

**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. 881/1121/2019/05/6198-6199**

**Dated:30.09.2019**

**In the matter of :**

**Mr. Hayat Yar Khan,**

(Email:hayat.yarkhan@gmail.com)

C/o Mr. Ram Lal,  
B-2 (Ground Floor),  
Nizamuddin East,  
New Delhi-110013.

.....**Complainant**

**Vs**

**Mr. Naved Yar Khan,**

2346, Mahagun Mascot,

Crossing Republik,

Ghaziabad (UP)-201009.

(Email:mnyarkhan@gmail.com)

.....**Respondent**

**Last Date of Hearing: 12.09.2019**

**Present:** Sh. Deepak Sharma, Advocate for Complainant.

**ORDER**

The above named complainant, elder brother of Ms. Rubina Sultan a person stated to be suffering from Cerebral Palsy, vide his email dated 01.05.2019 alleged that Mr. Naved Yar Khan, his brother has not taken

his sister to the concerned Delhi Govt. Hospital for assessment of Cerebral Palsy and intellectual disability to get a certificate of disability which would help her to register with Niramaya Health Insurance Scheme and apply for Guardianship with the Local Level Committee of the Central Delhi.

2. The complaint was taken up with the respondent vide Notice dated 10.05.2019 under the Rights of Persons with Disabilities Act, 2016 hereinafter referred to as the Act and the case was fixed for hearing on 23.07.2019.

3. On 23.07.2019 complainant, Sh. Hayat Yar Khan informed about his inability to attend the hearing as he is in Dubai, UAE and authorised Sh. Deepak Sharma Advocate to present his case.

4. Sh. Naved Yar Khan, the Respondent in his reply inter-alia submitted that Ms. Rubina Sultan is not a resident of Delhi as she is residing in Ghaziabad with him and hence the State Commissioner for Persons with Disabilities, Govt. of NCT of Delhi had no jurisdiction. He informed that he is not able to attend the hearing due to illness.

5. The parties were directed vide record of proceedings dated 23.07.2019 to submit the relevant documents like Voter ID, Aadhar card, Pan card, Ration card etc. or any other valid residence and identity

proof in support of their respective contentions about the residence of Ms. Rubina Sultan by 31.07.2019 and the case was adjourned to 09.08.2019.

6. Vide his email dated 09.08.2019 Mr. Naved Yar Khan sought exemption from appearance on that day and submitted that he would be producing public documents to establish that his sister Ms. Rubina Sultan is in his custody at his house in Ghaziabad since 2012.

7. Sh. Deepak Sharma, Advocate for the complainant produced the copies of Electoral Roll of A.C. Ballimaran, Delhi for the years 1994 and 1999 in which the name of Ms. Rubina sultan appears. He also produced a copy of the Election ID Card from the court record which the respondent himself had filed, a copy of letter dated 31.07.2012 from National Highways Authority of India addressed to Ms. Rubina Sultan and a copy of an appeal filed at Tis Hazari Courts by the respondent against the order dated 12.03.2015 on an application in which the respondent Mr. Naved Year Khan and Ms. Rubina are appellants. In all those documents, the address of Ms. Rubina Sultan is 5182, Ballimaran, Delhi and these indicate that she was residing at Ballimaran till 2016. The fact that she is the owner of the property at 5182, Ballimaran is also not disputed.

8. The limited issue with which this court is concerned is that Ms. Rubina Sultan who is stated to be a person with Cerebral Palsy must be produced before an appropriate certifying authority and if eligible, should be issued a valid certificate of disability. Since as per the documents produced, she is a resident of Ballimaran, Delhi, the medical authority in Delhi would be the competent certifying authority and to issue the certificate of disability. However, if she has the required documents, the medical authority in Ghaziabad can also assess her and issue the certificate of disability which is the sole purpose of taking up the complaint. The resistance to do so by the respondent is unreasonable and can attract the penal provisions of the Act.

9. The respondent was given last opportunity to make submissions before this court and arrange assessment of Ms. Rubina Sultan for assessment of her disability and issuance of a certificate of disability if she is eligible for the same vide RoP dated 13.08.2019.

10. During the hearing on 12.09.2019, Sh. Deepak Sharma, Advocate appeared for the complainant and submitted a copy of passbook of Bank of India and another passbook of the Post Office in respect of Ms. Rubina Sultan both of which show her address at Ballimaran, Delhi-110006. He also submitted that the documents emailed on 31.07.2019

by complainant to this Court, may also be taken on record. He also submitted that the complainant may be informed at least 2 weeks before the date of examination of Ms. Rubina Sultan for assessment of disability so that he and his representatives can also be present during her examination.

11. The respondent sent a list of documents which contain a copy of e-MO (Payment) of Rs. 500/- of Department of Posts sent by Post Office Chandni Chowk, Delhi to Ms. Rubina Sultan C/o Naved Yar Khan, H.No. 2346, Crima Tawar, Mahagul, Mascot, Crosing Republic Dhundhera, Ghaziabad and a copy of Suit No. 53/2012 of the complainant in which it has been mentioned that the plaintiff therein namely Mr. Naved Yar Khan and Others (including Ms. Rubina Sultan) have shifted to Flat 2346, Crema tower, Mahagun Mascot, Crossing Republic, NH-24, Dhundhera, Ghaziabad -201009. However neither he himself appeared nor did he send anyone to represent him on 12.09.2019.

12. This Court has no issues whether Ms. Rubina Sultan is examined for assessment of her disability and issued a certificate of disability, if eligible by a certifying authority in Delhi or in Ghaziabad.

13. In the light of the above, respondent is once again directed to produce Ms. Rubina Sultan before the competent certifying authority in

the hospital having the jurisdiction and apply for issuance of disability certificate to her within one month from the date of receipt of this order and intimate the complainant the proposed date, place and time where he would produce Ms. Rubina Sultan for assessment and certification of disability so that the complainant or his representative can also be present in the concerned hospital as requested by him. After Ms. Rubina Sultan is assessed for disability and a decision is taken by the concerned certifying authority to issue the certificate of disability to her or otherwise, the respondent shall intimate this Court and the complainant within a week thereafter. If the complainant does not receive any intimation by **15.11.2019**, he may approach the State Commissioner for Persons with Disabilities, Uttar Pradesh, Rajkiya Drishtibadhit Chhatron ka Chhatrawas, Basic Siksha Nideshalaya Campus, Nishatganj, Lucknow, Uttar Pradesh, Email: [info@commissionerdisabilitiesup.in](mailto:info@commissionerdisabilitiesup.in) with the request to direct the respondent to have Ms. Rubina Sultan examined by the Medical Authority in Ghaziabad for issuance of disability certificate as the respondent has also raised the issue of jurisdiction on the ground that she is residing at Ghaziabad.

14. The complainant may also approach the concerned Special Court designated under Section 84 of the Act for trial of offences under the Act.

15. Respondent is informed that in case of non-compliance of the order, he may run the risk of being punished under Section 89 of the Act which provides as under:

*“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 ten thousand rupees and for any subsequent contravention with fine which shall not be less than fifty thousand rupees but which may extend to five lakh rupees.”*

16. The case is disposed of.

17. Given under my hand and the seal of the Court this 30<sup>th</sup> day of September, 2019.

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