

**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
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. 584/1101/2018/11/19-23

Dated:02.01.2019

In the matter of:

Suo-Motu

..... Complainant

Versus

The Commissioner,
South Delhi Municipal Corporation,
9th Floor, Dr. SPM Civic Centre,
JLN Marg, New Delhi-110002.

.....Respondent

Date of hearing: 27.12.2018

Present :Sh. Ajay Gautam, EE(Pr.)South-I, Sh. Manish Jain, AE (Pr)South-I on behalf of GK-I, Sh. Noormuddin Habib, JE (Pr.) & Sh. Ramesh Kumar,EE, and Sh. A.K. Mittal on behalf of the respondent.

ORDER

This Court had taken suo-motu cognizance of a newspaper report in the Hindustan Times dated 12.11.2018 under Section 80(a) of the Rights of Persons with Disabilities Act, 2016 hereinafter referred to as the Act, pointing out that the following popular markets which fall under the jurisdiction of SDMC, were not assessable for the persons with disabilities:

- (i) Greater Kailash-I M-Block
- (ii) New Friends Colony
- (iii) Hauz Khas Market
- (iv) Green Park Market

2. South Delhi Municipal Corporation among other respondents in Suo-motu case no.4/1665/2017-Wel/CD taken up by this court vide notice dated 19.07.2017, has submitted that the built environment under its jurisdiction will be made accessible and has also drawn up an action plan for the purpose.

3. Section 40 of the Act provides for formulating the rules to lay down the standards of accessible physical environment etc for persons with disabilities.

4. Rule 15 of the Rights of Persons with Disabilities Rules, 2017 (the Rules) notified by Ministry of Social Justice and Empowerment (Department of Empowerment of Persons with Disabilities) vide notification dated 15.6.2017 provides that the standard for public buildings as specified in the 'Harmonised Guidelines and Space Standards for Barrier free Built Environment for Persons with Disabilities and Elderly Persons' as issued by the Government of India, Ministry of Urban Development in March, 2016, shall be complied by every establishment.

5. Section 45 and Section 46 of the Act mandate that all existing public buildings and the services shall be made accessible for persons with disabilities within a period of 5 years and 2 years respectively.

6. As per section 2(w) of the Act, ***“public building”*** means a Government or private building, used or accessed by the public at large, including a building used for educational or vocational purposes, workplace, commercial activities, public utilities, religious, cultural,

leisure or recreational activities, medical or health services, law enforcement agencies, reformatories or judicial foras, railway stations or platforms, roadways bus stands or terminus, airports or waterways.

7. Section 2(x) of the Act defines “*public facilities and services*” as *all forms of delivery of services to the public at large, including housing, educational and vocational trainings, employment and career advancement, shopping or marketing, religious, cultural, leisure or recreational, medical, health and rehabilitation, banking, finance and insurance, communication, postal and information, access to justice, public utilities, transportation.*

8. Department of Empowerment of Persons with Disabilities, Govt of India, vide sanction letter No. 16-107/2015DD/I dated 23.09.2016, had given a grant of Rs 70.67 lakh and Rs.52.67 lakh to SDMC for making accessible the New Friends Colony Market and Greater Kailash-I M-Block Market respectively.

9. After visiting the Greater Kailash-I M-Block on dated 13.11.2018 and New Friends Colony Market on 17.11.2018 and finding that none of the shops in the M-Block market was accessible for wheel chair users as every shop is 2-3 steps above the road and there were no ramp. There was also no reserved parking for persons with disabilities in either of the two parking lots. The adjoining park between the two rows of the market was also inaccessible for persons with disabilities. The New Friends Colony market compound though, has been made accessible, none of the shops/service provider’s premises can be accessed by a person on wheel chair except Nathu’s Sweets and Standard Chartered Bank. The tactile nodules of the guiding and warning blocks of the tactile paving

were not raised enough to serve their purpose and warning blocks had also not been fixed at some points.

10. A Show-cause-cum-hearing notice dated 19.11.2018 was issued to the respondent with direction to submit respondent's version of the case by 26.11.2018 and for hearing on 03.12.2018 under Act alongwith the pictures of some of the facilities / structures.

11. A copy of the notice was also forwarded to the Principal Secretary (Urban Development), who is the Chairperson of the Monitoring Committee constituted vide letter No. 13(209)/UD/MB/2017/2531-48 dated 23.08.2018 for monitoring the implementation of the action plans submitted by the respondent Departments / Organisations in the Suo-Motu case referred to in Para 2 above and to the Chief Commissioner for Persons with Disabilities for action under Section 75(1)(i) of the Act under which the Chief Commissioner is required to monitor utilisation of funds disbursed by the Central Govt. for the benefit of persons with disabilities.

12. Neither any ATR was received from the respondent nor did any one appear in the hearing on 03.12.2018. Commissioner, SDMC was therefore advised to direct the concerned Nodal Officers to submit SDMC's version by 17.12.2018 and to appear for hearing on 27.12.2018 alongwith the Access Audit Reports submitted by Samarthyam in respect of the markets in question.

13. On 27.12.2018, the concerned officers responsible for Greater Kailash-I, New Friends Colony, Hauz Khas and Green Park Markets appeared and submitted their versions which are as under:

(i) **Greater Kailash-I, M-Block:** Sh. Ajay Gautam, Executive Engineer, (Pr.)-I/South Zone vide his report dated 27.12.2018 submitted that the ramps at each verandah are being provided. The access for wheel chair users has also been provided at site and the finishing work is in progress, which will be completed shortly.

During the hearing, Sh. Gautam stated that the entire work will be completed in accordance with the Harmonised Guidelines of Ministry of Urban Development within 15 days. The pictures of the work in progress which appear satisfactory, have also been enclosed with report. The Monitoring Committee should ensure that the modifications are as per the prescribed standards.

(ii) **New Friends Colony:** Sh. Ramesh Kumar, Executive Engineer(Pr.)-I/CNZ submitted that they have gone through the guidelines as mentioned in the Show-cause-notice dated 19.11.2015. Warning blocks and ramps would be installed and the market will be made disabled friendly. The work will be completed within two months as per the Harmonised Guidelines of Ministry of Urban Development. As a written report had not been submitted, Sh. Ramesh Kumar, EE, Sh. Manish Jain, Asstt. Engineer (Pr.) SZ and Sh. Nooruddin Habib, Jr. Engineer (Pr.) SZ jointly filed a written submission during the hearing on 27.12.2018. They were directed that the provisions for accessible facilities including parking, guiding tiles with warning blocks at appropriate points and toilets etc. are made strictly in accordance with the Harmonised Guidelines and a report be submitted by 28.02.2019 with a copy to the Chairman of the Monitoring Committee.

(iii) **Hauz Khas & Green Park Markets:** Sh. A.K.Mittal, Asstt.Engineer M-1/SZ submitted that the Green Park market already has ramps for persons with disabilities and the ramps will also be provided in Haus Khas Market within 15 days as per the Harmonised Guidelines of Ministry of Urban Development. As a written report had not been submitted, he filed during the hearing a status report that the work would be completed in 15 days at the spot. He was directed to ensure that all the facilities such as guiding tiles, reserved parking and signages, access to the shops, toilets etc. are provided in both the markets in accordance with the Harmonised Guidelines of Ministry of Urban Development to ensure that the persons with various disabilities are able to access the facilities and services being provided in the markets on equal basis with others.

14. None of the above representatives produced access audit reports, if any submitted by the Samarthyam. It was also observed that those responsible for implementing the guidelines, should have more intensive knowledge and understanding of the design and standards of accessible facilities necessary for ensuring access to built environment for persons with disabilities on equal basis with others. It appeared that the recommendation made in the suo-motu case referred to in Para 2 for training of the concerned functionaries on accessibility audits and design standards has not been effectively implemented.

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

(i) The civil engineers, architects at all levels working in SDMC including the engineers and workers like masons of the contractors awarded the work by SDMC, should be given appropriate and adequate

training. This should be ensured by the Monitoring Committee besides providing necessary guidance during the implementation of the work.

(ii) Monitoring Committee should issue appropriate instructions to all concerned to ensure that all the buildings and services are made accessible within the time frame set in the Act and monitor the progress and keep this Court informed.

(iii) Chief Commissioner for Persons with Disabilities may like to monitor the utilisation of the funds disbursed by Department of Empowerment of Persons with Disabilities for the Greater Kailash market and New Friends Colony Market.

(iv) A copy each of access audit reports, if any, in respect of the markets in question submitted by Samarthyam, be submitted by **15.01.2019**.

16. Action taken reports be submitted to this Court as required under section 81 of the Act.

17. The case is disposed of with the above recommendations.

18. Given under my hand and the seal of the Court this 2nd day of January, 2019.

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

Copy to:

1. The Principal Secretary, Urban Development Department, 9th Level, C-Wing, Delhi Sectt., I.P Estate, New Delh-110002.
2. The Chief Commissioner for Persons with Disabilites, M/o Social Justice and Empowerment, Govt. of India, Sarojini House, 6 Bhagwan Dass Road, New Delhi-110001.
3. Secretary, Department Empowerment of Persons with Disabilities, Govt. of India, 5th Floor, Antyoday Bhawan, CGO Complex, Lodhi Road, New Delhi – 110033.
4. Vibha.sharmahindustantimes. com