

(S3)

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. 4/1590/2017/Wel./CD/ 1484 - 86

Dated: 14/08/2017

In the matter of:

State Commissioner for Persons with Disabilities

..... Complainant

**Versus**

The Director  
Department of Training & Technical Education,  
Govt. of NCT of Delhi,  
Muni Mayaram Marg, Pitampura,  
New Delhi-110088.

..... Respondent

**ORDER**

Society for Self Employment, Department of Training & Technical Education, Govt. of NCT of Delhi published an advertisement in the Hindustan Times dated 29.04.2017 for admission to various courses. In the said advertisement, the respondent mentioned that percentage of reservation of seats for different categories will be followed as per Govt. rules. The respondent however, did not mention that 5% of the seats will be reserved for persons with benchmark disabilities in accordance with Section 32 of the Rights for Persons with Disabilities Act, 2016, herein after refer to as the Act. Section 32 is reproduced below:-

*Section 32. "(1) All Government institutions of higher education and other higher education institutions receiving aid from the Government shall*

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*reserve not less than five per cent Seats for persons with benchmark disabilities.*

*(2) The persons with benchmark disabilities shall be given an upper age relaxation of five years for admission in institutions of higher education."*

2. Suo-Moto cognizance of the said advertisement was taken under Section 80(b) of the Act and the respondent was directed to Show Cause as to why he/she should not issue a corrigendum indicating therein that not less than 5% of the seats shall be reserved for the persons with benchmark disabilities in accordance with Section 32 of the Act within a period of 7 days from the date of receipt of the said notice. The respondent was further directed that if a corrigendum was not required to be issued, he/she may submit his/her version of the case and appear before this Court at 11:30 a.m. on 20.05.2011.

3. The respondent vide letter dated 18.05.17 informed that the advertisement in question was for admission to vocational skill based modular courses and percentage of reservation of seats for different categories will be followed as per Government Rules. It was further stated that Society for Self Employment is not covered u/s 32 of the Act as they are conducting courses for short term skill development which mainly cater to the school dropouts and youths from unorganized sector. Therefore, a corrigendum may not be required. Thereafter the respondent also discussed the matter on phone and subsequently, vide letter dated 30.05.2017 submitted that necessary provision for reservation had been added on the website. The respondent however, reiterated that the Society for Self Employment is not covered u/s 32 of the Act as it is not offering higher education.

  
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4. Some of the certificate, diploma and skill based courses may not seem to be covered by the definition of 'higher education' as understood in general parlance. The Act does not define the expression 'higher education'. To our knowledge, there is no single definition of 'higher education'. As per Oxford English Dictionary, higher education means 'education to degree level or equivalent provided at universities or colleges'. According to Cambridge Dictionary higher education means, 'education at a college or university where subjects are studied at an advanced level. As per Collins English Dictionary, higher education means 'education and training at colleges, universities, poly-techniques, etc. Dictionary.com(<http://www.dictionary.com/browse/higher-education>) defines higher education as, 'education beyond high school specifically that provided by colleges and graduate schools, and professional schools.' In light of this, any education and training beyond high school can be covered in the definition of higher education albeit for a limited purpose of meaningful and positive interpretation of a beneficial provision of the Act.

5. Before proceeding further, it will be appropriate to look at Section 31(2) of the Act which provides, *"the appropriate Govt. and local authorities shall ensure that every child with benchmark disability has access to free education in an appropriate environment till he attains the age of 18 years"* in order to appreciate the indent and the spirit of the provisions. Section 16(1) mandates the appropriate Government and the local authorities to admit children with disabilities without discrimination and provide education and opportunities for sports and recreation activities equally with others. An expansive interpretation of the provisions of the socially beneficial Act such as the Rights of Persons with Disabilities Act, 2016 is necessary in order to realize the intended outcomes of the provisions made therein. Section 32 of the said Act as mentioned above provides for reservation of seats for persons with benchmark disabilities. The purpose of making such

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provisions is to do away with various barriers and facilitate education of persons with benchmark disabilities. In this light, therefore, children with disabilities who wish to go for some skill development training should either get admission, if eligible or they should be given the benefit of reservation of seats.

6. Anticipating this kind of situation, Office of Commissioner for Persons with Disabilities has requested Secretary, Department of Empowerment of Persons with Disabilities, Govt. of India to issue appropriate instructions for providing reservation of seats as mentioned in Section 32 of the Act or admitting applicants with benchmark disabilities without discrimination as per the provisions of Section 16 of the Act. Irrespective of the instructions from Department for Empowerment of Persons with Disabilities, respondent is advised to continue providing reservation to persons with benchmark disabilities in admission to various courses in appreciation of the spirit of the Act. The matter is disposed of accordingly.

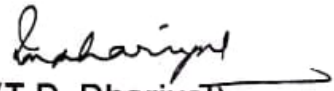
7. Given under my hand and the seal of the Court this 10th day of August, 2017.



**State Commissioner for Persons with Disabilities**

Copy to the:

1. Secretary, Department of Empowerment of Persons with Disabilities, Ministry of Social Justice & Empowerment, 5<sup>th</sup> Floor, Paryavaran Bhawan Complex, Lodhi Road, Delhi-110003, for kind information pl.
2. Secretary, Directorate of Social Welfare, GLNS Complex, Delhi Gate, Delhi for kind information pl.

  
(T.D. Dhariyal)  
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