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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. 848/1033/2019/04 / 7855 - 7860

Dated: 18/11/2019

In the matter of:

Sh. Abhishek Pratap Yadav

On behalf of Ms. Khushboo,

Email : abhishek.abhi59@gmail.com

Mobile No. 9599170158

.....Complainant

Versus

The Deputy Director (Disabilities)

Department of Social Welfare,

Govt. of NCT of Delhi,

GLNS Complex, Delhi Gate,

Delhi-110002.

..... Respondent No. 1

The Principal

Kulachi Hansraj Model School,

Ashok Vihar, Phase-III

Delhi 110052

Email: khmsav3@gmail.com

..... Respondent no. 2

The Secretary

Department for the Welfare of SC/ST/OBC/Min.

Govt. of NCT of Delhi

B-block, 2nd Floor, Vikas Bhawan,

I.P. Estate, New Delhi-110002

Email: secyminsw.delhi@gmail.com

..... Respondent No. 3

The Director,

Department of Education,

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

Page 1 of 8

Date of hearing: 14.11.2019

Present: Dr. A. Madhavi, Dy. Director alongwith Ms. Mala Srivastava,
Welfare Officer for respondent no. 1.

Sh. Yogesh Kumar, Advocate for respondent no. 2.

ORDER

Sh. Abhishek Pratap Yadav, an intern from Department of Social Work University Delhi, on behalf of Ms. Khushboo, a child with 50 % intellectual impairment filed a complaint dated 11.04.2019, under the Rights of Persons with Disabilities, Act 2016, hereinafter referred to as the "Act" regarding rebate in fee to Ms. Khushboo and other children with disabilities studying in Kulachi Hansraj Manovikas Kendra, G-Block, Ashok Vihar, Phase-I, Delhi-110052 as the said school is not enrolled on the web portal of Ministry of Welfare for SC/ST/OBC/Min. like Kulachi Hansraj Modal School. When contacted on telephone, the Principal/Headmistress of Kulachi Hansraj Manovikas Kendra informed that the Kendra has 135 children with disabilities studying in class LKG to 12th. As the Kendra is not registered either with Directorate of Education or with Directorate of Social Welfare, they charge a full amount of Rs. 84,000/- per annum from the parents. When the Kendra was on the website of Department for the Welfare of SC/ST/OBC/Minorities, a few students of Kendra were availing the concession. Ms. Asha Rani, the mother of Ms. Khushboo in her representation to Govt. of NCT of Delhi, B Block, 2nd Floor, Vikas Bhawan, Delhi-110002, has requested for concession and refund of the fee paid by her during the last three years.

2. Section 31 of the Act, 2016 is reproduced below:

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

"Free education for children with benchmark disabilities.—(1) Notwithstanding anything contained in the Rights of Children to Free and Compulsory Education Act, 2009 (35 of 2009), every child with benchmark disability between the age of six to eighteen years shall have the right to free education in a neighbourhood school, or in a special school, of his choice.

(2) The appropriate Government and local authorities shall ensure that every child with benchmark disability has access to free education in an appropriate environment till he attains the age of eighteen years.

3. The matter was therefore taken up with the respondents vide notice dated 10.05.2019.


4. Department for the Welfare of SC/ST/OBC/Minorities vide reply dated 24.05.2019 submitted that the Department is implementing various types of scholarship schemes for SC/ST/OBC/Min. student only. No specific scholarship schemes for persons with disabilities is being implemented. The applications are being invited on e-district portal of Delhi from 2016-17. Kulachi Hansraj Manovikas Kendra, Ashok Vihar is not registered with the Directorate of Education.

5. Kulachi Hansraj Manovikas Kendra vide letter dated 06.06.2019 informed that it is a school for children with special needs and is directly run and managed by DAV College Managing Committee which is registered under the Persons with Disabilities Act, 1995, hereinafter referred to as "PwD Act, 1995" by Department of Social Welfare, Govt. of NCT of Delhi. Earlier Ms. Khusboo was getting reimbursement of tuition fee on submission of fee deposit receipts by submitting application in offline mode. No web portal for Kulachi Manovikas Kendra has been created. As such students of the Kendra, otherwise eligible for reimbursement of fee etc., are not able to claim their dues. The issue can be sorted out, if the authorities can create web portal of Kulachi Hansraj Manovikas Kendra to facilitate online reimbursement of fees for

children with special needs of the Kendra. It was further submitted that school had already requested Department for the Welfare of SC/ST/OBC/Minorities on 26.02.2018 to register the Kendra under their portal so that the students of the school can register themselves for reimbursement. Till the day of the reply, that had not been done. The Kendra has requested this Court to register it under the Act.

6. Directorate of Education vide letter dated 10.06.2019 submitted that In-charge, Kulachi Hansraj Manovikas Kendra, G-Block, Ashok Vihar, Phase-I, Delhi-110052 was asked to state the reason for the complaint. In response, the Kendra has sent a copy of its letter dated 06.06.2019 submitted by it to this Court. Directorate of Education, therefore requested this Court to direct Department of Social Welfare for necessary action to enable the students of the Kendra to get reimbursement under RPwD Act, 2016.

7. Department of Social Welfare was requested to submit its comments on the submissions of Directorate of Education. Deputy Director (Disability) vide letter dated 20.06.2019 stated that the registration of DAV College Trust and Management Society, Chitra Gupta Road, Paharganj, New Delhi which is running the project Kulachi Hansraj Manovikas Kendra, Ashok Vihar under the PwD Act, 1995 has expired on 26.02.2018 and NGO has not applied for the registration under RPwD Act, 2016. The Department cannot approach each NGO /Organization individually for registration on its expiry. Hence, the NGO should submit application for registration under the RPwD Act, 2016. The same was conveyed to In-charge, Kulachi Hansraj Manovikas Kendra vide this Court letter dated 01.08.2019 to submit an application for registration and to submit reply by 05.08.2019. As no reply was received, a hearing was scheduled on 17.09.2019.


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

8. During the hearing on 17.09.2019, Dr. A Madhavi, Deputy Director (Disability), Department of Social Welfare submitted that the application for registration of Kulachi Hansraj Manovikas Kendra was received on 28.08.2019. Some deficiencies were found and the Kendra is being advised to rectify the same and submit necessary documents. If eligible, the registration certificate will be issued.
9. Sh. S.K. Mishra Special Educator, representing Principal of Kulachi Hansraj Manovikas Kendra submitted that Directorate of Education does not register special schools and hence Kendra is not likely to be registered by the Directorate of Education unless appropriate directions are given. It did not appear to be the correct position as some other schools have been registered with the Directorate of Education and they were receiving grant-in-aid from the Govt.
10. It was observed that even if the Kendra was registered under the Act, 2016, Ms. Khushboo and similarly placed other children with disabilities of this Kendra belonging to SC/ST/OBC/Min. would not get the reimbursement of fees, unless it was registered with Directorate of Education. As it was likely that there could be more such Special Schools who may not have applied for registration with Directorate of Education due to lack of awareness or for other reasons and many children with disabilities belonging to SC/ST/OBC/Min. category of such Special Schools may be getting deprived of their entitlement.
11. Vide RoP dated 20.09.2019, respondent no. 4, Directorate of Education and respondent no. 1, Department of Social Welfare were directed to submit whether there were any issues in registering the Special Schools including Kulachi Hansraj Manovikas Kendra with the Directorate of Education. The respondents were directed to file their submissions by 23.10.2019. Principal, Kulachi Hansraj Model School was directed to apply for registration of Kulachi Hansraj Manovikas

Kendra with the Directorate of Education within 10 days and to submit the status on the next date of hearing.

12. On 14.11.2019, Deputy Director (Disability), Department of Social Welfare vide letter dated 14.11.2019 informed that there is no issue in registering the Special Schools including Kulachi Hansraj Manovikas Kendra with the Directorate of Education, GNCT of Delhi. There was however, no response from Directorate of Education.

13. Sh. Yogesh Kumar, Advocate (OSD/consultant of the school) who appeared on behalf of respondent no. 2 submitted that Kulachi Hansraj Model School is recognized by the Directorate of Education. However, Kulachi Hansraj Manovikas Kendra, G-Block, Ashok Vihar, Phase-I, Delhi is another independent entity having its local Management Committee and Administration of the school. It is a Special School for persons with disabilities and registered with Department of Social Welfare. Kulachi Hansraj Model School, Phase-III, Ashok Vihar has its own Admission withdrawal record and passing all the benefits to the students of SC/ST/OBC/Minority/PWD who are enrolled in the school. Kulachi Hansraj Model School cannot enrol the students of Kulachi Hansraj Manovikas Kendra. Parents of Ms. Khushboo are submitting the physical application to Social Welfare Department and the Kulachi Hansraj Manovikas Kendra has not received the benefits till date. After receiving the directions of this Court, Kulachi Hansraj Model School has submitted to Directorate of Education that it cannot apply for registration of Kulachi Hansraj Manovikas Kendra and has prayed that the name of Kulachi Hansraj Model School may be deleted from the list of respondents instead of asking Kulachi Hansraj Manovikas Kendra to apply for registration with Directorate of Education.

14. It is relevant to mention that Ms. Jharna Bhattacharya, In-charge Kulachi Hansraj Manovikas Kendra has already submitted the replies

2
Court of Commissioner (Disabilities)
National Capital Territory of Delhi
Room No. - 1
25-D, Mata Sundari Road, New Delhi - 110002

dated 06.06.2019 and 30.08.2019 which gave the impression all along that the said Kendra and the school have the same Management and hence removing Kulachi Hansraj Model School from the array of respondents at this stage will not serve any purpose but only further delay the matter.

15. During the hearing, Sh. Yogesh Kumar, advocate when asked as to why Kulachi Hansraj Model School has been responding so far on behalf Kulachi Hansraj Manovikas Kendra and why it was not pointed out in the beginning itself and passed all the papers to the Kendra, he stated that they had given the papers to the Kendra. Be that as it may, it is necessary for the Kulachi Hansraj Manovikas Kendra to register itself with the Directorate of Education, as there is no restriction on the registration of Special Schools. Further, without registration with the Directorate of Education, the children with disabilities belonging to SC/ST/OBC/Minority studying in the Kendra will not get the benefits extended by Department for the Welfare of SC/ST/OBC/Minorities.

16. In view of the above, it is considered appropriate to pass order and dispose of the complaint.

17. The Principal, Kulachi Hansraj Manovikas Kendra, G-Block, Ashok Vihar, Phase-I and the Management of DAV College, Trust and Management Society, Chitra Gupta Road, Paharganj, New Delhi are directed to immediately apply for registration of the Kulachi Hansraj Manovikas Kendra with the Directorate of Education and ensure that every child with disability in the Kendra belonging to SC/ST/OBC/Minorities receives the financial assistance, reimbursement of fee or any other benefit to which he/she is entitled to within 3 months from the date of receipt of this order. All concerned Departments/authorities are advised to process the application expeditiously.

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

18. This Court be informed of the action taken on the above recommendations within three months from the date of receipt of this order as required under Section 81 of the Act, which is reproduced below:

"Whenever the State Commissioner makes a recommendation to an authority in pursuance of clause (b) of section 80, that authority shall take necessary action on it, and inform the State Commissioner of the action taken within three months from the date of receipt of the recommendation:

Provided that where an authority does not accept a recommendation, it shall convey reasons for non-acceptance to the State Commissioner for Persons with Disabilities within the period of three months, and shall also inform the aggrieved person."

19. The complaint is disposed off.

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




(T.D. Dhariyal) 18.11.19

State Commissioner for Persons with Disabilities

Copy to:

1. Ms. Jharna Bhattacharya, In-charge, Kulachi Hansraj Manovikas Kendra, Ashok Vihar, G-Block, Phase-I, Delhi-110052. Email: kulachimanovikas@yahoo.co.in

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