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In the Court of State Commissioner for Persons with Disabilities
National Capital Territory of Delhi
25-D, Mata Sundari Road, Near Guru Nanak Eye Centre, New Delhi-110002
Phone: 011-23216003-04, Telefax: 011-23216005, Email: comdis.delhi@nic.in
[Vested with powers of Civil Court under the Rights of Persons with Disabilities Act, 2016]

Summons to appear u/s 82 of the RPwD Act, 2016

Case No.106/1121/2018/02/6215-20

Dated 19/03/18

In the matter of:

Ms. Simmi Chopra
B-123, Amar Colony
Lajpat Nagar, New Delhi -110004

.....Petitioner

Versus

The Medical Superintendent
Safdarjung Hospital
New Delhi -110029

.....Respondent No.1

The Medical Superintendent
Bhagwan Mahavir Hospital
Govt. of NCT of Delhi
Pitampura, Delhi -110034

.....Respondent No. 2

The Secretary
Health & Family Welfare Department
Govt. of NCT of Delhi
9th Level, A-Wing, I.P. Estate, Delhi Secretariat
New Delhi -110002

.....Respondent No. 3

Date of Hearing: 09.03.2018

Present: Dr. Sanghamitra, Neurology Department, Dr. Rahul Saha, Psychiatry Department, Dr. Diganta Borah, PMR Department, Simmi Chopra, Complainant, Dr. Aman Pratap Singh, Paediatrics, BMH Hospital

ORDER

The above named complainant vide her email dated 11.02.2018 informed that she has been trying to get a disability certificate for her son, Master Manith Chopra since 02.03.2017. The disability certificate is required for his admission to a school which are likely to commence shortly. She further submitted that the family is the

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permanent resident of Rani Bagh but they are residing at Amar Colony, Lajpat Nagar in a rented house for the last two years as there are better facilities in South Delhi.

2. The complement she got Master Manith assessed by National Institute for Intellectual Disability, Noida and approached Safdarjung Hospital with the Aadhaar Card having Rani Bagh address as address proof. As per Government of NCT of Delhi notification, Bhagwan Mahavir Hospital, Pitampura is the notified hospital for issuing disability certificate to the residents of Rani Bagh. But that hospital does not have a Psychiatrist. So she was directed to IHBAS. As the child has multiple disabilities, IHBAS could not issue disability certificate.

3. Not knowing what to do next, the complainant visited this court. It was observed that the Government Notification does not preclude assessment and certification by a hospital in whose jurisdiction a person is residing on temporary basis. Therefore, Dr. R.K. Wadhwa of PMR Department, Safdarjung Hospital was contacted who advised the complainant to visit the hospital with all the papers on 23.02.2018.

4. It was observed that the complainant had been trying to get a disability certificate for her son for nearly one year and had approached the Offices of the Hon'ble Chief Minister, Dy. Chief Minister and Health Minister through email. Her emails had also been forwarded to Pr. Secretary and other officers of Health and Social Welfare Department on 07.02.2018. It is also observed that complaints about difficulty in getting disability certificates, doubts about the jurisdiction of hospitals, unavailability of specialists, doctors, etc. are often received by this court.

5. The complaint was taken up with the concerned authorities vide show-cause-cum hearing notice dated 16.02.2018. The respondents were directed to submit their versions by 28.02.2018 and to appear for hearing on 09.03.2018. The complainant was separately advised to intimate this court the updates as she visits the hospitals/authorities to know and understand the problems faced in obtaining the disability certificate.

6. M.S. (MCH/Coord.), Bhagwan Mahavir Hospital vide her letter dated 28.02.2018 informed, "Master Manith Chopra, 3 years 6 month old reported in Bhagwan Mahavir Hospital for issuance of Disability Certificate on 08.02.2018. The patient was examined in this hospital and after the clinical assessment it was found that the patient is a case of "Cerebral Palsy with Mental Retardation". As the Department of Neurology is not available in this hospital and as per Gazette Notification No. 23, Part IV, NCTD No. 240 dated 12th February, 2014 (copy enclosed) for the patients of 'Mental Retardation/illness and other Neurological Disorders/ Cerebral Palsy etc.' Residing in East, North West and North Districts of Delhi, Institute of Human Behaviour and Allied Sciences (IHBAS) Delhi is notified as Medical Authority for issuing Disability Certificate.

After discussing the matter with Dr. Suman Kushwaha of IHBAS on 22.02.2018, the patient was referred to IHBAS for issuance of Disability Certificate in respect of Master Manith S/o Ms. Simmi Chopra, as the patient is resident of North West Delhi as per record."

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7. Safdarjung Hospital, vide letter dated 5.3.2018 informed that the complainant may be directed to attend the PMR-OPD with Master Manith on any working day between 9.00 a.m. to 11.30 a. m for getting disability certificate.

8. No response was received from Secretary, Health and Family Welfare Department, the Respondent No. 3.

9. During the hearing on 09.03.2018, the complainant submitted that while adequate assistance/cooperation was forthcoming at Safdarjung Hospital and she will also be getting the disability certificate in a few days, she felt that the process of assessment and certification of disability should be made friendly and streamlined especially in respect of persons who have multiple disabilities. She also pointed out that it takes a lot of time to get the OPD slip in various departments which is extremely difficult for parents of such children.

10. Representatives from all the relevant Departments of Safdarjung Hospital namely PMR, Neurology and Psychiatrist appeared and informed that Master Manith Chopra has been assessed by the Paediatrics, PMR and Psychiatry Department. He is likely to be issued a disability certificate within a week by the Medical Record Department (MRD). However, they expressed that there is an urgent need for rationalisation of area wise allocation of hospitals, ensuring availability of specialists and detailed instructions about the essential documents required to be submitted and their dissemination etc.

11. Dr. Amar Pratap Singh, Specialist, Paediatrics of Bhagwan Mahavir Hospital submitted that since Master Manith had multiple disability and there is no Psychiatrist in that hospital, he had to advise the complainant to visit IHBAS as per the assigned jurisdiction for assessment and issuance of disability certificate.

12. Oblivions of the plight of the complainant and huge problems the hapless persons with disabilities and their family members are facing in getting disability certificates, none appeared on behalf of Secretary, Health and Family Welfare Department, Government of NCT of Delhi, the nodal Department for the purpose. This is a matter of serious concern which should be addressed by Principal Secretary, Health on top priority. This has happened despite the fact that this court vide order dated 05.03.2018 in Sh. B.G. Sarkar V/s Medical Superintendent, IHBAS has made detailed recommendations to Health & Family Welfare Department to take appropriate action to streamline the process of assessment and certification of disabilities as the complainant in that case also had to suffer a lot and is yet to be issued a proper disability certificate. The said recommendations are reproduced below: -

"(i) Department of Health and Family Welfare is advised to convene a medical authority at JSS to assess and issue a certificate of multiple disability in respect of Ms. Neeta Sarkar in Form-VI within 30 days from the date of receipt of this order.

(ii) Residents of many localities are not able to identify their district and the nominated hospital. It is often very confusing even for this court to guide them properly. Some areas/districts have more than two

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nominated hospitals. Therefore, a person should have the choice to get the assessment and disability certificate from the nearest notified hospital from his /her residence (not necessarily from the place of permanent address)

(iii) A map demarcating the areas falling under the jurisdiction of a nominated hospital should be uploaded in the websites of Department of Health and Family Welfare, Department of Social Welfare and every nominated hospital. Necessary instructions in this regard to the concerned hospitals may be issued.

(iv) In case of shortage of specialists, medical authorities for multiple disabilities may comprise doctors/experts from other hospital(s) who may assemble at one hospital on given dates for assessment of certification.

(v) Provision for link specialist from the same or other hospital in case of unavailability of a specialist should be made.

(vi) Camps in each district should be organised regularly till all the persons with Disabilities have been issued the disability certificates.

(vii) Clear instructions should be issued /mentioned in the notification that the treating hospital shall issue the disability certificate if the person is under treatment for the condition."

13. The complainant vide her email dated 15.03.2018 informed that Safdarjung Hospital has issued a certificate of 77% disability (Multiple disability) in respect of Master Manith on 14.03.2018. As advised, she has also emailed the account of her experience in getting the disability certificate for her son which is reproduced below:

"There is no clear listing of hospitals of your area & whatever information is available online is outdated & it keeps on changing, so we had to visit 7 hospitals post which we were able to find out the hospital designated for our area, as each hospital kept on redirecting us to others.

At last we found that Vardhman Mahavir Hospital (Safdarjung) is the one who issues certificate for Amar Colony. Therafter it has been a harrassing process and there is no clear conclusion in sight. My husband I have had to take leave from work for the past month. My child - whether he is sick or not has to be subjected to this repeated trauma. Nobody has the correct info and as he has had a brain MRI at birth he is always going to need support. How does a 40% disability become relevant in his case? We are worried that though there is a quota in the school admission application we run the risk of missing it.

Day	Date	Location	Duration	Procedure
1	16-Jan-18	NIMH, Noida	8 hours	After getting guidance by Sfdarjung Hospital, we visited NIMH and were surprised to see Nobody is aware that we have to get an assessment for the disability

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				<p>have to get an assessment for the disability certificate. Again after waiting for 45 mins we took the OPD slip and was informed that it will take couple of hours for the assessment. We started the assessments at around 10.00 am in the morning with our kid. There were 5 assessments including physical, speech, social, psychological and social. It was already 3.30 pm when we finished all the assessment expect the last one which was the psychological assessment. The child was already half asleep in our lap and suddenly the assessment trainee started asking the child questions which he already answered in the previous assessment. When we told them, the child is half asleep so they said to come again another day and do the assessment again. That was really a harassment since we came around 9.00 in the morning and still no result.</p>
2	17-Jan-18	NIMH, Noida	2 hours	<p>We went again to the hospital and finally we got the assessment done for our child which was one of the document which was to be submitted for the final disability certificate.</p>
3	18-Jan-18	Safdarjung Hospital, Safdarjung	1 hour	<p>We went again to Safadarjung hospital and enquired about the application that how can we get the certificate now since we have done the assessment already and now is looking for a disability certificate. We were told to come on Friday because that is the day the board consisting of panel of doctors examin and release the certificate. On enquiring about the timing, we were informed to come by 9.00 in the morning.</p>
4	19-Jan-18	Safdarjung Hospital, Safdarjung	2 hours	<p>We went on the following Friday assuming this would be the last step of getting our certificate. We went inside so first the staff said you have come very early for the board. The board will sit after lunch. The lady of the staff asked for our documents, after showing our documents which included birth Certificate of the child, Adhar Card, Parents Adhar Card and rent agreement (we are on rent at Amar Colony, Lajpat Nagar). The lady of the staff denied to present our case to the board, asking</p>

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				the reason we were shocked and scattered that we are at a rented place so we need to go to the hospital near to our permanent address. Now that was really shocking! We immediately went to the doctor (the head of PMR) cabin who agreed to issue the certificate earlier. He also denied now and told us to go to Ambedkar Hospital near Rohini. After losing all our hopes, we went to Ambedkar Hospital again to start the process but first to understand their process.
5	22-Jan-18	Ambedkar Hospital, Pitampura	2 hours	We went to Ambedkar Hospital and there we again started up with taking the OPD slip. After meeting the doctor we came to know that this hospital can only make certificate by means of the mental assessment done at NIMH. They will not do any physical assessment of the child. We told them that this is the case of physical and mental disability both. So they sent us to Bhagwan Mahavir Hospital to get the physical and mental assessment both with certificate.
6	06-Feb-18	Bhagwan Mahavir Hospital, Pitampura	4 hours	We went to Bhagwan Mahavir Hospital, after taking the OPD slip we went to the Disability Counter. There they denied making the certificate because they said they do not have any Neuro pediatrician. They referred us to IHBAS wherein they said to again do the mental assessment. I requested them to take the NIMH report which is the same assessment report but from a central government hospital. They strictly denied. I went to the Medical Superintendent. I requested her to accept the same report from NIMH but she denied and said we will only accept the Delhi government certificate / assessment report.
7	09-Feb-18	Email		We launched a complaint to respected CM sir about what we are facing.
8	12-Feb-18	IHBAS, Dilshad Gardern	6 hours	I went to IHBAS to do the same assessment again which I did in NIMH. They did not encouraged to make the report since it is a central government report and we have to the same assessment of the child again. They said to give the appointment but I requested that since the test is the same so why u want to

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				again assess the child. They accepted the NIMH report and based on the same report they gave me the report on IHBAS letterhead. On the same day, I went to Mahavir thinking that my problems are solved now. I met with the MS and told her that please suggest the next procedure and let me know what are the next steps. She said she doesn't know the procedure and the doctors are not available today. So suggested me to come again.
9	14-Feb-18	Bhagwan Mahavir Hospital, Pitampura	3 hours	I went again to the doctor and firstly the staff sitting outside said that I am not allowed to enter till the time I do not get the current date on the OPD slip. I again waited for 2 hours to get the date on my OPD slip. When I got the current date in the OPD, the doctor went on a meeting and was not available.
10	20-Feb-18	Bhagwan Mahavir Hospital, Pitampura	4 hours	This time I went to the MS as I got a call from the Nodal officer to go and speak to her. She referred me to another doctor since the same doctor was again not available. The next doctor referred me to a physiotherapist now to get the physical assessment done for my child. When I asked them that I have already done the mental assessment from IHBAS, so now why again the hospital has to do physical assessment. They said it's the procedure. I also requested them that I have my child today with me so if they can do it now. They said it is only done my appointment basis. So we have to visit on Thursday.
11	22-Feb-18	Bhagwan Mahavir Hospital, Pitampura & Commissioner office, Mata Sundari Lane	6 hours	We went to the hospital at 9.00 am in the morning and started with physical assessment as advised by the doctor on 20-02-18. It took around 1 hour to do the assessment. After getting the assessment done, we again went to the same paediatrician and he denied making the certificate stating that the hospital doesn't have nuero paediatrician. We went to meet MS and asked her if she could help as she was the one who called us today without any delay to make our certificate. She called the team of doctors and went into a meeting. After 2 hours, we were called at the MS office. The MS said she has just enquired and our certificate will be

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				<p>made by IHBAS. She also took an appointment for us in IHBAS for further process.</p> <p>We, the suffered parents called the deputy commissioner for the persons with disability and told us our story. He immediately called us to his office. We went to his office and told him the whole process which we have gone through. He noted our details and sent us to the commissioner for persons with disability. We went there and met the commissioner. As we already emailed our case to him earlier, he recognised us. He told us that he has noted the case already and we have a hearing on 9th March 2018. Meanwhile he also called IHBAS to understand if we could get the certificate from there. IHBAS doctors also said the same thing that they do not have paediatrician who can make the certificate. By the help of commissioner, we were arranged to meet doctor in Safdarjung for our certificate the next day.</p>
12	23-Feb-18	Safdarjung Hospital, Safdarjung	5 hours	<p>Today at 9 in the morning we went to Safadarjung and met the person allotted by the commissioner for our case. He made the OPD slip for us and we met the doctor of PMR department. He said we have to undergo checkups with paediatrician, psychiatric department then they will take our papers for further process. We have been given a time for Wednesday 130pm for next checkups.</p>
13	28-Feb-18	Safdarjung Hospital, Safdarjung	1 hour	<p>Today we were called at around 130pm, we went at the hospital but due to strike in the hospital the hospital was locked from inside and no one was suppose to go inside. We were not able to contact anyone.</p>
14	14-Mar-18	Safdarjung Hospital, Safdarjung	3 hours	<p>The board checked Manith Chopra, and we waited for 2 hours to get the certificate. We were informed that certificate has been made but the doctor has forgotton his stamp. So they have called us tommorrow again to take the certificate.</p>
15	15-Mar-18	Safdarjung Hospital, Safdarjung	1 hour	<p>Finally we have got the certificate, thanks to you sir for making it happen."</p>

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14. In light of the issues that have come to fore in this case and other cases, it is once again recommended that Pr. Secretary, Health and Family Welfare should take immediate action and issue detailed guidelines and directives on the process of assessing and issuing of disability certificates by various hospitals/certifying authorities in the NCT of Delhi so that persons with disabilities and their family members are able to get the disability certificates within the time frame prescribed in the Rules and they are not harassed. It is important to do so on top priority as the admissions to schools in Delhi have already started and in a few months, admission to colleges and universities will also commence and many young people with disabilities would approach the hospitals for certificate of disability.

15. This court be informed of the action taken on the above recommendations within 3 months from the date of receipt of this order as required under Section 81 of the Rights of Persons with Disabilities Act, 20 16.

16. The complaint is disposed off accordingly.

17. Given under my hand and the seal of the Court this 19th day of March, 2018.



State Commissioner for Persons with Disabilities

(T.D. DHARIYAL)
Commissioner (Disabilities)

Capital Territory of Delhi

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Copy to:

1. Pr. Secretary, Department of Health and Family Welfare, Government of NCT of Delhi, 9th Level, Delhi Secretariat, I.P. Estate, New Delhi -110002.
2. Secretary, Social Welfare Department, GLNS Complex, Feroze Shah Kotla Ground, Delhi Gate, New Delhi -110002, for information and necessary action.