

**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. 4/1116/2015-Wel/CD/ 4012 - 4013 A

Dated: 29/01/18

In the matter of:

Smt. Suman, M/o Ms. Nisha,
A-297-298, Block A, Shahbad Dairy.
New Delhi-110042.

..... **Complainant**

Versus

The Divisional Commissioner,
Department of Revenue, GNCT of Delhi,
Sham Nath Marg,
New Delhi-110054.

.....**Respondent**

ORDER

The above named complainant vide her complaint dated 03.08.2015 submitted that she had submitted the papers in the Office of the Divisional Commissioner-Cum-Secretary(Revenue) for guardianship of her 20 years old daughter Ms. Nisha, who is a person with mental retardation. No further action has been taken. She requested to pass an order for issuance of guardianship certificate in respect of Ms. Nisha.

2. The matter was taken up with the respondent vide communication dated 23.09.2015 followed by reminders dated 02.11.2015, 24.11.2015,

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

15.02.2016, and 04.07.2016. National Trust was also requested vide letter dated 08.11.2016 to take necessary action for appointment of legal guardian in respect of Ms. Nisha.

3. When the matter was scheduled for hearing vide notice dated 20.02.2017, SDM(HQ), District (North) vide letter dated 21.03.2017 submitted that the relevant papers were not found in his office. One Sh. R.K. Sharma, Section Officer(Admn.) collected the papers on the date of hearing on 29.03.2017. Thereafter, Sh. R.K. Sharma vide letter dated 09.05.2017 requested Smt. Suman and Sh. Satish Kumar, the parents of Ms. Nisha to see him in R.No. 29, District Magistrate (North), Alipur, Delhi-110036 on any working day. As there was no communication from either party, the complainant was advised to submit the comments, if any on the letter of the respondent vide letter dated 01.08.2016. However, the letter was received back with the remarks of the postal authorities that the addressee could not be traced.

4. As it was also observed that the disability certificate submitted by the complainant alongwith her complaint was not issued by the appropriate medical authority, she was contacted on the given Mobile Number 9958600861 on 16.01.2018 and 18.01.2018. Sh. Satish Kumar F/o Ms. Nisha informed that Maharishi Valmiki Hospital has issued a disability certificate for 70% mental retardation in respect of his daughter. He also informed that the SDM Office has issued a yellow card and told him that the card can be used for all purposes including guardianship purpose. When contacted on another number – 9899335009 mentioned in the copy of Form-A for appointment of guardian, one Sh. Dilip Kumar, Honorary Director, Mother Home, GT Karnal Road, Libaspur, answered and said that

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

despite best efforts, he could not succeed in getting the guardianship of Ms. Nisha.

5. It seems that the yellow card issued by the Revenue Department in respect of Ms. Nisha is the disability Identity Card and not the guardianship certificate under the National Trust for the Welfare Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999 (National Trust Act).

6. As per Section 13 of the National Trust Act, the Local Level Committee shall consist of an officer of civil service of the union or of the state, not below the rank of a District Magistrate or District Commissioner of a district. In Govt. of NCT of Delhi the District Magistrates head the Local Level Committees. Section 14 of the said Act mandates the Local Level Committee, among other things, to receive process and decide applications of a guardian and make the recommendation for appointment of a guardian under National Trust Act and send the same to the board. As per Rule 6 of National Trust Rules 2000, the Chairperson National Trust shall be responsible for proper functioning of the Trust including Local Level Committees and ensure implementation of the policies and programmes of the Trust.

7. Section 81 of the Rights of Persons with Disabilities Act, 2016 provides that whenever the State Commissioner makes a recommendation to an authority in pursuance of Clause (b) of Section 80 that authority shall take necessary action and inform the State Commissioner of the action taken within 3 months from the date of receipt of the recommendation. The said Act also provides for punishment for contravention of the provision of

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

the Act or Rules or Regulations made thereunder and for failure to furnish information.

8. In the facts and circumstances of this case, it is recommended that the respondent should direct the concerned officers to contact the parents of Ms. Nisha and help them apply for appointment of guardian in respect of Ms. Nisha under the National Trust Act within 3 months from the date of receipt of this order and intimate this Court as required under Section 81 of the Rights of Persons with Disabilities Act, 2016. Sh. Dilip Kumar, Honorary Director of Mother Home, GT Karnal Road, is also advised to assist the complainant in getting the guardianship certificate.

9. Chairperson National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities is also advised to take appropriate measures to ensure that guardian is appointed under the National Trust Act in respect of Ms. Nisha and inform this Court within 3 months from the date of receipt of this order.

10. Given under my hand and the seal of the Court this 29th day of January, 2018



State Commissioner for Persons with Disabilities

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

Copy to the Chairman, National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities, 16-B, Bada Bazar Road, Old Rajinder Nagar, Rajinder Nagar, Delhi-110060; with the request to take action as advised vide Para 09 of this order.