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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-2
Phone-011-23216002-04, Telefax: 011-23216005, Email:
comdis.delhi@nic.in
[Vested with powers of Civil Court under the
Rights of Persons with Disabilities Act, 2016]

Case No. 1(372)/ GRV/12-13/CD/ 1527-28 **Dated:** 17/08/2017

In the matter of:

Sh. Daya Swaroop,
H.No.-D-11, Gali No. I,
Sanjay Mohalla, Dhanewali Road,
Bhajanpura, Delhi-110053. ..... **Complainant**

Versus

The Executive Director,
DTTDC, 2nd Floor, ISBT,
Kashmere Gate, Delhi-110006. .....**Respondent**

Date of hearing: 11.08.2017

Present Sh. Daya Swaroop, Complainant.
Sh. R.K. Sharma, Sr. Manager (Admn.)
on behalf of Respondent.

ORDER

The above named complainant, a person with blindness vide his complaint received on 05.03.2013 submitted that he was allotted a PCO Booth at ISBT Kashmere Gate by DDA in the year 1983 and he was operating the booth since then from the same location. However, due to the work of renovation of ISBT Kashmere Gate, the location of the PCO Booth has been changed and new shop allotted to him by draw of lots is near the toilet which is beyond the reach of customers. The

Court of Commissioner (Disabilities)
National Capital Territory of Delhi
Room No. - 1
25-D, Mata Sundari road, New Delhi-02

rent of the shop has been increased from Rs. 250/- to Rs. 556/- per month. The complainant has requested that a new shop may be allotted to him at a location with maximum foot fall.

2. The matter was taken up with the respondent vide communication dated 10.12.2013 and 24.12.2013.

3. In his detailed submission dated 21.09.2013, the complainant stated that the shop No. 29 allotted to him faces a pillar of about five feet width which covers the shop and the water from the toilets also enters the shop. The prayer of the complainant is that if no other suitable shop could be allotted to him he may be allowed to operate from the old location (PCO Booth). The complainant stated that shop no. 29 is not suitable for a blind person to carry business activities and that he had not unilaterally taken over the possession of Shop No. 29. The complainant submitted that it was well within the knowledge of the officials that the complainant had taken over possession of shop no. 29 and was carrying business activities of selling water and beverages and other eatables. In January 2014 the complainant was fined Rs. 5000/- for selling unauthorized items and for encroaching some area in the premises. The complainant was served a notice on 21.02.2014 and threatened that he would be thrown out of shop no. 29 if he did not stop selling anything other than packaged water. In such a situation it has become impossible for the complainant to earn his livelihood. The complainant stated that he was suffering harassment at the hands of the officials and prayed that the complainant be allotted a shop at an appropriate location at a concessional license fee. He also requested that he may not be harassed and permitted to trade additional items to earn his livelihood as the provision under Section 43 of the Persons with

Disabilities Act 1995 provides for preference in setting up of business etc. to persons with disabilities.

4. The respondent vide letter dated 11.02.2014 submitted that the complainant was allotted a PCO booth / kiosk at ISBT Kashmere Gate under PH Quota. As a result of renovation of ISBT all the shops etc. were reallotted through draw of lots held on 17.10.2012. The shop No. 68 at Arrival Block was offered to the complainant but he did not take over the possession of the offered shop. After his repeated requests shop no. 29 was allotted to him in place of shop no. 68. All the reasonable demands of the complainant had been accepted by the respondent in as much as that the complainant was permitted additional viable trade. The demand of the complainant relating to allotment of shop no. 37 however was not acceptable as the shop was not meant for allotment to a PCO licensee. The electric supply was not disconnected on 30.12.12. The meter was misplaced by the licensee in May 2013. The respondent further stated that the complainant had encroached upon area not allotted to him which was encouraging other allottees to indulge in such illegal activities. Toilet water did not come inside his shop as alleged by him. The complainant had encroached upon area outside his allotted shop and stored items even upto wall of the toilet. After renovation of ISBT out of 59 shops eleven shops have been allotted to persons with disabilities of whom three were persons with blindness. A uniform rate of license fee of Rs. 285/- for a limited period of three years would be charged from old licensees of ISBT Kashmere Gate. The other shopkeepers have filed WP(C) 2572/2013 in the Hon'ble High Court of Delhi with a prayer not to allow their existing trades especially eatables and bottled mineral water to the PCO holder licencees.

5. After hearing the parties and perusal of the record, the then Commissioner for Persons with Disabilities examined the complaint with reference to Section 40 & 43 of the Persons with Disabilities Act, 1995 which are reproduced as under:

Section 40: "The appropriate Governments and local authorities shall reserve not less than three per cent. in all poverty alleviation schemes for the benefit of persons with disabilities".

Section 43: "The appropriate Governments and local authorities shall by notification frame schemes in favor of persons with disabilities, for the preferential allotment of land at concessional rates for- (a) House; (b) Setting up business; (c) Setting up of special recreation centers; (d) Establishment of special schools; (e) Establishment of research centers; (f) Establishment of factories".

6. It is observed from the copies of the notes of April 2014 from respondent's file No. DTIDC/2012-13/307/Pt.File that the complainant had also presented his case before the then Minister of Road Transport and Highways, Shri Oscan Fernandes on 05.04.2014. The facts of the case were presented to him by the respondent. A report was also submitted by the respondent to the Lt. Governor of Delhi.

7. As the final order had not been passed and there was no communication with respect to the matter, one more hearing was scheduled on 11.08.2017.

8. During the hearing on 11.08.2017, the complainant reiterated his written submissions and stated that he should be re-allotted his original shop as he is not able to sell enough goods and earn his livelihood from the new shop i.e. Shop No. 29. He however stated that he is not being harassed by the authorities for selling other goods than

the packaged water. The complainant added that the policy to allot shops / PCO booths etc. to persons with disabilities was mooted by the Govt. to enable them to earn their livelihood. Therefore there should be no need for re-allotment of the shops to persons with disabilities through tenders.

9. The representative of the respondent, in addition of reiterating the written submissions on record stated that the complainant had approached Tis Hazari Court who stayed the eviction of the complainant from shop No. 29 and directed that the ex-parte status quo order shall continue till next date of hearing vide order dated 15.02.2017. Some other shop allottees with disabilities had also approached the Hon'ble High Court against their eviction from their respective shops on expiry of the agreement. The Hon'ble High Court vide order dated 22.07.2016 directed that no coercive action would be taken against the complainants in WP (C) 6335/2016 in the matter of Seema Tiwari and Others Versus GNCT of Delhi and Others. Hon'ble Civil Judge (Central) Tis Hazari Court directed the complainant to approach Hon'ble High Court as a similar matter was before the Hon'ble High Court. The complainant has now filed W.P. (C) 6436/2017 in the Hon'ble High Court, the said Writ Petition has been listed for hearing on 16.08.2017. The representative of the respondent also submitted that the new allottees of the shops at ISBT, Kashmere Gate need to pay an amount of Rs. 1.00 lac to 2.00 lac per month whereas allottees with disabilities need to pay only Rs. 400 to 800/- per month.

10. In the light of the facts and circumstance of this case, more particularly the fact that the complainant has approached the Hon'ble High Court of Delhi where similar petitions are also under consideration,

the complaint with the State Commissioner for Persons with Disabilities is closed.

11 Given under my hand and the seal of the Court this 17th day of August, 2017.

(T.D. Dhamyal)
State Commissioner for Persons with Disabilities