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

Case No. 1110/1108/2019/09 / 8484-8486

Dated: 27/11/2019

In the matter of:

Gp Capt. Prabal Malaker,  
Hon. Secretary, MSSSI—Delhi Chapter,  
87-A, Ground Floor, DDA Flat,  
Shahpur Jat,  
New Delhi-110049.  
(email: [pmalaker@hotmail.com](mailto:pmalaker@hotmail.com))

..... Complainant

Versus

Director,  
Select City Walk Mall,  
A-3, Saket District Centre,  
District Centre, Sector 6,  
Pushp Vihar, New Delhi-10017.

..... Respondent No. 1

The Chief Executive Officer,  
PVR Cinemas, Block A,  
4<sup>th</sup> Floor, Building No. 9,  
DLF Cyber City, Phase III,  
Gurugram-122002.

..... Respondent no. 2

Date of Last Hearing: 20.11.2019

Present: Gp Capt. Prabal Malaker, complainant in person.  
Sh. Sarvesh Rai, Advocate for the Respondent no. 1.  
Ms. Sangeeta Robinson on behalf of respondent no. 2.

ORDER

Gp Captain Prabal Malaker, a person with 100% locomotor disability filed a complaint vide email dated 29.08.2019 under the Rights of Persons with Disabilities Act, 2016, hereinafter referred to as "Act". He submitted that he visited Audi 3 (designated as accessible) at PVR

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Premiere at Select City Walk Mall, Saket on 17.01.2019. But the designated accessible seats were totally inaccessible as he had to be lifted by his son and the theatre staff from his seat. The PVR removed the Audi 3 from the accessible theatre. The accessible seats K28 (WC) and K27 (caregiver) booked for him on 26.08.2019 had two steps with no possibility of wheel chair negotiating these steps. The duty Manager did not come and asked the usher to accommodate them in seat L 26 and L 25. He alleged that such insensitivity was unacceptable besides defeating the very purpose of online booking. He further mentioned that L1, L2, L25 and L26 were ideally located for wheelchair user. He also found a step while entering/exiting to hall which required assistance to negotiate.

2. The complainant reiterated his suggestion which he had made earlier that the provisions at para 4.2 i. page 14 of the *Harmonized Guidelines and Space Standards for Barrier Free Built Environment for Persons with Disabilities and Elderly Persons* issued by Ministry of Urban Development, which relate to wheelchair seating and the need to have seats with flip up arm rests on corner seats next to the aisle, the helpline should be listed in the website of the PVR/APP for persons with special needs requiring assistance and accessibility audit of designated hall should be done to ensure that they are in conformity with the Harmonized Guidelines.

3. The complaint was taken up with Director, Select City Walk Mall, A-3, Saket District Centre, District Centre, Sector 6, Pushp Vihar, New Delhi-110017 vide notice dated 09.09.2019 and the respondent was directed to submit the reasons for not providing accessible facilities to persons with disabilities in and around the Select City Walk Mall.

4. The Manager, Select City Walk Mall vide reply dated nil received on 26.09.2019 inter-alia submitted that Audi 3 at Select City Walk is located within the multiplex block which is possessed by PVR Pvt. Ltd. on lease basis and owned by Lex Land Securities Pvt. Ltd. Select City Walk Mall does not have any ownership, control or possession on the said area. It has further been submitted that on receipt of the show cause notice, they approached the complainant to know about the issue/problem faced by him while accessing any part of the shopping Mall which is owned the Select City Walk Mall. He was very happy with the facilities provided in the shopping mall area for persons with

disabilities and confirmed that he did not face any problem in the area owned and possessed by Select City Walk Mall. In view of the response of Select City Walk Mall, Chief Executive Officer, PVR Cinemas was impleaded as respondent no. 2 and a hearing was scheduled on 20.11.2019.

5. During the hearing on 20.11.2019 and vide her email dated 21.11.2019, Ms. Sangeeta Robinson, Head—Sustainability & Inclusion PVR Ltd. submitted that PVR undertakes to complete the following by 31.12.2019:

- 1) Training of staff on SANO Stair Lift.
- 2) Wooden platform for widening of step at 2nd last row to enable turning of wheelchair in Audis 3 and 5
- 3) Brighter lights in Wheelchair friendly washroom and Grab bar.

6. They will also explore the possibility of making way for accessible seats in the last row.

7. The complainant made the following recommendations:

1) Provisioning of accessible seats for PwD, on the last row has the following advantages:-

(a) Ease of exit in the event of an emergency such as fire, bomb blast etc. This would not be possible in case the seats are positioned in the any other location in the theatre. This is an essential safety requirement. (Para 9 pgs 74-75 Harmonised Guidelines attached).

(b) Facilitation for seating would not require any specialised equipment and consequent staff training.

2) Design of Accessible Toilet(WC).(Para 8-8.9 pgs 65-69 of Harmonised Guidelines attached).

3) Helpline & Helpdesk for persons with special needs.

8. Section 45 (1) of the Act provides that *"all existing public buildings shall be made accessible in accordance with the rules formulated by the Central Government within a period not exceeding five years from the*

date of notification of such rules." and Section 46 mandates that "the service providers whether Government or private shall provide services in accordance with the rules on accessibility formulated by the Central Government under section 40 within a period of two years from the date of notification of such rules."

9. 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;

10. "Public facilities and Services" as per Section 2 (x) of the Act "includes 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;"

11. In view of the fact that it is mandatory to make the "public buildings" and "public facilities and services" accessible in accordance with the *Harmonized Guidelines and Space Standards for Barrier Free Built Environment for Persons with Disabilities and Elderly Persons* issued by Ministry of Urban Development, PVR Ltd. should get the IMAX Audi 3, PVR, Select City Walk Mall access audited preferably by involving the complainant who is a wheelchair user and has the knowledge and experience on the subject.

12. The recommendations as indicated in para 4 of this order in addition to any other improvement that is considered necessary after the accessibility audit, should be implemented on priority.

13. This Court be informed of the action taken on the above recommendation 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*

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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."

14. The complaint is disposed off.
15. Given under my hand and the seal of the Court this 26<sup>th</sup> day of November, 2019.



**State Commissioner for Persons with Disabilities**

*(Signature)*  
(T.D. Dhariyal) 26/11/19  
Court of Commissioners (Disabilities)  
National Capital Territory of Delhi  
Room No. - 1  
26-D, Mata Surajani Road, New Delhi-02