



सत्यमेव जयते

**न्यायालय मुख्य आयुक्त विकलांगजन**  
**COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES**  
विकलांगजन सशक्तिकरण विभाग / Department of Empowerment of Persons with Disabilities  
सामाजिक न्याय और अधिकारिता मंत्रालय / Ministry of Social Justice and Empowerment  
भारत सरकार / Government of India

Case No.3501/1081/2015

Dated: 11.05.2016

**In the matter of:**

Shri Akshay Kumar  
P-71-A, 1<sup>st</sup> Floor,  
Pandav Nagar, Mayur Vihar, Phase-I,  
Delhi-110091.

945

..... Complainant

**Versus**

Delhi Development authority,  
(Through the Vice Chairman),  
Vikas Sadan, I.N.A.,  
New Delhi.  
e-mail <vcdda@dda.org.in>.

946

..... Respondent

**Date of hearing : 15.03.2016, 07.04.2016 & 04.05.2016**

**Present:**

15.03.2016

1. Shri Ashok Kumar, father of the Complainant.
2. None on behalf of respondent.

07.04.2016

1. Shri Ashok Kumar, father of the Complainant.
2. S/Shri Harish Kumar, DD/SFS/DDA and M.K. Saxena, DD/System/DDA on behalf of respondent.

04.05.2016

1. Shri Ashok Kumar, father of the Complainant.
2. S/Shri Dharam Veer, A.D. and Manoj Kumar Saxena, DD(S), on behalf of respondent.

**ORDER**

The above named complaint, a person with 74% Locomotor Disability filed a complaint dated 12.01.2015 before the Chief Commissioner for Persons with Disabilities under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, hereinafter referred to the 'Act' regarding non-allotment of flat under HIG for persons with disabilities.

2. The complainant has submitted that he applied for DDA flat under HIG/MIG Category vide application No.1381278 on 07.10.2014. However, none of the persons with disabilities was shown as successful under HIG category. DDA's Brochure containing scheme and terms & conditions – Para 3(iv) pertains to a provision of 3% reservation for PwDs. Further, (a) In case number(s) of  
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flats in respect of reserved category comes to a fraction i.e. less than 0.5, it would be rounded off to zero and if it is 05 or more, it would be rounded off to one. Page 10 of the Brochure indicates number of flats under HIG category as 21. A fraction of 21 flats comes to 0.63 (3% reservation for PwD) to be rounded off to one as per the scheme. It is also understood that a few more flats were subsequently added in Shalimar Bagh and Motia Khan localities for allotment under HIG category.

3. The matter was taken up under Section 59 of the Act with the respondent vide this Court's letter dated 20.03.2015 followed by reminder dated 19.05.2015.

4. The respondent vide letter No. 1(Misc.)2014 HS/HIG/DDA/609 dated 09.6.2015 submitted that the complainant had applied for allotment of HIG flat vide application No.1381278. Although, 753 flats were allotted under PH quota, no HIG flat was allotted to any PwD because under 3% quota applicable, no flat came to their share. Under various localities, only 32 numbers of HIG flat were put to disposal in the draw.

5. A copy of the reply dated 09.06.2015 received from the respondent was forwarded to the complainant for his comments/rejoinder vide letter dated 06.07.2015.

6. The complainant vide his rejoinder letter dated 10.07.2015 inter-alia submitted that DDA has stated in their letter dated 09.06.2015 that the flat was not allotted because only 32 numbers of flats were put to disposal for various schemes. No HIG flat was allotted to any person because 3% quota was not applicable. He drew attention towards para 3 of DDA Housing Scheme 2014 and submitted that as per para iv, there is reservation under this scheme, 3% reservation for persons with disabilities as defined in Section 2 of Persons with Disabilities Act, 1995. In case number(s) of flats in respect of reserved category comes to a fraction i.e. less than 0.5, it would be rounded off to zero and if it is 0.5 or more it would be rounded off to one. DDA has allotted 32 flats under HIG category. Fraction of 32 (32x3%=0.96) comes to 0.96 which is more than 0.5 to be rounded off to one. DDA's contention that 3% quota was not applicable because under various schemes only 32 numbers of HIG flats were put to disposal in the draw is not in consonance with the scheme of 2014.

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7. A copy of the rejoinder dated 10.07.2015 was forwarded to the respondent vide this Court's letter dated 26.08.2015 for their comments. Followed by reminder dated 12.11.2015 and 07.12.2015.

8. The respondent vide letter No.F.1(Misc.)2015/HS14/DDA/81 dated 01.12.2015 has submitted that in the DDA Housing Scheme 2014 the reservation was provided to the disabled persons and out of total 25040 flats, 753 were allotted to persons with disabilities. As regards the flats allotted under HIG category, it is submitted that as per data available in AWAAS (housing Software) application no. 1381278 in the name of the complainant was received from Syndicate Bank under the PH quota and the same was duly considered in PH quota in the draw of DDA 2014 Scheme. It is further submitted that the reservation to each quota is provided locality-wise and allotments were made as per locality choice. (list of locality-wise reservation of persons with disabilities under HIG category was furnished). The draw has been done as per the procedure laid and available on DDA's website. Further, a case was also registered in the Court of Commissioner for Persons with Disabilities vide Case no. 4/680/2014-Wel/CD in the matter of Dr. Ram Kishan Vs. Vice Chairman, DDA and Hon'ble Court after hearing the petitioner as well as the Respondents were pleased to direct that the allotment of flats in Housing Scheme, 2014 to persons with disabilities has been done following the provisions in the Persons with Disabilities Act, 1995 and the contention made by the petitioner was termed as not tenable.

9. The complainant in his rejoinder dated 20.01.2016 has submitted that DDA in two of its letters has quoted two different number of HIG flats allotted e.g. 32 (dated 09.06.2015) and 37-List of total flats in the draw of DDA 14(01.12.2015). In its letter dated 09.06.2015, it was stated that "No HIG Flat was allotted to any person because 3% quota was not applicable, because under various schemes only 32 nos. HIG flats were put to disposal in the draw". If only 32 flats were put to disposal, how come the number has increased to 37 as per Annexure of their reply of 01.12.2015. Moreover, there was no mention of locality-wise reservation in providing flats to each quota in their letter of 09.06.2015 which has been added in the letter dated 01.12.2015. DDA's letter of 01.12.2015 further states that the draw has been done as per the procedure laid down. Nowhere in the DDA Housing Scheme Brochure, 2014, it was stated that the allotment will be done locality-wise for each quota. DDA has further quoted Court Order – Case No. 4/680/2014-

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Wel/CD/2363-64 dated 27.01.2015 in the matter of Dr. Ram Kishan Vs. Vice-Chairman, DDA which relates to provision of 5% reservation for disabled persons. The instant complaint is with regard to non-allotment under 3% existing quota.

10. After considering respondent's letter dated 01.12.2015 and complainant's letter dated 20.01.2016, a hearing was scheduled on 15.03.2016.

11. None appeared on behalf of the respondent nor any intimation received about their inability to attend the hearing on 15.03.2016 despite the fact that the Notice of Hearing was sent on 29.02.2016 by Speed Post. This Court noted with serious concern, the utter disregard shown by the respondent by neither intimating their inability to attend the hearing nor caring to appear to explain their versions of the case.

12. The complainant reiterated his written submissions.

13. The respondent was given one last opportunity to appear and present their case on the next date of hearing on 07.04.2016.

14. On 07.04.2016, on behalf of the complainant, his father reiterated his written submissions and submitted that nowhere in the DDA Housing Scheme Brochure - 2014, mentioned that the allotment will be done locality-wise for each quota. Also, there was no mention of the same in the DDA's letter dated 09.06.2015. The respondent has not indicated even in its brochure that further details can be seen on its website. The first preference of the complainant in HIG category of flats (under PwD) was for Shalimar Bagh, Delhi but out of 4 flats for reserved category, no flat was allotted to persons with disabilities. His second preference was for Kalyan Vihar, Delhi where 16 flats were notified but no flat was allotted to PwD. Before the draw, total number of flats was shown as 32 and after the draw the number of flats was stated as 37. No reply has been given by the respondent to his RTI application dated 08.05.2015 so far.

15. The representatives of the respondent submitted that in the DDA Housing Scheme - 2014, there were total 25040 flats under HIG, MIG, LIG, Janta and E.W.S. categories, out of which, 753 flats were allotted to persons with disabilities. It was further submitted that reservation

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in allotment of the flats to the SC/ST and persons with disabilities is provided as per their scheduled quota. Allotment of 753 flats to persons with disabilities was to the persons with disabilities locality-wise and category-wise. On a query by the Court whether it was mentioned in DDA Housing Scheme Brochure 2014, the representative of the respondent stated that reservation locality-wise and category-wise was not mentioned in the brochure. It was stated that the allotment of flats to the persons with disabilities is made on the ground floor. The persons with disabilities are given two chances in the draw, firstly as general candidates and secondly as persons with disabilities. There are guidelines issued by the DDA for allotment of flats which are available on the website of the DDA. According to these guidelines, the physically handicapped persons are allotted flats first up to their prescribed reservation as they are supposed to be given the ground floors. Reservation to each category is provided locality wise. The reservation for Physically Handicapped (PH), Scheduled Castes (SC), Scheduled Tribes (ST), Ex-Servicemen (EX), War Widow (WW) etc. is kept as per their scheduled quota. It was submitted that allotment of flats in Housing Scheme – 2014 to persons with disabilities has been done following the provisions in the Persons with Disabilities Act, 1995 and the contention made by the petitioner is not tenable.

16.. After hearing both the parties, the Court asked for the following information/documents to be submitted within 15 days from today:-

- (i) Break up of 753 flats category-wise and locality-wise allotted to the persons with disabilities.
- (ii) Approval of the process of draw, including date on which the information was uploaded on public domain.
- (iii) Reasons for increase in the number of flats for allotment from 32 to 37. Whether the increased number was made public by advertisement etc. before the draw?

17. The case was fixed for next hearing on 04.05.2016.

18. The respondent vide letter No.F.1(Misc.)205/HS14/DDA/263 dated 19.04.2016 submitted the following documents:-

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- (i) A list of number of flats allotted to persons with disabilities, locality-wise, category-wise, alongwith a list of 753 persons to whom the flats were allotted clearly mentioning their application number, names of allottee as well as the details of the flats allotted.
- (ii) The approval for conducting the draw in the manner prescribed and is available on the DDA website was accorded by the then Vice Chairman, DDA. A copy of the approval is attached (Annexure-B).
- (iii) As regards increasing the number of flats under HIG mentioned in the scheme brochure, it is stated that it was clearly mentioned in the DDA Housing Scheme-2014 brochure under Other General Conditions-23B) on page-9 that DDA reserves the right to increase or decrease the number of flats on offer in this scheme.

19. On 04.05.2016, the complainant reiterating his written submissions submitted that no HIG flat was allotted to any person with disability. There is no mention of locality-wise allocation in the brochure of DDA Housing Scheme, 2014. Due to DDA's acts of omission and commission including faulty roster for reservation, not confirming to 3% reservation as provided in PwD Act, opportunity has been denied to the complainant in the draw of flats held in November, 2014 under the scheme. He prayed that directions may be issued to DDA for allotment of a HIG flat as per the preferences exercised e.g. Shalimar Bagh or in a comparable locality/area on the same terms and conditions and the same cost as detailed in the DDA Housing Scheme Brochure, 2014.

20. The representative of the respondent submitted that the draw under the DDA Housing Scheme-2014 was held as per the procedure and reservation was given as provided in the Persons with Disabilities Act, 1995. Reservation was given locality wise and not on the total number of flats as per the approval of the Vice Chairman, DDA.

21. This Court has gone through the submission made by both the parties and documents produced. It is noted that the complainant had applied for allotment of DDA flat in the Scheme 2014 (from 01.09.2014 to 09.10.2014) for an HIG flat in Shalimar Bagh and Kalyan Vihar as areas of preference. His grievance is that no flat has been allotted in the HIG category to any PwD although there were a total of 37 flats earmarked for the said category and at least one flat should have gone to the PwDs. It is further noted that DDA allotted a total of 25040 flats in various

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categories viz. HIG, MIG, LIG, Janta, EWS and category 'A'. Out of this 753 flats were allotted to persons with disabilities. List of 753 persons with disabilities to whom the flats have been allotted under 3% reservation has been submitted to this Court. Out of the 37 flats in the HIG category, none has been allotted to any PwD. In all other categories, due reservation has been followed plus minus one flat. The submission of the respondent is that as per the approved process of draw, which is vogue since 2007 and is also available on their website, it is provided that "the reservation to each category is provided locality-wise. The reservation for PH, SC, ST, Ex-servicemen, War-widows is kept as per their scheduled quota." From the distribution of flats, area-wise submitted by the respondents, there were only 4 flats in the HIG category in the Shalimar Bagh (SB) which is the given preferred location for allotment by the complainant. From the category-wise and area-wise list of total flats and flats reserved/allotted to PwDs, it is confirmed that area-wise reservation has been meticulously followed by the respondents and total reservation is also according to the prescribed quota i.e. 753 flats out of 25040 number of total flats. While the contention of the complainant that the policy of locality-wise reservation was neither mentioned in the advertisement nor in the Brochure is acceptable, the fact remains that it is an established policy of DDA which has been put on public domain. It is felt that no intervention of this Court is required at this stage since the process of draw and the allotment has been completed and due reservation has been given to PwDs in allotting total number of flats as prescribed quota and DDA policy. However, the court would like to advise that DDA may consider review of their policy to give reservation not 'locality-wise' but 'category-wise' and for all future purposes, the details of the reservation policy and process of draw may be made party of the Brochure of the Scheme. Since the complainant was not successful in the draw of lots and would have to compete with other similarly placed persons, no grievance survives. Ordered accordingly.

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

N.O.O.

Copy to :- Record File.