



न्यायालय मुख्य आयुक्त दिव्यांगजन

COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES (DIVYANGJAN)
 दिव्यांगजन सशक्तिकरण विभाग/Department of Empowerment of Persons with Disabilities (Divyangjan)
 सामाजिक न्याय और अधिकारिता मंत्रालय/Ministry of Social Justice & Empowerment
 भारत सरकार/Government of India
 5वाँ तल, एन.आई.एस.डी. भवन, जी-2, सेक्टर-10, द्वारका, नई दिल्ली-110075 दूरभाष : (011) 20892364
 5th Floor, N.I.S.D. Bhawan, G-2, Sector-10, Dwarka, New Delhi-110075; Tel.: (011) 20892364
 Email: ccpd@nic.in; Website: www.ccdisabilities.nic.in

Case No. 13377/1011/2022 & 13429/1011/2022

In the matter of —

- (1) Shri Gopesh Shribhagwan Singhal,
 S/o Sribhagwan Roshanlal Singhal,
 R/o 33, Jaswadi Road, New Bank of India,
 Mata Chowk, Narayan Nagar,
 Khandwa – 450001 (Madhya Pradesh)
 Email: singhal543@gmail.com (13377/1011/2022)
 ... **Complainant No.1**
- (2) Shri Amit Kumar Yadav
 R/o Narnaul, Mehendergarh, Haryana
 Email: 6059.amit@gmail.com (13429/1011/2022)
 Mobile: 9050078777 ... **Complainant No.2**

Versus

The Chairman, Staff Selection Commission,
 CGO Complex, Block No.12, Lodhi Road, New Delhi-110003
 Email: chairmanssc@gmail.com;
sscushqpp1@gmail.com . **Respondent**

1. Gist of Complaints:

1.1 Shri Gopesh Shribhagwan Singhal, a person with 70% Mental Illness filed a complaint dated 21.07.2022 regarding denial of reservation to persons with Mental Illness by the Staff Selection Commission (SSC) in the Notification Phase-X/2022/Selection Posts for Post Code NR11022 (Data Processing Assistant Grade 'A' – in the Office of the Registrar General, India).

1.2 The complainant further submitted that as per DEPwD/MSJE's Gazette Notification dated 04.01.2021 Mental Illness is a suitable category for Data Processing Assistant (Grade A), but SSC has not mentioned it as a suitable category in Phase-X/2022/Selection Posts for Post Code NR 11022 (Data Processing Assistant Grade A,

Office of the Registrar General of India) and has violated the guidelines and provisions of RPwD Act, 2016.

1.3 The complainant prayed for help from this Court.

1.4 Shri Amit Yadav, a person with 60% Mental Illness filed a complaint dated 27.07.2022 regarding non-inclusion of Mental Illness disability in the Advertisement published by Staff Selection Commission for recruitment to the post of Data Processing Assistant (Post Code NR 11022) in Phase-X/2022/Selection Posts by SSC. The complainant prayed that the post of Data Processing Assistant (Post Code NR 11022) may be allowed to be reserved for persons with mental illness. The complainant also submitted that the SSC allowed Mental Illness disability in same post (Post Code NR 11722) but did not allow in Post Code NR 11022 whereas both posts are same.

2. Notices issued to the Respondent:

2.1 In both the complaints notices dated 17.08.2022 and 01.09.2022 respectively were issued to the Chairman, Staff Selection Commission, New Delhi for forwarding their comments on affidavit on the complaints within 30 days to this Court

3. Replies filed by the Respondent:

3.1 The Respondent filed its replies dated 30.08.2022 and 13.09.2022 respectively and inter-alia submitted that all the posts, including the post of Data Processing Assistant, Grade-A, Post Code NR11022 at Sr. No.157 of Annexure-III, advertised in the Notification of Phase X/2022/Selection Posts were treated as suitable for applying by all the candidates of PwD categories in pursuance to the DEPwD/MSJE's Notification dated 04.01.2021. Accordingly, no candidate with disability was held back from applying for any post. Hence, any person with any type of disability was eligible to apply for any post and it was duly highlighted in the said Notification of X/2022/Selection Posts.

4. Submissions made in Rejoinder:

4.1 The Complainant, Shri Gopesh Shribhagwan Singhal in its rejoinder dated 12.09.2022 inter-alia submitted that on each and every page of Annexure-III of the impugned Notification it was clearly mentioned that –

“For detailed information on categories of Posts, please click here:
<https://ssc.nic.in/Portal/SelectionPostDetails>”

On that page <https://ssc.nic.in/Portal/SelectionPostDetails>, it was clearly written (still not corrected),
“Post suitable for Others – Yes (Eligible Sub-Categories: OA, OL, OAL, BL, LV, R.D, HH)”.

4.2 In eligible Sub-categories, mental illness (MI) was not mentioned.

4.3 No rejoinder was received from the Complainant, Shri Amit Kumar Yadav.

5. Reply to the Rejoinder filed by the Respondent:

5.1 The SSC filed its reply dated 14.12.2022 to the Rejoinder filed by the Complainant, Shri Gopesh Shribhagwan Singhal and inter-alia submitted that SSC is a recruiting agency and has no role in determining the EQs, vacancies, reservation, identification of suitability for the posts for various disabilities, etc. It receives vacancies through various requisitions from Ministries/User Department in respect of Selection Post recruitment throughout the year and publishes the same in the Notice of Examination of the next year.

5.2 However, as per the provisions of Notification dated 04.01.2021 issued by the Department of Empowerment of Persons with Disabilities [DEPwD], SSC has introduced the following in its Notification for Phase-X/2022/Selection Posts in favour of all the candidates with such disabilities mentioned at Para 4.1 and 4.2 in the Notification dated 04.01.2021 which read as under: —

“4.1 Suitability of the posts for the Persons with Disability (PwD) and the nature of disabilities admissible are indicated against each category of post in Annexure-III.

***NOTE:** The contents mentioned in the Notification No. 38-16/2020-DD-III dated 04.01.2021 issued by the Department of Empowerment of Persons with Disabilities (Divyangjan), M/o Social Justice and Empowerment regarding “... Posts Identified suitable for Persons with Benchmark Disabilities notified on 04.01.2021” will apply to the posts given in Annexure III, wherever applicable. Therefore, the candidates with such disabilities may also apply giving detail of their disabilities in the online Application Form. However, their selection will be subject to identification of posts suitable for these categories as well as reporting of vacancies by the Indenting Departments. Further, candidates are hereby advised to check their eligibility as per the details of Posts mentioned in the Notification No.38-16/2020-DD-III dated 04.01.2021 before applying for any post. Link for Notification No.38-16/2020-DD-III dated 04.01.2021 <https://disabilityaffairs.gov.in/content/page/notifications.php>”.*

5.3 Since the candidate/complainant, Shri Gopesh Shribhagwan Singhal, had not applied for any post(s), any of his claim cannot be entertained.

6. Hearing (1):

6.1 In both the case online hearings through video conferencing was conducted on **22.12.2022** and **02.03.2023** respectively. The following parties/representatives were present during the hearing:

- (1) Shri Gopesh Shribhagwan Singhal; and Shri Amit Kumar Yadav complainants

(2) Shri Ashish Mohan, Deputy Secretary, SSC, for Respondent.

6.2 **Record of Proceedings:** After hearing both the parties, this Court directed the Respondent to scrutinize the applications received against the impugned notification and inform this Court within 3 months as to how many divyangjan with Intellectual Disability applied against the post of Data Processing Assistant (Post Code NR 11022) in Phase-X/2022/Selection notification.

7. Compliance filed by the Respondent:

7.1 The Respondent filed its compliance vide letter dated 26.05.2023 and inter-alia submitted that for the ibid post, a total number of 96 PwD candidates had applied, and 09 candidates had applied under PwD-Others category. As per para 4.4 of the ibid recruitment notification, the PwD-Others category consists of persons with following disabilities i.e. Autism, intellectual disability, specific learning disability, mental illness, multiple disabilities including deaf blindness. As the data was not captured in the desired format at the time of calling of application from the candidates, further sub-categorisation of applications under PwD-Others category is not available with the SSC.

7.2 Further, as a standard procedure, the documents from the candidates for various claims of EQs, category, disabilities, etc. are called and examined at the stage of Document Verification for those candidates who qualify the Computer Based Examination (CBE) only. In the instant case only 04 candidates out of 09 PwD-Others candidates qualified under CBE, hence exact disability status of only following 04 CBE qualified candidates can be known during document verification stage and that too if they submit all documents and appear for the document verification: —

Sl. No.	Name of the candidate	PwD (Category)
1	Mainak Kundu (Roll No. 2203023671)	PwD-Others
2	Debabrata Bepari (Roll No. 2203026865)	PwD-Others
3	Amit Yadav (Roll No. 5203018206)	PwD-Others
4	Harshita Saharia (Roll No. 5203035336)	PwD-Others

7.3 Upon carrying out document verification on 24th, 25th and 28th August, 2023, the following 03 candidates out of 04 attended the document verification: —

Sl. No.	Name of the candidate	PwD (Category)	Remarks (w.r.t. Disability Certificate)
1	Mainak Kundu (Roll No. 2203023671)	PwD-Others	Spinocere bellar Atoxia e-Diplopia
2	Amit Yadav (Roll No. 5203018206)	PwD-Others	Mental Illness
3	Harshita Saharia (Roll No. 5203035336)	PwD-Others	Typical Iris coloboma with fundal coloboma involving optic disc

8. Hearing (2):

8.1 Another physical/online hearing through video conferencing in both the cases was jointly conducted on **15 March 2024**. The following parties/representatives were present during the hearing:

Sl. No.	Name of the parties/Representatives	For Complainant/ Respondent	Mode of attendance
1.	Shri Manish Mrinal and Shri Hari Nath Prasad, both Under Secretary, SSC	Respondent	Physical
2.	None appeared either physically or online for both the complainants.		

8.2 During the hearing the representatives appearing on behalf of the Respondent reiterated the replies filed by the Respondent. However, the Complainants neither appeared nor could be contacted on phone as they did not pick up the calls made to them from this Office during the hearing.

9. Observations & Recommendations:

9.1 From the facts submitted on record, the replies filed by the Respondent is satisfactory as Mental Illness disability has been allowed in the dropdown as "PwD Others" and 09 candidates with disabilities including the Complainant, Shri Amit Kumar Yadav had applied under that category. It also appears that the Complainant Shri Amit Kumar Yadav had cleared the recruitment examination and document verification has been also done in his case.

9.2 As regards, the claim of the Complainant, Shri Gopesh Shribhagwan Singhal, since he did not apply for any post, there is no merit in his complaint.

9.3 Hence, no further intervention is warranted in these cases and the case is accordingly disposed of.

Signed by Rajesh Aggarwal
Date: 27-03-2024 19:58:05

(Rajesh Aggarwal)
Chief Commissioner
for Persons with Disabilities

Office of the Registrar General of India) and has violated the guidelines and provisions of RPwD Act, 2016.

1.3 The complainant prayed for help from this Court.

1.4 Shri Amit Yadav, a person with 60% Mental Illness filed a complaint dated 27.07.2022 regarding non-inclusion of Mental Illness disability in the Advertisement published by Staff Selection Commission for recruitment to the post of Data Processing Assistant (Post Code NR 11022) in Phase-X/2022/Selection Posts by SSC. The complainant prayed that the post of Data Processing Assistant (Post Code NR 11022) may be allowed to be reserved for persons with mental illness. The complainant also submitted that the SSC allowed Mental Illness disability in same post (Post Code NR 11722) but did not allow in Post Code NR 11022 whereas both posts are same.

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4. Submissions made in Rejoinder:

4.1 The Complainant, Shri Gopesh Shribhagwan Singhal in its rejoinder dated 12.09.2022 inter-alia submitted that on each and every page of Annexure-III of the impugned Notification it was clearly mentioned that –

“For detailed information on categories of Posts, please click here:
<https://ssc.nic.in/Portal/SelectionPostDetails>”

On that page <https://ssc.nic.in/Portal/SelectionPostDetails>, it was clearly written (still not corrected),
“Post suitable for Others – Yes (Eligible Sub-Categories: OA, OL, OAL, BL, LV, R.D, HH)”.

4.2 In eligible Sub-categories, mental illness (MI) was not mentioned.

4.3 No rejoinder was received from the Complainant, Shri Amit Kumar Yadav.

5. Reply to the Rejoinder filed by the Respondent:

5.1 The SSC filed its reply dated 14.12.2022 to the Rejoinder filed by the Complainant, Shri Gopesh Shribhagwan Singhal and inter-alia submitted that SSC is a recruiting agency and has no role in determining the EQs, vacancies, reservation, identification of suitability for the posts for various disabilities, etc. It receives vacancies through various requisitions from Ministries/User Department in respect of Selection Post recruitment throughout the year and publishes the same in the Notice of Examination of the next year.

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5.3 Since the candidate/complainant, Shri Gopesh Shribhagwan Singhal, had not applied for any post(s), any of his claim cannot be entertained.

6. Hearing (1):

6.1 In both the case online hearings through video conferencing was conducted on **22.12.2022 and 02.03.2023** respectively. The following parties/representatives were present during the hearing:

- (1) Shri Gopesh Shribhagwan Singhal; and Shri Amit Kumar Yadav complainants

(2) Shri Ashish Mohan, Deputy Secretary, SSC, for Respondent.

6.2 **Record of Proceedings:** After hearing both the parties, this Court directed the Respondent to scrutinize the applications received against the impugned notification and inform this Court within 3 months as to how many divyangjan with Intellectual Disability applied against the post of Data Processing Assistant (Post Code NR 11022) in Phase-X/2022/Selection notification.

7. Compliance filed by the Respondent:

7.1 The Respondent filed its compliance vide letter dated 26.05.2023 and inter-alia submitted that for the ibid post, a total number of 96 PwD candidates had applied, and 09 candidates had applied under PwD-Others category. As per para 4.4 of the ibid recruitment notification, the PwD-Others category consists of persons with following disabilities i.e. Autism, intellectual disability, specific learning disability, mental illness, multiple disabilities including deaf blindness. As the data was not captured in the desired format at the time of calling of application from the candidates, further sub-categorisation of applications under PwD-Others category is not available with the SSC.

7.2 Further, as a standard procedure, the documents from the candidates for various claims of EQs, category, disabilities, etc. are called and examined at the stage of Document Verification for those candidates who qualify the Computer Based Examination (CBE) only. In the instant case only 04 candidates out of 09 PwD-Others candidates qualified under CBE, hence exact disability status of only following 04 CBE qualified candidates can be known during document verification stage and that too if they submit all documents and appear for the document verification: —

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7.3 Upon carrying out document verification on 24th, 25th and 28th August, 2023, the following 03 candidates out of 04 attended the document verification: —

Sl. No.	Name of the candidate	PwD (Category)	Remarks (w.r.t. Disability Certificate)
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2	Amit Yadav (Roll No. 5203018206)	PwD-Others	Mental Illness
3	Harshita Saharia (Roll No. 5203035336)	PwD-Others	Typical Iris coloboma with fundal coloboma involving optic disc

8. Hearing (2):

8.1 Another physical/online hearing through video conferencing in both the cases was jointly conducted on **15 March 2024**. The following parties/representatives were present during the hearing:

Sl. No.	Name of the parties/Representatives	For Complainant/ Respondent	Mode of attendance
1.	Shri Manish Mrinal and Shri Hari Nath Prasad, both Under Secretary, SSC	Respondent	Physical
2.	None appeared either physically or online for both the complainants.		

8.2 During the hearing the representatives appearing on behalf of the Respondent reiterated the replies filed by the Respondent. However, the Complainants neither appeared nor could be contacted on phone as they did not pick up the calls made to them from this Office during the hearing.

9. Observations & Recommendations:

9.1 From the facts submitted on record, the replies filed by the Respondent is satisfactory as Mental Illness disability has been allowed in the dropdown as "PwD Others" and 09 candidates with disabilities including the Complainant, Shri Amit Kumar Yadav had applied under that category. It also appears that the Complainant Shri Amit Kumar Yadav had cleared the recruitment examination and document verification has been also done in his case.

9.2 As regards, the claim of the Complainant, Shri Gopesh Shribhagwan Singhal, since he did not apply for any post, there is no merit in his complaint.

9.3 Hence, no further intervention is warranted in these cases and the case is accordingly disposed of.

Signed by Rajesh Aggarwal

Date: 27-03-2024 19:58:05

**(Rajesh Aggarwal)
Chief Commissioner
for Persons with Disabilities**



सत्यमेव जयते

न्यायालय मुख्यायुक्त दिव्यांगजन
COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES
(DIVYANGJAN)

दिव्यांगजन सशक्तिकरण विभाग (दिव्यांगजन) / Department of Empowerment of Persons with
Disabilities (Divyangjan)

सामाजिक न्याय और अधिकारिता मंत्रालय / Ministry of Social Justice and Empowerment

भारत सरकार / Government of India

Case No. 13541/1041/2022

Dated: 08/03/2024

In the matter of

Shri Rohit Thakur,
R/o Resri Lopara Dachhan,
Tehsil: Dachhan,
District: Kishtwar,
Pin: 182205 (JK UT);
Email: rohitthakurr95@gmail.com

... Complainant

Versus

The Director General,
National Testing Agency,
UGC-NET Examination,
C-20, 1A/8, Sector 62, IITK,
Outreach Centre, Noida 201309 (UP);
Email: ugcneta@nta.ac.in;
Phone: 011-69227700/ 01140759000

... Respondent

1. Gist of Complaint:

1.1 Shri Rohit Thakur, a person with 52% Visual Impairment filed a complaint vide email dated 04.10.2022 seeking compensation for not giving compensatory time of 1 hour to a student with visual impairment in the UGC NET Exam 2022 conducted by the National Testing Agency.

1.2 He submitted that the entry of Scribe was made difficult by asking unauthorized questions because of a lack of the rule of the Rights of Persons with Disabilities Act, 2016 [hereinafter "the Act"]. He further alleged that only one chair was given to him and to the scribe and his seat was allocated with all other candidates. No separate arrangement was made for candidates with a disability. No Compensatory Time of 01 Hour was given to him even though it was mentioned in his Admit Card. The said incident happened on 29.09.2022 at examination center Infinite Network Solution, J&K. He prayed to grant him an extra 01 hour time in the UGC NET Exam 2022 as compensation for the wrong committed against him.

2. Reply filed by the Respondent:

2.1 The Respondent filed its reply dated 26.12.2022 and submitted that the candidate didn't bring the original documents with him. He brought only the photocopy and with the approval of the Observer gave him permission to enter the premises. The complainant was provided a separate seat for the said exam and was provided all requisite facilities like Scribe as per NTA guidelines for the smooth conduct of the examination. The complainant had not utilized the compensatory/extra time that was fixed for him. He was permitted to leave the hall along with the Scribe on his request for non-requirement of extra time. The Invigilators, Centre Head, and Observer ensured the smooth conduct of the examination as per NTA guidelines during the specified time and day.

2.2 The factual report has been sought from the CBT vendor. All candidates with disabilities were asked to log in with a Prefix "Pâ along with his roll number, however, he logged in without the prefix "P" and did not receive the extra time. The complainant didn't raise this issue during or upon completion of his exam. As per the report, it is observed that the exam was conducted considering the norms of RPwD Act, 2016 in letter and spirit and hence, the complainant's complaint cannot be considered.

3. Submissions made in Rejoinder:

3.1 The complainant filed his rejoinder dated 06.01.2023 reiterating his complaint and submitted that the respondent's contentions made in the reply are absolutely false and baseless. He has prayed that since the applicant had suffered due to the negligence of the concerned, necessary direction be issued to the Director General, NTA to award NET certificate in the applicant's favour or a compensation of Rs. 20 lakhs for harassing him which has ruined his golden opportunity of career. If the prayer made is not allowed he will suffer an irreparable loss that cannot be compensated by any means.

4. Hearing (1):

4.1 An online hearing through video conferencing was conducted on **21.02.2023**. The following parties/representatives were present during the hearing:

- (1) Shri Rohit Thakur, Complainant
- (2) Ms. Sarika; and Ms. Sanjeeta, both Consultants for the Respondent

4.2 During the hearing both the consultants submitted that they were not aware of the facts of the case. This Court took it seriously and noted that NTA has no respect for the proceedings held before this Court. This Court vide letter dated 12.04.2023 directed the respondent to look into the matter and depute a regular Class-I officer, who is well aware of the facts of the case, to attend the next date of hearing before this Court.

5. Hearing (2):

5.1 Second online hearing through video conferencing was conducted on **04.09.2023**. The following parties/representatives were present during the hearing:
â

- (1) Shri Rohit Thakur, Complainant
- (2) Shri Vinod Kumar Shahu, Director (Admin) for the Respondent

5.2 During the hearing, the Court took note of the Respondent's reply, which was both self-contradictory and lacking in essential details that would demonstrate a fair investigation into the alleged incident. Prima facie, it appeared harassment of the complainant, resulting in the denial of his right to participate in a competitive examination. In order to ascertain the truth of the incident, the court issued the following directions to the Respondent to submit information and documents within 1 month from the date of issue of the Record of Proceedings dated 06.09.2023 with a copy of the same to the Complainant: â

(a) must submit a detailed record containing the names, designations, and photographs of all individuals employed by the Respondent for examination duty on 29.09.2022 at the examination centre at Infinite Network Solution, Birpur Road, Chowadhih, J & K - 180011, whether directly or through any third party; and

(b) to submit computer logs that provide timing information related to the commencement of the examination for the Complainant and for other candidates at the same examination centre on the date of the said examination.

6. Hearing (3):

6.1 A Physical/Personal hearing was conducted on **29.02.2024**. The parties/representatives remained present during the hearing as under:

Complainant:

(1) Shri Rohit Thakur, Complainant attended the hearing online.

Respondent: Attended the hearing physically

- (1) Shri Binod Kumar Sahu, Director (Legal), National Testing Agency
- (2) Ms Sarika Soani, Consultant, National Testing Agency

6.2 During the hearing, the representative of the Respondent filed their written submission vide letter dated 29.02.2024 in compliance with the directions issued vide the Record of Proceedings dated 06.09.2023 for the conducted on 04.09.2023.

6.3 In the written submission, the Respondent reiterated their reply already submitted. However, he added that the CCTV footages were obtained by the Service Provider and reviewed. It did not appear that the Complainant or his Scribe were made to stand for long or were not provided with suitable seating arrangements, but his entry and biometric registration were completed smoothly, and the examination functionary accompanied him to his seat and extended reasonable support. It is incorrect that both the Complainant and the Scribe, namely, Shri Nishant Ganjoo's entry was denied and no separate chair was allotted for the Scribe.

6.4 The representative of the Respondent admitted that the Complainant was not allowed the Compensatory Time which was due to him. This may have happened due to a lack of adequate awareness of the staff deployed at the examination center. However, as this Court vide Notice of Hearing dated 23.02.2024 had asked to explain the reasons for the denial of compensatory time and also to suggest measures proposed to be taken to resolve the grievance, the Respondent examined all possible ways to resolve it. Since conducting a separate examination for the Complainant would not have been an option, an attempt was made to see his standing if marks obtained by him in the examination written in three hours are increased proportionately.

6.5 It was seen that the Complainant had secured 28 out of 100 marks in Paper-1 (General) and 44 out of 200 marks in Paper-2 (Commerce) in his UGC NET Examination of three-hour duration, whereas the cut-off marks to become eligible for selection was 105 marks. If his marks are extrapolated in terms of the 04-hour duration of the exam, he would have scored 96 marks ($72/3 \times 4$). Further, 223 PwD candidates got 105 or more marks, out of 526 PwD candidates who appeared in Commerce subject of UGC NET December 2021 & June 2022 (Merged Cycles). 108 PwD candidates secured between 96 and 104 marks, whereas, 283 PwD candidates got marks between 72 and 104 marks in Commerce subject in this cycle of UGC NET Exam. As such, he would not be covered in the merit even by increasing his marks proportionately.

6.6 The Respondent also submitted that orientation sessions for the ground-level exam functionaries are being conducted to sensitize them about the provisions and facilities for PwD candidates.

7. Observations & Recommendations:

7.1 After perusing the written reply of the Respondent and hearing the parties the Court observed that the complainant's performance was not adequate for him to qualify the examination. As such, the grievance in so far deficiency in performance due to denial of compensatory time is not tenable.

7.2 The Court explained the above to the Complainant, who was also in agreement. The efforts made by the Complainant to appear in the said exam were appreciated and he is advised to put in more hard work for future exams.

7.3 This Court, however, is concerned over the fact that the manpower deployed at the examination center in this particular case was not sensitized about the needs and rights of persons with disabilities. In the instant case, as the data has revealed, the insensitivity has not resulted in the denial of the rightful claim of a person with a disability. However, it could easily have had a serious implication, had the Complainant performed a little better in the examination or with another person with disabilities in a similar situation. The Respondent is, therefore, directed to design a proper orientation training program which should be a mandatory requirement before any personnel is deployed on such examination duty.

7.4 The Respondent is advised to submit within three months a report on the orientation sessions conducted to sensitize the ground-level exam functionaries for providing reasonable accommodation to the candidates with disabilities in terms of the Guidelines for conducting written examination for Persons with Benchmark Disabilities issued by the Department of Empowerment of Persons with Disabilities, Ministry of Social Justice & Empowerment vide Office Memorandum No. 34-02/2015-DD-III dated 29.08.2018 read with the Corrigendum dated 08.02.2019.

7.4 The case is accordingly disposed of.



Rajesh Aggarwal
Chief Commissioner for Persons with Disabilities
08.03.2024

Office of Chief Commissioner for Persons with Disabilities(Divyangjan)
5th Floor, NISD Building, Plot No.G-2, Sector-10, New Delhi-110075
Tele# 011-20892364, 20892275
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न्यायालय मुख्य आयुक्त दिव्यांगजन

COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES (DIVYANGJAN)
दिव्यांगजन सशक्तिकरण विभाग/Department of Empowerment of Persons with Disabilities (Divyangjan)
सामाजिक न्याय और अधिकारिता मंत्रालय/Ministry of Social Justice & Empowerment
भारत सरकार/Government of India

5वाँ तल, एन.आई.एस.डी. भवन, जी-2, सेक्टर-10, द्वारका, नई दिल्ली-110075 दूरभाष : (011) 20892364
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Email: ccpd@nic.in; Website: www.ccdisabilities.nic.in

Case No. 13828/1011/2023

In the matter of—

Shri Hilal Ahmed,
R/o Jamia Nagar
Tantarygam Loran Mandi
Poonch J&K,
Pin 185102
Contact number: +919469358047
Email hilalahmed1991@gmail.com

... Complainant

Versus

(1) The Registrar,
University of Delhi,
Delhi-110007;
Email: registrar@du.ac.in

... Respondent No.1

(2) The Principal,
Dyal Singh College,
Delhi University,
Lodhi Road, Pragati Vihar,
New, Delhi 110003
Email: principal@dsc.du.ac.in

... Respondent No.2

1. Gist of Complaint:

1.1 Shri Hilal Ahmed, a person with 50% Visual Impairment filed a complaint dated 22.03.2023 against the University of Delhi regarding the denial of reservation to the candidate with disability as per provisions of Section 33 and Section 34 of the Rights of Persons with Disabilities Act, 2016 [hereinafter referred to as "the Act"] for recruitment to the post of Assistant Professor Zoology in Group-A against the Notification No DSC/ADMN/399 dated 22.08.2022 issued by University of Delhi for Dyal Singh College.

1.2 He submitted that he fulfilled all the essential qualifications for the advertised post as well as in terms of point number 769 of the Gazette notification No.CG-DL-E-13012021-224370 dated 07.01.2021 (wrongly mentioned as 769 by the complainant whereas it is 679). The Complainant also alleged that Dyal Singh College has not updated their rosters according to the Gazette Notification and has continued to follow the old notification, which has resulted in the exclusion of his subject Zoology from being reserved and earmarked for visually impaired candidates on the roster point 1 of Cycle 3 in PwD Teaching Roster 2022.

2. Submissions made by the Respondent:

2.1 Liaison Officer (SC/ST/PwBD), Dyal Singh College filed a reply dated 05.04.2023 along with the roster maintained at their end and inter-alia submitted that the teaching posts were advertised for direct recruitment vide advertisement dated 03.01.2020 after updating the roster positions on 12.07.2022. In the approved roster dated 29.10.2019, 06 posts were identified and carried forward to be filled on a priority basis along with additional new posts. Only 01 additional posts was identified wherein the Gazette notification dated 07.01.2021 was referred to and implemented.

2.2 No reply from Respondent No.1, the Delhi University was received.

3. Submissions made in Rejoinder:

3.1 The Complainant filed his rejoinder 01.05.2023 to the reply filed by the Principal, Dyal Singh College, and reiterated his grievance.

4. Hearing (1):

4.1 A personal hearing was held on 22.09.2023 through video conferencing. The following were present:

(1) Shri Hilal Ahmed, Complainant

(2) Adv. Parv Garg, Advocate on behalf of Respondent No.1

4.2 **Record of Proceedings:** No one appeared on behalf of Respondent No.2, which was viewed very seriously by the Court. The learned Counsel for Respondent No.1 sought a short adjournment. The Court asked the Complainant to present his case in brief. The Complainant submitted that the respondents have violated the provisions of para 7.3 of the DoPT OM dated 15.01.2018, according to which the first point in the roster has been reserved for VH category and also that the respondents have not identified the post of Asstt. Professor (Zoology) for the VH candidates whereas the same

has been identified as suitable for the said category in the MSJE Notification dated 04.01.2021 at Sl. No. 679. It was decided to reschedule the hearing after two weeks.

6. Hearing (2):

6.1 The case was next heard online through video conferencing on **14.11.2023**. The following parties/representatives were present during the hearing:

- (1) Shri Hilal Ahmed, Complainant
- (2) Shri Parv Garg, Advocate for Respondent No.1
- (3) Shri Mayank Yadav for Respondent No.2

6.2 During the online hearing, the Complainant submitted that he was recruited to the post of Assistant Professor, Zoology in Group A against the notification dated 22.08.2022 issued by the University of Delhi for Dyal Singh College. Dyal Singh College did not update their rosters which resulted in the exclusion of his subject Zoology from being reserved and earmarked for visually impaired candidates on roster point 1 of Cycle 3 in the PwD Roster 2022.

6.3 Respondent No.2 in its reply submitted that out of the 7 posts of the PwDs, 6 were filled up and only 1 post was vacant.

6.4 Respondent No.1 submitted that in the advertisement there was no reservation in the post of Assistant Professor (Zoology) for VI candidates. As per the direction by DoPT, the Hon'ble Supreme Court, and as per the law of the land the reservation to PwD is to be applied across the entire sanctioned strength in the grade of Assistant Professors. Therefore, reservation cannot be applied separately for zoology. The vacancies reserved for PwDs are distributed across all subjects. That is why in that particular advertisement, there was no reserved post for the subject of zoology, but reserved for other subjects. Further, the total number of vacancies was 119 and the reservation for PwD is 7 which is 50/0 as per the law. A 5% reservation for PwDs is applied to the entire cadre of Assistant Professor and reservation for PwDs is earmarked on the roster as per DoPT OM's. The roster is prepared by grouping the categories.

6.5 The Advocate of the Respondent referred to Point No.1 in Cycle 3 of the reservation roster approved on 04th July 2022 and submitted by the Respondent, which is reserved for OBC-VL. The Court asked the basis of earmarking both the vertical and the horizontal categories for the point, which could not be clarified by the Respondent. After hearing both parties, the Court directed the Respondent that the senior officers of the College and the University including the Liaison Officers, responsible for making and

vetting the reservation rosters be deputed within two weeks, to the CCPD office along with the rosters for understanding and making necessary corrections. The Court further directed that the respondents shall be personally available for the next hearing along with their liaison officers for PwBD.

7. Compliance filed by the Respondents:

7.1 On 02.02.2024, Dr. Manish Gautam (Dept. of Chemistry), Liaison Officer SC/ST/PWD; Shri A.K. Soni, Section Officer; and Shri Ajay Sain, Assistant, Dyal Singh College visited the Office of CCPD and met with the Dy. Chief Commissioner. He showed the reservation rosters for the period from 2013 to 2023 maintained by Dyal Singh College duly vetted by the Nodal Officer, University of Delhi. The issues such as roster-register, small-large cadre, shortfall/excess backlog reserved vacancies were discussed. The following observations were noted:

- i. Reservation for vertical categories were showed in the rosters meant for persons with benchmark disabilities;
- ii. The reservation points of persons with disabilities i.e. 1, 34, 67 for rosters up to 2017 and 1 & 76 for rosters from 15.01.2018 have also been earmarked for vertical categories making it difficult for the implementation of reservation;
- iii. In all the rosters, the first point was invariably reserved for visually impaired category, which is inexplicable.

7.2 The Nodal Officer, University of Delhi [Respondent No.1] filed his reply dated 29.12.2023 and inter-alia submitted that it is the afterthought of the Complainant that no reservation was provided to the VI-PwBD as he was not successful after fully participated the selection process in the category he applied for. As per the advertisement, there was no reservation for PwBD in the Zoology Department, yet the Complainant had applied. The reservation is an enabling provision and cannot be claimed as a matter of right.

7.3 The roster for PwBD is vacancy-based and not maintained as post-based which has been approved in the years 2017, 2019, and again in 2022 which has been relied upon by the Complainant, and based on which the teaching positions were advertised vide advertisement dated 01.01.2020 and further again on 22.08.2022. However, it cannot be claimed that reservation for PwBD is specifically applied to the post of Assistant Professor for a particular subject, as a matter of right.

7.4 The teaching positions (Lecturer/Reader/Professor) identified to be reserved for PwBD (Group-A) in the rosters till 29.10.2019 were advertised in terms of the DoPT Notification dated 27.09.2012 wherein 06 posts were identified and advertised, however, the same were carried forward in cognizance of DoPT Guidelines dated 15.01.2018 applicable at that time. Accordingly, in good spirit and larger interest of candidates applying under PwBD category, wherever posts under SC/ST/OBC/EWS category coincide with PwBD roster points at point No.1, 26, 51, 76 and have been reassigned to the earliest position (UR) as per clauses 8.4 and 8.5 of DoPT Guidelines dated 15.01.2018.

7.5 The Complainant cannot seek issuance of direction to issue corrigendum to the roster for allocation of VI posts for the Zoology subject on roster point III(1). Because, as per Para 7.4 of DoPT OM dated 15.01.2018, the placement in a roster in a particular block of 25 points has to be decided by the Head of Department, which the Complainant has ignored. Therefore, in the current roster for the year 2022, only one additional post was identified.

7.6 The challenge by the Complainant is barred by the doctrine of waiver by estoppel as per the settled position in law that once a candidate has participated in a recruitment process, he is estopped from assailing the manner of recruitment.

8. Hearing (3):

8.1 A 3rd online hearing through video conferencing was conducted on **13.02.2024**. The following parties/representative were present during the hearing:

1. Shri Hilal Ahmed, Complainant
2. Professor, Anil Aneja; and Shri Bipin Tiwari, Nodal Officer for Respondent No.1
3. Shri V.K. Paliwal, Principal; Advocate Mayank Yadav; and Dr. Manish Kumar Gautam for Respondent No.2

8.2 **Record of Proceedings:** During the hearing, Principal, Dyal Singh College submitted that there was a total of ten vacancies reserved for Persons with Disabilities out of which eight vacancies were filled up. The rest two vacancies were to be filled up — one was for an Assistant Professor (Punjabi) which was reserved for Visual Impaired, and another was for an Assistant Professor (Sanskrit) which was reserved for Locomotor Disability. Therefore, the strength was completed and this was as per the roster.

8.3 In an inquiry from the respondents how the department and the subject are

decided to be given to a person with a disability because the complaints are received that the demanding subjects such as science are denied to be given to PwD candidates, Professor Anil Aneja, one of the representatives of Respondent No.1 submitted that as per DoPT's OMs dated 29.12.2005 and 15.01.2018, the reservation for PwDs is not department-wise but group-wise. So, all vacancies in a particular group are placed together in a single 100-point roster. He referred the case No. 16258 of 2006 in which the Hon'ble High Court had asked the University of Delhi to make separate rosters for teaching and non-teaching vacancies. Therefore, the teaching rosters are different. He also referred the paras 14 and 15 of the DoPT OM dated 29.12.2005, and para 7 of the DoPT OM dated 15.01.2018 which mentioned without a doubt that the first, the twenty-sixth, fifty-one and seventy-six would be earmarked reserved for PwDs, so it's not up to the Respondents to decide which seat to give, it's already there in the in the new OMs.

And as per Section 34 of the Act, the vacancies meant to be filled appearing and arising in an establishment need to be factored in, not after employment but before appointment. And, also the Hon'ble Supreme Court in its Judgment at Para 54 in WP(C) 9096 of 2013 arising out of SLP (C) 74541 of 2009 asked to fill the backlog and implement the reservation. He further referred Rule 11.4 of the Rights of Persons with Disabilities Rules, 2017 [hereinafter "RPwD Rules, 2017"] wherein it is mentioned that persons with disabilities be treated as a separate class. That means, if a vacancy is reserved for some other social category, it cannot be reserved for PwDs, because if there's a vacancy reserved for SC already in the two hundred-point roster and the same is reserved for PwDs in a hundred-point roster, then only PwD from SC category can be applied. The RPwD rules are very clear on this.

8.4 After perusing the documents available on the records of this case and hearing the submissions made by the Respondent, this Court was of the view that the Respondent is not completely correct in its appreciation and implementation of the statutory provisions and government instructions with regard to recruitment and reservation for PwBDs. The reservation rosters submitted by Respondent No.2 is not as per the prescribed format and cross earmarking of vertical & horizontal reservations are made for the same points in the rosters. These rosters have been vetted and signed by Respondent No.1 also.

8.5 The Court sought comments of the Respondents on the discrepancies in their rosters within 15 days.

9. Compliance filed by the Respondents:

9.1 Respondent No.2 filed an application/affidavit dated 28.02.2024 in this Court by Post and submitted that the Complainant has filed a Writ Petition (Civil) No. 2443/2024

before the Hon'ble High Court of Delhi captioned as Hilal Ahmed Vs Union of India and Ors. whereby the Complainant has sought similar reliefs, and also the Hon'ble High Court, vide Order dated 19.02.2024, declined to grant any ad-interim stay in favour of the Complainant, Paras 3, 4, 5 and 6 of the said Order read as under:

"3 This is a writ petition under Article 226 of the Constitution of India, 1950, inter alia seeking the following reliefs:

"I. Issue a writ in the nature of mandamus or any other appropriate writ declaring the impugned advertisement dates 22.08.2022 for recruitment of Assistant Professor in Respondent No.3 vide Advertisement Notification No.DSC/ADMN/399 as unconstitutional, illegal and void:

II. Issue a writ in the nature of mandamus or any other appropriate writ quashing and setting aside the impugned advertisement dated 22.08.2022 for recruitment of Assistant Professor in Respondent 3 vide advertisement DSC/ADMN/399 to issue appropriate advertisement in accordance with the Respondent 1's Notification No. 39-16/2020-DD-III dated 04.01.2021.

III. Issue a writ in the nature of mandamus or any other appropriate writ, instructing Respondents No.1 and 2 to issue guidelines to all educational institutions receiving government aid. These guidelines should explicitly state that the failure to adhere to the reservation scheme for persons with disabilities, specifically Blind & Low Vision individuals under Section 34 of the Act, will be treated as an act of non-compliance. Furthermore, authorities accountable for ensuring the effective and strict implementation of disability reservations should face appropriate consequences for any lapses in their duties."

4. Issue notice.

5. Notice accepted by learned counsel for respective respondents, who seek and are granted six weeks to file the counter affidavit with an advance copy to learned counsel for the petitioner. Rejoinder, thereto if any, be filed within six weeks, thereafter, with an advance copy to learned counsel for the respondents.

6. List on 08.07.2024 before the Registrar for completion of pleadings.

Sd/-

TUSHAR RAO GEDELA, J

FEBRUARY 19, 2024"

9.2 Respondent No.2 prayed this Court to allow the application and the record of the Writ Petition (Civil) No.2443/2024 be taken on record.

10. Observations & Recommendations:

Since the Complainant has approached Hon'ble High Court of Delhi in the instant matter which is sub-judice before the Hon'ble High Court, no further intervention by this Court will be appropriate. Accordingly, the case is closed.

Signed by Rajesh Aggarwal

Date: 27-03-2024 19:40:18

**(Rajesh Aggarwal)
Chief Commissioner
for Persons with Disabilities**



सत्यमेव जयते

न्यायालय मुख्यायुक्त दिव्यांगजन
COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES
(DIVYANGJAN)

दिव्यांगजन सशक्तिकरण विभाग (दिव्यांगजन) / Department of Empowerment of Persons with
Disabilities (Divyangjan)

सामाजिक न्याय और अधिकारिता मंत्रालय / Ministry of Social Justice and Empowerment

भारत सरकार / Government of India

Case No. CCPD/14150/1093/2023

Dated: 08/03/2024

In the matter of

Ms. Parvinder Kaur
M/o Shri Gurdeep Singh
A-58, Vivek Vihar, Phase I,
Delhi 110095
Email parminderkaurgill75@gmail.com
Mobile No 999918049; 971160047

... Complainant

Versus

(1) The Joint Secretary (Scholarship)
Department of Empowerment of Persons
with Disabilities (Divyangjan),
Ministry of Social Justice & Empowerment,
5th Floor, B Wing,
Pt. Deendayal Antyodaya Bhawan
CGO Complex,
New Delhi 110003
Email sandeep.rht@gov.in

... Respondent No.1

(2) The Additional Secretary,
Department of Expenditure,
Ministry of Finance,
Room No.39-A, North Block,
New Delhi - 110001
Email: jspfs-doe@gov.in

... Respondent No.2

- (3) The Joint Secretary & Financial Adviser,
Ministry of Social Justice and Empowerment,
Department of Empowerment of
Persons with Disabilities (Divyangjan),
Room No.610, A-Wing,
Shastri Bhawan,
New Delhi - 110001
Email: s_pandey@gov.in

... Respondent No.3

Affected Person: Shri Gurdeep Singh Gill, a person with more than 40% specific learning disability (SLD)

1. Gist of Complaint:

1.1 Ms. Parminder Kaur filed a complaint dated 31.05.2023 and submitted that her son Shri Gurdeep Singh Gill, a person with more than 40% SLD had applied for a scholarship for the Top Class Education Scheme for students with disabilities. However, his application was rejected by treating a candidate with SLD on the same yardstick as other categories of disabilities.

2. Notice issued to the Respondent:

2.1 The matter was taken up with the Joint Secretary (Scholarship), Department of Empowerment of Persons with Disabilities (Divyangjan), Ministry of Social Justice & Empowerment [DEPwD/MSJE] for forwarding their comments on the affidavit on the complaint within 30 days.

3. Submissions made by the Respondents:

3.1 The Under Secretary (Scholarship), DEPwD filed a reply dated 26.07.2023 on behalf of the Respondent and submitted inter-alia that the selection of beneficiaries under the Top Class Education Scheme is merit-based as per the criteria mentioned in the scheme guidelines. As per the National Scholarship Portal (NSP), the status of the Shri Gurdeep Singh Gill is â Not selected in the merit list of 2022-23â . Further, his suggestion regarding changes in the selection criteria for the merit list in the scheme guidelines was stated to be noted by the Department.

3.2 As per scheme guidelines, 300 slots are available under the Top Class Education Scholarship Scheme which has been distributed among all the States and Union Territories based on the percentage of population of Persons with Disabilities (PwDs) of that State in comparison to the total PwD population of India as per the 2011 Census. Accordingly, 03 slots are allocated to Delhi State under the Top Class Education Scheme.

3.3 All slots are filled and selected in the merit list as per scheme guidelines and eligibility criteria through the NSP without any manual intervention. In the year 2022-23, the last cut-off for selection in merit is 88.6% marks in the previous qualifying exam under the Top Class Education Scheme in Delhi. However, Shri Gurdeep Singh Gill scored 69% marks in his previous qualifying exam as mentioned in his application. Therefore, Shri Gurdeep Singh Gill was not selected for the merit list for the Academic Year 2022-23.

4. Submissions made in Rejoinder:

The Complainant filed their rejoinder dated 10.07.2023 and reiterated her complaint. However, she added that the criteria for selecting the candidates are biased. No candidates with SLD were selected among all the states.

5. Hearing (1):

5.1 An online hearing through video conferencing was conducted on **14.11.2023**. The following parties/representatives were present during the hearing: â

- (1) Ms. Parvinder Kaur, Complainant
- (2) Shri Sandeep Kumar, Under Secretary, DEPwD for the Respondent

5.2 During the hearing, the Complainant submitted that her son used to get the scholarship during his last course. However, since he was admitted to the MBA course at Delhi Technical University, his scholarship was not provided. She was not aware whether she had to apply afresh or as a renewal of the scholarship.

5.3 The Court observed that even if the child was not eligible for the Top Class Education Scheme, he could have been given the post-matric scholarship. The representative who appeared on behalf of DEPwD submitted that they have already given 300 scholarships in the post-matric category.

5.4 After hearing both parties, the Court was inclined to seek the position from the respondent whether the proposition to allow the Post Matric Scholarship, if the Top Class scholarship could not have been given, was submitted for approval of the competent authority. Further, JS, DEPwD (RY), JS (FA), MSJE, and the Additional Secretary, D/o Expenditure concerned with scholarship schemes, are to be impleaded as respondents and be advised to be present in the next hearing.

6. Hearing (2):

6.1 The next online hearing through Video Conferencing was conducted on **13.02.2024**. The following parties/representatives were present during the hearing:

Complainant:

- (1) Ms Parminder Kaur, Complainant

Respondents:

- (1) Shri Rajesh Yadav, JS, DEPWD â for Respondents No.1 & No.4
- (2) Shri Sanjay Prasad, Addl. Secretary, DoE, for Resp. No.2
- (3) Shri Sanjay Pandey, JS&FA, DEPWD â Respondent No.3

6.2 **Record of Proceedings:** At the outset this Court gave a background of this case. The Court also pointed out that while on the one hand the budget of the department lapses every year, on the other hand the department is not able to give scholarship to students with disabilities, who are able to secure admission to top courses of higher education in institutions of repute. This is done ostensibly on the grounds of constraints of either budgetary provisions or of available slots or both. The Court referred to the DICE data, which indicates towards a worrisome state of the dropout rate for PwD students at higher secondary level and thereafter. The parliament has enacted the RPwD Act, 2016 providing 4% reservation in jobs to persons with benchmark disabilities. However, if adequate number of persons do not enrol for higher education or drop out due to poor financial conditions, the catchment area for recruitment will be restricted too. This is the reason why we are not having adequate representation of persons with disabilities in government employment despite lapse of 46 years since the reservations were provided for the first time on 14.06.1977.

6.3 The Court desired to know the following from the respondents:-

- (i) that if one scheme of scholarship is not running well then why the funds under that scheme cannot be utilised in another scheme that has a high demand?
- (ii) that whether the scholarship schemes of SC/ST students also have a cap of slots or is it only there in the case of PwDs?
- (ii) while filling up the form for a scholarship, why it is not feasible to seek choices and preferences from the applicant so that when the application is rejected in one category, the candidate can still be considered in another category?

6.4 Shri Rajesh Yadav, the Joint Secretary, DEPwD submitted that a written reply has already been filed in this case. He also said that a total of 42300 slots have been fixed by the Department of Expenditure across three scholarship schemes run by the department and that every year such number of scholarships are being issued. The IFD has allowed the flexibility to use the slots from one scholarship scheme of the department to another and that is being resorted to as and when required since the last year. In this particular case, the application was for a Top-Class Scholarship Scheme (TCSS) from the state of Delhi. The slots of the TCSS have been distributed to the states/UTs as per a formula devised by the department on the basis of the total population of the State/UT concerned, the total population of the PwD, and the total number of applications received from that particular state. Accordingly, Delhi got 03 slots and the candidate did not come in the merit for these slots.

6.5 The Joint Secretary also submitted that in 2022-23, a total of ₹ 150 crore had been utilized under the scholarship scheme and this year also ₹ 155 crore has been utilized. The flexibility in so far as the utilisation of the funds from one to another between the three schemes is not available with the department as of now as the scheme is being run. So once, one has chosen/applied in top-class, he or she has to be in that merit of that particular type of scholarship. The Complainant was advised to apply afresh because sometimes some selected students drop out for some reason during the course.

6.6 The CCPD observed that it is a lacuna in the system if the candidate is not able to apply for all the schemes in one go and mark his/her preferences therein. Shri Yadav submitted that this issue had been discussed with the NIC, who are on the job to create a new architecture to allow inter alia submission of a common application and furnishing of options and preferences by the applicants.

6.7 Shri Sanjay Pandey, the JS&FA, MSJ&E submitted that there are slots in every scheme and that the slots are limited. The slots for the three scholarship programs have been proposed by the DEPwD. Currently, the MSJ&E has 44520 slots for Pre-Matric, Post-Matric, Top Class, National Fellowship, Overseas, and Free coaching scholarships. The DoE had asked the ministry to project its budgetary outlay for a period of 5 years on the basis of 5.5 times the actual expenditure on the schemes during FY 19-20 in accordance with the recommendation of the 15th Finance Commission. As the expenditure in FY 19-20 was ₹ 95.15 Crs, the amount came to be ₹ 523 Crs. However, aware of the fact that there is high demand for the scholarships and the expenditure on awareness campaigns for the schemes is also booked against the same allocation, the ministry pegged its demand at ₹ 660 Crs. The DoE, however, allocated ₹ 560 Crs to be utilised over a period of 5 years. He also said that the allocation for scholarship schemes was gradually increased. The same for the year 21-22 was increased from ₹ 110 Crs to ₹ 120 Crs. For 22-23 it was increased from ₹ 105 Crs to ₹ 142 Crs and again in 23-24, the allocation was increased from ₹ 110 Crs to ₹ 155 Crs. He further suggested that there is a flexibility of annual budgetary allocation to the extent that they are within the overall allocation for the 5 year period. Shri Pandey further submitted that as the FA of the MSJ & E, he agrees with the observation of the Court that the option to choose from all the available scholarships should be made available to the applicants. He also said that overall the ministry has a total of 44520 slots over six schemes, which is enough and if needed the ministry can play within this number to consider the maximum number of applicants.

6.8 Shri Sanjay Prasad, the Additional Secretary, Department of Expenditure affirmed that the scholarship schemes are to encourage the SC/ST/OBC/PwD students to continue their studies. He submitted that the budget of the DEPwD for the financial year 2023-24 has been increased by 25% in comparison to its allocation for the FY 2022-23, which has been the highest for any department this year. The average hike across all the departments is around 10%. He underlined the initial observation of this Court that the scholarship budget allocated to DEPwD remains unutilized. He further submitted that DoE will have no objection if the slots of one scholarship scheme are utilised for another. However, in accordance with Article 112 of the constitution, the allocation for other schemes like ADIP or SIPDA can not be used for giving scholarships without the express approval of the parliament. He also submitted that the DoE has no role to play in deciding the number of slots or the guidelines for the scholarship scheme.

6.9. The Complainant submitted that her son, Shri Gurdeep Singh is pursuing M.B.A. 2nd year from the Delhi Technical University. The fees for the 1st year were deposited from the scholarship received during his graduation, but she did not have funds to pay fees for the second year. She had to file the case after not getting any resolution or assurance from the officers of the ministry in this regard. She also said that she has now deposited the fees with a late fine and has also applied for a grant of Top Class Scholarship afresh.

7. Observations & Recommendations:

7.1 This Court observed that all the arms of the executive is expected to work in tandem to fulfill the statutory obligation of ensuring equal opportunity and full participation of persons with disabilities in all walks of life. Considering the massive dropout rates after the 8th standard, which become further dismal after the 12th standard, the government is required to find ways to ensure that no student with disabilities drops out of his/her studies due to the poor financial condition of the family. Whenever any student with disabilities is admitted to a course of higher

education, it should actually be a cause of celebration that the child could overcome the challenges of disability and reach a Top Class Institute like IIT or IIM. The Court also observed that supporting a student stand on his or her own feet, makes good economic sense also as the state would not be required to spend on the aids, appliances, and livelihood of such person, and persons so gainfully employed would actually contribute to the GDP of the nation.

7.2 This Court recommends that the instant case be dealt by the DEPwD as a special case and feasibility of providing the scholarship to the son of the Complainant be explored within the constitutional and statutory constraints. For this reason, the NIC software should not become an obstacle and if need be, this case be dealt with manually.

7.3 This Court further recommends that wherever there are multiple schemes for which a candidate can be eligible, there must be a scope for submitting preferences and options for the beneficiary. If one is not getting a top-class scholarship, one must benefit from the post-matric scholarship. A copy of this Order be communicated to the DG NIC for taking necessary action in this regard without further delay. The Court also recommends that the number of slots and the allocation of funds be projected as per the actual demand from the eligible candidates and not merely on the grounds of the expenditure in the last FY. Further, the slots should be increased as and when the institutions are added under the Top Class Category.

7.4 In so far as the DoE is concerned, this Court recommends that if the budget for a previous year was grossly inadequate then the rate of enhancement cannot be based only on the basis of an average increase or the expenditure figures of the last year.

7.5 Respondents are directed to submit the Compliance Report of this Order within 3 months from the date of this Order. In case the Respondent fails to submit the Compliance Report within 3 months from the date of the Order, it shall be presumed that the Respondent has not complied with the Order and the issue will be reported to the Parliament in accordance with Section 78 of Rights of Persons with Disabilities Act, 2016.

7.6 The case is disposed of accordingly.

Rajesh Aggarwal
Chief Commissioner for Persons with Disabilities
08.03.2024

Office of Chief Commissioner for Persons with Disabilities(Divyangjan)
5th Floor, NISD Building, Plot No.G-2, Sector-10, New Delhi-110075
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सत्यमेव जयते

न्यायालय मुख्यायुक्त दिव्यांगजन

**COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES
(DIVYANGJAN)**

दिव्यांगजन सशक्तिकरण विभाग (दिव्यांगजन) / Department of Empowerment of Persons with
Disabilities (Divyangjan)

सामाजिक न्याय और अधिकारिता मंत्रालय / Ministry of Social Justice and Empowerment

भारत सरकार / Government of India

Case No. 14173/1101/2023

Dated: 08/03/2024

Suo-motu

In the matter of inconsistencies in the Accessibility Standards for Healthcare and National Health Policy with Section 25 and Section 40 of the Rights of Persons with Disabilities Act, 2016

Versus

The Secretary,
Ministry of Health & Family Welfare,
Government of India,
Nirman Bhawan, New Delhi -110001
Email: sandhya.k@nic.in

... Respondent

1. Gist of the Case:

1.1 Whereas the Ministry of Health & Family Welfare, Government of India notified the Accessibility Standards for Healthcare for giving effect to the provisions contained in Sections 25 and 40 of the Rights of Persons with Disabilities Act, 2016 [hereinafter as the "Act"], vide GOI Notification GSR No.359(E) dated 04.05.2023.

1.2 And whereas it was observed that the provisions related to Section 25 (1) (c) i.e. priority in attendance and treatment; Section 25(2) (f) i.e. measures for pre-natal, perinatal and post-natal care and sanitation; and Section 25(2) (k) i.e. sexual and reproductive healthcare especially for women with disability, were not covered or given adequate attention to in the aforesaid standards.

1.3 And whereas Section 10 of the Act provides as under:-

10. (1) The appropriate Government shall ensure that persons with disabilities have access to appropriate information regarding reproductive and family planning.

(2) No person with disability shall be subject to any medical procedure which leads to infertility without his or her free and informed consent.

1.4 And whereas it was also observed that the aforesaid provisions have also not been covered specifically for persons with disabilities in the National Health Policy, 2017 which was issued after enactment of the Act,

1.5 And therefore, suo-motu cognizance was taken and a Notice dated 07.06.2023 was issued to the Respondent for filing comments.

2. Submission made by the Respondent:

2.1 And whereas a reply dated 11.08.2023 was received from the Respondent stating inter-alia that the provisions related to Section 25(1) (c) i.e. priority in attendance and treatment; Section 25(2) (f) i.e. take measures for pre-natal and post-natal care and sanitation and Section 25(2) (k) i.e. sexual and reproductive healthcare especially for women with disability have been covered and given adequate attention in the Accessibility Standards for Healthcare. Further, the Respondent claimed that as per the guidelines for framing the Accessibility Standards for Healthcare, it was not required to include guidelines related to Section 25 (1) (c) of the Act. The Respondent pointed out certain features of the Guidelines in support of his claims, such as

(a) The accessibility features for Women with Disabilities required in an obstetrics and gynaecological department are described in Section 6.2.

(b) The accessibility examination table, and the gynaecological examination table, required for the examination of these females have been described in the equipment Section of the guidelines in Section 7.3.

(c) Accessibility weighing scale for women with disabilities is mentioned in Section 7.5.

(d) The special chair for use by women with disabilities for giving birth to a baby is mentioned in Section 7.11.

(e) For post-natal women with disabilities, the special type of arrangement required for her baby to make her approach to her baby easy is covered in Section 7.8.

3. Hearing (1):

3.1 The case was heard via Video Conferencing by Chief Commissioner for Persons with Disabilities on **04.09.2023**. The following were present in the hearing:

1. Dr Anil Kumar Gaur, Director, All India Institute of Physical Medicine and Rehabilitation, Mumbai for the **Respondent**

3.2 **Record of Proceedings:** During the online hearing, the Court observed that the guidelines outlined in Section 10 and Section 25(1) (a) & (c) of the Act were not being followed and implemented as intended. To rectify this, the Court directed the respondent establishment to prepare an action plan. This plan must encompass:

(a) **Training and Sensitization:** The action plan should include provisions for training and sensitizing the staff to ensure a better understanding and implementation of the guidelines.

(b) **Procedure for Implementation:** The plan should also outline a proper procedure for rolling out and effectively implementing the provisions laid out in Section 10 and Section 25(1)(a) & (c) of the Act.

(c) **Review of the Policy:** The action plan should include the manner of obtaining feedback from stake holders and frequency for review of the national policy.

4. Hearing (2):

4.1 As no response was received from the Respondent another hearing was scheduled on **09th October, 2023**. But no one appeared. No response was received from the Respondent:

5. Hearing (3):

5.1 Next hearing was conducted online through Video Conferencing on **14.11.2023**. Dr. Anil Kumar Gaur, Director, AIIMPR appeared for the Respondent.

5.2 **Record of Proceedings:** During the hearing, the Court expressed its deep concerns about the manner in which the observations of this Court expressed vide its Notice dated 07.06.2023 have so far been handled despite three hearings were scheduled in the matter. Moreover, during the hearing, the Respondent could not ensure a proper network connection to attend the hearing.

5.3 The Court decided to schedule a physical hearing in the matter on a date and time to be informed in due course, in which an officer not below the rank of a Joint Secretary should attend the hearing with necessary records about the specific concerns raised in the notice of this Suo-Motu Case and also about the awareness campaign and monitoring mechanism of the Accessibility Standards for Healthcare issued by the Respondent.

6. Hearing (4):

6.1 A physical/personal hearing was conducted on **29.02.2024**. The following parties/representatives of the Respondent were present during the hearing:

(1) Prof. (Dr.) Sunita Mondal, Director & Prof. LHMC & Associate Hospital, Delhi; and

(2) Dr. Rupali Roy, ADG, Dte. GHS, Nirman Bhawan

6.2 **Record of Proceedings:** During the hearing, in compliance with the directions issued in the last hearing conducted by this Court on **04.09.2023**, the representative for the Respondent Dr. Rupali Roy submitted a Training Manual of Accessibility Standards for Healthcare and National Health Policy prepared by the Directorate of the Ministry of Health & Family Welfare to be released officially. The Training Manual contains the following:

- (a) Common terms (of disability/impairment)
- (b) Types of Disabilities (as specified in the Schedule of the Act)
- (c) Barriers that limit accessibility to healthcare
 - 1. Physical obstacles;
 - 2. Barriers to communication and information;
 - 3. Attitudinal barriers; and
 - 4. Institutional barriers
- (d) Accessibility policies, independence, integration, and equal opportunities
- (e) Interacting and communicating with a person with disability
 - 1. Show warmth and a positive attitude.
 - 2. Respect the privacy of the person.
 - 3. Focus on the person's abilities rather than disabilities.
 - 4. Do not make assumptions regarding the working capabilities and capacities of the person.
 - 5. Remember that the person is the best judges of his or her capacities and capabilities.
 - 6. Use simple language. Using idiomatic expressions like "nice to see you" is acceptable.
 - 7. Preferably use first name of the person to address him or her.
 - 8. Do not insist if the person declines your offer of assistance.
 - 9. Communicate with the person directly, not through his or her attendant.
 - 10. Patting on the shoulder or head of the person to show that you are caring is not good.
 - 11. If you are not sure what to provide to the person, let the person ask for the assistance.
 - 12. Changes in muscle tone of facial muscles of some individuals may complicate reading their facial expressions.
 - 13. Whenever in doubt, validate your perceptions.
 - 14. Keep in mind that the person may take longer to respond, so be considerate.

15. Inform the person with disability if something communicated by the person is not understood.
16. Avoid using expressions that may be related to the person in view of his or her disability.
17. Speak in short and simple sentences.
18. Do not exaggerate your speech or speak in a manner showing superiority.
19. Do not suddenly provide load with information. Provide information in small pieces.
20. Be sensitive to tone of voice and nonverbal cues.
21. Rephrase and repeat questions, if necessary, or write them out if the person can read.
22. Ask the person if he or she requires any help.
23. Use visual aids, and if required, act or demonstrate to make the person understand.
24. When possible and safe, allow the person to handle and explore the equipment to be used.
25. Repeat the information as many times as is necessary.
26. Use accurate terms for body parts. If the person with disability uses his own terms, try to clarify if the person means the same as you have understood.
27. If the person is very anxious or has had a previous negative experience, comforting physical contact may be helpful.

7. Observations & Recommendations:

7.1 On perusal of the document, the court observed that the provisions related to Section 10 -as mentioned in para 1.3 above, Section 25 (1) (c) i.e. priority in attendance and treatment; Section 25(2) (f) i.e. measures for pre-natal, perinatal and post-natal care and sanitation; and Section 25(2) (k) i.e sexual and reproductive healthcare especially for women with disability, for which a suo-motu cognizance was taken in the instant case, were not found covered or given adequate attention to in the aforesaid â Training Manualâ .

7.2 The Respondent is directed to include the provisions of Section 10 and Section 25 of the Act in their Training Manual at appropriate place, and incorporate them in the National Health Policy as and when the same is reviewed by the respondent.

7.3 Accordingly, the case is disposed of.



Rajesh Aggarwal
Chief Commissioner for Persons with Disabilities
08.03.2024



न्यायालय मुख्य आयुक्त दिव्यांगजन

COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES (DIVYANGJAN)
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सामाजिक न्याय और अधिकारिता मंत्रालय/Ministry of Social Justice & Empowerment
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Email: ccpd@nic.in; Website: www.ccdisabilities.nic.in

Case No. 14310/1032/2023

In the matter of —

Shri Ankit Khurana,
R/o 3302, First Floor, Sector-71,
Mohali - 160071,
Mobile No. 9870320010
Email: ankitkhurana2489@gmail.com

... Complainant

Versus

The Head of the Department,
School of Management and Entrepreneurship (SME),
Indian Institute of Technology Jodhpur,
Nagaur Road, Karwar,
Jodhpur - 342037 (Rajasthan)
Email: office_sme@iitj.ac.in;
head_sme@iitj.ac.in

... Respondent

1. Gist of the Complaint:

1.1 Shri Ankit Khurana, a person with 60% Low Vision (Visual Impairment) filed a Complaint dated 04.07.2023 regarding denial the waiver of tuition fee by School of Management and Entrepreneurship (SME), IIT Jodhpur.

1.2 The Complainant submitted that the SME published brochure for admission in MBA-Fintech and Cyber Security Program in online mode for Working Professionals for Academic Session 2023-24. It was mentioned in the brochure that the students belonging to SC, ST and PwD categories would be exempted from paying tuition fees as per Government norms. The last date for submission of application was 12.06.2023.

The SME published revised brochure on 13.06.2023 for the aforesaid course with the last date of submission of application extended to 09.07.2023. But in this revised brochure, the SME removed the clause mentioned in the previous brochure regarding waiver of tuition fee applicable for the students of SC, ST and PwD categories. Thereafter, both the Admission Office and HOD SME, IIT Jodhpur did not provide fee waiver.

2. Reply filed by the Respondent:

2.1 The Head, SME IIT Jodhpur forwarded its reply vide email dated 25.08.2023 and inter-alia admitted that a course providing an MBA in Fintech and Cyber Security Program in online mode was introduced by the SME IIT Jodhpur, but due to an inadvertent mistake, a clause providing for waiver of tuition fees as per govt. norms was added in the brochure which was otherwise not a part of the terms and conditions of the said program. After realising the mistake, the said brochure was taken down on 13.06.2023 and a new brochure was published deleting the clause pertaining to waiver of the tuition fees.

2.2 The Respondent further submitted that the Complainant had sent an email dated 16.06.2023 that the clause of waiver of the tuition fees was found missing in the brochure which was duly replied to the Complainant on 20.06.2023. As far as the Complaint of the Complainant is concerned, the allegation pertains to non-compliance of the policy and norms of the M/o Education framed for students with disabilities. The basis of the said allegation is for the removal of the clause of waiver of tuition fee from the brochure of the course.

2.3 The Respondent submitted that they have been complying with all the policies and order of the Government and has been providing fee exemptions to the students belonging to the PwD category who are enrolled in regular courses. The course in question is not an offline regular course of IIT Jodhpur, but a special online course for working professionals. The Complainant has failed to refer to any provision/guidelines/order of any competent authority providing for fees exemption even in case of working professionals. The clause of waiver of fees was not included as the said course is special course exclusively for working professionals who have an earning source and thus have a capacity to pay the fees so applicable upon them. There have been many other courses such as MBA offered by various IITs, MBA for working executives by IIM Kochi and others wherein no such clause for exemption of fees has been provided.

2.4 The Respondent submitted that the Complainant has failed to make out any case of violation of any provisions/laws/norms/guidelines for PwDs.

3. Submission made in Rejoinder:

3.1 The Complainant in his Rejoinder dated 28.08.2023 submitted that the Respondent quoted most of the examples of IIMs and their MDPS which are not degree/diploma awarding courses but short-term knowledge enhancement courses. When the IIMs itself do not come under the purview of providing fees subsidy and tuition fees as per the order issued by the Ministry of Education, then comparing with IIM or other programs offered by IITs for sponsored candidates from PSU and Government, should not be a base for making a decision in this regard. As per orders of Ministry of Education, only IITs would be providing full tuition fee waivers for SC, ST, PwDs, whereas other notable institutes like Indian Institute of Foreign Trade are already providing tuition fee concession to working professionals enrolled under PwD category.

3.2 Further, the IITJodhpur is silent on the matter as to why the concession in application fee was removed from the brochure when the IITJodhpur itself provided 50% concession in fees to other part time (online) degree awarding courses (M.Tech and Ph.D.) offered to working professional during the same year 2023-24.

4. Hearing (1):

4.1 An online hearing through video conferencing was conducted on **18.12.2023**. The following parties/representatives were present during the hearing: —

Complainant:

(1) Shri Ankit Khurana, Complainant

Respondent:

- (1) Shri Anil Tiwari, Acting Head of SME;
- (2) Shri Prashant Bhardwaj, Assistant Registrar; and
- (3) Shri Gagan Narang, Advocate for the Respondent

4.2 **Record of Proceedings:** During the hearing, the Complainant reiterated his complaint that the School of Management and Entrepreneurship (SME), IIT Jodhpur denied waiver of tuition fee for persons with disabilities for admission in MBA-Fintech and Cyber Security Program in online mode for Working Professionals for Academic Session 2023-24. The said degree program is of three years duration and the tuition fee is approx. ₹8.25 Lakhs. The Complainant submitted that the technology is changing very fast and the Government allows persons with disabilities for skilling and upskilling and accordingly he may be provided the opportunity of upskilling.

4.3 Shri Gagan Narang, Advocate for the respondent submitted that IIT Jodhpur is providing all possible accommodations at government norms like waiver of fees, etc. in almost every residential regular program of undergraduate level. However, the course in

question is not an offline regular course of IIT Jodhpur, but a special online course for working professionals. The Complainant has failed to refer to any provision/guidelines/order of any competent authority providing for fee exemption even in the case of working professionals. The clause of waiver of fees was not included as the said course is a special course exclusively for working professionals who have an earning source and thus have the capacity to pay the fees so applicable upon them. There have been many other courses such as M for working executives by IIM Kochi, and others where no such exemption or waiver of fees has been provided.

4.4 After hearing both the parties, the Chief Commissioner stated that the proceedings before this Court are not adversarial and that the Court works in a collaborating fashion. The spirit of the Rights of Persons with Disabilities Act, 2016 [hereinafter "the Act"] is to empower persons with disabilities to lead a dignified life equally with others. Higher Education for a person with disability is a gateway to lead a dignified life and that is why 5% reservation in higher education has been provided for them. The aspiration of persons with disabilities to receive education cannot be restricted to the Undergraduate level only. The society has a duty to help persons with disabilities rather than extracting money from them. In that sense, the decision of IIT Jodhpur to levy full fees on persons with disabilities is quite unfair. Therefore, IIT Jodhpur is advised to come up, within a week, with their reconsidered views and decision about the quantum of fee that can be waived for persons with disabilities for admission to the said program so that their ambitions for post-graduation education may not be crushed.

5. Hearing:

5.1 A physical/online hearing through video conferencing was conducted on **15 March 2024**. The following parties/representatives were present during the hearing:

Sl. No.	Name of the parties/Representatives	For Complainant/ Respondent	Mode of attendance
1.	Shri Ankit Khurana	Complainant	Online
2.	Shri Prashant Bhardwaj, Assistant Registrar	Respondent	Online
3.	Prof. Chanda Chakraborti	Respondent	Online
4.	Shri Gagan Narang, Advocate	Respondent	Online

5.2 During the hearing the Learned Counsel for the Respondent submitted that there is a precarious position they are facing because of financial constraints involved. The waiver of tuition fees is mandatory only for the undergraduate courses and there is no provision for post graduate courses. The basic submission in this case remain the same. The other institutes are also charging the fees.

5.3 The Assistant Registrar of the Respondent reiterated their earlier reply that this is

the executive program only for the people who are working professionals. He expected that the Complainant should be able to pay the fees.

5.4 In response to a question asked by this Court whether the Respondent Institute are offering concession in fees to SC/ST in the same program in which the Complainant has been enrolled, the representative of the Respondent replied in negative.

6. Observations & Recommendations:

6.1 After hearing the parties and the documents submitted on record, the Court was of the opinion that policies of government institutions should be such which facilitates and encourages every student who is from a disadvantage class of the society. Thus the rigid stand of the respondents is not good. Only merit in respondent's case is that the course in question is online, and only offered to persons having employment. However, in the present case, there appears to be no discrimination on the grounds of disabilities or denial of any rights of a person with disabilities, as fee waiver has not been given to other disadvantaged students. As such, any intervention of this Court is not warranted.

6.2 Accordingly, the case is being disposed of.

Signed by Rajesh Aggarwal
Date: 27-03-2024 19:38:37

(Rajesh Aggarwal)
Chief Commissioner
for Persons with Disabilities



न्यायालय मुख्य आयुक्त दिव्यांगजन

COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES (DIVYANGJAN)
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 Email: ccpd@nic.in; Website: www.ccdisabilities.nic.in

Case No. 14342/1011/2023

In the matter of —

Suo-motu cognizance regarding denial of 4% reservation to persons with benchmark disabilities by the University of Delhi in Advt. No. Estav.IV/290/2021 for recruitment of non-teaching positions

Versus

The Registrar,
 University of Delhi,
 Delhi – 110007
 Email: registrar@du.ac.in

... Respondent

1. Gist of the Complaint:

1.1 A suo-motu cognizance was taken in the matter of denial of reservation for candidates with disabilities in the Advertisement No. Estav.IV/290/2021 published by University of Delhi for recruitment of Non-Teaching Positions in the University.

1.2 From the perusal of the advertisement it was observed as under:

Sl. No.	Group (Level)	Total Vacancy	No. of vacancy Reserved for PwBD in Advt.	No. of vacancies ought to be reserved according to 4% reservation for PwBD	Shortfall of reserved vacancies for PwBD
1.	Group 'A' (Level 10)	21	1	1	Nil
2.	Group 'B' (Level 6 to 7)	169	6	7	1
3.	Group 'C' (Level 1 to 5)	1414	19	57	38
	Total	1604	26	65	39

1.3 Out of a total 169 vacancies in Group 'B' posts, only 6 vacancies have been reserved for PwBD and out of a total 1414 vacancies in Group 'C' posts, only 57 vacancies have been reserved for PwBD. Therefore, there is shortfalls of 1 vacancy in Group 'B and 38 vacancies in Group 'C' posts for PwBD.

2. Notice issued to Respondent:

A Notice dated 26.07.2023 was issued to the Registrar, University of Delhi for forwarding their comments on the complaint on affidavit to this Court within 30 days. However, no reply has been received so far from the Respondent despite issue of Reminder on 25.09.2023 and lapse of statutory time limit.

3. Hearing (1):

3.1 An online hearing through video conferencing was conducted on **16 January 2024**. The following parties/representatives were present during the hearing:

- (1) Advocate Parv Garg for Respondent
- (2) Prof. Vipin Tiwari, Nodal Officer for PwDs for the University of Delhi

3.3 **Record of Proceedings:** During the hearing, the representative of the University of Delhi, Prof Vipin Tiwari submitted that a 3% reservation was given to PwBDs up to 19.04.2017. With regard to the advertisement under reference, 955 positions were advertised in the year 2021 out of which 908 vacancies were of the period before the new Act or the 4% reservation came into effect. As such, a 3% reservation was given based on a 100-point vacancy-based roster as per the DoPT OM. He further submitted the PwBDs employees who are already working were also adjusted for computation of reservation.

3.4 After hearing the representatives of the Respondent, the Court noted with grave concerns the Respondent failed to submit any reply to the notice of this Court, which was issued to the Respondent on 26.07.2023 followed by a reminder dated 25.09.2023. The Court asked the Nodal Officer of the Respondent whether he was aware that non-furnishing of any information sought under the provisions of the RPwD Act, 2016 is a punishable offence as per Section 93 of the Act! Further, it was observed at the face of the advertisement that the provisions of the Act and the DoPT instructions were not being followed by the respondent in letter and spirit. It was also observed by the Court that the representative of the Respondent appeared very casual before the Court.

3.5 The Court directed the respondent to submit the following details within 03 days of the receipt of this Record of Proceedings:

- (1) The total strength of employees in the whole university.

- (2) The total number of existing employees.
- (3) The total number of divyang employees.
- (4) Total number of vacancies group-wise since 1996.

4. Compliance filed by the Respondent (Heard on 16 Jan 2024):

4.1 The Respondent filed its compliance vide email dated 09 February 2024 and inter-alia submitted as under:

Sl. No.	Strength of Employees	No. of Employees
(1)	The total strength of employees in the whole university.	3341
(2)	The total strength of employees in university to be appointed through direct recruitment	1480
(3)	The total number of existing employees appointed on direct recruitment basis	340
(4)	Total number of Divyang employees	34

4.2 The Respondent further submitted that reservation for PwBD category was implemented with effect from 16 July 1994 with initial quantum of 3% which was enhanced to 4% after the enactment of the Rights of Persons with Disabilities Act, 2016, hereinafter referred to as "the Act". Thus, the University of Delhi has implemented the provision of reservation for Persons with Benchmark Disabilities (PwBD).

4.3 With regard to the instant matter, after the implementation of the Act, 955 vacancies in Group-C posts were advertised on 23 February 2021 wherein 19 posts were reserved for PwBD candidates. As per the Appendix-1 of the said advertisement, "Every Appointment through Director Recruitment/Open Selection shall invariably be made after making an open advertisement on the website and Employment News." Further, in terms of Executive Council Resolution No. 236 dated 02 March 1994, the validity of the advertisement is 18 months from the last date of submission of applications, which implies that the recruitment process shall be completed before the end of 18 months. However, consequential actions like the declaration of result(s), joining of selected candidates(s), the validity of Panel(s) etc. can be taken beyond 18 months.

4.4 The advertisement in reference, had already outlived the 18 months' period viz., the validity of the said advertisement had expired. The Respondent could not complete the process of recruitment during the span of the advertisement, therefore, no further action was taken. However, as per the mandate of the Act, the PwBD Roster is being updated and vacancies are being worked out which would be advertised subsequently.

5. Observations & Recommendations:

5.1 The University appears to have provided the mandatory reservation and representation of the Persons with Benchmark Disabilities in its establishment based on recruitments made by them since the reservations became statutory. However, information in that respect is not adequate to come to a definite conclusion in this regard.

5.2 From the submission of the Respondent it is evident that the cause of action for this particular case, i.e. the impugned advertisement has expired and the Respondent doesn't intend to carry forward with the recruitment process. As such, no further action is warranted in this matter.

5.3 As regards, the vacancies to be computed & published in the near future after the updation of the reservation roster for PwBD, the Respondent is advised to take every care for implementation of the provisions of Sections 33 & 34 of the Act read with Rule 11 of the Rights of Persons with Disabilities Rules, 2017. The Respondent is further advised to complete the Roster updation work within 30 days and submit a Return on Vacancies to this Court in terms of Rule 13 of the Rights of Persons with Disabilities Rules, 2017.

5.3 No further intervention is warranted in this matter and the case is accordingly disposed of.

Signed by Rajesh Aggarwal
Date: 27-03-2024 20:01:22

(Rajesh Aggarwal)
Chief Commissioner
for Persons with Disabilities



न्यायालय मुख्य आयुक्त दिव्यांगजन

COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES (DIVYANGJAN)
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 5th Floor, N.I.S.D. Bhawan, G-2, Sector-10, Dwarka, New Delhi-110075; Tel.: (011) 20892364
 Email: ccpd@nic.in; Website: www.ccdisabilities.nic.in

Case No. 14363/1092/2023

In the matter of —

Adv. Syed Ansari A,
 Stalin Street, Periyar Nagar,
 Avadi, Chennai – 600071 (TN)
 Email: advocateansari8@gmail.com
 Contact: 9787455125, 8667801541

...Complainant

Versus

(1) The Secretary
 Railway Board
 Rail Bhawan, Rafi Marg
 New Delhi -110001
 Email – secyrb@rb.railnet.gov.in

... Respondent No.1

(2) The General Manager,
 Southern Railway
 Park Town, Chennai – 600003
 Email – gm@sr.railnet.gov.in

... Respondent No.2

(3) The Divisional Railway Manager,
 Southern Railway,
 Chennai Division,
 NGO Annexe, Park Town,
 Chennai - 600 003

... Respondent No.3

1. Gist of the Case:

1 . 1 Adv. Syed Ansari A, a person with blindness filed a complaint dated 26.07.2023 of regarding harassment/humiliation for renewal of e-certificate for

booking of railway tickets with concession through IRCTC.

1.2 He submitted that he was availing the benefits of concession through Railway Identify Card No. SRMAS0017593 issued on 31.10.2019 which got expired on 07.06.2023. As a result, he applied for renewal of the same and approached to DRM/SR/Chennai on 05.05.2023. From the DRM/SR/Chennai Office, he was issued a form of Concession Certificate and was directed to get a medical certificate from the concerned doctor. He visited the concerned doctor, namely, Dr. J. Jayalatha, Regn. No. 75488, Civil Assistant Surgeon, Regional Institute of Ophthalmology, Government Ophthalmic Hospital, Egmore and got issued the form duly filled with necessary signature and seal. He submitted the form in the Office of DRM/SR/Chennai. But the DRM Office rejected the form stating that the unnecessary particulars in the form were not struck out by the doctor. He visited the doctor a second time and got the unnecessary particulars struck out in the form and submitted to the DRM Office. The Senior Divisional Commercial Manager in the DRM Office told him that the extent of disability should be mentioned in figures in addition to the mention of the nature of disability in words. The Complainant again visited to the concerned doctor and got the percentage of disability mentioned in figures and thereafter submitted the form in the DRM Office. Finally, DRM Office accepted his application on 18.05.2023 and provided him an acknowledgement receipt and asked him to come on/after 25.06.2023. He visited the DRM Office to collect the Railway Identity Card, but was informed that his application was not processed due to some corrections in the form. On further inquiry, he was told that in the form there was a correction made by the doctor regarding the sex of the applicant. The doctor had initially made a mistake and marked his sex as 'F', that denotes "female" but on understanding the mistake, the doctor corrected it and marked the sex as 'M'. He was asked to bring forth a fresh Concession Certificate to renew his Railway Identity Card.

1.3 The Complainant felt discriminated because despite understanding that he is a blind person, no compassion or empathy was shown towards him. Being a Research Scholar at the National University of Advanced Legal Studies, Kalamassery, Kerala he had travelled all the way to collect his certificate and instead of making him wait for a month to inform about the correction in the form, the officials could have informed him the same when they had received my application. Therefore, he decided to file this Complaint.

1.4 The Complainant implored to simplify the procedure to get the Railway

Identity Card as once an individual is identified with benchmark disability 100% irreversible for life, one should not be directed to get a doctor's certificate. The Unique Disability ID Card should be made the standard criteria for permanently disabled individuals whose disability is irreversible.

2. Reply submitted by the Respondents:

2.1 The Railway Board [Respondent No.1] endorsed to this Court a copy of the letter dated 22.08.2023 addressed to the Principal Chief Commercial Manager, Southern Railway, Chennai directing him to examine the Complaint of Advt. Syed Ansari A and furnish a suitable reply to this Court.

2.2 Sr. Divisional Commercial Manager, Southern Railway, Chennai Division, Chennai filed a reply dated 31.08.2023 on behalf of Respondents No.1 and No.2 and submitted that Respondents No.1 and No.2 are not the necessary parties to this case, hence their names be deleted from the cause title, and in its place, the Divisional Railway Manager, Southern Railway, Chennai Division, Chennai be joined as the proper party to the case.

2.3 The Respondent No.2 further submitted that the Concession Certificate for Persons with Disabilities (Divyangjan) issued by the Government Hospital/Clinic/Institutions located in the area within the jurisdiction of the Zonal Railway and the correct particulars of the person seeking concession should be completely and clearly filled in the concession certificate. In the Concession Certificate dated 05.05.2023 issued by the Government Ophthalmic Hospital, Egmore in favour of the Complainant, the following were noticed:

- (a) The disabilities which do not apply to the person seeking concession were not struck out by the doctor issuing the concession certificate;
- (b) The gender of the person seeking concession was written as F and further overwritten as M in the concession certificate; and
- (c) The percentage of disability which should be mentioned by the doctor in the concession certificate was not done.

2.4 The Complainant resubmitted the Concession Certificate with corrections on 18.05.2023. He was advised to visit office on 20.07.2023, but since the verification process was not complete, the Photo ID card could not be handed over to him. Subsequently, on 31.07.2023, the Complainant was informed over phone that the Photo ID Card was ready and could be collected. The Complainant collected the

Photo ID Card No. 27089, Valid from 22 July 2023 to 04 May 2028 and the original Concession Certificate was also cross endorsed on 14 August 2023. The staff dealing with the Complainant did not use any harsh words when interacting with the Complainant.

2.5 The process of issuing Photo ID Cards having Unique Number has been implemented in Railways from the year 2015 and it is working effectively. The process of concession based ticketing, procedure for ensuring the correctness of particulars in the concession certificate, validity period of the Photo ID Card etc. and the detailed procedure to be followed for implementing the provisions is governed by Railway Board's policy in Commercial Circulars Nos.18 of 2015 dated 19 March 2015 and 28 of 2016 dated 29 June 2016. The procedure laid down in the policy is simple and no hardship can be caused to physically challenged persons. Further, as per policy, the representative of the physically challenged person can also collect the Photo ID Card with proper authority letter and original certificates.

2.6 Railways have taken large number of measures such as issuing of concessional tickets, amenities, earmarking of accommodation etc. to protect the interests and welfare of physically challenged persons. The complainant has been issued Photo ID Card with Unique Number and his grievance has been redressed. With regard to the complainant's suggestions, the prevailing procedure is proven and working effectively and no new or different procedure are required.

2.7 For the reasons stated above, the Respondent No.2 requested this Court to dispose of the Complaint.

3. Submission made in Rejoinder:

3.1 The Complainant filed his rejoinder dated 20 September 2023 that he had received the Railways Identity Card on 14 August 2023. However, he desired to go with his Complaint so that other persons with disabilities may not face the same injustice as he went through.

4. Observations & Recommendations:

4.1 From the facts submitted by the parties to the case, this Court has observed that the conduct of officials of the respondent establishment has been very insensitive in the instant case. The Complainant was made to visit authorities

including the medical authorities again and again for correction of one entry after another. The errors or overwriting on the forms have not been attributed to the Complainant. All the officials involved in the process of renewal of the e-certificate are personnel within the control of the respondents.

4.2 This Court is of the view that every public servant is expected to ensure that rights and benefits extended to persons with disabilities under the Rights of Persons with Disability Act, 2016 and rules, instructions, etc. issued thereunder, are made available to them without any delay. The Complainant being a person with blindness could not have observed the discrepancies occurred in the form for the Concession Certificate. The Concession Certificate is issued by the Government Hospital/Clinic/Institutions located in the area within the jurisdiction of the Zonal Railway. As such, the responsibility of quick disposal of such requests lies squarely with the respondents.

4.3 This Court is of the opinion that there is a scope for handling such requests from persons with disabilities with better efficiency by adopting measures such as review of existing processes, conduct of training & workshops including on sensitization of disability matters and of the needs of persons with disabilities for all its personnel.

4.4 On the request of the Complainant made in his rejoinder to continue with the case to ensure that no other person with disability has to face such hardship, this court would like to inform that as per the procedure to be followed by the Chief Commissioner in handling of the Complaints as laid down in Rule 38 of the RPwD Rules, 2017, the complaint has to be filed before the Chief Commissioner or the Commissioner by an "aggrieved person". Admittedly, the grievance of the Complainant has been redressed by the respondents. As per the statutory provisions, the grievance can not be converted into a public interest matter and the Complainant can not assume representative capacity for other persons. As such, the request for continuation of the matter can not be accepted.

4.5 This Court recommends the respondents to take action as proposed at para 4 above. The respondents shall submit the ATR/Compliance Report of this Order within 3 months from the date of this Order. In case the Respondent fails to submit the Compliance Report within 3 months from the date of the Order, it shall be presumed that the Respondent has not complied with the Order and action as deemed appropriate under sections 78 and 93 of the Rights of Persons with Disabilities Act, 2016.

4.6 The case is accordingly disposed of with the approval of the Chief Commissioner for Persons with Disabilities.

Signed by
Praveen Prakash Ambashta
Date: 14-03-2024 16:04:32

(P. P. Ambashta)
Dy. Chief Commissioner



सत्यमेव जयते

न्यायालय मुख्यायुक्त दिव्यांगजन
**COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES
(DIVYANGJAN)**

दिव्यांगजन सशक्तिकरण विभाग (दिव्यांगजन) / Department of Empowerment of Persons with
Disabilities (Divyangjan)

सामाजिक न्याय और अधिकारिता मंत्रालय / Ministry of Social Justice and Empowerment

भारत सरकार / Government of India

Case No. 14759-1041-2024

Dated: 08/03/2024

In the matter of

Shri A.S. Gudimani,
Service No.: 41759-F,
Room No. 504, D-Block,
Defence Office Complex,
Naval Headquarters,
Africa Avenue,
New Delhi 110023
Email: rahul.gudimani@gmail.com

Complainant

Versus

(1) The Registrar,
Pandit B.D. Sharma University of Health Sciences,
UH2, PGIMS Road, Dariyao Nagar,
Rohtak 124001 (Haryana)
Email: registrar@uhsr.ac.in

Respondent

1. Gist of the Complaint:

1.1 Shri A. S. Gudimani filed a Complaint dated 30.01.2024 regarding the denial of Compensatory time to his son, Shri Rahul Gudimani, a person with 40% Specific Learning Disabilities (SLD) in his Anatomy-A paper of the MBBS course 1st Prof. Supplementary Examination commenced on 29.01.2024 by the Respondent.

1.2 The Complainant filed this case in reference to his earlier case No.14717/1041/2023 which was regarding the denial of granting computer typing as a means to submit answer sheets to his son Shri Rahul Gudimani, and case No.14717/1041/2023 was disposed of vide Order dated 17.01.2024 with the following directions to the Respondent:-

"6.2 The Court observed that the Respondent will be setting good precedence by allowing the child to write his examination using a computer and accordingly recommended that the Respondent shall review their decision communicated to this Court vide their reply dated 12.01.2024 by not insisting on a scribe transcribing the computer typed answers in a handwritten one. Taking note of the request of the Complainant for a direction to the Respondent to dispose of their request for revaluation before the supplementary examination commences on 23rd January 2024, this Court recommends that the University shall make necessary efforts to conclude on the request at the earliest and preferably before the commencement of the supplementary examination. Respondent No.1 shall submit an Action Taken Report in the matter within 7 days from the date of the proceedings."

1.3 In the instant case, the Complainant contends that the Respondent had complied with the directions issued by this Court in the earlier case but the Respondent did not follow and violate Para-IV and Para-XII of the "Guidelines for conducting written examination for Persons with Benchmark Disabilities" issued by the Department of Empowerment of Persons with Disabilities, Ministry of Social Justice & Empowerment [DEPWD/MSJE] vide Office Memorandum No. 34-02/2015-DD-III dated 29.08.2018 read with the Corrigendum dated 08.02.2019. Para-IV & Para-XII read as under:-

"IV. The facility of Scribe/Reader/Lab Assistant should be allowed to any person with benchmark disability as defined under Section 2(r) of the RPwD Act, 2016 and has limitation in writing including that of speed if so desired by him/her. In the case of persons with benchmark disabilities in the category of blindness, locomotor disability (both arm affected-BA) and cerebral palsy, the facility of scribe/reader/lab assistant shall be given, if so desired by the person. In the case of other categories of persons with benchmark disabilities, the provision of a scribe/reader/lab assistant can be allowed on the production of a certificate to the effect that the person concerned has physical limitations to write, and a scribe is essential to write examination on his behalf, from the Chief Medical Officer/Civil Surgeon/ Medical Superintendent of a Government health care institution as per proforma at APPENDIX-1."

XII. The word 'extra time or additional time' that is being currently used should be changed to 'compensatory time' and the same should not be less than 20 minutes per hour of examination for persons who are allowed use of scribe/reader/lab assistant. All the candidates with benchmark disabilities who are eligible for availing the facility of scribe in terms of guidelines IV may be allowed additional time of minimum of one hour for examination of 3 hours duration whether they use the facility scribe or not. In case the duration of the examination is less than an hour, then the duration of additional time should be allowed on pro-rata basis. Additional time should not be less than 5 minutes and should be in the multiple of 5."

1.4 It is pertinent to mention here that in the reply dated 12.01.2024 filed by the Respondent in Case No.14717/1041/2023, the Respondent had inter-alia submitted that the Committee constituted by the Hon'ble Vice Chancellor in the matter of Shri Rahul had recommended as under:-

"(1) The computer/laptop having basic facility for typing text duly certified by the Centre Superintendent may be allowed to Shri Rahul Sharma under Point No. VIII & IX of the Guidelines for conducting written examination dated 29.08.2018 without any storage media/data/without any internet connection, without previous stored data or any examination related material.

(2) The candidate is allowed to bring his own scribe/writer for copying the answers from the computer-printed copies to the University OMR based Answer Book and the qualification of the scribe/writer should be one step below the qualification of the candidate as per the point VI of the said Guidelines.

(3) Compensatory time of one hour of examination would be provided as per point XII of the said Guidelines."

1.4 From the reply at point (3), the Respondent had submitted that Compensatory time of one hour of examination would be provided as per point XII of the said Guidelines.

1.5 The Complainant prayed that

(1) A re-test of Anatomy Supplementary Examination, under a fortnight from the end of ongoing Supplementary Examinations, with the assurance that this test's difficulty level will not be made unduly biased against its sole writer.

Or,

(2) If the University finds it logistically challenging to conduct a second supplementary examination, we expect his present paper to be evaluated with compensatory marks, to ensure that he is duly compensated to even the current circumstances he has been unjustly subjected to. The modalities for evaluation for the same in the current test could be on the basis of his performances in upcoming subject exams and/or his internal assessments.

Or,

(3) He may be allowed to write the same paper later with the 2023 batch students, but still be promoted to the 2nd year MBBS, attend 2nd year classes and write 2nd year papers alongside, such that his year is not wasted.

2. Notice issued to the Respondent:

2.1 A Notice dated 30.01.2024 was issued to the Registrar, Pandit B.D. Sharma University of Health Sciences, Rohtak for forwarding its comments on the affidavit on the complaint.

3. Reply filed by the Respondent:

3.1 The Respondent filed a reply dated 28.02.2024 which was received on 29.02.2024. In the reply, the Respondent inter-alia submitted in compliance with the Orders dated 17.01.2024 passed in Case No. 14717/1041/2023, instructions were sent to all concerned examination centers to follow the revised facilities/guidelines/instructions. No query/ representation/request in reference to the above-said instructions was received by the Respondent. However, a request of the concerned college was received on 29.01.2024 at 18:57 and the request of the Complainant was received through this Court on 30.01.2024, and the same was allowed/decided and conveyed vide letter dated 31.01.2024.

3.2 The Respondent also submitted that the result of MBBS 1st Prof. Supplementary Examinations, Jan-2024 had been declared on 27.02.2024 and the result of Shri Rahul Gudimani bearing University Roll No.213333 is 479/900 i.e. pass.

4. Hearing:

4.1 A physical/personal hearing was conducted on **29.01.2024**. The following parties/representatives were present during the hearing:

Complainant:

(1) Captain Abhijit S. Gudimani

Respondent:

(1) Dr. Amrish, Controller of Examination

(2) Shri Dipesh Singhal, Advocate

(3) Shri Sahil A. Narwana, Advocate

4.2 During the hearing, the representative of the Respondent tendered his apology for non-adherence to the instructions by the invigilation authorities issued for providing Compensatory Time to Shri Rahul Gudimani in the examination on 29.01.2024.

4.3 The Complainant submitted that there should be a system of re-examination facility for those eligible students with disabilities who fail to write their examination due to not being provided Scribe/Compensatory Time, reasonable accommodations as per the Guidelines for conducting written examinations for Persons with Benchmark Disabilities without fault on their part.

5. Observations & Recommendations:

5.1 After perusing the reply dated 28.02.2024 and hearing both the parties, this Court appreciates the performance of the affected student Master Rahul Gudimani, who could pass the examination including in the paper in which he was denied his rightful claim to compensatory time.

5.2 The respondents are advised to take every care to ensure that there is no recurrence of such lapse by any of their officials. The respondents are also directed to design and conduct training programs on sensitisation of the rights and needs of persons with disabilities. The said training program should cover the Guidelines for conducting written examination for Persons with Benchmark Disabilities issued by the Department of Empowerment of Persons with

Disabilities, Ministry of Social Justice & Empowerment vide Office Memorandum No. 34-02/2015-DD-III dated 29.08.2018 read with the Corrigendum dated 08.02.2019.

5.3 Respondent is directed to submit the Compliance Report of this Order within 3 months from the date of this Order. In case the Respondent fails to submit the Compliance Report within 3 months from the date of the Order, it shall be presumed that the Respondent has not complied with the Order and the issue will be reported to the Parliament in accordance with Section 78 of Rights of Persons with Disabilities Act, 2016.



(Rajesh Aggarwal)
Chief Commissioner for Persons with Disabilities
08.03.2024

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