

**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. 724/1092/2019/02/5476-5478**

**Dated:17.09.2019**

In the matter of:

**Ms. Suvarna Raj**

165, Gali No. -13,  
Balbir Nagar Extn.  
Shahadra, Delhi-110032

..... Complainant

**Versus**

**The Motor Licensing Officer**

O/o the Motor Licensing Officer  
Transport Department, GNCT of Delhi,  
North East Zone,  
Loni Road Delhi-110094.

..... Respondent No. 1

**The Secretary-cum-Commissioner**

Transport Department  
5/9 Under Hill Road  
Delhi-110054.

..... Respondent No. 2

**Date of Hearing** 12.09.2019

**Present:** Sh. Pradeep Raj, Sh. Ravi Chauhan and Sh. Rajesh Kapoor on behalf of complainant, Ms. Suvarna Raj.

Sh. R. Ramanathan, MLO, North East Zone for respondent no. 1.

**ORDER**

The above named complainant, a person with 90% locomotor disability (both lower limbs) vide her email dated 06.02.2019 submitted that as per Department of Heavy Industry office order no. 12(42)/2015-

AEI (12455) dated 01.05.2018, GST concession at the rate of 18% is provided on the cars for 'physically handicapped persons'. She further submitted that she is planning to buy a car. She has obtained a medical certificate from GTB Hospital with a lot of difficulties. However, the MLOs at Loni Road and Suraj Mal Vihar refused to issue the certificate without buying the car. She has to apply for the GST concession as her loan for purchasing the car has been sanctioned and all the formalities at the show room have also been completed. She requested that she should be paid Rs.1.25 lakh which is the approximate amount of GST concession fee, if she is not able to avail the GST concession because of the Transport Authority.

2. The complainant has also submitted that she has not been refunded Rs. 3,500/- on account of road tax by MLO, Loni Road as per to the order in case no. 4/1712/2017-Wel/CD and Case no. 86/1150/2018/01. MLO, Loni Road should be directed to do the needful.

3. As the complainant had not enclosed copies of Annexure 'A' and 'B' and on a clarification from Department of Heavy Industry that State Road Transport can issue the certificate only after the car is purchased/retrofitted, she was informed vide letter dated 26.02.2019 that no purpose would be served by taking up the matter with the Transport Department, NCT of Delhi at that stage. As regards implementation of other orders of this Court, she was advised to make a specific separate complaint or take up the matter with the appropriate forum.

4. Vide her email dated 26.03.2019, the complainant requested not to close her case and after exchange of a number of correspondence, she submitted a copy of Annexure 'A', i.e. the application form for

issuance of certificate in respect of an 'orthopedically disabled person' for the purpose of GST concession and Annexure 'B', i.e. the Medical Certificate vide her email dated 06.08.2019. Thereafter, under the Rights of Persons with Disabilities Act, 2016, hereinafter referred to as the Act, a notice to show cause-cum-hearing dated 19.08.2019 was issued to the respondents as to why the complainant should not be issued the certificate in Annexure 'D' to the office order dated 01.05.2018 of Department of Heavy Industry for GST concession for purchase of a car. If the certificate was not issued by 28.08.2019, a hearing was scheduled on 12.09.2019.

5. The motor licensing Officer, North East Zone vide letter dated 19.08.2019 addressed to the complainant with copy to this Court informed that for issuance of certificate in Annexure 'D' for GST concession for purchase of car by the persons with disabilities as per office order no. 12(42)/2015-AEI (12455) dated 01.05.2018 of Department of Heavy Industry, Ministry of Heavy Industries and Public Enterprises, a driving license to drive a motor vehicle as per provision of section 3 (1) of Motor Vehicle Act, 1988 is mandatory.

6. During the hearing on 12.09.2019, Sh. R. Ramanathan, MLO North East Zone, Loni Road submitted that the complainant needs to apply for Learners Driving License for which Form 1A has been prescribed under Central Motor Vehicle Rules, 1989. Had the complainant submitted that application in February, she would have been issued permanent driving license by now. He therefore, suggested that the complainant may apply for Learners Driving License in Form 1A on any working day and she will be issued the Learners Driving License on the same day on completion of formalities. Once the Learners Driving License is issued, he will be issued the certificate in Annexure 'D' required by Department of Heavy

Industry on the same day on production of the certificate in Annexure 'B' that he perused during the hearing.

7. Sh. Pradeep Raj H/o Smt. Suvarna Raj appeared on her behalf and submitted that she has gone out of Delhi and will return on 15.09.2019. She will apply for Learners Driving License on 16.09.2019 or in the week commencing 16.09.2019. Sh. Pradeep Raj also submitted that the process of issuing certificate to persons with disabilities for GST concession etc. should be streamlined and necessary instructions may be issued to all the concerned Licensing Authorities through a circular to ensure that persons with disabilities do not get harassed.

8. As per the Department of Heavy Industry office order dated 01.05.2018, the conditions attached to the GST concession on cars for person with locomotor disability are as under:

- a) Cars being able to be driven by the physically handicapped; or
- b) Cars which has been suitably designed to be able to be driven by physically handicapped; or
- c) Cars meant for physically handicapped;

9. Annexure 'A' to the office order of Department of Heavy Industry is an application format for issuance of certificate in respect of an orthopedically disabled person (person with locomotor disability) for the purpose of GST concession. At serial no. 11 of the said Annexure, an applicant has to give driving license number, **if any**. So, for GST concession, having a driving license is not mandatory. Annexure B to the office order is a format of medical certificate which, among other things, requires the doctor of a Govt. Hospital or the Medical Board for

issuing disability certificate to certify that the applicant is fit to avail the benefit of GST concession with one of the following conditions:

- “i) His disability is such that he can use the car only with assistance driver.
- ii) His disability is such that he can drive the car with automated transmission only.
- iii) His disability is such that he can drive any car (Manual as well as Automated transmission) in spite of above mentioned disability.
- iv) His disability is such that he can drive the car provided car can be suitably modified with necessary retrofitted device.”

10. Annexure ‘C’ is a self certificate by an applicant that he/she has not availed concessional rate of Excise Duty/GST on any car in the last five years and will not dispose of the car purchased with Excise/GST concession after purchase for a period of 5 years.

11. Certificate on Annexure ‘D’ is issued by the Road Transport Officer of State Road Transport Authority (Licensing Authority) to certify after verification that applicant is capable of driving the car (name and model) and whether the car requires any retrofitting or has been retrofitted according to his/her locomotor disability. It indicates that applicant should have a car which he/she can drive.

12. Annexure ‘E’ is a certificate to be issued by the Department of Heavy Industry based on the application of a person with locomotor disability, the Medical Certificate and the certificate issued by the Transport Authority which certifies that the particular car indicating the

name of the model of the car is capable of being driven/**used** by the applicant concerned who has a disability to be indicated in the certificate as certified by the concerned Medical Authority. It does not specify that the concession is available only to persons with locomotor disability. It also gives an impression that it is not necessary for an applicant with disability to drive the car as the certificate mentions that the car is capable of being driven/**used** by the person with disability.

13. It is observed that the complainant has mentioned NA (Not applicable) against column no. 11, "*Driving license no. if any*" in Annexure 'A'. In Annexure 'B', Dr. Ish Kumar Dhammi, MS (Ortho), Consultant, Ortho Surgeon, Dept. of Orthopedics UCMS & GTB Hospital and Dr. Anil Yadav, Staff Physician, GTB Hospital have issued the medical certificate which, among other things, reads, "*his disability is such that he can drive the car provided car can be suitably modified with necessary retrofitted device*". They have recommended the complainant for purchase of the car for her use. Annexure D is the certificate to be issued by the Transport Officer of the State Road Transport Authority which certifies after verification that the person concerned is "capable" of driving car of a particular model with or without retrofitted device. As the certificate given in Annexure 'B' establishes the capability of the complainant to drive a car and after verification, the MLO can issue the said certificate.

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

- i) The complainant should submit application in Form 1A to the MLO, North East Zone alongwith the relevant documents on 16.09.2019 or in the week commencing that date.

ii) MLO, North East Zone should issue the Learners Driving License and Annexure 'D' to the complainant as soon as possible thereafter.

iii) The complainant will intimate this Court and email a copy of the Learners Driving License and the Annexure 'D' by **20.09.2019**.

iv) Respondent No. 2 is advised to issue appropriate advisory to all the MLOs to facilitate issuance of Annexure 'D' and driving licence to persons with disabilities and ensure that they do not get harassed on account of multiple visits etc.

15. The complaint is dispose of.

16. Given under my hand and the seal of the Court this 16<sup>th</sup> day of September, 2019.

**(T.D. Dhariyal)**  
**State Commissioner for Persons with Disabilities**