

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.

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[Vested with powers of Civil Court under the
Rights of Persons with Disabilities Act, 2016]

1. Case No. 1139/1017/2019/09 8408-11

Dated: 26-11-19

In the matter of:

Sou-Motu

.....Complainant

Versus

The Commissioner,
North Delhi Municipal Corporation,
Dr. SPM Civic Centre, 4th Floor,
J.L.N. Marg, New Delhi-110002.

.....Respondent

2. Case No. 1271/1017/2019/11

In the matter of:

Sou-Motu

.....Complainant

Versus

The Commissioner,
South Delhi Municipal Corporation,
Dr. S.P.M. Civic Centre
J.L.N. Marg, New Delhi-110002.

.....Respondent

3. Case No. 1272/1017/2019/11

In the matter of:

Sou-Motu

.....Complainant

Versus

The Commissioner,
East Delhi Municipal Corporation
419, Udyog Sadan, Parparganj,
Instl Area, Delhi, 110096

.....Respondent

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4. Case No. 1273/1017/2019/11

In the matter of:

Sou-Motu

.....Complainant

Versus

The Chairman

New Delhi Municipal Council

(NDMC Head Office)

Palika Kendra, Parliament Street,

New Delhi-110001

.....Respondent

Date of hearing: 21.11.2019

Present:

Dr. Akshay Dharmarha, Dy. DHA and Sh. K.K. Burman, Admn. Officer on behalf of North DMC.

Sh. Ravinder Kumar, Asstt. Commissioner on behalf EDMC.

Sh. Yogendra Babu, Dy. Director / Liaison Officer on behalf of SDMC

ORDER

Section 23 of the Rights of the Persons with Disabilities Act, 2016

hereinafter referred to as the Act provides as under:

"(1) Every Government establishment shall appoint a Grievance Redressal Officer for the purpose of section 19 (inadvertently mentioned 19 instead of 20) and shall inform the Chief Commissioner or the State Commissioner, as the case may be, about the appointment of such officer.

(2) Any person aggrieved with the non-compliance of the provisions of section 20, may file a complaint with the Grievance Redressal Officer, who shall investigate it

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and shall take up the matter with the establishment for corrective action.

(3) The Grievance Redressal Officer shall maintain a register of complaints in the manner as may be prescribed by the Central Government, and every complaint shall be inquired within two weeks of its registration.

(4) If the aggrieved person is not satisfied with the action taken on his or her complaint, he or she may approach the District-Level Committee on disability."

2. Section 20 of the Act, which relates to non-discrimination in employment is reproduced below:

"20.(1) No Government establishment shall discriminate against any person with disability in any matter relating to employment:

Provided that the appropriate Government may, having regard to the type of work carried on in any establishment, by notification and subject to such conditions, if any, exempt any establishment from the provisions of this section.

(2) Every Government establishment shall provide reasonable accommodation and appropriate barrier free and conducive environment to employees with disability.

(3) No promotion shall be denied to a person merely on the ground of disability.

(4) No Government establishment shall dispense with or reduce in rank, an employee who acquires a disability during his or her service:

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Dept of Commissioner (Disabilities)
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Provided that, if an employee after acquiring disability is not suitable for the post he was holding, shall be shifted to some other post with the same pay scale and service benefits:

Provided further that if it is not possible to adjust the employee against any post, he may be kept on a supernumerary post until a suitable post is available or he attains the age of superannuation, whichever is earlier.

(5) The appropriate Government may frame policies for posting and transfer of employees with disabilities."

3. Rule 10 of the Rights of Persons with Disabilities Rules, 2017 (RPwD Rules) and Rule 14 of the Delhi Rights of Persons with Disabilities Rules, 2018 (Delhi RPwD Rules) require that:

"Every Government establishment shall appoint an officer not below the rank of a Gazetted Officer as Grievance Redressal Officer:

Provided that where it is not possible to appoint any Gazetted Officer, the Government establishment may appoint the senior most Officer as a Grievance Redressal Officer."

4. The said Rules also provide that the Grievance Redressal Officer shall maintain a register of complaints of persons with disabilities with the following particulars, namely:

(a) date of complaint;

(b) name of complainant;

(c) name of the person who is enquiring the complaint;

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- (d) place of incident;
- (e) the name of establishment or person against whom the complaint is made;
- (f) gist of the complaint;
- (g) documentary evidence, if any;
- (h) date of disposal by the Grievance Redressal Officer;
- (i) details of disposal of the appeal by the district level committee; and
- (j) any other information.

5. In view of the above provisions of the Act and the Rules, Heads of the Departments / Principal Secretaries / Secretaries / Heads of the Offices in the NCT of Delhi and Corporations, Autonomous Bodies PSUs were advised vide letter dated 13.02.2018 that the concerned government establishments under their Department/Organisation be directed to appoint a Grievance Redressal Officer and intimate his/her name, designation and contact details to this Court by 31.03.2018, followed by reminders.

6. By the end of October, 2019, 152 government establishments in Govt. of NCT of Delhi / Corporations had appointed Grievance Redressal Officers and intimated their details to this Court. However, despite lapse of more than one year and six months, no response was received from the above mentioned four Organisations.

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7. Dr. Nitesh Kumar Tripathi vide his email dated 06.09.2019 addressed to Commissioner, North DMC with a copy to the State Commissioner for Persons with Disabilities had also requested for appointment of a Grievance Redressal Officer under the Act, as he was not able to get his grievances redressed in the absence of a Grievance Redressal Officer.

8. As the provision to appoint a Grievance Redressal Officer is mandatory and contravention of any mandatory provision under the Act and the Rules made thereunder is punishable with fine, which may extend to Rs. 10000/- and for any subsequent contravention fine shall not be less than Rs. 50000/- but may extend to Rs. 5 Lakh, a Showcause-Cum-hearing Notice dated 04.11.2019 was issued and the respondents were directed to show cause why they should not appoint the Grievance Redressal Officer in their organisations and the Govt. establishments under the Corporations / New Delhi Municipal Council by 13.11.2019 and if the same was not done, they were directed to appear for hearing on 18.11.2019 under Section 82 of the Act.

9. Director, Hospital Administration, North DMC vide letter dated 22.10.2019 informed that Ms. Ira Singhal, ADC working as Dy. Commissioner has been assigned the charge of Nodal Officer for matters for persons with disabilities in addition to her present

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assignments vide Office Order No. F. 13(335)/CED/SO.II/2019/956 dated 18.07.2019.

10 East Delhi Municipal Corporation(EDMC) informed vide letter dated 15.11.2019 & 18.11.2019 that Smt. Lakshmi Krishnan, Administrative Officer has been appointed as Grievance Redressal Officer in EDMC.

11. On 21.11.2019, during the hearing, Sh. Yogender Babu, Dy. Director / Liaison Officer, South Delhi Municipal Corporation (SDMC) informed that the SDMC is also in the process of appointing Grievance Redressal Officer. He also sought a clarification whether only one Grievance Redressal Officer in the Department should be appointed or there should be a Grievance Redressal Officer for each Zone.

12. Sh. T.R. Meena, Superintending Engineer who is the Nodal Officer for the disability matters in New Delhi Municipal Council vide his email dated 21.11.2019 informed that he is on leave and therefore the hearing may be postponed to next week.

13. It is clarified that the Act and the Rules on appointment of Grievance Redressal Officer and his / her duties are very clear. No other nomenclature like 'Nodal Officer' etc. should be used for this purpose. On the directions of this Court, the respondent Departments in

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Suo-Motu Case No. 4/1665/2017-Wel/CD relating to accessibility of built environment in the NCT of Delhi, appointed Nodal Officers not below the level of Chief Engineer / Superintending Engineer to coordinate and monitor the implementation of the action plans for making the built environment (public buildings / spaces) accessible. So Grievance Redressal Officer and the Nodal Officer are not the same.

14. Section 2 (k) of the Act defines "Government establishment" as a corporation established by or under a Central Act or State Act or an authority or a body owned or controlled or aided by the Government or a local authority or a Government company as defined in section 2 of the Companies Act, 2013, and includes a Department of the Government".

15. In the light of the above, the following recommendations are made:

- (i) Respondent Departments should ensure that each Government establishment within the Corporation / Organisation has a Grievance Redressal Officer. While doing so the definition of the Government establishment as given in Section 2(k) of the Act, should be kept in mind.
- (ii) North DMC should issue a fresh order or a corrigendum to the office order dated 18.07.2019 for appointment of a Grievance Redressal Officer in light of the recommendation

at (i) above.

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- (iii) EDMC should also examine and consider whether more Grievance Redressal Officers are required to be appointed.
- (iv) SDMC and New Delhi Municipal Council should appoint the Grievance Redressal Officer(s) by 30.11.2019 and inform the name, designation and contact details of the Grievance Redressal Officers to this Court as it has inordinately been delayed.

16. This Court be informed of the action taken on the above recommendations within three months from the date of receipt of this order as required under Section 81 of the Act which is reproduced below:

"Whenever the State Commissioner makes a recommendation to an authority in pursuance of clause (b) of section 80, that authority shall take necessary action on it, and inform the State Commissioner of the action taken within three months from the date of receipt of the recommendation:

Provided that where an authority does not accept a recommendation, it shall convey reasons for non-acceptance to the State Commissioner for Persons with Disabilities within the period of three months, and shall also inform the aggrieved person."

17. The complaint is disposed of.

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18. Given under my hand and the seal of the Court this 26th day of November, 2019.



T.D. Dhariyal
(T.D. Dhariyal) 26/11/19

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