

**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]

1. Case No. 186/1031/2018/04/1871-1873 Dated: 15.04.2019

In the matter of:

Sh. Rajesh Kumar,
M-77, Meteorological Complex,
Lodhi Road,
New Delhi-110003.

..... Complainant

Versus

The Director,
Directorate of Education,
GNCT of Delhi, Old Sectt.,
Delhi-110054.

.....Respondent No. 1

The Principal,
Sanskriti School,
Dr. S. Radhakrishnan Marg,
Chanakyapuri,
New Delhi – 110018.

.....Respondent No. 2

2. Case No. 187/1031/2018/04/

In the matter of:

Sh. Naresh Kumar Yadav,
F-6, DMS Colony, Shadipur
West Patel Nagar,
New Delhi-110008.

.....Complainant

Versus

The Director,

Directorate of Education,
GNCT of Delhi, Old Sectt.,
Delhi-110054.

.....Respondent No. 1

The Principal

Bal Bharti School
Ganga Ram Hospital Marg
New Delhi-110060.

.....Respondent No. 2

ORDER

Case No. 186/1031/2018/04—Sh. Rajesh Kumar vide his email dated 22.03.2018 and letter dated 08.4.2018 submitted that he applied for admission of his daughter Ms. Abharika Singh, a person with 65% Cerebral Palsy online through Directorate of Education website in 5 schools namely Sanskriti School, Spring-dales School, Morden School (Humayun Road), DPS R.K. Puram, DPS Mathura Road. None of the schools admitted her stating that schools were not equipped with the facilities required for children with special needs. Directorate of Education also did not take any action against the schools. He requested for intervention of this Court and for instructing the schools to admit his daughter in class I.

2. The complaint was taken up with the respondents vide notice dated 04.04.2018 under the provisions of Rights of Persons with Disabilities Act, 2016, hereinafter referred to as “Act”. Deputy Director (IEDSS), Department of Education vide letter dated 10.05.2018 informed that matter had been taken up with Sanskriti School as per the request of the complainant and action taken report was also sent to him. Subsequently, Ms. Abarika Singh was admitted in DPS, Mathura Road.

3. **Case No. 187/1031/2018/04**—Sh. Naresh Kumar Yadav, father of Ms. Nancy Yadav, a person with 40% visual impairment vide his email dated 21.03.2018 submitted that he applied online for admission

of his daughter in CWSN category against open seats for admission to KG class for academic session 2018-19 in Bal Bharti School, Ganga Ram Hospital Road. The school did not reply even after contacting them a number of times. He also applied in the academic session 2017-18. She was denied admission in both the academic years which is violation of Section 26 of Act and the Directorate of Education circular dated 11.01.2019 and High Court order dated 14.01.2015 in contempt petition. He requested that necessary action for admission of his daughter in KG class in Bal Bharti School should be taken.

4. The complaint was taken up with the respondents vide notice dated 06.04.2018 after the complainant submitted a copy of the disability certificate in respect of his daughter.

5. Deputy Director Education, Zone-II vide letter dated 08.05.2018 informed that Ms. Nancy Yadav has been granted admission in class KG, Salwan Public School, Rajinder Nagar.

6. Upon considering the replies and rejoinders, both the cases were tagged and hearings were held on 17.05.2018, 08.06.2018 and 21.06.2018.

7. During the course of hearings, respondent no. 1 provided the following information vide letter dated 06.06.2018:

S.No.	Information Sought	Reply
1.	<i>The process of admission of children with disabilities and those with Bench Mark Disabilities from the stage of application for admission to the stage of admission in the schools applied for.</i>	<i>The policy of non denial of admission is followed in Government and Government aided Schools of Directorate of Education, GNCTD.</i>
2.	<i>Whether a child with disability, who applies through single window</i>	<i>Yes, he/she has to make a separate application for admission against 25%</i>

	<p>system, would be able to participate for admission against 25% EWS/DG seats or He/She needs to make a separate application</p>	<p>EWS/DG category. However Hon'ble LG has approved the proposal to reserve 3% seats for admission of Children with Special Needs (CWSN) in private un-Aided schools within 25% of EWS/DG Category quota earmarked under section 12 (1) (c) of RTE act 2009. To give effect the approval of Hon'ble LG it is required to issue a notification amending clause 3 (a) of Delhi School Education (free seats for students belonging to economically weaker sections and disadvantaged group). Order, 2011 published vide notification no. 15(172)/DE/Act/2010/69 dated 07/01/2011 as amended up to date. The draft notification amending the amended clause 3 (a) in line of the approval of Hon'ble LG has already submitted to Law and Justice Department, GNCTD for its vetting on 29.05.2018. After issue of amended notification fresh applications in the category of CWSN under EWS/DG category shall be invited for the year 2018-19.</p>
3.	<p>Whether a child with Bench Mark Disabilities between the age of 6-8 years shall be ensured admission in a neighbourhood school of his/her choice as required u/s 31 (1) of Right of Persons with Disabilities Act, 2016.</p>	<p>Yes, a child with Benchmark disabilities between the age of 6-8 years shall be ensured admission in a neighbourhood Govt. School of his /her choice as required u/s 31 (1) & RPwD Act, 2016.</p>
4.	<p>If a child with Bench Mark</p>	<p>A child with bench mark shall</p>

	<p><i>disabilities is not able to get admission against 25% of EWS/DG seats as well as 75% open seats Draw of lots and all the sanctioned authorized Number of seats have been filled, how will he/she be ensured his/her right of free education in a neighbourhood schools of his/her choice as mandated by Section 31 of Rights of PWD Act, 2016.</i></p>	<p><i>be ensured admission in a neighbourhood Govt. school of his/her choice as required u/s 31 (1) & RPwD Act, 2016. However in the case of private schools, Delhi Persons with Disabilities Rules 2018 is under process with Social Welfare Department/Nodal department, GNCTD and when notification on this matter is issued it shall be complied with.</i></p>
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8. Principal, Sanskriti School vide her reply dated 31.05.2018 submitted that the school strictly follows and admits against 25% seats from EWS/CWSN category and has already admitted 29% against the prescribed 25% for the academic year 2018-19 for class 1. As per the details given in annexure A-1 to the reply, out of 124 children admitted in Nursery, Prep. and Class 1st against EWS Quota, 3% were children with special needs. As requested by Directorate of Education to allow a seat for the daughter of Sh. Rajesh Kumar in open category, the same is not possible as there is no vacancy.

9. As per Section 16 of the Act, Education institutions funded or recognized by the Govt. and local authorities are required to provide inclusive education and admit children with disability without discrimination. Section 31 provides that every child with benchmark disability between the age of 6 to 18 years, shall have the right to free education in a neighbourhood school or in a special school of his choice. There is no provision in the Act for reservation of seats for children with disabilities in school education. However, not less than 5% of the seats are to be reserved for persons with benchmark

disabilities in Govt. institutions of higher education and other higher educational institutions receiving aid from the Govt.

10. The order for reservation of 3% seats for children with disabilities was issued by respondent no. 1 on 23.07.2018. Thereafter, the names of children with disabilities were forwarded by the Directorate of Education to the concerned schools for admission. By the time the process commenced for operationalizing the mandate, much of the period of 2018-19 session was over. The question of any shortfall or improper implementation of the said mandate was also not brought up. Now that the 2018-19 academic session is already over, no directions can be given to the schools for admission at this stage. The respondents must ensure that 3% of the seats are reserved for children with disabilities in Nursery, Pre-Primary/KG and Class-I and they are admitted in the academic session 2019-20. This Court is confident that Directorate of Education will be monitoring the compliance with their circular dated 11.01.2019.

11. The complaints are disposed off.

12. Given under my hand and the seal of the Court this 15th day of April, 2019.

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