

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

Case No. 46/1031/2017/11/7356-58

Dated: 18.05.2018

In the matter of:

Ms. Nikita Singh
Z-1/26, Ashiyana, Phase-II
Muradabad,
Uttar Pradesh-244001

..... **Complainant**

Versus

The Registrar
Guru Govind Singh Indraprastha University
Sector 16-C, Dwarka,
New Delhi-110078

.....**Respondent**

Date of hearing: 11.04.2018

Present: Ms. Nikita Singh, Complainant.
Sh. Ajay Kumar Arora (A.R.) and Khushpreet Singh (A.R) on
behalf of respondent.

ORDER

The above named complainant, a person with 60% hearing impairment vide her e-mail dated 27.09.2017 was received from the Court of Chief Commissioner for Persons with Disabilities vide letter dated 24.10.2017.

2. The complaint was taken up with the respondent vide notice dated 06.12.2017. Vide letter dated 05.01.2018, the respondent submitted that on receipt of the sanctioned intake of MPT programme stream wise i.e. for MPT (Musculoskeletal),

MPT (Neurology), MPT (Sports) and MPT (Cardiopulmonary), all the CET Qualified candidates of MPT Programme for the academic session 2017-18 were called on 05.09.2017. During 1st and 2nd counselling, stream wise seats were distributed as per approved reservation policy as per admission brochure 2017-18 and the candidates were informed at the time of counselling. Seat status was displayed on the University website after the end of 1st and 2nd counselling to facilitate the candidates who were seeking admission in the MPT Programme.

3. University reservation Policy is reproduced below:

“The Reservation Policy for the University Schools, Government Institutes and Self Financing Colleges / Institution affiliated with this University, other than minority institution, for the academic session 2017-18 for these CETs is as:-

<i>For University Schools of Studies and Government Institutions Located in NCT of Delhi</i>	<i>For Institutions Located in NCT of Delhi in except minority status institution 3</i>	<i>Self-Financing Institutions Located in NCR, outside Delhi except minority status institutions 2</i>
<i>85% of the sanctioned intake shall be allocated for Delhi Region wherein reservation of seats shall be as under: DSC -15%, DST- 7.5%, DOBC4-27%</i>	<i>85% of the sanctioned intake (minus the management quota which is 10% of total seats unless surrendered by the institution for common counselling) shall be allocated for Delhi Region wherein reservation of seats shall be as under: DSC -17%, DST- 1%.</i>	<i>85% of the sanctioned intake (minus the management quota which is 10% of total seats unless surrendered by the institution for common counselling) shall be allocated for Delhi Region wherein reservation of seats shall be as under: DSC -15%, DST- 7.5%.</i>
<i>15% of the sanctioned intake shall be allocated for outside Delhi Region wherein reservation of seats shall be as under:</i>	<i>15% of the sanctioned intake (minus the management quota which is 10% of total seats unless surrendered by the</i>	<i>15% of the sanctioned intake (minus the management quota which is 10% of total seats unless surrendered by the</i>

ODSC – 15%, ODST – 7.5%	institution for common counselling) shall be allocated for outside Delhi Region wherein reservation of seats shall be as under: ODSC – 15%, ODST – 7.5%	institution for common counselling) shall be allocated for outside Delhi Region wherein reservation of seats shall be as under: ODSC – 15%, ODST – 7.5%
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- i. For Institution funds by the Central Govt., the seats are allocated on an all India Basis with reservation as (SC: 15%, ST: 7.5%.) The defence (5%) and PWD (3%) reservation shall be in all categories in an horizontal manner. The OBC reservation shall be at the Undergraduate level only of 27%.
- ii. For minority institutions located outside NCT of Delhi in NCR, the seats are reserved as per the request of the Institution for the appropriate minority segment, and seats remaining thereafter are allocated on an all India basis with reservation for these all India region seats as (SC: 15%, ST: 7.5%.) the defence (5%) and PWD (3%) reservation shall be in all categories in an horizontal manner except minority seats.
- iii. For minority institution located in the NCT of Delhi, the seats are reserved as per the request of the Institution for the appropriate minority segment, and seats remaining thereafter are allocated with reservation as for self-financing institutions but on an all India basis.
- iv. Reservation in OBC category is not applicable at Master's level and Post Graduate Diploma.

6.1.3 Persons with Disabilities (PWD)

This category shall be considered as a synonym for the Physically Handicapped (PH) Category. For candidates belonging to the Delhi region, a certificate from the designated hospitals authorised by Deptt. of Social Welfare, Govt. of NCT of Delhi, in pursuance of the provisions of sub-clause (p) of Section 2 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995,

is no produced at the time of document verification and counselling. The list as obtained from the Govt. of NCT of Delhi on 14th February, 2017 (URL:

http://delhi.gov.in/wps/wcm/connect/doiit_ocpd/DoIT_OCPD/PLD+Contents/Issuance+pf+Disability+Certificates).

For candidates belonging to outside Delhi region, the candidate must produce a certificate from the designated hospitals authorised by the concerned state government in pursuance of the provisions of sub-clause (p) of Section 2 of Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 at the time of document verification and counselling.

However for Central Government funded Institutions, seat allocation in on all India basis among the category of seats including PWD.

The certificate for claiming the reservation PWD reservation shall be as per Appendix – 2 (available in part-B of the brochure)

PWD reservation shall be 3% horizontally across all seats / category (excluding management quota seats). If seats remain vacant in this subcategory, then its shall revert first to its parent category.”

4. The complainant had applied as a out-side of Delhi candidate. From the reply submitted by the respondent, it was not clear why the candidate was not considered against a reserved seat and how many seats were reserved for Delhi and out of Delhi region in P.H. category. A hearing was therefore held on 11.04.2018.

5. During the hearing, the respondent submitted letter dated 04.04.2018. In the said letter, it has been stated that due to small number of seats in different specialities in MPT programme, a full seat could not be created for Delhi Schedule Tribe, (DST), Outside Delhi Schedule Caste, (ODSC), Outside Delhi Schedule Tribe, (ODST) and the horizontal categories i.e. PwD/PH and defence category. In case of Ms. Nikita Singh who is an out of Delhi candidate, only 15% of the sanctioned intake is to be allocated for

outside Delhi region with 15% for O.D.S.C, 7.5% for O.D.S.T and 3% for PwD/PH in all the categories.

6. It is observed that the University did not reserve any seat for persons with disabilities against the seats allocated for outside Delhi as 3% of the seats for each speciality or even all the specialities taken together could not make even single seat and there are no instructions as to how to implement Section 39 of the Persons with Disabilities Act, 1995, as per which *all Government educational institutions and other educational institutions receiving aid from the Government shall reserve not less than 3% seats for persons with disabilities.*

7. Difficulty in implementing a statutory and mandatory provision cannot be a valid ground for not implementing the provision as it will negate the very purpose of making such a provision and persons with disabilities would never get the benefit of reservation in many professional courses which are split college-wise and discipline wise. Such socially beneficial provisions must be interpreted most expansively and applied in a manner that is most advantageous to the section for which these have been made. It is therefore recommended that University should either earmark a fixed number of reserved seats for persons with disabilities in each session or maintain a 100 point roster in which 5 points are earmarked for persons with disabilities in accordance with Section 32 (1) of the Rights of Persons with Disabilities Act, 2016 on the lines it is done for effecting reservation in appointments. The number of admissions made each year should be plotted in the said roster and a seat be reserved for persons with disabilities in the session in which the roster point reaches a reserved point. If a candidate with disability from Delhi is not available, it may be open to outside candidates with disabilities. This should be clearly mentioned the advertisement if any, and the prospectus.

8. An action taken report on the above recommendation be submitted to this Court within three months from the date of receipt of this order as required under Section 81 of the Rights of Persons with Disabilities Act, 2016.

9. The complaint is disposed off in terms of the above recommendation.
10. Given under my hand and the seal of this Court this 18th day of May, 2018.

(T.D. Dhariyal)

State Commissioner for Persons with Disabilities

Copy to: Principal Secretary, Education, Directorate of Education, Govt. of NCT of Delhi, Old Secretariat, Near Vidhan Sabha, Civil Lines, New Delhi, Delhi 110054: For information and appropriate instructions to the Universities, Colleges and Institutions of Higher Education under GNCTD on the recommendation in para 7.

