



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.4500/1141/2015

Dated:- 17.11.2016

**In the matter of:**

Shri Subhash Garg,  
S/o Shri Kasturi Lal,  
E-9, Sector-7,  
Noida-201301 (U.P.)

0525

Complainant

**Versus**

Government of Punjab,  
Through : Chief Secretary,  
Room No. 26, 6<sup>th</sup> Floor, Punjab Civil Secretariat,  
Sector-1, Chandigarh.

0526

Respondent No. 1

Government of Uttar Pradesh,  
Through : Chief Secretary,  
1<sup>st</sup> Floor, Shastri Bhawan,  
Uttar Pradesh Secretariat, Lucknow-226001

0527

Respondent No. 2

Directorate of Social Security,  
Through its Secretary,  
Government of Punjab,  
SCO 102-103, Sector-34, Chandigarh.

0528

Respondent No. 3

Viklang Jan Vikas Vibhag,  
Through its Secretary,  
Government of Uttar Pradesh,  
Bapu Bhawan, Uttar Pradesh Secretariat,  
Lucknow-226001, Uttar Pradesh.

0529

Respondent No. 4

Rehabilitation Council of India,  
Through its Member Secretary,  
B-22, Qutab Institutional Area,  
New Delhi-110018.

0530

Respondent No. 5

Date of hearing : 06.09.2016

**Present :**

1. Shri Subhash Garg, Complainant.
2. Shri Pritpal Dhiman, Directorate of Social Security & Women & Child Development, on behalf of Respondent No. 1.
3. Parisha Mishra, Distt. Handicapped Person Development, Meerut on behalf of Respondent No. 2
4. Ms. Anuja Saxena, Legal Adviser and Sh. Yogesh Bhardwaj, on behalf of Respondent No. 5

**ORDER**

The above named complainant filed a complaint dated Nil (received on 10.06.2015) under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, hereinafter referred to as the 'Act', praying that punitive action under Section 34 of the Rehabilitation

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Council of India's Act, 1992, under Section 13(3) and its sub Section (2) hereinafter be referred as Act be taken against – (i) Shri Sham Lal Garg, S/o Shri Kasturi Lal, Proprietor, Ish Polio Centre, Street No. 10, Bhatinda, Punjab (ii) Shri R.K. Gupta S/o Shri Kasturi Lal, Proprietor – Gupta Ortho Aids, E-9, Sector-7, Noida-201301, Uttar Pradesh, (iii) Shri Vishwas Kumar Garg, S/o Shri Kasturi Lal, Proprietor – Ish Surgical, Near DAV College, Main Bibiwl Road, Bhatinda, Punjab; also at Bungalow No. 89, Model Town PUDA Phase-II, Bhatinda, (iv) Shri Krishan Gupta, S/o R.K. Gupta, E-9, Sector-7, Noida-201301, Uttar Pradesh. He has inter alia submitted that the above named persons are unqualified persons and have no qualification in the field of Prosthetics and Orthotics, but they have not closed their shops and are doing roaring practice even after receiving statutory warning under the Act 34 of 1992 that are being issued by Rehabilitation Council of India (RCI) hence needs severest punishment to set an example for other.

2. Shri S.C. Singhal, Advocate on behalf of the complainant vide letter dated 17.08.2015 intimated that his client preferred a Writ Petition (Crl.) No.2796/2015 against not initiating action, who are unqualified professionals and practicing against the spirit of Rehabilitation Council of India Act, 1992 and on the day when the petition was heard, the Hon'ble High Court of Delhi at New Delhi directed to take action within a period of 6 weeks as per the complaint preferred by the complainant, Shri Singhal also forwarded a copy of the petition alongwith the order dated 04.12.2015 of this Hon'ble Court, the operative part of which reads as under:-

"Counsel appearing on behalf of the Union of India on advance notice states that the initial complaint dated 10.06.2015 and all subsequent complaints made by the petitioner herein qua the practice by unqualified professions, in forms of the Rehabilitation Council of India Act, 1992, shall be determined by the competent authority in accordance with law within a period of six weeks from today under intimation to the petitioner. Ordered accordingly."

3. In compliance with the Order dated 04.12.2015 passed by the Hon'ble High Court of Delhi in W.P. (Crl.) 2796/2015 and Crl. M.A. 17659/2015, a Notice of Complaint to Show Cause dated 07.03.2016 was issued by this Court to the parties to the case followed by reminder dated 26.05.2016.

4. The Respondent No.3, Directorate of Social Security & Women and Child Development, Government of Punjab vide letter No.DA-2(SS)/2016 /20773 dated 18.07.2016 submitted that if the person is unqualified professional and doing practice without any license and has not stopped his practices after statutory warning under the law, he can be dismissed.

5. The Respondent No.4 – Government of Uttar Pradesh (Viklang Jan Vikash Vibhag) vide letter No.0171/V.J.V.V./Notice reply/2016-17 dated 13.04.2016 submitted that no NGO in the name of Helping Hand Educational Society is registered under Persons with Disabilities Act, 1995 is registered with Directorate, Viklang Jan Vikas Vibhag, Uttar Pradesh and no grant has been provided by this Department to this NGO under the Scheme of ADIP. Therefore, no action is required to be taken

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against this NGO. Since Gupta Ortho Aids firm, Noida is being run without getting Registration Certificate from the Competent Authority, under the RCI Act, 1993, recommendation is made to take strong action against them .being unqualified professionals.

6. The Respondent No. 5 – Rehabilitation Council of India vide reply dated 25.06.2016 submitted that the RCI after receiving of the complaint from the complainant, Shri Subhash Garg, enquired about the status of Shri Sham Lal Garg, Mr. Vishwas Kumar Garg, Mr. R.K. Gupta and Mr. Kishan Gupta in the record maintained by the Council and it was found that all the four alleged persons are not registered as professional with the RCI. Therefore, they are misrepresenting themselves as Prosthetic and Orthotic registered rehabilitation professionals. The act and conduct of these alleged persons is punishable after a proper enquiry against them as per RCI Act. The Council on 30.07.2015 vide letter No.F.No.5-52/2013-RCI made a request to the Secretary, Social Welfare Department, Government of Punjab to enquire about the matter and to ascertain the allegation made therein as Shri Sham Lal Garg running illegally Ish Polio Centre in Punjab and Mr. Vishwas Garg is running illegal one Ish Surgical, near DAV College, Bhatinda. The RCI on 30.07.2015 vide letter No.F.No.5-52/2013-RCI made a request to the Secretary, Department of Development of Persons with Disability, Government of Uttar Pradesh to enquire about the matter as Mr. R.K. Gupta is running and doing illegal practice as Prosthetic and Orthotic in Noida. Thus, there is no delay on the part of the Council. As to initiate the action in these complaints, Rehabilitation Council of India has written to the State authorities to take appropriate action. It is pertinent to mention that the petitioner is well aware that the Council had taken action in his complaint as he visited to the RCI office to know the status of the complaint.

7. Upon considering the replies received from the Respondents No. 3, No. 4 and 5 and no reply received from the Respondents No.1 and No.2, a hearing was scheduled on 06.09.2016.

8. During the hearing on 06.09.2016, the complainant reiterated his written submissions and submitted that to protect the right for earning, a written complaint was filed to RCI on 04.05.2015 against four quacks with documentary evidence, pictures of sign boards, Visting Cards, internet pages belonging to Gupta Ortho Aids, Hindustan Ortho Aids, Noida and several videos of Ish Polio Centre, Bathinda showing Shri Sham Lal Gar on You-Tube doing job of Orthotics and Prosthetics and pages from Face Book and quacks are running their clinics without any fear of law. As after filing above said complaint and after waiting for 3 weeks a reminder was given to Member Secretary of RCI on 26.5.2015 who promised to take action within two weeks. That after another wait of 4 weeks when Member Secretary, RCI was visited again personally, he stated that complaint will be dealt by the Court of Chief Commissioner for Persons with Disabilities. The complainant was made to run between these two offices without any action on quacks. Then RCI diverted the matter to Director of Welfare of State of Punjab by writing a Memo dated 30.07.2015. That after waiting for another few months, a

Petition No. WP(Crl.) No.2796 of 2015 was filed in Hon'ble High Court of Delhi on 23.11.2015 which was decided on 04.12.2015 by Hon'ble Court with direction issued to RCI to take action by competent authority in accordance with the law within 6 weeks from date of passing orders under intimation to petitioner. That as no action has been taken by any of the concerned authorities till this date. Our Counsel Shri S.C. Singhal and Hon'ble High Court has issued Notice/reminder to Member Secretary, RCI for taking necessary legal action as per order. The RCI again gave a reply that State Departments have been directed but as no action has been taken and dilly dallying is going on, we filed a case in Hon'ble High Court of Delhi again for initiating proceedings of contempt of Court for ignoring the directions given by Hon'ble High Court of date 04.12.2015 on writ petition. The RCI has filed a reply in Hon'ble High Court on 10.3.2016 in matter of contempt proceedings. The RCI has mentioned that four persons mentioned in complaint are not registered in register maintained by RCI hence they are unqualified and unregistered practitioners in this field. The RCI has thrown the responsibility of failure on Secretaries of both concerned States of Punjab and U.P., where these quacks run their centres. It is strange that more than one year has passed but no action has been taken by the concerned Departments. The contempt proceedings are pending in High Court of Delhi and next date of hearing is 20.9.2016. The complainant prayed for immediate action of booking FIR and filing of criminal case for conviction and exemplary punishment to send a strong message to all quacks.

9. The representative appearing on behalf of Respondent - Government of Punjab submitted that as per reply dated 05.08.2016 of department of Health & Family Welfare (Health 4) , Government of Punjab, the allegations made in the complaint of Shri Subhash Garg have been got inquired into by Civil Surgeon, Bathinda. Civil Surgeon has reported that Shri Sham Lal Garg and Shri Vishwas Kumar Garg are dealing with prosthetics and orthotics equipments in accordance with the law and they are not doing any practice as alleged by the complainant. In view of the report of Civil Surgeon, Bathinda, there is no merit in the complaint of Shri Subhash Garg.

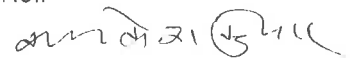
10. The representative appearing on behalf of Respondent-Government of Uttar Pradesh submitted that as per reply dated 02.09.2016 of Director, Viklang Jan Vikash Vibhag, Uttar Pradesh, Lucknow, since Gupta Ortho Aids, E-9, Sector-7, Noida is being run in the State of Uttar Pradesh by Shri Gupta E-9, Sector-7, Noida under Persons with Disabilities Act, 95 without getting Registration Certificate from the Competent Authority and according to the Rehabilitation Council of India Act, 1992, due to running of the Gupta Ortho Aids Firm in the State of Punjab without educational qualification in the field of Prosthetics and Orthotics, it is recommended to take strict action against this firm as per rules.

11. The representative of the Respondent No. 5 – RCI submitted that the RCI after receiving the complaint from the complainant, Shri Subhash Garg, enquired about the status of Shri Sham Lal Garg, Shri Vishwas Kumar Garg, Shri R. K. Gupta and Shri Kishan Gupta in the record maintained by the

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Council and it was found that all the four alleged persons are not registered as professional with the RCI. Therefore, they are misrepresenting themselves as Prosthetic and Orthotic registered rehabilitation professionals. The act and conduct of these alleged person is punishable after a proper enquiry against them as per RCI Act. The RCI on 30.07.2015 vide letter no. 5-52/2013 made a request to the Secretary, Social Welfare Department, Government of Punjab to enquire about the matter and to ascertain the allegation made therein as Shri Sham Lal Garg running illegally Ish Polio Centre at Gali No.10, Bibiwala Road, Bhatinda, Punjab and Shri Vishwas Garg are running illegal one Ish Surgical near DAV College, main Bibiwala Road, Bhatinda. The RCI on 30.07.2015 vide letter No.5-52/2013-RCI has made a request to the Secretary, Viklang Jan Vikas Vibhag, Government of Uttar Pradesh, Lucknow to enquire about the matter as Shri R.K. Gupta is running and doing illegal practice as Prosthetic and Orthotic at E-9, Sector-7, Noida, U.P. She further submitted that there is no delay on the part of the RCI. As to initiate the action in these complaints, Council writes to the State Authorities of the States to take appropriate action, in the complaint of the complainant the Council has already written to the State authorities to take appropriate action. It is pertinent to mention that the complainant is well aware that the Council had taken action in his complaint as he visited to the RCI office know the status of the complaint. In the light of the above mentioned facts, it is most respectfully submitted that there is no delay on the part of the RCI. The RCI has already taken appropriate action.

12. After hearing the parties and after perusal of the record available on the file, it is observed that since the Contempt Petition related to not adhering with the direction of Hon'ble High Court of Delhi decided on 04.12.2015 by RCI is pending before the Hon'ble High Court of Delhi, therefore, this Court cannot intervene in the matter at this stage. However, it is up to Rehabilitation Council of India to take up the matter with the State Government to ensure that unqualified professionals are not able to practice against the spirit of Rehabilitation Council of India Act, 1992 and also take appropriate action against those who are doing practice without the registration of RCI.



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