

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

Case No. 681/1121/2019/01/2489-2491

Dated: 30.05.2019

In the matter of:

**Smt. Jagminder Kaur,
A-548, Shastri Nagar,
Delhi – 110052**

.....Complainant

Versus

**The Secretary,
Health and Family Welfare Department,
Govt. of NCT of Delhi,
9th Level, A-Wing, I.P. Estate,
Delhi Secretariat,
New Delhi-110002**

.....Respondent

Date of Hearing- 02.05.2019

Present- Smt. Jagminder Kaur, Complainant

ORDER

The above named complainant, mother of Master Ramanjot Singh, a child with speech, language and intellectual disability vide her complaint dated 04.01.2019 submitted that she is trying to get her son admitted to an Integrated School for the last 4 years but could not do so as no hospital in Delhi has issued the disability certificate in respect of her son. The hospital authorities showed their inability to issue disability certificate as they do not have the facilities for tests for speech and language. She therefore requested for help in getting the disability certificate in respect of her son.

2. The matter was taken up with Health & Family Welfare Department under the Rights of Persons with Disability Act, 2016, hereinafter referred to as the Act vide show cause notice dated 24.01.2019 and an action taken report was sought within 30 days of receipt of the notice. The said notice was forwarded by Health & Family Department to Director General, DHS on 18.02.2019. But the complainant did not get any relief nor was any action taken report received despite lapse of sufficient time. The case was therefore fixed for hearing on 02.05.2019.

3. On 02.05.2019, the complainant submitted that the doctors in AIIMS told her that disability certificate can not be issued in respect of Master Ramanjot Singh as his IQ level is 75. She feels that since the child also has speech and language disability, he should have been assessed for speech and language disability as well and a certificate of multiple disability should have been issued. She however stated that as she has been making rounds of various hospitals since 2012 and her child has fortunately been admitted in Air Force Golden Jubilee Institute, Subroto Park, she wanted to withdraw her case.

4. Dr. Yogesh Katartia, Nodal Officer for disability, DHS, Department of Health & Family Welfare informed on telephone and vide email dated 05.02.2019 that DGHS sought the comments of the 3-4 hospitals that the complainant had visited. Only AIIMS responded and informed that they had advised the complainant to submit application for disability certificate vide letter dated 23.03.2019. It was presumed that disability certificate might have been issued in respect of Master Ramanjot Singh and as the summons dated 22.03.2019 had not reached him, he could not attend the hearing.

5. Dr. Yogesh Kataria also informed that a circular advising the government hospitals in Delhi to take the services of specialist doctors from other hospitals if they do not have such specialist doctors in their respective hospitals, has been issued to facilitate assessment and issuance of disability certificates.

6. After hearing about the struggle and the ordeal that the complainant had undergone ever since her child was 8 months old i.e. since 24.08.2012 and perusal of treatment papers submitted by her with the complaint, it was felt that accepting her request for withdrawal of her complaint for the reason that she cited, would amount to closing the eyes to the reality and being indifferent to the suffering of a hapless parent with disability. It was also felt that all concerned authorities especially the certifying medical authorities need to know the implication of the definition of the three levels of disability namely, '**person with disability**', '**person with benchmark disability**' and '**person with disability having high support need**'. The said terms have been defined in the Act as under:-

1. "**person with disability**" means a person with long term physical, mental, intellectual or sensory impairment which, in interaction with barriers, hinders his full and effective participation in society equally with others;
2. "**person with benchmark disability**" means a person with not less than forty per cent of a specified disability where specified disability has not been defined in measurable terms and includes a person with disability where specified disability has been defined in measurable terms, as certified by the certifying authority;

3. ***“person with disability having high support needs”***
means a person with benchmark disability certified under clause (a) of sub-section (2) of section 58 who needs high support.”

7. In view of the above definitions, even if a person has less than 40% of any or a combination of the 21 disabilities included in the Schedule of the RPwD Act, 2016, a disability certificate will have to be issued to such a person if in the opinion of the certifying authority, the long term impairment hinders his/ her full and effective participation in the society equally with others. This needs to be made clear to all the certifying authorities by Health & Family Welfare Department on priority besides organising intensive training for the doctors/certifying authorities.

8. After the above provisions were explained, the complainant also decided not to withdraw her complaint and requested that her son should be assessed for all the conditions besides intellectual disability and given a certificate of disability. She also stated that the persons with disabilities do not even know where to go for a disability certificate particularly in respect of those who have more than one disability like intellectual disability, autism, spectrum disorder, speech and language disability, neurological disabilities, blood disorder.

9. Department of Health & Family Welfare, GNCT of Delhi vide circular No. F.No.24/Misc.Policy/Disability/DHS/NHC/1039-45 dated 02.05.2019 have issued the list of medical authorities alongwith their jurisdiction for assessment and issuance of disability certificates for all the 21 categories of disabilities. The certifying authority in BSA Hospital is competent to issue certificate of disability for multiple

disabilities in respect of the residents of North West District where the complainant resides.

10. In view of the facts and circumstances of this case, the following recommendations are made:-

(i) The complainant is advised to apply for certificate of disability to the medical authority in BSA Hospital within 15 days of receipt of this order.

(ii) Health and Family Welfare Department shall ensure that the certifying authority in BSA Hospital, Rohini arranges for assessment of multiple disabilities/other disability of Master Ramanjot Singh and issue a disability certificate to him strictly in accordance with the provisions of the Act (3 levels of disabilities explained in para – 6) and the guidelines issued by Ministry of Social Justice & Empowerment vide notification dated 04.01.2018 and inform this court within 3 months from the date of receipt of this order as required under Section 81 of the Act.

(iii) Health & Family Welfare Department should conduct intensive training of all the current certifying authorities in NCT of Delhi to begin with; and subsequently, of all the specialists doctors of the relevant specialities in the Govt. hospitals in Delhi within 3 months from the date of receipt of this order.

(iv) If considered necessary, a guide book with FAQs may also be developed for reference and guidance of the medical/certifying authorities so that there is least possibility of any mistake in issuing disability certificate.

11. The complaint is disposed of with the above directions.

12. Given under my hand and the seal of the Court this 29th day of May, 2019.

(T.D. Dhariyal)

State Commissioner for Persons with Disabilities

Copy to-

The Medical Superintendent, Baba Saheb Ambedkar Hospital, Govt. of NCT of Delhi, Sector-6, Rohini, Delhi-110085 for necessary action at point No. 10.