

**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. 275/1121/2018/05/1903-1909

Dated:18.04.2019

In the matter of:

Ms. Neelam Sharma

M/o Ms. Shruti Sharma
282 E Pocket 2
Mayur Vihar Phase I
Chilla Saroda Khadar Chilla
East Delhi
Delhi-110091

..... Complainant

Vs.

The Secretary,

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

.....Respondent

ORDER

Smt. Neelam Sharma vide her complaint dated 16.05.2018 submitted that her daughter Ms. Shruti Sharma has mental and physical disability. Ms. Shruti Sharma was under treatment in AIIMS. She went to nearby Lal Bahadur Shastri Hospital for disability certificate. They asked her to go to IHBAS as she had earlier visited IHBAS on 10.08.2017, 16.08.2017 and 26.08.2017 and had been examined and investigated for issue of disability certificate by a Neurologist. Her I.Q. assessment had also been done on 26.08.2017 at IHBAS. When she

went to IHBAS, she was directed to go GTB Hospital who asked her to go back the LaL Bahadur Shastri Hospital. Harassed by the concerned functionaries of the said three Hospitals for nearly a month, she approached this Court on 16.05.2018.

2. As many other persons with intellectual, neurological and other newly added disabilities in the Rights of Persons with Disabilities Act, 2016 had also been undergoing similar experience and getting harassed, this Court requested Principal Secretary, Health & Family Welfare to personally look into the matter and to ensure that the complainant and other persons with disabilities are not harassed further and clear directions be issued to the concerned hospitals to assess and issue disability certificates within a month as required under the rules vide letter dated 23.05.2018.

3. Deputy Secretary (Comm.) Health and Family Welfare Department forwarded the representation of the complainant to the Medical Superintendent, Lal Bahadur Shastri Hospital vide letter dated 07.06.2018 and requested to look into the matter and issue a disability certificate in favour of Ms. Shruti Sharma. Deputy Medical Superintendent vide letter dated 29.06.2018 informed Health and Family Welfare Department that the disability Board of Lal Bahadur Shastri Hospital opined that Miss Shruti Sharma has purely neurological disorder and therefore she was referred to IHBAS. IHBAS neither issued disability certificate to her nor was she referred back to Lal Bahadur Shastri Hospital in 2017. On 23.03.2018, she visited Lal Bahadur Shastri Hospital on her own and the documents did not show denial of disability certificate or referral back to Lal Bahadur Shastri Hospital. Therefore, she was advised to follow up at Neurology Department, IHBAS.

4. In view of the letter dated 07.06.2018 of Health & Family Welfare Department, Lal Bahadur Shastri Hospital was requested to intimate

further course of action to take a final view vide this Court's letter dated 17.07.2018. As there was no response, the complainant was contacted on 09.04.2019 and heard on telephone to ascertain the status.

5. The complainant stated that her 27 year old son is also suffering from Wilson's disease and is under medication for the last 8 years. She expressed her concern about the sorry state of affairs in the hospitals which she had visited for disability certificate. She went and explained her problem to the doctors at RML Hospital who were very considerate and arranged for the assessment and certification of her daughter. She was issued certificate for 81% multiple disability on 08.03.2019. She was all praise for the doctors and other functionaries of RML Hospital. According to her, the concerned functionaries in the Hospitals except RML Hospital were indifferent causing tremendous harassment and mental agony to the entire family.

6. She was also quite satisfied with the supportive Janki Devi Govt. Sarvodya Vidyalaya, Mayur Vihar, Phase I, Pocket II, where her daughter Miss Shruti studies. The school provides appropriate teaching, learning facilities and treats her with sensitivity.

7. The complainant requested that strict directions should be issued to all concerned and a policy should be made by Govt. to ensure that no one gets harassed like her and her daughter. She wondered, if Dr. RML Hospital could do all the necessary examinations, assessments and a team of doctors from the Department of Neurology, Orthopaedics and Psychiatry together could assess Ms. Shruti for her multiple disability and issue a disability certificate, even though she did not fall within the jurisdiction of that hospital, why the same could not be done by other hospitals!

8. Incidentally, this case is not a one-off case. Many people with disabilities get harassed and deprived of their rights and entitlement due to inordinate delay in getting disability certificates. They are made to go from one hospital to the other despite the fact that the Rights of Persons with Disabilities Act, 2016 and the Rules made thereunder prescribe a time frame of one month from the date of receipt of application for issuing disability certificate and also have provision for penalty for contravention of the provisions of the Act/Rules.

9. I am pained to observe that despite my efforts which include convening of a meeting with the officers of Health and Family Welfare Department, Social Welfare Department and all the notified 26 hospitals; recommendations in a number of orders; letters to Secretary, Health & Family Welfare and the Chief Secretary ever since the guidelines were notified by Ministry of Social Justice & Empowerment on 04.01.2018, persons with disabilities and their parents continue to struggle and suffer to get the disability certificates for one reason or the other. I have, on more than one occasion, said that designation and notification of certifying Authorities is a simple task which has no serious technical, medical or legal issue that should require so much time. It is a matter of serious worry for persons with disabilities and their families that the Health & Family Welfare Department is yet to notify the certifying authorities as per the Rights of Persons with Disabilities Act, 2016 and the Rules of the Central Govt. and GNCT of Delhi.

10. In light of the situation brought out above, there is an urgent need for sensitising and issuing strict directions to the officers and other functionaries at all levels for giving due importance to the issues concerning persons with disabilities who happen to be the most marginalized group. I therefore recommend that Chief Secretary should call a meeting of all the Principal Secretaries, Secretaries, HoDs, Heads

of Corporations (North DMC, South DMC, East DMC and NDMC), PSUs and Autonomous Bodies and to sensitise them and direct them to ensure that the provisions of the Rights of Persons with Disabilities Act, 2016 and Rules made thereunder by the Central Govt. and GNCT of Delhi are implemented in letter and spirit.

11. I further recommend that the concerned functionaries who deprived Ms. Shruti Sharma of her entitlement for so long by delaying issuance of disability certificate and made her mother and the family to undergo tremendous mental agony and physical stress, should be identified and be asked why penal action should not be initiated against them under the provisions of the Act and the Rules made thereunder.

12. Action taken on the recommendations may be intimated as required under Section 81 of the Act.

13. The complaint is disposed off.

14. Given under my hand and the seal of the Court this 18th day of April, 2019.

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

Copy to:

1. The Chief Secretary, Govt. of NCT of Delhi, Delhi Secretariat, I.P. Estate, New Delhi-110002 : For kind information and necessary action on para 10 and 11.
2. Medical Superintendent/Director, Dr. Ram Manohar Lohia Hospital, Post Graduate Institute of Medical Education and Research, Baba Kharak Singh Marg, Near Gurudwara Bangla Sahib, Connaught Place, New Delhi, Delhi 110001 (Email: ddarmlh2@gmail.com).
3. Medical Superintendent/Director, Lal Bahadur Shastri Hospital (L.B.S.), Khichri Pur New Delhi-110091 (email: mslbsh.delhi@gov.in).
4. Medical Superintendent/Director, Institute of Human Behaviour and Allied Sciences (I.H.B.A.S.), Shahdara, Delhi-110095 (Email: directorihbas@vsnl.net).
5. Medical Superintendent/Director, Guru Teg Bahadur Hospital (G.T.B.H.) Shahdara, Delhi-110095 (Email: msgtbh@nic.in).