

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-02
Phone-23216003-04, Telefax: 23216005 Email: comdis.delhi@nic.in
[Vested with powers of Civil Court under
the Rights of Persons with Disabilities Act, 2016)

Case No. No. 1253/1121/2019/10/ 7334-7363 Dated: 30/10/2019

In the matter of:

Suo-motu

Versus

The Principal Secretary,
Health & Family Welfare Department,
Govt. of NCT of Delhi,
9th Floor, A-Wing, Delhi Secretariat,
I.P. Estate New Delhi- 110002

.....Respondent No. 1

The Medical Superintendent, Officer-in-Charge,
All India Institute of Medical Science,
Ansari Nagar,
New Delhi-110029

.....Respondent No. 2

The Medical Superintendent/ Officer-in-Charge,
Safdarjung Hospital,
New Delhi-110029

.....Respondent No. 3

The Medical Superintendent/ Officer-in-Charge,
Dr. Ram Manohar Lohia Hospital, Govt. of India,
New Delhi-110001

.....Respondent No. 4

The Medical Superintendent/ Officer-in-Charge,
Lady Harding Medical College & Smt. S.K. Hospital,
New Delhi-110001

.....Respondent No. 5

Court of Commissioner (Disabilities)
National Capital Territory of Delhi
Room No. - 1
25-D, Mata Sundari Road, New Delhi-02

The Medical Superintendent,
Babu Jagjivan Ram Hospital,
Jahangirpuri, Delhi-110033

.....Respondent No. 6

The Medical Superintendent,
Guru Gobind Singh Govt. Hospital,
Raghubir Nagar,
New Delhi-110027

.....Respondent No. 7

The Medical Superintendent,
Rao Tula Ram Memorial Hospital,
Jafferpur, New Delhi-110073

.....Respondent No. 8

The Medical Superintendent,
Bhagwan Mahavir Hospital, H-4/5,
Guru Harkishan Marg,
Pitampura, Delhi-110034

.....Respondent No. 9

The Medical Superintendent,
Aurna Asaf Ali Govt. Hospital,
5, Rajpur Road,
Delhi-110054

.....Respondent No. 10

The Medical Superintendent,
Guru Teg Bahadur Hospital, Govt. of NCT of Delhi,
Dilshad Garden, Delhi-110095


.....Respondent No. 11

The Medical Superintendent,
Swami Dayanand Hospital,
Shahdara, Delhi-110095

.....Respondent No. 12

The Medical Superintendent,
Lal Bahadur Hospital,
Khichripur,
Delhi-110091

.....Respondent No. 13


Court of Commissioner (Disabilities)
National Capital Territory of Delhi
Room No. - 1
25-D, Mata Sundari Road, New Delhi-02

The Medical Superintendent,
Dr. Hedgewar Arogya Sansthan,
Karkardooma,
Delhi-110032

.....Respondent No. 14

The Medical Superintendent,
Govind Ballabh Pant of Post Graduate Medical Education & Research
(GIPMER),
1, Jawahar Lal Nehru Marg,
New Delhi-110002

.....Respondent No. 15

The Medical Superintendent,
Jag Pravesh Chandra Hospital,
Shastri Park,
Delhi-110053

.....Respondent No. 16

The Medical Superintendent,
Dr. Baba Saheb Ambedkar Hospital,
Sector-06, Rohini,
Delhi-110085

.....Respondent No. 17

The Medical Superintendent,
Deen Dayal Upadhyay Hospital,
Hari Nagar,
New Delhi-110064

.....Respondent No. 18

The Medical Superintendent,
Sardar Vallabh Bhai Hospital,
East Patel Nagar,
New Delhi-110008

.....Respondent No. 19

The Medical Superintendent,
Sanjay Gandhi Memorial Hospital,
Mangolpuri, Delhi-110083

.....Respondent No. 20

The Medical Superintendent,
Institute of Human Behaviour & Allied Sciences (IHBAS),
Dilshad Garden,
Delhi-110095

[Signature]
Court of Commissioner (Disabilities)
National Capital Territory of Delhi
Room No. - 1
25-D, Mata Sundari Road, New Delhi-02

.....Respondent No. 21

The Medical Superintendent,
Lok Nayak Jai Prakash Hospital,
New Delhi-110002

.....Respondent No. 22

The Medical Superintendent,
Janakpuri Super Speciality Hospital Societ,
(An Autonomous Institute), Under Govt. of NCT of Delhi,
Delhi-110058

.....Respondent No. 23

The Medical Superintendent,
Pt. Madan Mohan Malaviya Hospital,
Malviya Nagar,
New Delhi-110017

.....Respondent No. 24

The Medical Superintendent,
Maharishi Valmiki Hospital,
Pooth Khurd, Delhi-110039

.....Respondent No. 25

The Medical Superintendent,
Satyawadi Raja Harishchandra Hospital,
Plot No-30, Sector A7, Narela,
Delhi-110040


.....Respondent No. 26

The Medical Superintendent,
Hindu Rao Hospital,
37-38, Subji Mandi,
Malka Ganj,
New Delhi-110007

.....Respondent No. 27

The Medical Superintendent,
Chacha Nehru Bal Chikitsalaya,
Geeta Colony,
New Delhi-110031

.....Respondent No. 28


Court of Commissioner (Disabilities)
National Capital Territory of Delhi
Room No. - 1
25-D, Mota Sundari Road, New Delhi-02

ORDER

Dr. Satendra Singh, MD, Associate Professor Physiology, University College of Medical Sciences & GTB Hospital, Delhi, and Domain Expert, State Advisory Committee to assist the State Commissioner for Persons with Disabilities, NCT of Delhi vide his email dated 28/10/2019 brought to the notice of this court that "deaf Blindness" as a category has been excluded in Form-VI of Delhi Rights of Person with Disabilities Rules, 2018 (Delhi RPwD Rules) and Rights of Person with Disabilities Rules, 2017 (RPwD Rules) though "deaf blindness" is a specified disability in the schedule to the Rights of Persons with Disabilities Act, 2016, herewith refer to as the Act as well as in Section 34(1) (e).

2. He further informed that as per the said Rules, a certificate of disability for multiple disability is to be issued in Form-VI but it no where mentions the category "deaf blindness". Because of this technical flaw, the certificate is issued either for blindness or for deaf. He has come across instances of people with "deaf blindness" who are forced to carry a certificate for 'blindness' and another for 'deafness'. Separate certificates do not reflect the actual extent of restrictions that persons with "deaf blindness" experience due to environmental, informational and other associated barriers. It will also lead to incorrect data.

3. Dr. Satendra Singh has requested to take up the issue and iron-out the deficiency in Form-VI of Delhi RPwD Rules, 2018 and also to suggest amendment in the RPwD Rules, 2017.

4. It is observed that in the Schedule to the Act has grouped the 21 specified disabilities in five groups namely, (i) Physical disability (ii) Intellectual disability, (iii) Mental behaviour, (iv) Disability caused due to (a) Chronic neurological conditions & (b) Blood disorder, (v) Multiple disabilities.

Multiple disabilities has been defined as "*(more than one of the above specified disabilities) including deaf blindness which means a condition in*

Court of Commissioner (Disabilities)
National Capital Territory of Delhi
Room No. - 1
25-D, Mata Sundari Road, New Delhi-02

5. The provision for certification of specified disabilities in Section 58 of the Act is reproduced below:-

“(1) Any person with specified disability, may apply, in such manner as may be prescribed by the Central Government, to a certifying authority having jurisdiction, for issuing of a certificate of disability.

(2) On receipt of an application under sub-section (1), the certifying authority shall assess the disability of the concerned person in accordance with relevant guidelines notified under section 56, and shall, after such assessment, as the case may be,—

(a) **Issue a certificate of disability to such person, in such form as may be prescribed by the Central Government.”**

6. Section-100 (h) of the Act mandates the Central Govt. to make no rules on the manner of application for issuance of certificate of disability under sub-section (1) and form of certificate of disability under sub-section (2) of section 58.

7. In view of the above provisions in the Schedule, Section 58 and Section 100(h) of the Act, for any change in the rules or in the form of disability, Central Government alone has jurisdiction. The Government of NCT of Delhi cannot change or modify the form of certificate of disability.

8. Rule, 18 of the RPwD Rules, 2017 and Rule 26 of the Delhi Persons with Disabilities, Rules, 2018 also provide that *the medical authority or any other notified competent authority shall issue a certificate of disability in favour of an applicant in form V, VI, & VII, as the case may be.* Since the Central Govt. alone is vested with the power to make changes in Rules including in relation to the forms of certificate of disability, if considered necessary, Department of Empowerment of Persons with Disabilities, Govt. of India may look into this matter.

Commissioner (Disabilities)
National Capital Territory of Delhi
Room No. - 1
25-D, Mata Sundari Road, New Delhi-02

who have 'deaf blindness', the same must be stopped forthwith.

10. As regards the issue flagged by Dr. Satender Singh that Form VI does not mention "deaf blindness", I am of the opinion that the intent of the legislation is to give "deaf blindness" an independent identity. Hence "deaf blindness" should be mentioned in Form-VI also at some place. To my mind, it could be mentioned either in Column-4 under 'Diagnosis' against 'blindness' and 'deafness' or in Column-5 meant for 'indicating the permanent physical impairment/mental disability in (%)'. A person with "deaf blindness" will necessarily will have 100% disability and hence there is no need to calculate the total disability by combining the two conditions.

11. For ready reference, Form-VI is reproduced below:

S.No	Disability	Affecte d part of body	Diagnosi s	Permanent Physical impairment/Ment al Disability in (%) 1
1	Locomotor disability	@		
2	Muscular Dystrophy			
3	Leprosy cured			
4	Dwarfism			
5	Cerebral Palsy			
6	Acid Attack Victim			
7	Low vision	#		
8	Blindness	#		
9	Deaf	£		

Court of Commissioner (Disabilities)
National Capital Territory of Delhi
Room No. - 1
25-D, Main Sudder Road, New Delhi-02

11	Speech and Language disability			
12	Intellectual Disability			
13	Specific Learning Disability			
14	Autism Spectrum Disorder			
15	Mental illness			
16	Chronic Neurological Conditions			
17	Multiple sclerosis			
18	Parkinson's disease			
19	Haemophilia			
20	Thalassemia			
21	Sickle Cell disease			

12. In light of the foregoing, It is recommended that the medical/certifying authorities in NCT of Delhi should issue the certificate of

Court of Commissioner (Disabilities)
National Capital Territory of Delhi
Room No. - 1
25-D, Mata Sundari Road, New Delhi-02

"deaf blindness" in column 4 or 5 which should be clearly legible.

13. Department of Empowerment for Persons with Disabilities, Ministry of Social and Justice and Empowerment, Govt. of India, may consider issuing suitable advisory to the State Govts. and UT Administrations to ensure uniformity and to avoid inconvenience to persons with "deaf blindness".

14. The matter is disposed off accordingly.

15. Give under my hand and the seal of the Court this 30th October 2019.



(Signature)
(T.D. Dhariyal) 30.10.19
State Commissioner (Disabilities)
National Capital Territory of Delhi
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25-D, Mata Sundari Road, New Delhi-02

Copy to:-

1. Secretary, Department of Empowerment for Persons with Disabilities, Ministry of Social & Justice & Empowerment, Govt. of India, Pt. Deendayal Antyodya Bhawan, GCO Complex, New Delhi-110003: for necessary action as deemed fit.
2. Secretary, Department of Social Welfare, GNCT of Delhi, GLNS Complex, Delhi Gate, New Delhi-110002: for information and necessary.

(Signature)
(T.D. Dhariyal) 30.10.19
State Commissioner for Persons with Disabilities

Court of Commissioner (Disabilities)
National Capital Territory of Delhi
Room No. - 1
25-D, Mata Sundari Road, New Delhi-02