

**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](mailto:comdis.delhi@nic.in)  
[Vested with powers of Civil Court under the  
Rights of Persons with Disabilities Act, 2016]**

**Case No. 433/1031/2018/08/9671-73**

**Dated:05/09/2018**

In the matter of:

**Dr. Usha Bhatnagar**

Chairperson

Shubhakshika Educational Society (NGO)

Ms. Kajal (Victim)

shubhakshika@gmail.com

Complainant

**Versus**

**The Director,**

Department of Social Welfare,

GLNS Complex, Delhi Gate,

New Delhi-110002.

Respondent No. 1

**The Principal**

School for Deaf and Dumb

NPS Building, Near Vishram Chowk

Rohini Sector-4,

New Delhi-110085

Respondent No. 2

Date of Hearing: 04.09.2018

Present: Smt. Vineeta Sharma, Superintendent on behalf of  
respondent no. 1

Sh. Mukesh Kumar, Head Master on behalf of respondent no.  
2.

**ORDER**

Dr. Usha Bhatnagar, Chairperson, Shubhakshika Educational Society (NGO) vide her email dated 15.08.2018 submitted that an 11 year old girl, Ms. Kajal d/o Sh. Girish Kumar R/o C286, Lal Bagh,

Azadpur, Delhi is a child with hearing impairment. Her parents approached the School for Deaf and Dumb in Sector 4, Rohini, Delhi under the Department of Social Welfare for her admission in July 2018. She had disability certificate and Aadhaar Card. She was asked to submit school leaving certificate (SLC) and a certificate that Kajal is not a mentally challenged person. However, she was not admitted on the ground that the admissions had been closed and the child did not have school leaving certificate.

2. The complaint was taken up with the respondent vide show cause-cum-hearing notice dated 23.08.2018 in light of the provisions of Section 16 and Section 31 of the Rights of Persons with Disabilities Act, 2016, hereinafter referred as 'Act'. The relevant extracts of the said sections are reproduced below:-

***“16. Duty of educational institutions.—The appropriate Government and the local authorities shall endeavour that all educational institutions funded or recognised by them provide inclusive education to the children with disabilities and towards that end shall—***

*(i) admit them without discrimination and provide education and opportunities for sports and recreation activities equally with others...”*

***“31. 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. Section 4 of the Right of Children to Free and Compulsory Education Act, 2009, hereinafter referred as 'RTE Act' provides:

*“Where a child above six years of age has not been admitted in any school or though admitted, could not complete his or her elementary*

*education, then he or she shall be admitted in a class appropriate to his or her age;*

*Provided that where a child is directly admitted in a class appropriate to his or her age, then, he or she shall, in order to be at par with others, have a right to receive special training, in such manner, and within such time-limits, as may be prescribed;*

*Provided further that a child so admitted to elementary education shall be entitled to free education till completion of elementary education even after fourteen years.”*

4. Prima-facie, denial of admission to Ms Kajal appeared violation of the provisions of the Act and the RTE Act. Therefore, it was directed to show cause why Ms. Kajal should not be admitted in the School in question and, if she is not admitted, to appear for hearing at 02:30 pm on 04.09.2018.

5. Smt. Vineeta Sharma on behalf of respondent no. 1 and Sh. Mukesh Kumar, Head Master of the School for Deaf and Dumb the respondent no. 2 appeared and submitted an action taken report dated 04.09.2018 which reads as under:-

***“Subject:- Action Taken Report on behalf of the Respondents***

- 1. It is submitted that in the present case the parents/guardians were handed over the Admission Form on 30.07.2018. They submitted the duly filled in Application Form on 20.08.2018 along with supporting documents and the directions of the CC-III (Kingsway Camp) dated 16.08.2018. The copy of the order dated 16.08.2018 is annexed as Annexure R-1.*
- 2. That as per the Manual of the Department of Social Welfare, the admissions to the new classes are undertaken during the period 1<sup>st</sup> April to 31<sup>st</sup> July.*
- 3. That in the meantime the petitioner also approached the Court of State Commissioner for Persons with Disabilities, Delhi on 16.08.2018.*
- 4. In compliance of the directions of the CWC-III, the admission of Ms. Kajal was undertaken on 30.08.2018. The delay in the process was also on*

*account of finalization of the new guidelines for reconstitution of Admission Committee at school level which was issued vide Office Memorandum dated 16.08.2018. The copy is annexed at Annexure R-2.*

*In the facts and circumstances, it is prayed that the showcase Notice may kindly be withdrawn as the Complainant has been given Admission in the School.*

**(Respondent No. 2)”**

6. Dr. Usha Bhatnagar vide her email dated 04.09.2018 has mentioned that the mother of Ms. Kajal does not possess disability certificate and her Aadhaar Card has all the details. Respondent no. 2 informed that the mother of Ms. Kajal has submitted that the DoB certificate of Ms. Kajal has been lost and she will get a duplicate certificate and submit it in due course. He also clarified that these are the requirements of the Manual of the Department of the Social Welfare for admission of children in the School for Deaf and Dumb.

7. As the child has been admitted in the School for Deaf and Dumb, the complaint is closed and disposed off. However, it appears that the Manual of Department of Social Welfare for admission of children in the schools under the Department of Social Welfare needs to be harmonized with the provisions of the relevant legislation namely Rights of Persons with Disabilities Act, 2016 and Right of Children to Free and Compulsory Education Act, 2009. This may be taken up on priority, if not only done, so that such instances do not recur in future.

8. Given under my hand and the seal of the Court this 05<sup>th</sup> day of September, 2018.

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