituted under the Act in which you were personally present to take stock of the state of affairs in respect of implementation of the Act in the State of Assam. Your initiative and your personal presence in the meeting of State Coordination Committee wherein, I guess, issues arising out of my visit in February 2012 among other things, were discussed would most certainly send a very positive message across all the relevant departments, which have a definite and distinct role to play in the implementation of the Act.

Enthused by your initiative, I feel motivated to plan another visit to Guwahati soon to review the progress.

Contd...2

: - 2 - :

I have no doubt in my mind that you will continue to take personal interest to ensure that positive measures are taken by the various departments in the days ahead. I am enclosing herewith a copy of the minutes (the said minutes are being sent alongwith the hard copy of this letter by post) of a meeting I had with officials of various departments during my visit in February, 2012 for favour of your ready reference and necessary action.

With deep personal regards.

Yours Sincerely,

Sd/-
(P.K. Pincha)

Encl.: As stated above

Shri Naba Kumar Das, IAS
Chief Secretary to the Govt. of Assam,
Assam Sachivalaya, Block C, 3rd Floor,
Dispur, Guwahati – 781006

Copy to:

1. Commissioner & Secretary to the Govt. of Assam, Social Welfare Department, Chief Minister's Block, 1st Floor, Dispur, Guwahati – 781006
2. Ms. Malabika Barua, Commissioner for Persons with Disabilities, Govt. of Assam, Latakata, Basistha, Guwahati, Assam-29

प्रसन्न कुमार पिन्चा
मुख्य आयुक्त
(निःशक्त जन)



सामाजिक न्याय और
अधिकारिता मंत्रालय
भारत सरकार

Prasanna Kumar Pincha
Chief Commissioner
For Persons with Disabilities

Ministry of Social Justice
and Empowerment
Government of India

No.9-10/CCD/2008

Dated : 11th July, 2012

Dear Shri Joshi,

This is in respect of compliance by the Ministry of Social Justice & Empowerment, Govt. of India with Section 32 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, which, relates to identification of posts, and which, among other things casts and obligation on the appropriate government to revise and update the list of identified posts at periodical intervals not exceeding three years keeping in view the advancement that have taken place in the field of science and technology.

2. It has been observed that post the enactment of the Persons with Disabilities Act, 1995, the first list of identified posts was notified by the Ministry of Social Justice & Empowerment in 2001, i.e., five years after the Act came into force. It has further been observed that the subsequent revised/updated list of identified posts which should have been notified by the Ministry in 2004 going by the mandate of the relevant provision of the Act was actually notified in 2007. You may also like to note that another revised/updated list of identified posts fell due in 2010; but the notification of the said list is still awaited.

3. In this view of the matter, it appears that the relevant provision of the Act in respect of revision/updation of the list of identified posts are not being complied with in right earnest, especially, with regard to the prescribed time line. I understand that a Committee was constituted for the purpose and the report of the Committee is yet to be finalized.

Contd....2

4. In the facts and circumstances stated above, I would suggest as follows:-
- (i) It would be expedient to set up such Committees well before the expiry of three years from the date of issuance of last notifications for identification of posts with a mandate, inter alia, to complete the task in a defined time frame.
 - (ii) Compliance with all the provisions of the Act including the provision contained in Section 32 thereof must be ensured with utmost seriousness.
 - (iii) Since the issuance of notification of revised/updated list of identified posts is long over due, I would advise Ministry of Social Justice & Empowerment, Govt. of India to notify the same within one month from today.

Yours Sincerely,

Sd/-
(P.K. Pincha)

Shri Pankaj Joshi,
Joint Secretary (Disability),
Department of Disability Affairs,
Ministry of Social Justice & Empowerment,
Govt. of India, Shastri Bhawan,
New Delhi – 110 001

प्रसन्न कुमार पिन्चा
मुख्य आयुक्त
(निःशक्त जन)



सामाजिक न्याय और
अधिकारिता मंत्रालय
भारत सरकार

Prasanna Kumar Pincha
Chief Commissioner
For Persons with Disabilities

Ministry of Social Justice
and Empowerment
Government of India

No.16-4/CCD/2012

Dated: 29/06/2012

To,

Ministries/Departments

As you may be aware, one of the commitments for persons with disabilities in the 11th Plan [2007-2012] was that each concerned Ministry/Department would reserve not less than 3% of its annual outlay for the benefit of persons with disabilities as enjoined in the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, the Act.

2. Section 40 of the Act mandates that the appropriate Governments and local authorities shall reserve not less than three percent in all poverty alleviation schemes for the benefit of persons with disabilities. The Annual Reports of your Ministry/Department do not indicate whether the above commitment in the 11th Plan document was implemented or not.

3. May I request you to kindly intimate whether the above commitment in the 11th Five Year Plan was implemented in your Ministry/Department. If so, please indicate the details of the utilization of the reserved outlay. In case the commitment was not implemented, constraints of the same may be intimated.

Regards,

Yours Sincerely,

Sd/-
(P.K. Pincha)

प्रसन्न कुमार पिन्चा
मुख्य आयुक्त
(निःशक्त जन)



Prasanna Kumar Pincha
Chief Commissioner
For Persons with Disabilities

सामाजिक न्याय और
अधिकारिता मंत्रालय
भारत सरकार

Ministry of Social Justice
and Empowerment
Government of India

Ref.No.9-10/(Job Identification/Emp)/CCD/2008

Dated : 22nd February, 2012

To

Chief Secretary of all the States/UTs

Subject: Identification of State Administrative Service and other State Subordinate Services for Persons with Blindness.

Madam / Sir,

Hon'ble High Court of Delhi vide its Order dated 25.02.2009 in W.P.(C) No.5429/2008 had directed that Shri Ravi Prakash Gupta, a person with blindness be appointed as an IAS officer on the basis of Civil Services Examination, 2006. Hon'ble Supreme Court rejected the Special Leave Petition (C) No. 14889 of 2009 filed by Government of India and upheld the order of the High Court. Department of Personnel & Training, Government of India in compliance with the decision of the Hon'ble Supreme Court has allocated IAS to Shri Gupta.

2. After the above decision of the Hon'ble Supreme Court and its subsequent compliance by the Government of India, it has become imperative to identify the State Administrative Service and other State Subordinate Services for persons with blindness. It is relevant to mention here that many people with blindness are working as Chartered Accountants and in senior positions in various Banks across the country.

3. It would be in the fitness of things to highlight that compared to persons belonging to other categories of disabilities, least number of posts/services have been identified for persons with blindness despite their proven potential and capabilities.

4. Your attention is also drawn to the fact that there is an erroneous impression that persons with disabilities can only and necessarily get recruited only to posts which are identified for them. The fact of the matter is that the provision of identification of posts as envisaged in Section 32 of the Persons with Disabilities Act, 1995 is for the purpose of the provisions of reservation only as provided for in Section 33 of the said Act.

Contd....2

5. In the light of the above, it is requested to ensure that persons with blindness are not deprived of their legitimate entitlement to be considered for State Administrative Services and other State Subordinate Services. It is also requested to kindly issue instructions clarifying that the provision of identification is relevant only for the purpose of reservation and that the said provision of identification of posts does not in any way debar or preclude a person with disability from applying and competing for any posts regardless of whether the same is identified or not subject to her/his clearing the written test/interview successfully.

6. Action taken in the matter may kindly be intimated to this Commissionerate at the earliest.

Yours Sincerely,

Sd/-
(P.K. Pincha)

Copy to:

1. Secretary, Ministry of Social Justice & Empowerment, Govt. of India, Shastri Bhawan, New Delhi-110001 : ***For kind information.***
2. Commissioner for Persons with Disabilities of all the States / UTs : ***For information and follow up.***

T.D.Dhariyal
Dy. Chief Commissioner for
Persons with Disabilities



Office of Chief Commissioner
for Persons with Disabilities
Ministry of Social Justice
and Empowerment
Government of India

Case No.258/1141/11-12

Dated: 17th February, 2012

To

The Chief Election Commissioner,
Election Commission of India,
Nirvachan Sadan, Ashoka Road,
New Delhi – 110 001

Subject: **Right of persons with visual impairment to contest elections.**

Sir,

I am directed to enclose a copy of letter No.437/SCPD dated 15.02.2012 received from State Commissioner for Persons with Disabilities, Govt. of Odisha vide which she has brought to the notice of this office that the nomination paper of Shri Golak Gouda, a person with visual impairment for Panchayat election was rejected on the ground of his visual impairment. He was allowed to file his nomination on 12.01.2012 after the intervention of the Commissioner for Persons with Disabilities. However, his nomination was rejected on the ground that he had put his thumb impression instead of signing the nomination paper. The BDO-cum-Election Officer, Sanakhemundi block is reported to have informed the State Commissioner that "reading and writing in Odia" is one of the conditions to contest in the elections.

2. It is stated that since persons with visual impairment read and write in braille or with the help of a screen reading software and the devices like scanner, rejection of the nomination of a person with blindness on the ground that she/he has put thumb impression on the nomination paper prima-facie amounts to denying her/his the right to contest election without valid reason.

3. In the light of the above, it is requested that necessary instructions may please be issued to all concerned not to deny the right to contest elections to persons with visual impairment or other disabilities on such ground as in the instant case. It is also requested to take appropriate action to undo the deprivation of the right to contest the Gram Panchayat election in respect of Shri Golak Gouda. A copy of the instructions issued in this regard and the action taken in the matter may please be intimated to this office.

Yours faithfully,

Encl.: As stated above.

Sd/-
(T. D. Dhariyal)
Dy. Chief Commissioner

Copy to: Ms. Kasturi Mohapatra, State Commissioner for Persons with Disabilities, O/o the
Commissioner for Persons with Disabilities, SIDR Building, Capital Hospital Campus,
Unit-6, Bhubaneswar – 751001.

प्रसन्न कुमार पिन्चा
मुख्य आयुक्त
(निःशक्त जन)

Prasanna Kumar Pincha
Chief Commissioner
For Persons with Disabilities



सामाजिक न्याय और
अधिकारिता मंत्रालय
भारत सरकार

Ministry of Social Justice
and Empowerment
Government of India

Ref.No.9-1(UNCRPD)/CCD/2009

15th February, 2012

To

Chief Secretary of all the States / UTs

Subject: State Policy on Persons with Disabilities.

Madam / Sir,

In the wake of India ratifying the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) in October, 2007, it has become incumbent on India's part, under the established and recognized international human right norms, to harmonise all its relevant domestic laws and policies with this international treaty.

2. It has been observed that while only a very few States/UTs do have some kind of a policy on disability in place, most others have none. Secondly even those very few States/UTs who have a State level policy on disability in place need to revise the same and to bring it in line with the UNCRPD.

3. It would also be in the fitness of things on the part of this Commissionerate to observe that all the States and UTs of India must have a progressive and forward looking policy on persons with disabilities which is compatible with the UNCRPD. In the context of a State/UT, such a policy should be called the State/UT Policy on Persons with Disabilities and not State/UT Policy on Disability.

4. In this view of the matter, may I request you to kindly put in place a progressive and forward looking policy on persons with disabilities which is compatible with the UNCRPD. Such a policy should be put together with the active involvement of, and in close consultation with persons with disabilities through their representative organisations. The very few States/UTs who already have some kind of policy on disability are also accordingly requested to revise the existing policy and replace the same by State/UT Policy on Persons with Disabilities which is in harmony with the UNCRPD.

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...2....

5. Action taken in respect of the matter may kindly be intimated to this Commissionerate.

With regards,

Yours sincerely,

Sd/-
(P.K. Pincha)

Copy to:

1. Secretary, Ministry of Social Justice & Empowerment, Govt. of India, Shastri Bhawan, New Delhi-110001
2. Commissioners for Persons with Disabilities of all the States / UTs : ***For information and follow up.***

प्रसन्न कुमार पिन्चा
मुख्य आयुक्त
(निःशक्त जन)



सामाजिक न्याय और
अधिकारिता मंत्रालय
भारत सरकार

Prasanna Kumar Pincha
Chief Commissioner
For Persons with Disabilities
Ref.No.9-1(UNCRPD)/CCD/2009

Ministry of Social Justice
and Empowerment
Government of India
15th February, 2012

To

The Secretary,
Ministry of Social Justice & Empowerment,
Govt. of India, Shastri Bhawan,
New Delhi – 110 001

Subject: Harmonisation of Disability Policy 2006 with UNCRPD.

Sir,

In inviting your attention to the subject captioned above, I hereby seek to state as under:-

1. In the wake of India ratifying the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) in October, 2007, it has become incumbent on India's part to harmonise all its relevant domestic laws and policies with this international treaty.
2. You may kindly recall that as a part of the harmonisation process, the Ministry of Social Justice & Empowerment, Govt. of India has rightly set the ball rolling by initiating the process of bringing in a new piece of legislation which will replace the existing Persons with Disabilities (Equal Opportunities, Protection of Rights & Full Participation) Act, 1995 so as to ensure that the new legislation is in harmony with the UNCRPD.
3. Against the above backdrop, the National Policy on Disability 2006 now needs to be revised in consultation with persons with disabilities through their representative organisations, among others so as to bring the said National Policy in harmony with the UNCRPD.
4. In view of the above, may I request you to kindly initiate the process of putting in place a new and revised National Policy on Persons with Disabilities which will be compatible with the UNCRPD. Here, it would be in the fitness of things for this Commissionerate to observe that it is important that the policy is called the National Policy on Persons with Disabilities rather than it being called National Policy on Disability.
5. Action taken in this matter may kindly be intimated to this Commissionerate.

With regards,

Yours sincerely,

Sd/-
(P.K. Pincha)

प्रसन्न कुमार पिन्चा
मुख्य आयुक्त
(निःशक्त जन)



सामाजिक न्याय और
अधिकारिता मंत्रालय
भारत सरकार

Prasanna Kumar Pincha
Chief Commissioner
For Persons with Disabilities
Ref.No.16-5/CCD/2012

Ministry of Social Justice
and Empowerment
Government of India
14th February, 2012

To
Chief Secretary of all the States / UTs

Subject: Strengthening of Coordination & Monitoring Mechanisms under Persons with Disabilities Act, 1995.

Madam / Sir,

It goes without saying that effective and expeditious implementation of any legislation, more particularly of social legislation largely depends on the effective and efficient coordination amongst various departments of the government and also upon the quality of monitoring.

2. Section 61 (a) & (b) of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 enjoins it upon the State Commissioner, Disabilities to coordinate amongst various departments of the government and also to monitor utilization of funds disbursed by the State Government. The relevant portion of Section 61 reads as follows:-

“Section 61. The Commissioner within the State shall -

- (a) coordinate with the departments of the State Government for the programmes and schemes for the benefit of persons with disabilities;*
- (b) monitor the utilization of funds disbursed by the State Government”.*

3. It has been further observed that the coordination and monitoring function which is very critical to the effective and efficient implementation of the said Act is not being carried out by many State Commissioners, Disabilities for want of appropriate mechanisms. It would be in the fitness of things for this Commissionerate to state that appropriate instructions from Chief Secretaries of the State will expedite and facilitate the process of putting in place appropriate and effective coordination and monitoring mechanisms.

4. In view of the above, your cooperation is solicited in the matter of implementing the following suggestions most expeditiously:-

- (a) Designate at various levels in every department a focal person on disability who will, in addition to her/his duties coordinate and monitor disability related matters in that department; and, the State level focal persons on disability will maintain constant contact with Commissioner, Disabilities.

Contd...2

- (b) Ensure that comprehensive data base of beneficiaries with disabilities is maintained by each department on various levels. Such data base, inter-alia must contained disaggregated information in respect of gender, caste, tribe, category of disability etc.
- (c) Commissioner, Disabilities in consultation with relevant departments should evolve a department specific format; and, each department should be asked to furnish information to the Commissioner, Disabilities as per the said format every six months.
- (d) Commissioner, Disabilities should also maintain a proper and comprehensive department-wise data base.
- (e) Commissioner, Disabilities or her/his representative should be involved in the departmental review processes on a regular basis.
- (f) Commissioner, Disabilities must also undertake surprise field visit to do the reality check from time-to-time.
- (g) Commissioner, Disabilities should undertake monitoring of utilization of funds disbursed by the State Government; and, for this purpose she/he may constitute a team comprising among others, external and independent subject and experiential experts. The team may also include a government officer who deals with disability related matters.

5. You may kindly appreciate that although well over 16 years have elapsed since the said Act came into force, the status of implementation of this Act across the State causes acute concern. One significant reason attributable to the poor status of the implementation of the said Act is utter and visible lack of proper coordination and monitoring mechanisms. It would also be in the fitness of things for this Commissionerate to explicitly state that a whole range of departments have a definite & distinct role to play in the matter of implementation of the said Act.

6. In the facts and circumstances stated above, you are requested to kindly translate the above suggestions into reality.

7. Action taken may kindly be intimated to this Commissionerate at the earliest.

Yours sincerely,

Sd/-
(**P.K. Pincha**)

Copy to:

1. Secretary, Ministry of Social Justice & Empowerment, Govt. of India, Shastri Bhawan, New Delhi-110001 : *For kind information.*
2. Commissioner for Persons with Disabilities of all the States / UTs : *For information and follow up.*

प्रसन्न कुमार पिन्चा
मुख्य आयुक्त
(निःशक्त जन)



सामाजिक न्याय और
अधिकारिता मंत्रालय
भारत सरकार

Prasanna Kumar Pincha
Chief Commissioner
For Persons with Disabilities

Ministry of Social Justice
and Empowerment
Government of India

Ref.No.10-05/CCD/2012

Dated: 7th February, 2012

To

Member,
Social Sector,
Planning Commission,
Govt. of India,
Yojana Bhawan, Sansad Marg,
New Delhi – 110 001

Secretary,
Department of Rural Development,
Ministry of Rural Development,
Govt. of India, Krishi Bhawan,
Dr. Rajendra Prasad Road,
New Delhi - 110001

Subject: Regarding Socio-economic survey/determination of Below Poverty Line (BPL) categories

Sir,

In inviting your attention to the subject captioned above, this Commissionerate puts forth the following suggestions for your consideration and necessary action after meticulously examining the matter of its own accord keeping in view the larger interests of persons with disabilities:-

The Government of India may consider automatic inclusion of household having at least one member with disability provided that the annual income of none of the earning members of that household is taxable even if monthly income of such member exceeds Rs.10,000/-, and/or even if such member happens to be an employee of Central Government, State Government, Public Sector Undertaking or Government added autonomous body as envisaged in automatic exclusion parameter No. (iv), (v) and (vi) of the Government respectively. Orphans with disabilities and the homeless with disabilities should each be treated as one single unit/household. This can be done by suitably amending the relevant parameter or by adding fresh parameter / criteria, if necessary.

Contd.....2

Justification:

- (i) Households having member/members with disabilities have to incur disability related expenses which the households not having any member with disability are not required to incur. Hence, they deserve relief.
- (ii) Disability is both the cause and consequence of poverty. Disability and poverty are mutually reinforcing. While poverty causes disability, disability aggravates poverty.
- (iii) Under the existing parameters, sizable chunk of households having members with disabilities will get excluded.

Yours sincerely,

Sd/-
(P.K. Pincha)

Copy to: Secretary, Ministry of Social Justice and Empowerment, Govt. of India, Shastri Bhawan, New Delhi 110001

प्रसन्न कुमार पिन्चा
मुख्य आयुक्त
(निःशक्त जन)



सामाजिक न्याय और
अधिकारिता मंत्रालय
भारत सरकार

Prasanna Kumar Pincha
Chief Commissioner
For Persons with Disabilities
Ref.No.10-04/CCD/2012

Ministry of Social Justice
and Empowerment
Government of India

Dated 7th February, 2012

To

- (1) Chief Secretary of all the States/UTs
- (2) Secretary, MSJ&E
- (3) Secretary, DoP&T
- (4) All Commissioners, Disabilities

Subject: Banning the use of the expression "handicapped"

Madam / Sir,

In inviting your attention to the subject noted above, this Commissionerate hereby seeks to impress upon you the need for discouraging and banning the use of the expression "handicapped" at least in the context of official correspondence, official reports, Government institutions, organizations, etc. It goes without saying that the expression "handicapped" violates and undermines the dignity of persons with disabilities which is so manifestly against the spirit of the Constitution of India, the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, and, the United Nations Convention on the Rights of Persons with Disabilities to which India is a State party.

2. That such an expression, as stated above, violets and undermines the dignity of persons with disabilities becomes all the more clear when one considers the origin or etymology of such expression. In medieval Europe, beggars used to beg with a cap in their hands. Over a period of time, this came to be associated with persons with disabilities as they were, for all practical purposes, considered objects of pity and passive recipients of charity not capable of doing anything except begging. How blatantly erroneous such an attitude happens to be requires no elaboration!

3. Moreover, the use of such other expressions as "differently abled" should also be discouraged as such an expression harps more on the differentiability dimension at a time when we need to promote equality dimension. In addition, no two living entities under the sun are uniformly abled or uniformly disabled in all respects. In that sense, each one of us, regardless of our ability or disability, happens to be unique and different. Therefore, it is erroneous to single out and to describe only persons with disabilities as "differently abled".

Contd...2

4. In view of the above, it would be appropriate to describe such persons as “persons with disabilities”, or for that matter, as “persons with blindness”, “persons with speech and hearing impairment”, “persons with locomotor disabilities”, etc. wherever such description is both necessary and relevant.

5. In the facts and circumstances stated above, you are requested to ban the expression “handicapped” and such other demeaning expressions with immediate effect. You are also requested to appropriately rename the National institutes like “National Institute for the Visually Handicapped”, “National Institute for the Hearing Handicapped”, etc.

6. Action taken in the matter may kindly be intimated.

Yours Sincerely,

Sd/-
(**P.K. Pincha**)

प्रसन्न कुमार पिन्चा
मुख्य आयुक्त
(निःशक्त जन)



सामाजिक न्याय और
अधिकारिता मंत्रालय
भारत सरकार

Prasanna Kumar Pincha
Chief Commissioner
For Persons with Disabilities
Ref.No.10-03/CCD/2012

Ministry of Social Justice
and Empowerment
Government of India

Dated: 6th February, 2012

To

1. Chief Secretary of all the States/UTs
2. Secretary, DoP&T

Subject: Regarding relaxation in upper age limit in favour of persons with disabilities

Madam / Sir,

In inviting your attention to the subject captioned above, this Commissionerate hereby seeks to highlight the need for providing relaxation in the upper age limit in favour of persons with disabilities both in recruitment as well as in retirement/superannuation in accordance with the mandate of Section 38(b) of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995.

2. It has been observed that while the Central Government as well as many State Governments do allow relaxation of upper age limit for persons with disabilities in the matter of recruitment. Similar relaxation, let alone corresponding relaxation in the upper age limit for such persons in the matter of retirement/superannuation, does not exist.

Section 38 of the said Act is reproduced below:

“38. (1) The appropriate Governments and local authorities shall by notification formulate schemes for ensuring employment of persons with disabilities, and such schemes may provide for-

- (a) the training and welfare of persons with disabilities;*
- (b) the relaxation of upper age limit;*
- (c) regulating the employment;*
- (d) health and safety measures and creation of a non-handicapping environment in places where persons with disabilities are employed;*

Contd...2

- (e) *the manner in which and the persons by whom the cost of operating the schemes is to be defrayed; and*
- (f) *constituting the authority responsible for the administration of the scheme.”*

3. Hence, it is only reasonable that such relaxation in the upper age limit in the matter of retirement/superannuation should also be allowed, more particularly in the face of the fact that more often than not, persons with disabilities on an average get recruited rather late in life in comparison with persons without disabilities. In the light of this, it is requested that a higher age limit for superannuation in respect of employees with disabilities in the Central Government, State Governments, PSUs, Autonomous Bodies, Local Bodies etc. may please be considered.

4. Action taken in the matter may kindly be intimated.

Yours Sincerely,

Sd/-
(**P.K. Pincha**)

Copy to: Secretary, Ministry of Social Justice and Empowerment, Govt. of India, Shastri Bhawan,
New Delhi-1

प्रसन्न कुमार पिन्चा
मुख्य आयुक्त
(निःशक्त जन)



सामाजिक न्याय और
अधिकारिता मंत्रालय
भारत सरकार

Prasanna Kumar Pincha
Chief Commissioner
For Persons with Disabilities

Ministry of Social Justice
and Empowerment
Government of India

Ref.No.9-3/CCD/2012

Dated: 6th February, 2012

To

Revenue Secretary,
Ministry of Finance,
Government of India,
Room No.128-A,
1st Floor, North Block,
New Delhi-110001

Subject: Recommendations/Suggestions for providing relief and relaxation to persons with disabilities

Sir,

While drawing your attention to the need for providing some relief and relaxation in favour of persons with disabilities, this Commissionerate puts forth the following recommendations/suggestions for consideration by the Ministry of Finance, more particularly against the backdrop of finalization of the ensuing budget proposals for the year 2012-13.

I. Exemption in Tax Liability

It is recommended that persons with disabilities be granted exemption to the tune of 50% in the total annual income tax liability in place of existing benefit on taxable income as envisaged in Section 80(U) of the Income Tax Act.

Justification:

- (a) It goes without saying that a person with disability has to incur additional expenditure due to, or arising out of his disability. On the contrary, a person without a disability is not required to incur that kind of additional expenditure. Hence, justification for the aforesaid proposal for enabling a person with disability to defray the expenses which he would not have had to incur if he was not a person with disability.
- (b) The current provision of providing some exemption on taxable income under Section 80(U) of the Income Tax Act is utterly inadequate; and, the recommendation for allowing 50% exemption in the total annual income tax liability would be more beneficial for persons with disabilities.

Contd...2

- (c) The incorporation of the aforesaid proposal for exemption on total annual income tax liability will also eliminate the need for revising from time to time the existing provision of exemption of taxable income.
- (d) The total financial implication of the recommendation, if accepted, is not going to be huge since the number of persons with disabilities having taxable income is not too large.

II. Income Tax relief to pensioners with disabilities

Under the existing provisions, the annual income of pensioners who acquired disability during their service in Armed Forces is totally exempted from income tax. Same benefit should also be extended to all pensioners with disabilities of the Central Government, State Government, Autonomous Bodies, PSUs, etc.

Justification:

All persons with disabilities have same or similar disadvantages arising out of or due to disabilities regardless of whether they served in the Armed Forces or in the Civil Services such as those mentioned above.

III. Simplification of procedure for filing Income Tax Return by persons with disabilities

It is recommended that a more simplified procedure may be prescribed to enable persons with disabilities to file Income Tax Returns with ease.

Yours faithfully,

Sd/-
(P.K. Pincha)

Copy to: Secretary, Ministry of Social Justice and Empowerment, Govt. of India, Shastri Bhawan,
New Delhi-110001 : *For information and necessary action.*

प्रसन्न कुमार पिन्चा
मुख्य आयुक्त
(निःशक्त जन)



सामाजिक न्याय और
अधिकारिता मंत्रालय
भारत सरकार

Prasanna Kumar Pincha
Chief Commissioner
For Persons with Disabilities
Ref.No.16-4/CCD/2012

Ministry of Social Justice
and Empowerment
Government of India
25th January, 2012

To
Chief Secretary of all the States/UTs

Subject: Regarding implementation of Section 40 of the Persons with Disabilities Act, 1995.

Madam / Sir,

This is in respect of implementation of provisions relating to reservation of not less than 3% quota in all poverty alleviation schemes in favour of persons with disabilities as enshrined in Section 40 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 in general, and in respect of persons belonging to more vulnerable categories within the larger group of persons with disabilities in particular.

Section 40 of the said Act is reproduced below verbatim:-

"The appropriate Governments and local authorities shall reserve not less than three per cent in all poverty alleviation schemes for the benefit of persons with disabilities".

It is indeed a matter of concern that implementation of the aforesaid provisions of the Act across the country has been far less than satisfactory and has also been rather skewed. Besides, it appears that there is no credible and comprehensive mechanism in the concerned departments for ensuring monitoring and enforcement of the said provisions and also for maintaining the proper data base of beneficiaries at various levels.

Another concern is that wherever such provisions are implemented even partially, persons belonging to some more vulnerable categories of disabilities like women with disabilities, persons with intellectual developmental and mental disabilities and persons with multiple disabilities are getting left out and hence are not getting benefits under the said provisions which they are entitled to under the law.

Contd...2

In view of the above, kindly allow me to urge upon you, to ensure the following:-

- (a) Implementation of provisions of Section 40 of the said Act with utmost seriousness in your State/UT;
- (b) Put in place, at various levels credible and comprehensive enforcement and monitoring mechanisms to oversee implementation of the said provisions;
- (c) Maintenance of data base of beneficiaries with disabilities at various levels disaggregated by gender, category of disability, SC/ST/OBC/General etc.

Expeditious action in respect of the matter will be gratefully appreciated, more particularly, in the face of the fact that the Persons with Disabilities Act, 1995 has been enforced for well over 16 years now.

With regards,

Yours sincerely,

Sd/-
(P.K. Pincha)

Copy to:

1. Secretary, Ministry of Social Justice & Empowerment, Govt. of India, Shastri Bhawan, New Delhi-110001
2. Commissioners for Persons with Disabilities of all the States / UTs : ***For information and follow up.***

प्रसन्न कुमार पिन्चा
मुख्य आयुक्त
(निःशक्त जन)



सामाजिक न्याय और
अधिकारिता मंत्रालय
भारत सरकार

Prasanna Kumar Pincha
Chief Commissioner
For Persons with Disabilities
Ref.No.9-2(BFE)/CCD/2005 (Vol.II)

Ministry of Social Justice
and Empowerment
Government of India
24th January, 2012

To
Chief Secretary of all the States/UTs

Subject: compliance with accessibility standards and guidelines

Madam / Sir,

Seeking a reference to Sections 44, 45 and 46 of the Persons with Disabilities Act, 1995, I wish to draw your attention to the following for favour of your expeditious action.

2. The aforesaid sections of the aforesaid Act provide for ensuring barrier free access to persons with disabilities on the road, in built environment, and in transport. However, it has been observed that the accessibility standards and guidelines enunciated by Ministry of Urban Development and this commissionerate and circulated and put in the public domain years back are still not being complied with on ground in letter and spirit. As a necessary consequence, persons with disabilities still continue to encounter umpteen barriers on road, in built environment, and in transport albeit well over sixteen years have elapsed since the PWD Act came into force.

3. It would be in the fitness of things for us to also highlight the importance of sensitizing officials and functionaries on accessibility issues. The importance of undertaking access audit of roads and public buildings also can not be over-emphasized. Access audit as stated above should be carried out by a team comprising both subject experts and experiential experts which means the persons with disabilities. Such access audit exercises can be carried out in a phased manner. Follow-up action on access audit reports should also continue relentlessly.

4. It has been our experience that in many cases, only minor adaptations and adjustments can make roads and buildings accessible.

Contd...2

5. In the facts and circumstances stated above, you are requested in right earnest to kindly do the following:

- (i) Take concrete and time-bound steps to enforce accessibility standards and guidelines with utmost strictness.
- (ii) Make necessary budgetary provisions in each department for the purpose of providing barrier free access to persons with disabilities.
- (iii) Build capacities of officials and functionaries on accessibility. Such capacity building measures should be an ongoing exercise, and not a one-off event.
- (iv) Undertake access audit as indicated and implement recommendations of the access audit reports.
- (v) Make all the Govt. websites accessible by complying with the latest web Content Accessibility Guidelines.

6. Action taken may kindly be intimated to this Commissionerate.

Yours sincerely,

Sd/-
(P.K. Pincha)

Copy to:

1. Secretary, Ministry of Social Justice & Empowerment, Govt. of India, Shastri Bhawan, New Delhi-110001 : *For kind information.*
2. Secretary, Ministry of Urban Development, Govt. of India, Shastri Bhawan, New Delhi - 110001
3. Commissioner for Persons with Disabilities of all the States / UTs : *For information and follow up.*

प्रसन्न कुमार पिन्चा
मुख्य आयुक्त
(निःशक्त जन)



सामाजिक न्याय और
अधिकारिता मंत्रालय
भारत सरकार

Prasanna Kumar Pincha
Chief Commissioner
For Persons with Disabilities

Ministry of Social Justice
and Empowerment
Government of India

No.9-10/Job Identification/Emp)/CCD/2008

Dated: 23/1/2012

Dear Shri Misra,

As you know, Hon'ble Supreme Court in Special Leave Petition (C) No. 14889 of 2009 (Government of India Vs Ravi Prakash Gupta) upheld the Judgement of Hon'ble High Court of Delhi's Order dated 25/02/2009 in W.P.(C) No. 5429/2008. Hon'ble High Court had directed that Shri Ravi Prakash Gupta, a person with blindness be appointed as an IAS officer on the basis of Civil Services Examination, 2006. DOP&T in compliance with the decision of the Hon'ble Supreme Court has appointed him as such.

2. Despite the above landmark judgement of Hon'ble Supreme Court, Indian Administrative Service continues to remain unidentified for persons with blindness. In fact, out of 19 All India/Central Services, only Indian Postal Service, Indian Railways Personnel Service and Indian Information Service have been identified for persons with blindness among other categories of persons with disabilities. After the above decision of the Hon'ble Supreme Court and its subsequent compliance by the Government of India, many more services including those in finance and accounts should be identified as suitable for persons with blindness. It is relevant to mention here that many people with blindness are working as Chartered Accountants and in senior positions in various Banks across the country.

3. It would be in the fitness of things for me to highlight that compared to persons belonging to other categories of disabilities, least number of services have been identified for persons with blindness despite their proven potential and capabilities.

4. Moreover, kindly allow me also to draw your attention to the fact that there is an erroneous impression that persons with disabilities can only and necessarily get recruited only to posts which are identified for them. The fact of the matter is that the provision of identification of posts as envisaged in Section 32 of the Persons with Disabilities Act, 1995 is for the purpose of the provisions of reservation only as provided for in Section 33 of the said Act. This explains why I would request you in right earnest to kindly also consider issuing an Office Memorandum clarifying that the provision of identification is relevant only for the purpose of reservation as stated above and that the said provision of identification of posts does not in any way debar or preclude a person with disability from applying and competing for any posts regardless of whether the same is identified or not and, for that matter such provision does not in any way come in the way of a person with disability getting recruited to the said post subject to her/his clearing the written test/interview successfully.

Contd.....P/2

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5. In the light of the above, I would therefore, request you to ensure that persons with blindness are not deprived of their legitimate entitlements to be considered for allocation of IAS and other Central Services on the basis of Civil Services Examination. I would further request you to also ensure that all doubts regarding eligibility of persons with disabilities to compete against unidentified posts are also set addressed.

6. An early action in the matter from your end would be gratefully appreciated.

With regards,

Yours sincerely,

Sd/-

(P. K. Pincha)

Shri P. K. Misra

Secretary,

Department of Personnel and Training,

M/o Personnel, Public Grievances and Pensions,

North Block, New Delhi.

Copy to: Shri K. M. Acharya

Secretary,

Ministry of Social Justice & Empowerment,

Shastri Bhawan, New Delhi - 110 001.

प्रसन्न कुमार पिन्चा
मुख्य आयुक्त
(निःशक्त जन)



सामाजिक न्याय और
अधिकारिता मंत्रालय
भारत सरकार

Prasanna Kumar Pincha
Chief Commissioner
For Persons with Disabilities
Ref.No.13-2(Dis. Cell)/CCD/05/Vol.-II

Ministry of Social Justice
and Empowerment
Government of India

20th January, 2012

To

Chief Secretary of the States,
As per the list attached.

Subject: Appointment of Full Time Commissioners with independent charge and support systems on priority basis.

Madam / Sir,

Section 60 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 besides appointment of full time Commissioner for Persons with Disabilities requires the State Governments to provide the Commissioner such officers and other employees as it thinks fit.

2. Section 60 is reproduced below for your ready reference:-

- (1) *Every State Government may, by notification appoint a Commissioner for persons with disabilities for the purpose of this Act.*
- (2) *A person shall not be qualified for appointment as a Commissioner unless he has special knowledge or practical experience in respect of matters relating to rehabilitation.*
- (3) *The salary and allowances payable to and other terms and conditions of service (including pension, gratuity and other retirement benefits) of the Commissioner shall be such as may be prescribed by the State Government.*

Contd...2

- (4) *The State Government shall determine the nature and categories of officers and other employees required to assist the Commissioner in the discharge of his functions and provide the Commissioner with such officers and other employees as it thinks fit.*
- (5) *The officers and employees provided to the Commissioner shall discharge their functions under the general superintendence of the Commissioner.*
- (6) *The salaries and allowances and other conditions of service of officers and employees provided to the Commissioner shall be such as may be prescribed by the State Government.*
3. Although State Government has appointed full time Commissioner with independent charge, the Commissioner has not been provided with adequate staff, support systems, budgetary allocation and infrastructure. Consequently, the Commissioner finds it difficult to perform the functions mandated under the Act.
4. In view of the above, you are requested to kindly provide the Commissioner for Persons with Disabilities in the State, the adequate staff, support systems, budgetary allocation and infrastructure on priority basis.
5. Action taken may kindly be intimated to this office at the earliest.

Yours sincerely,

Sd/-
(P.K. Pincha)

Copy to: Secretary, Ministry of Social Justice & Empowerment, Govt. of India, Shastri Bhawan, New Delhi-110001 : **For kind information.**

प्रसन्न कुमार पिन्चा
मुख्य आयुक्त
(निःशक्त जन)



सामाजिक न्याय और
अधिकारिता मंत्रालय
भारत सरकार

Prasanna Kumar Pincha
Chief Commissioner
For Persons with Disabilities

Ministry of Social Justice
and Empowerment
Government of India

Ref.No.13-2(Dis. Cell)/CCD/05/Vol.-II

20th January, 2012

To

Chief Secretary of the States,
As per the list attached.

Subject: Appointment of Full Time Commissioners with independent charge and support systems on priority basis.

Madam / Sir,

Section 60 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 requires the State Governments to appoint Commissioners for Persons with Disabilities, who, inter alia, are mandated to take steps to safeguard rights and facilities made available to persons with disabilities, and also to take cognizance of (whether suo moto or otherwise) cases of deprivation of rights suffered by persons with disabilities.

2. Section 60 is reproduced below for your ready reference:-

- (1) *Every State Government may, by notification appoint a Commissioner for persons with disabilities for the purpose of this Act.*
- (2) *A person shall not be qualified for appointment as a Commissioner unless he has special knowledge or practical experience in respect of matters relating to rehabilitation.*
- (3) *The salary and allowances payable to and other terms and conditions of service (including pension, gratuity and other retirement benefits) of the Commissioner shall be such as may be prescribed by the State Government.*
- (4) *The State Government shall determine the nature and categories of officers and other employees required to assist the Commissioner in the discharge of his functions and provide the Commissioner with such officers and other employees as it thinks fit.*

Contd....2

(5) *The officers and employees provided to the Commissioner shall discharge their functions under the general superintendence of the Commissioner.*

(6) *The salaries and allowances and other conditions of service of officers and employees provided to the Commissioner shall be such as may be prescribed by the State Government.*

3. Although more than 16 years have elapsed since the said Act came into force, the State Government is yet to appoint full time Commissioner with independent charge. Consequently, the mandate envisaged in the said Act for the Commissioner could not be executed. This is because of the fact that State Government has only designated some officer as the Commissioner by way of additional responsibility. Therefore, implementation of the said Act has suffered a very serious setback.

4. It has also been observed that there exist no adequate staff, support systems and infrastructure for the Commissioner for Persons with Disabilities with the result that the Commissioner with the additional charge is further constrained to function in accordance with the mandate of the said Act.

5. In view of the above, you are requested to kindly appoint full time Commissioner with independent charge, and, provide her/him adequate staff, support systems, infrastructure and budgetary allocation on priority basis. The post of Commissioner should be of the rank and in the pay scale of the Principal Secretary/Secretary to the State Government. In this regard, this office letter of even number dated 21.12.2011 also refers.

6. Action taken may kindly be intimated to this office at the earliest.

Yours sincerely,

Sd/-
(P.K. Pincha)

Copy to: Secretary, Ministry of Social Justice & Empowerment, Govt. of India, Shastri Bhawan, New Delhi-110001 : **For kind information.**

प्रसन्न कुमार पिन्चा
मुख्य आयुक्त
(निःशक्त जन)



सामाजिक न्याय और
अधिकारिता मंत्रालय
भारत सरकार

Prasanna Kumar Pincha
Chief Commissioner
For Persons with Disabilities

Ministry of Social Justice
and Empowerment
Government of India

Ref.No.8-3/CCD/2012

11th January, 2012

To

Chief Secretary of all the States / UTs

Subject: Preparation and laying of Annual Reports of the Commissioner for Persons with Disabilities before each State Legislature.

Madam / Sir,

Section 65 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 provides as under:

- (1) *The Commissioner shall prepare in such form and at such time for each financial year as may be prescribed by the State Government an annual report giving a full account of his activities during the previous financial year and forward a copy thereof to the State Government.*
- (2) *The State Government shall cause the annual report to be laid before each State Legislature along with the recommendations explaining the action taken or proposed to be taken on the recommendation made therein in so far as they relate to the State Government and the reasons for non-acceptance, if any, of any such recommendation or part.*

Contd....2

2. It has been observed that the above provision of the Act has not been complied with by the State Government. The continued non-compliance is a matter of serious concern.

3. It is requested to kindly take steps to ensure that the provisions of Section 65 of the Act are duly complied with. Action taken in the matter may kindly be intimated to this Commissionerate at the earliest. In this regard this office letters No.5-3(Comm. Meeting)/CCD/2010 dated 04.08.2011 and 23.11.2011 (copies enclosed) may also be referred to.

Yours sincerely,

Encls.: As stated above.

Sd/-
(P.K. Pincha)

Copy to:

1. Secretary, Ministry of Social Justice & Empowerment, Govt. of India, Shastri Bhawan, New Delhi-110001 : **For kind information.**
2. Commissioners for Persons with Disabilities of all the States / UTs : **For information and follow up.**

T.D.Dhariyal
Dy. Chief Commissioner for
Persons with Disabilities



Office of Chief
Commissioner for Persons
with Disabilities
Ministry of Social Justice
and Empowerment
Government of India

Ref.No.10-02/CCD/2012

9th January, 2012

To

Secretary (Personnel),
Ministry of Personnel, Public Grievances & Pensions,
Department of Personnel & Training,
Govt. of India,
North Block,
New Delhi

Subject: Women Employees with Disabilities in the Central Government, Central PSEs etc.

Madam,

I am directed to say that the number of women with disabilities in the appointments made against 3% reserved vacancies for persons with disabilities in accordance with Section 33 of the Persons with Disabilities Act, 1995 is considerably low. In order to ascertain the extent of representation of women with disabilities in the Central Government, CPSEs etc., it is requested to provide the following information to this office at the earliest:

1. Group-wise total number of employees appointed in the Ministries, Departments, CPSEs, Autonomous Bodies etc. since 1996, disaggregated by category of disability, SC, ST, OBC and General.
2. Group-wise percentage of employees with disabilities in relation to the total number of employees in the Ministries, Departments, CPSEs, Autonomous Bodies etc., disaggregated by category of disability, SC, ST, OBC and General as on 31.12.2011.

Contd...2

3. Group-wise total number of women employees with disabilities in the Ministries, Departments, CPSEs, Autonomous Bodies etc. since 1996, disaggregated by category of disability, SC, ST, OBC and General.
4. Group-wise percentage of women employees with disabilities in relation to the total number of employees in the Ministries, Departments, CPSEs, Autonomous Bodies etc. since 1996, disaggregated by category of disability, SC, ST, OBC and General as on 31.12.2011.
5. Group-wise ratio of female employees with disabilities in relation to male employees with disabilities in the Ministries, Departments, CPSEs, Autonomous Bodies etc. disaggregated by category of disability, SC, ST, OBC and General as on 31.12.2011.

Yours faithfully,

Sd/-
(T.D. Dhariyal)
Dy. Chief Commissioner

प्रसन्न कुमार पिन्चा
मुख्य आयुक्त
(निःशक्त जन)



सामाजिक न्याय और
अधिकारिता मंत्रालय
भारत सरकार

Prasanna Kumar Pincha
Chief Commissioner
For Persons with Disabilities

Ministry of Social Justice
and Empowerment
Government of India

Ref.No.10-02/CCD/2012

3rd January, 2012

Subject: Survey of Employees with Disabilities with particular reference to Women with Disabilities in the State and Central Government

Dear Shri / Smt. _____

In inviting your attention to the subject captioned above, I wish to impress upon you the need for conducting a survey or causing a survey to be conducted by credible agency in order to ascertain the status/number of employees with disabilities under the State Government in your State with particular reference to women with disabilities. The primary objectives/purpose of the proposed survey should be to ascertain the status/number of employees with disabilities in general and also to understand the level of representation of women with disabilities in the State Government services in particular. It goes without saying that while the provision of reservation of 3% jobs in all government services as mandated under Section 33 of the Persons with Disabilities Act, 1995 has not been implemented fully and properly in many States, the representation of women with disabilities is even far lesser.

The proposed survey may, among other things, give a clear picture in respect of the following:-

1. Group-wise (Group 'A', 'B', 'C', D) number of employees appointed since 1996 in the State Government Departments, State PSUs and the Local Authorities put together.
2. Group-wise (Group 'A', 'B', 'C', D) total number of employees with disabilities appointed since 1996 in the State Government Departments, State PSUs and the Local Authorities, disaggregated by category of disability, SC, ST, OBC and General.
3. Group-wise (Group 'A', 'B', 'C', D) total number of women employees with disabilities in the State Government Departments, State PSUs and the Local Authorities, disaggregated by category of disability, SC, ST, OBC and General.

Contd...2

4. Percentage of employees with disabilities in relation to the total number of employees in the State Government Departments, State PSUs and the Local Authorities.
5. Percentage of women employees with disabilities in relation to the total number of employees in the State Government Departments, State PSUs and the Local Authorities under your disposal.
6. Ratio of female employees with disabilities in relation to male employees with disabilities in the State Government Departments, State PSUs and the Local Authorities.
7. Other relevant details.

I would like to express the hope that a survey as aforesaid be conducted expeditiously. Early response in the matter would be gratefully appreciated.

With warm regards & best wishes for the New Year.

Yours Sincerely,

Sd/-
(P.K. Pincha)

To

Chief Secretary of all the States / UTs

Copy to:

1. Secretary, Ministry of Social Justice & Empowerment, Govt. of India, Shastri Bhawan, New Delhi-110001 : **For kind information.**
2. Commissioners for Persons with Disabilities of all the States / UTs : **For information and follow up.**