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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](mailto:comdis.delhi@nic.in)  
[Vested with powers of Civil Court under the  
Rights of Persons with Disabilities Act, 2016]

Case No. 4/1693//2017-Wel./CD/ 3899-3902

Dated: 17/1/18

In the matter of:

**Dr. Sudhansu Singh, Secretary**  
K. S. Memorial Trust  
M-124, Rama Krishna Vihar  
Plot no. 29, I.P. Extension  
Delhi -110092

.....Petitioner

**Versus**

**The Chief Executive Officer**  
Delhi Urban Shelter Improvement Board  
Govt. of NCT of Delhi  
Punarwas Bhawan, I.P. Estate  
New Delhi -110002

.....Respondent No. 1

**The Pr. Secretary**  
Land and Building Department  
B-Block, Vikas Bhawan,  
I.P. Estate, New Delhi -110002

.....Respondent No. 2

**Date of Hearing: 09.01.2018**

**Present:** Dr. Sudhansu Singh, Secretary, K.S. Memorial Trust, Sh. Kanhayia Priyadarshi, Advocate, Sh. Inderjeet Singh, Trustee, Sh. Rajendra Kumar, DD (DUSIB), Sh. Kanhayia Lal, Asstt., DUSIB

### ORDER

The above named complainant vide his complaint dated 21.07.2017 submitted that K.S. Memorial Trust is registered under the Trust Registration Act and persons with disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (PwD Act) and is working in the field of education and rehabilitation services for persons with disabilities. It also conducts D. Ed Special

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

Education from time to time. The Trust had applied for allotment of a plot of land of 3000 sq. Mts. for development of human resource, education and diagnostics for children with disabilities under the provisions of section 43 of the PWD Act. Office of Commissioner for Persons with Disabilities vide letter dated 20.5.2002 had asked Land and Building Department, Delhi Government to allot land on preferential basis at concessional rate. Social Welfare Department vide their letter dated 6.12.1999 to DDA, MCD, NDMC also asked them to allot land as per provision of section 43 of PwD Act. Supreme Court in WP (C) No. 576/2004 also directed in this regard. The complainant further submitted that as per the tentative list of institutional allotment of the open land allotted to various government agencies/departments, NGOs etc., Delhi Urban Shelter Improvement Board (DUSIB) allotted land to public schools, trusts, government schools, temples, Masjids, Gurudwaras, hospitals, etc, but did not allot any land to organisations working in disability sector. Thus, the disability sector is being discriminated against. The complainant also submitted that following an order dated 03.08.2009 of the Chief Commissioner for persons with disabilities, Hon'ble High Court of Delhi directed Delhi Development Authority to allot a plot of land to ChandraBhushan Singh Memorial, Mahila, Bal Evam Shravan Viklang Shiksha Evam Punaravas Sansthan, Delhi. He therefore requested that DUSIB may be directed to allot a plot of land to the K.S. Memorial Trust.

2. The complaint was taken up with the respondents vide notice dated 24.08.2017. The Respondent No. 2 vide letter dated 18.09.2017 informed that Land and Building Department, Govt. of NCT of Delhi does not deal with cases of allotment of land/plots to any government agency/government department/NGO/Private Individuals. The case pertains to DUSIB and DDA who have the mandate to allot plot /land. Therefore the show cause notice issued to Pr. Secretary, Land & Building Department should be withdrawn.

3. DUSIB vide letter dated 26.09.2017 submitted list of the allotments made to the government departments as well as religious institutions/NGOs prior to the formation of the Board in the year 2010. After formation of the Board under DUSIB Act, 2010, no such allotment of land has been done. They suggested that the complainant may approach DDA as DUSIB is mandated for rehabilitation of slum dwellers and has no policy for allotment of land to trusts/NGOs/individuals etc. Thus

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



the department has not made any discrimination. The Respondent No. 1 also submitted a status report which is reproduced below:

*"STATUS/REPORT IN RESPECT OF COMPLAINT AGAINST RESPONDENT NO. 01 (DUSIB) THAT DUSIB IS DISCRIMINATING AGAINST PERSONS WITH DISABILITIES IN THE MATTER OF PREFERENTIAL ALLOTMENT OF LAND AT CONCESSIONAL RATES FOR PERSON WITH DISABILITIES IN THE MATTER OF ALLOTMENT OF LAND MEASURING 3000 SQ. MTRS. FOR RUNNING SOCIAL ACTIVITIES TO THE PERIODS WITH DISABILITY /PHYSICALLY HANDICAPPED APPLIED BY K.S. MEMORIAL TRUST."*

*"In reference to the Notice to Show Cause under Section 82 of the RPwd Act, 2016, it is informed that K.S. Memorial Trust vide his request dt. 21.1.2017 requested for allotment of land measuring 3000 sq. Mtr. For running Social activities to the persons with Disabilities/Physically handicapped. In pursuance of the letter No. F. 7/KSMT/DLY/Land/2017123 dated 27.1.2017 addressed to CEO, DUSIB forwarded by Shri Raju Dhingan, Hon'ble MLA (Trilokpuri Constituency), Govt. of NCT of Delhi vide letter No. RD/MLA/AC\_55/2017-18/6816 dated 24.1.2017, the reply has been sent to the petitioner Dr. Sudhansu Singh, Secretary, K.S. Memorial Trust (Regd., 124, RamaKrishna Vihar, Plot No. 29, I.P. Extension, Delhi -92 vide this office letter no. F-14/Misc./DD/IAL/RB/DUSIB/2017/D-26 dated 27.2.2017 on the subject matter (copy enclosed for ready reference).*

*Subsequently, in compliance of the directions issued by OSD to Hon'ble Chief Minister, govt. of NCT of Delhi vide letter No. DCMR/2017/210 dated 09.02.2017 on the request of petitioner. The proposal has also been re-examined by the department and accordingly, an intimation has also been issued to the petitioner along with the endorsement to OSD to Dy. Chief Minister, Govt. of*

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

NCT of Delhi vide this office letter No. F.14/Misc./DD/IAL/RB/DUSIB/2017/D-29 dt. 01.03.2017. (Copy enclosed for kind perusal).

Moreover, in view of above, it is submitted that as per the record of Institutional Allotment Land Branch, no allotment is being made by this department after formation of DUSIB as there is no prescribed policy for allotment of institutional land to Religious Institutions/NGO's/Trust's Individual etc. in force in Delhi Urban Shelter Improvement Board (DUSIB) since the Slum & JJ Department MCD has reformed as DUSIB vide Notification No. F-14(8)/LA/2007/Law/217 dated 31.5.2010 and in Board's meeting held on 04.7.2012, the Board had resolved to retrieve the land of DUSIB. As per the decision taken in Board's meeting, the requests for allotment-cum-regularisation of land cannot be considered in view of the above facts. (Copy enclosed).

Further, it is also informed that at present DUSIB is considering the cases for allotment of land to Government Department only on their request. As such, the allotment of land in favour of the Non-Government Organisation (s) cannot be considered in view of the above facts. At present, there is no prescribed policy for allotment of land to the Religious Institutions/NGO's/Trust's /Individual etc. for such type of case for allotment of land to K.S. Memorial Trust was not acceded to. Accordingly, find enclosed herewith a list of 407 nos of allotment which have already been made upto 2006 to the Government Departments as well as Religious Institutions/NGO's etc. for the very purpose prior to formation of DUSIB for kind information and perusal please.

Keeping in view of the facts postulated above, it is stated that there is no discrimination against the Persons with Disabilities in the matter of preferential allotment of land."

Court of Commissioner (Disabilities)  
National Capital Territory of Delhi  
Room No. - 1  
25-D, Mata Sundari Road, New Delhi-110002



4. Vide rejoinder dated 26.07.2017, the complainant reiterated his contention in the complaint and stated that DUSIB did not allot any plot of land in any rehabilitation colony for education and skill development training of children with disability whereas the plots of land were allotted to public schools, clinics etc. despite the fact that DUSIB Act, 2010 and PwD Act, 1995 have provision for such allotments.

5. Upon consideration the written submissions of the parties, a hearing was scheduled on 09.01.2018.

6. During the hearing on 9.1.2018, Ld. Counsel for the complainant reiterated the submissions that Section 43 of the Persons with Disabilities Act, 1995 mandated DUSIB to frame schemes in favour of persons with disabilities for preferential allotment of land at concessional rate for establishment of special schools among other things. Since the respondent no. 1 did not frame such a scheme, persons with disabilities got deprived of their rights under the said Act. The respondent did not frame the scheme even after the directions of Hon' ble Supreme Court vide order dated 04.03.2009 in Writ Petition No. 56 and 576 of 2004 and 580/2003. The provisions of section 43 of the PwD Act have been carried forward to the rights of Persons with Disabilities Act, 2016 in section 37. Clause (c) of the said section requires the respondent to make schemes providing for 5% reservation in allotment of land on concessional rates. He further submitted that K.S. Memorial Trust is also engaged in welfare of persons with disabilities in the field of education and rehabilitation and therefore is entitled to avail the benefit of reservation under the scheme to be framed by the respondent. He also referred to the requirement of making provision for schools and training centres for mentally/physically challenged with differential development norms under clause 20(o) of the Master Plan for Delhi - 2021 published by Delhi Development Authority on 07.02.2017. Section 12(3) of DUSIB Act, 2010 also provides that the redevelopment scheme referred to in sub-section (1) may provide for construction and disposal by sale or lease of land for commercial, residential, institutional and light industrial use or any one or more of them as per the provisions of the Delhi Development Act, 1957 (61 of 1957) and those of the Master Plan for Delhi and Zonal Development Plans, etc. prepared there under. The Learned Counsel for the complainant emphasised that the respondent must make provision for reservation for persons with disabilities in the schemes for

Court of Commissioner (Disabilities)  
National Capital Territory of Delhi  
Room No. - 1  
25-D, Netaji Subhas Road, New Delhi-02

rehabilitation or relocation or resettlement for slum dwellers strictly in accordance with section 37 of the Rights of Persons with Disabilities Act, 2016.

7. The representatives of respondent No. 1 reiterated the written submissions and emphasised that Delhi Urban Shelter Improvement Board in its 6<sup>th</sup> meeting held on 23.02.2012 resolved that allotment of institutional land may be restricted to Government Departments (Health and Education) and Government utilities. Therefore, there is no policy for allotment of such land to any NGO, religious institutions, organisations, trusts etc.

8. Section 43 of the Persons with disabilities (Equal Opportunity Protection of Rights and Full Participation) Act, 1995 which stands repealed with coming into force of the Rights of persons with Disabilities Act, 2016 w.e.f. 19.04.2017, provided as under: -

*"43. Appropriate Governments and Local Authorities shall by notification framed schemes in favour of person with disabilities for preferential allotments of land at concessional rates for: -*

- a) House;*
- b) Setting up of business;*
- c) Setting up of special recreational centres;*
- d) Establishment of special schools;*
- e) Establishment of research schools;*
- f) Establishment of factories by entrepreneurs with disabilities;"*

9. Section 15 of Delhi Urban Shelter Improvement Board Act, 2010 provides,

*"the Board shall, as far as may be make use of the land under this chapter belonging to the government, the Central Government, a local authority, government undertaking or autonomous body in preference to others."*

10. It is observed that DUSIB did not frame any scheme under section 43 of the PwD Act, 1995. From the tentative list of the institutional allotment to 407 government departments/NGOs/Institutions to which DUSIB allotted land during the

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



period 1981 and July 2015, it is observed that land was allotted to NGOs also upto the year 2003. However, after constitution of DUSIB, land was allotted only to government departments/organizations namely Mother Dairy, DMRC, DJB, IGL and DHS. Before 2010, 391 organisations were allotted the land. Had a scheme been framed under section 43 of the PwD Act, 1995, some applicants might have been allotted land on preferential basis at concessional rates in favour of persons with disabilities. Since such a scheme was not framed and the complainant applied after 2010 and now that the said Act has been repealed, DUSIB cannot be directed to allot the land to the complainant at this stage under the said Act.


11. Section 37 (c) of the Rights of the Persons with Disabilities Act 2016 provides that appropriate Government and local authorities shall, by notification, make schemes in favour of persons with benchmark disabilities, to provide for 5 % reservation in allotment of land on concessional rates where such land is to be used for the purpose of promoting housing, shelter, setting up of occupation, business, enterprise, recreation centres and production centres. There is no mention of provision for allotment of land for development of human resource, education or diagnostic services and Government of NCT of Delhi has not framed any scheme for such purposes.

12. In light of the above discussion, no recommendations can be made for allotment of land on preferential basis at concessional rates as prayed by the complainant. However, respondent No. 1 is advised to make schemes in favour of persons with benchmarked disabilities to provide 5% reservation in allotment of land at concessional rates for the proposes outlined in section 37(c) of the Rights for Persons with Disabilities Act, 2016 and inform this court within 3 months of receipt of this order as required under Section 81 of the said Act.

13. The matter is disposed off.

14. Given under my hand and the seal of the Court this 16<sup>th</sup> day of January, 2018.



  
(T.D. DHARIYAL) 16/1/18  
Commissioner for Persons with Disabilities

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