

**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-110002
Phone: 011-23216003-04, 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 1288/1108/2019/11/9205-9206

Dated: 31/12/2019

In the matter of:

Suo-Motu

Versus

Chairman

Ansal API Group
115, Ansal Bhawan
16 Kasturba Gandhi, Marg,
New Delhi-110023
(E-mail: raghu@ansalpropertiesltd.com
Rahul@ansalpropertiesltd.com)

.....Respondent No.1

The Chairman

New Delhi Municipal Council
Palika Kendra,
Parliament Street
New Delhi-110001.

.....Respondent No. 2

ORDER

On a visit of SCPD to Ansal Bhawan, New Delhi, it was observed that the access to the ground floor of the office complex from the parking area was through four steps. There was no ramp to reach the first floor from where persons with disabilities/ wheelchair users can use the lifts. The security personnel informed that the lifts operate till 8.30

PM only. **Court of Commissioner (Disabilities)**
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2. A suo motu showcause-cum-hearing notice dated 18.11.2019 was issued to the respondents and they were directed to showcause why ramps of the appropriate gradient as per the prescribed standards and the facility of lifts should not be made available whenever any person with disability needs to visit the office complex in Ansal Bhawan. Respondent no.2 was also directed why it should not be ensured and submit his version of the case by 27.11.2019. A hearing was also scheduled on 12.12.2019.

3. During the hearing on 12.12.2019, none appeared on behalf of respondent no.1. Sh. A.K. Jeph, JE (BE) N-II (NDMC) from the office of Chief Architect who appeared on behalf of Chairman, NDMC, submitted that he received the show-cause-cum-hearing notice dated 18.11.2019 on the day of hearing only. He had been directed to inspect the building premises of respondent no. 1 and to submit a report. He would do it by 13.12.2019 and take further action in the matter. Respondent no. 1 was advised to note the provision of Section 89 and Section 93 of the Rights of Persons with Disabilities Act, 2016 which provide for punishment for contravention of the provisions of the Act and failure to furnish information and to answer the show cause by 16.12.2019.

4. Respondent no. 2 was directed to take immediate action to ensure accessibility to the office complex in Ansal Bhawan and other places in the area and submit a report by 16.12.2019 so that the matter could be disposed off.

5. Neither the respondent no.1 has answered to the showcause notice nor has respondent no. 2 submitted any status report till date.

6. Section 89 of the Act provides for punishment for contravention of provisions of the Act or Rules or regulations made thereunder and

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reads as, "Any person who contravenes any of the provisions of this Act, or of any rule made thereunder shall for first contravention be punishable with fine which may extend to Rs. 10,000/- and for any subsequent contravention with fine which shall not be less than Rs. 50,000/- but which may extend to Rs. 5,00,000/-."

7. Section 90 of the Act provides as under:

"(1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly."

8. In the light of the order dated 26.11.2019 in Suo Motu Case No. 4/1665/2017-Wel/CD in which NDMC was one of the respondents and had submitted the action plan to make the physical environment accessible for persons with disabilities within the prescribed time limit i.e by 15.06.2022, this case is disposed off with the following recommendations:

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(i) Respondent no.2 should direct respondent no.1 and other owners and occupiers of "public buildings" and places in the jurisdiction of NDMC to make them accessible to persons with disabilities in accordance with the Harmonised Guidelines and ensure access to the work place throughout the working hours.

(ii) Deliberate contravention of the provisions in the Act/Rules/guidelines by respondent No.1 or any other establishment should be referred to the court of Additional Sessions Judge-02 in the concerned district which has been designated as Special Court to try offences under the Rights of Persons with Disabilities Act, 2016 by Department of Law, Justice & Legislative Affairs, GNCT of Delhi vide notification No.F.1/19/2018-Judl/Supdtlaw/1499-1507 dated 19.08.2019.

(iii) Respondent No.2 should also take action for closure of all such "public buildings" and places that fail to meet the prescribed standards in the Harmonised Guidelines for making the built environment accessible to persons with disabilities.

9. 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:

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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."

10. The case is disposed of.

11. Given under my hand and the seal of the Court this 31th day of December 2019



T.D. Dhariyal
(T.D. Dhariyal) 31.12.19

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C/F