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In the Court of State Commissioner for Persons with Disabilities
National Capital Territory of Delhi
25- D, Mata Sundri Road, Near Guru Nanak Eye Centre, New Delhi.
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. 994/1031/2019/06/ 3268 - 3269 Dated: 10/07/2019

In the matter of:

Sh. Ajaibir Singh,
C-4-D/54-B, Janakpuri,
New Delhi-110058.
(E-mail-ajaibir.singh@in.ibm.com).

..... Complainant

Versus

The Principal,
Amar Jyoti Institute of Physiotherapy,
(University of Delhi),
Karkardooma, Vikas Marg,
Delhi-110092.

.....Respondent

Date of Hearing 08.07.2019

ORDER

The above named complainant, father of Master Mankaran Singh, a person with specific learning disability filed a complaint vide e-mail dated 18.06.2019 and submitted that Amar Jyoti Institute of Physiotherapy, affiliated to Delhi University has invited applications for Bachelor of Physiotherapy and earmarked one seat for persons with locomotor disability and not for persons with specific learning disability. In Delhi University and all other institutes, persons with all the 21 disabilities are allowed to appear for the examination under PH category. Pt. Deendayal Upadhyaya National Institute for Persons with Physical Disabilities has already allowed Master Mankaran to appear in the examination under PH category on 16th June 2019. Amar Jyoti Institute of

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Physiotherapy is asking him to apply as a General Category candidate. As per the email dated 18.06.2019 of Amar Jyoti Institute of Physiotherapy, the institute has OH (Orthopedically Handicapped) seat and hence the application of the applicant would be considered under the general category.

2. As per Section 32 of the Act, "***all Government institutions of higher education and other higher educational institutions receiving aid from the Government shall reserve not less than five per cent seats for persons with benchmark disabilities***".

3. The matter was taken up with the respondent vide Show Cause-cum-Hearing Notice dated 21.06.2019 under the Rights of Persons with Disabilities, Act 2016, hereinafter referred to as the Act directing the respondent why Master Mankaran Singh should not be allowed to apply for admission to Bachelor of Physiotherapy course under PH category against the reserved seat and submit an action taken report by 02.07.2019. If the same was not done, it was decided to hold a hearing on 08.07.2019.

4. The respondent vide letter received on 26.06.2019 submitted as under:-

"This letter is in response to the show cause cum hearing notice, Case No – 994/1031/2019/06, dated 21/06/2019. The Amar Jyoti Institute of Physiotherapy (University of Delhi) wishes to place on record that Mr. Mankaran Singh s/o Mr. Ajaibir Singh, resident of C-4D/54-B, Janakpuri, New Delhi 110058 applied for admission to the Bachelor of Physiotherapy course for the year 2019-20 (reference no. is BPT/050/19). Our point-wise response is as follows:

1. *The Amar Jyoti Institute of Physiotherapy (University of Delhi) under the aegis of Amar Jyoti Charitable Trust is a **self-financed college that does not receive any funding from the University/UGC/Government.***

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2. The management of the Amar Jyoti Charitable Trust (AJCT) resolved to introduce one (1) seat specifically under the OH category at the Amar Jyoti Institute of Physiotherapy (AJIPT) in alignment with the core objectives of the Trust. The eligibility criteria for the reserved OH seat was setup by the management after due diligence, deliberation, consultation and consensus by the management.
3. AJIPT has one (1) reserved seat specifically for an Orthopedically Handicapped (OH) individual since the academic year 2004-2005. For the purposes of the OH reserved category, OH is defined as point #4 & 5 of the PWD Act (1995/ amend.1996) and RPWD Act, 2016. Candidates that qualify under this category fulfil criteria as described in our prospectus. Please refer to a copy of the relevant sections of our prospectus (copy attached).
4. The PWD Act 1995 (amend 1996) – based on the act, guidelines for evaluation of various disabilities and procedure for a certificate, the Ministry of Social Justice and Empowerment (notification and annexures June 2001) referred to orthopaedic disability as **locomotor disability** and defines it as disability of the bones, joints or muscles leading to substantial restriction of the movement of the limb or any form of cerebral palsy.
5. More recently, the Rights of Person with Disabilities Act (RPWD Act – section 1 A) 2016, defines locomotor disability as a person's **inability to execute distinctive activities associated with movement of self and objects resulting from affliction of musculoskeletal or nervous system or both**. Further, it includes leprosy cured person, cerebral palsy, dwarfism, muscular dystrophy, acid attack victims.
6. As per our records, Mr. Mankaran Singh (s/o Mr. Ajaibir Singh) has not provided any supporting document of his candidacy for the

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Orthopedically Handicapped (OH) seat. Thus, the Institute cannot consider the application under reserved category of OH.

7. The same was informed to the applicant, Mr. Mankaran Singh vide email dated June, 18 2019. A copy of email is attached for your ready reference.
8. Moreover, we wish to clarify that the institute **did not force** the candidate for applying under general category (as described in the opening paragraph of the show cause notice – last sentence). The office email to him (attached for ready reference) clearly stated that the application could be considered under general category, if the candidate so desired.
9. With reference to point #4 of the show cause notice that references section 32 of the Act (RPWD 2016) – **we wish to state that we are entirely a private, self-finance Institute and do not received any government/UGC/University funding.**


However, the issue of reservation for the differently abled is of importance and will be taken up for discussion in the next governing body meeting of AJIPT.

AJIPT will be happy to provide any additional information that is required by your office. Our contact information is as follows: 011 – 2375512, 22379827, email- info@ajipt.org.

Sincerely

Dr. Raju K. Parasher
Director/ Principal
Amar Jyoti Institute of Physiotherapy
University of Delhi"

5. A copy of the reply submitted by the respondent was sent to the complainant vide e-mail dated 04.07.2019 for comments/rejoinder. As he did not appear for hearing on 08.07.2019, he was contacted on telephone and was informed that since only the Government and other Institutions of higher


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education receiving aid from the Government are obligated to reserve seats for persons with disabilities and Amar Jyoti Institute of Physiotherapy is neither a Government Institution nor receiving any aid from the Government for conducting the course in question, the provision of section 32 of the Act would not be applicable to that institute.

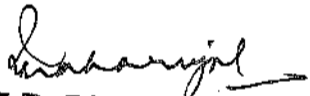
6. It is however clarified that section 32 of the Act does not envisage reservation of seats for any particular category of disability(ies) unlike section 34 which provides for reservation of vacancies for specified categories of disabilities for which the posts are identified. Hence even though Amar Jyoti Institute of Physiotherapy is not obligated under the Act to reserve seats for persons with disabilities, yet it has proactively made a provision for it, it will be in the fitness of things to keep the reserved seats, if any, open to all the categories of persons with disabilities considering the intent of section 32 of the Act..

7. In light of the above, the complaint is disposed off.

8. Given under my hand and the seal of the Court this 10th day of July, 2019.



State Commissioner for Persons with Disabilities


(T.D. Dhariyal) 10-7-19

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