

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

**Case No. 458/1101/2018/08/383-387**

**Dated: 18.01.2019**

**In the matter of:**

**Sh. R.K. Raju**

Raju & Associates

Shop No.2, DDA Shopping Complex

(LSC Madangir), Near Pushpa Bhawan

New Delhi-110062.

..... Complainant

**Versus**

**The Commissioner**

South Delhi Municipal Corporation

9<sup>th</sup> Floor, Dr. S.P.M. Civic Centre

J.L.N. Marg,

New Delhi-110002.

.....Respondent

**Date of Hearing: 16.01.2019**

Present: Sh. R.K. Raju, Complainant in person.  
Sh. R.P. Meena, Executive Engineer, EEM-III/SZ, Sh.  
Akhtar Adil, AE/M-III/SZ and Sh. Ashish Mishra, JE-CE  
NGZ for respondent.

### **ORDER**

The above named complainant, a person with 100% locomotor disability (both lower limbs and upper left limb affected) and wheelchair user, submitted a complaint dated 18.05.2017 to the Chief Commissioner for Persons with Disabilities. The said complaint was received in this Court on 13.08.2018 from the Court of the Chief

Commissioner for Persons with Disabilities vide their letter dated 17.07.2018.

2. The complainant submitted that he is an advocate. He lost both his lower limbs and upper left limb. He is earning his livelihood by providing legal guidance, consultation and documentation from shop no. 2, DDA Shopping Complex at (LSC) Madangir, New Delhi by name Raju & Associates. He has to sit in his office for long hours from 9:30 am to 07:00 pm. He is not able to attend his natural calls as there is no disabled friendly toilet in that market and the toilet that is located nearby shop no. 1, is also not accessible. It remains closed and is not maintained. He approached SDMC staff for cleaning the toilet. Instead of cleaning and maintaining it, they permanently locked it. As a result, he is facing a lot of hardship.

3. The complainant requested for provision of a wheelchair friendly toilet /urinal near his shop in the Shopping Complex on humanitarian and compassionate ground as a special case on priority. The existing toilet can also be converted into a disable friendly toilet.

4. This Court had taken suo-motu cognizance of inaccessible built environment and transport in the NCT of Delhi and taken up with all the concerned Authorities (14 Departments/Agencies) including South Delhi Municipal Corporation (SDMC) in the suo-motu Case No. 4/1665/2017-Wel/CD in July 2017 and had obtained among other things, action plans for making the entire built environment such as buildings, public toilets, footpaths, parking areas, stadia, sport complex facilities, Gyms, office buildings, community centres, old age homes, schools, hospitals, dispensaries, recreation centres, police stations, places of worship, bus queue shelters, buses, night shelters etc.

accessible with timelines. As per the action plan submitted by SDMC, the said toilet was shown as accessible.

5. The complaint was taken up with the respondent vide notice dated 04.09.2018 under the Rights of Persons with Disabilities Act, 2016, hereinafter referred to as 'Act'.

6. It was also brought to the notice of the respondent that Rule 15 of the Rights of Persons with Disabilities Rules, 2017 notified by Ministry of Social Justice and Empowerment (Department of Empowerment of Persons with Disabilities) vide notification dated 15.06.2017 requires that the standard for public buildings as specified in the ***Harmonized Guidelines and Space Standards for Barrier Free Built Environment for Persons with Disabilities and Elderly Persons*** issued by Ministry of Urban Development, shall be complied by every establishment.

7. Section 45 of the Act mandates that all existing public buildings which include public toilets and the services, shall be made accessible for persons with disabilities within a period of 5 years and 2 years respectively. The respondent was directed to submit para-wise comments on the complaint.

8. While there was no response from the respondent, the complainant vide his letter dated 17.10.2018 submitted that even after laps of approximately 40 days, no action has been initiated by the concerned authorities and he is being harassed by the staff. He therefore requested for appropriate action for compliance of the notice.

9. A hearing was scheduled on 12.12.2018. But while the complainant appeared and reiterated his written submissions, none

appeared on behalf of the respondent and the matter was adjourned to 16.01.2019.

10. From the papers that the complainant submitted to the Joint Secretary, Department of Empowerment of Persons with Disabilities with his representation dated 26.12.2018, which was forwarded to this Court, it was observed that he had made representations to various other authorities namely, Municipal Councillor, MLA, Member of Parliament, Mayor, SDMC, Commissioner SDMC, Lt. Governor Delhi, Deputy Commissioner, SDMC Green Park, Prime Minister, Ministers for Social Justice & Empowerment, Home Minister, Secretary, DEPwD, CCPD.

11. Before next date of hearing on 16.01.2019, I contacted the concerned Nodal Officer and the Chief Engineer and also visited the DDA shopping complex, (LSC) Madangir on 12.01.2019 and observed that the Shopping Complex was not accessible. The toilet area was very dirty and unsafe. There was no designated parking for persons with disabilities and the ramp from the parking area to the shopping complex was too steep and circuitous for a wheelchair user to manoeuvre the wheelchair.

12. During my interaction with the complainant at the site, it transpired that some employees of SDMC even made some unspeakable derogatory remarks on his disability and went to the extent of saying that he should use polythene bag for attending to the call of nature/defecation and through faeces away. It is a matter of serious concern that the complainant who has lost both his lower limbs and the upper left limb from the wrist and is dependent on wheelchair for movement, was treated with complete insensitivity, humiliated and was denied his right to access public buildings and public place on

equal basis with others. This has been happening for years. Such horrendous attitude and mentality of the public functionaries is indeed unpardonable and needs to be viewed seriously and dealt sternly as effective deterrent.

13. After a brief interaction, the concerned functionaries of SDMC who were present at the site, were directed to take the following immediate steps:

- i) to make the toilet and shopping area in question accessible for persons with disabilities in accordance with the Harmonised Guidelines and Space Standards for Barrier Free Built environment for Persons with Disabilities and Elderly Persons of Ministry of Urban Development, Gol and ensure its cleanliness.*
- ii) to reconstruct the ramp leading to shopping area from the parking as per the standards.*
- iii) to issue appropriate directions to the shop owners to make provision for ramps to access to their individual shops which are a step above the ground.*
- iv) to submit Action Taken Report/ written statement along with the photographs depicting completion of the work or work in progress. on the next date of hearing on 16.01.2019. It was made clear that no adjournment would be allowed and the matter would be disposed on 16.01.2019 itself.*

14. During my interaction with the functionaries of SDMC on 12.01.2019, I also noticed that the issue was not perhaps brought to the notice of concerned senior officers. In view of this, there is need for clear directions to all the concerned officers and staff from top to bottom that issue concerning persons with disabilities are not ignored and prompt action is taken to resolve their issues. As is apparent from this case, the communication addressed to the highest authority in the

Corporation did not seem to have reached the concerned persons responsible to take action despite the matter being so important.

15. On 16.01.2019, Sh. R.P. Meena, Executive Engineer, EEM-III/SZ, Sh. Akhtar Adil, AE/M-III/SZ and Sh. Ashish Mishra, JE-CE NGZ appeared and submitted a status report dated 16.01.2019 alongwith the photographs of the improvement/ renovation work of the toilet located near shop no. 2 at DDA shopping Complex (LSC) Madangir, near Pushpa Bhawan, New Delhi which started on 15.01.2019. The status report is reproduced below:

*“Most Respectfully:-*

*It is submitted that in the compliance of the direction passed by the Hon’ble Court of State Commissioner for Persons with Disabilities, the improvement/renovation work of the toilet located nearby shop No.2 (Ground Floor) at DDA Shopping Complex (LSC Madangir) Near Pushpa Bhawan, New Delhi-110062 has been started and likely to be completed within four weeks.*

*Report is submitted accordingly.*

**Sd/-  
EE-M-III-SZ**

**sd/-  
AE-M-III-SZ**

**sd/-  
JE-74S-M-III/SZ”**

16. The representatives of the respondent also mentioned that there is no water supply to the toilet and sewerage system is either chocked or damaged. It also revealed that as per the office order no. D-342/EE(P)-II/2000 dated 09.06.2000, DDA transferred Rs. 4,45,793/- for water supply, Rs. 2,02,272/- for sewerage and Rs. 43,920/- for electrical/Horticulture for LAC at Madangir. It is not clear whether the said amounts have been invested for provision of the services.

17. During the hearing, the complainant expressed his concern about the recalcitrant attitude of the general public and Government functionaries towards persons with disabilities and recognize their

contribution in the society. There was need to sensitise the people and Government functionaries about the needs of persons with disabilities and their rights and that they are not merely recipient of benefits. He stated that he is working as a successful advocate for the last 30 years and has given employment to 8 persons. People should accept him and other persons with disabilities on equal basis with others and recognize their contribution.

18. It was also observed that the complainant was apprehensive that he may be harassed due to this complaint. In view of this, he is advised to report any such incident of harassment to the local police and the Executive Magistrate of the area who are obligated under Section 7 of the Act to take action for protection from abuse, violence and exploitation of persons with disabilities. Commissioner of Police, Delhi vide Circular No. 3464-3614/Record Br./PHQ dated 25.10.2017 has already directed all the District DCsP to make the IOs aware of provisions of the Rights of Persons with Disabilities Act, 2016 and to ensure its effective implementation.

19. It is brought to the notice of all concerned that Section 89 of the Act provides that—

*“Any person who contravenes any of the provisions of this Act, or of any rule made thereunder shall for first contravention be punishable with fine which may extend to ten thousand rupees (Rs.10,000/-) and for any subsequent contravention with fine which shall not be less than fifty thousand rupees (50,000/-) but which may extend to five lakh rupees(5,00,000/-).”*

20. Section 92 of the Act provides for **punishment for offences of atrocities** which reads as,

*“Whoever,—*

*(a) Intentionally insults or intimidates with intent to humiliate a person with disability in any place within public view;*

*(b) assaults or uses force to any person with disability with intent to dishonour him or outrage the modesty of a woman with disability;*

*.....shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to five years and with fine.”*

21. Section 93 of the Act provides for “*punishment for failure to furnish information .....which may extend to Rs. 25,000/- in respect of each offence, and in case of continued failure or refusal, with further fine which may extend to Rs. 1,000/- for each day, of continued failure or refusal after the date of original order imposing punishment of fine*”.

22. In the light of the facts and the circumstances of the case, the following recommendations are made:

i) Improvement and renovation work of the toilet nearby shop no. 2, DDA Shopping Complex, LSC near Pushpa Bhawan be completed by **18.02.2019** and completion report be submitted by email alongwith the photographs by **20.02.2019**.

ii) The ramp with provision of handrails as per the prescribed standards referred to above, leading to shopping area from the parking be reconstructed.

iii) appropriate arrangement for supply of water and sewerage be made to ensure proper cleanliness of the toilet/urinal and the toilet area.

iv) Proper arrangement for maintenance, cleanliness and upkeep of the toilet on regular basis be ensured. DEMS, SDMC



should make arrangements of monitoring the cleanliness and upkeep. Name of the concerned sanitation staff and the in-charge alongwith their contact numbers be displayed at the site.

v) Appropriate directions be issued to all the shop owners of the shopping complex to make provision for ramp to access their individual shops which are not accessible by persons with disabilities especially the wheelchair users.

vi) Sensitization and awareness programmes on the rights and issues of persons with disabilities be organized for the officers and staff of SDMC on regular basis.

vii) Action against the officials who made derogatory remarks against the complainant and humiliated him be taken and the complainant be assured that he will not be harassed for filing the complainant and no retaliatory action on this count shall be taken by any functionary of the Corporation.

viii) All the shopping complexes, markets, parking areas, community centres, old age homes, toilets or any other public facilities for which SDMC is responsible, be surveyed for their accessibility in accordance with the prescribed standards and the action plan which has been submitted in response to the directions in the suo-motu Case No. 4/1665/2017-Wel/CD be modified if necessary and a copy thereof be also submitted to the Principal Secretary, Urban Development Department, Govt. of NCT of Delhi who chairs the Monitoring Committee for monitoring the implementation of the action plan for the time lines.

23. The action taken report on the above mentioned recommendations be submitted to this Court within three months from the date of receipt of this order as required under Section 81 of the Act.

24. The case is disposed of.

25. Given under my hand and the seal of the Court this 18<sup>th</sup> day of January, 2019.

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

Copy to:

1. CEO, Delhi Jal Board, Room No.306, 3rd Floor Varunalaya Ph-II, Jhandewalan, Karol Bagh, New Delhi, Delhi 110005: For action on recommendation at para 22 (iii). Email: ceodelhi.djb@nic.in
2. Director, DEMS, South Delhi Municipal Corporation, Dr. S.P.M. Civic Centre, Minto Road, New Delhi – 100 002.
3. Principal Secretary, Urban Development Department & Chairman Monitoring Committee, GNCTD, 9th & 10th Level, Delhi Secretariat, I.P. Estate, New Delhi - 110 002: for information and necessary action with regard to monitoring the implementation of the action plans.

NOO

4. Ms. Dolly Chakrabarty, Joint Secretary, Ministry of Social Justice and Empowerment, Department of Empowerment of Persons with Disability (Divyangjan), 5th Floor, Pt. Deendayal Antyodaya Bhavan, CGO Complex, Lodhi Road, New Delhi-110003: For information with respect to letter no. 4-71/2018-AIC dated 03.01.2019 regarding letter dated 26.12.2018 of Sh. R.K. Raju.