

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

1. Case No. 588/1101/2018/11/1578-1583 Dated: 29.03.2019

In the matter of:

Dr. Nitesh Tripathi,

House No. 241, B-Block, Gali No. 11,
Sant Nagar, Burari,
Delhi-110084.

.....**Complainant**

Versus

The Chairperson,

New Delhi Municipal Council,
Palika Kendra, Parliament Street,
New Delhi-110001.

.....**Respondent No. 1**

The Manager,

Khadi India Outlet,
Building number, 24,
Regal Building, Baba Kharak Singh Marg,
Connaught Place, New Delhi-110001.

.....**Respondent No. 2**

2. Case No. 595/1101/2018/11

In the matter of:

Dr. Nitesh Tripathi,

House No. 241, B-Block, Gali No. 11,
Sant Nagar, Burari,
Delhi-110084.

.....**Complainant**

Versus

The Chairperson,

New Delhi Municipal Council,
Palika Kendra, Parliament Street,
New Delhi-110001.

.....**Respondent No. 1**

The Manager,
Hotel Alka Classic New Delhi,
Block P-16, Connaught Circus,
Connaught Place, New Delhi-110001.

.....**Respondent No. 2**

Date of Hearing: 28.03.2019

Present: Sh. Ram Prakash, Legal Assistant for respondent no. 2
(Khadi India Outlet).

ORDER

The above named complainant, a person with 65% locomotor disability, vide his emails both dated 11.11.2018 pointed out a number of accessibility issues for persons with disabilities at Khadi India Outlets and Hotel Alka Classic and requested immediate intervention.

2. The complainant raised the identical issues in both the complaints which are reproduced below:-

"i) On 11/11/2018, at around 3 PM afternoon, I had visited with a need for shopping at Khadi India main showrrom at Regal Building C.P. (Case No: 588/1101/2018/11)/ On 11/11/2018, at around 4 PM evening, I had visited for lunch at Vega Restaurant that is a part of Hotel Alka Classic (Case No: 595/1101/2018/11) and inside its premises as well in C.P. and here the local administration and roads, parking etc is under control of NDMC. (As may be noticed in photos attached).

ii) Please find attached copy of File No. 04-36/2018-AIC dated 14th May, 2018 (Subject- 1st Sensitization meeting of stakeholders to make Delhi a model accessible city - minutes of the meeting) and under heading Key Decisions 10 points had been decided for active enforcement of binding provisions of RPWD Act 2016 for making Delhi as a model accessible city under national campaign named as Accessible India Campaign (AIC).

iii) There is no any standard adaptations for PwD visitors at any extent as I was discriminated due to barriers on all most all levels and no entrance in radius of this Khadi India Showroom there is no way to

get entry for either me or any wheelchair users with disabilities , there is no ramp and hand rails either at any place dealing with public in general either at any showroom, banks & other public service providers in this area and premises of regal building, floors are occupied by local vendors, foot path is without any kinds of tactile tiles and adaptation as meant of either VI or HI sub types of consumers and visitors with disabilities means at no place I found standard adaptation for PwD as per binding provisions of AIC & RPWD Act 2016. There is no braille enabled sign board and Standard adaptations of notice board for all sub categories of PwD as defined in RPWD Act 2016 and AIC.

iv) Here floor is very slippery without any kinds of Tactile tiles, Hand rails at entrance is of not at proper height and as per standard norms, there is no hand rails on either of steps at any entrance and this also not as per standard norms. There is no accessibility adaptation like braille enabled sign board and AV announcement system in line of DMRC that is a binding provision under applicable law of land.

Its toilet are very dirty and in damaged condition in this showroom where a non-disabled person cannot use by own with self respect and dignity and in non humanitarian condition so there is nothing for PwD and specially for women with disabilities to avail basic amenities with full respect and dignity.

v) Here I have also noticed that there is no reserved parking space with standard parking logo for reserved parking space as meant for disabled friendly vehicle at entire hospital building premises. I had to walk on foot by crossing main road after parking my scooter after a distance of more than 300 meters that is an injurious practice being imposed on PwD that is absolutely avoidable and a preventable risk to life of PwD at larger scale who use to visit here to avail affordable health facilities as per entitlements.

This logo must be prominent and Braille enabled with AV supported system so that all the stakeholders of disability sector who are eligible to avail this benefit must get their legitimate rights under applicable laws in same context. Personnel working in parking area must be sensitized well so that they may work in more efficient way for making PwD visitors more comfortable while using this parking space in entire area of parking. This parking space as declared reserved for PwD must be free of cost and must be situated at the nearest possible extent as per verdict of the Apex court in matter of Sh. Rajive Raturi.

vi) *I have also found that there is no arrangement of accessibility to basic amenities as drinking water and toilets specially in matter of woman with disabilities who use to visit and get admission for their treatment at this hospital that is a serious objectionable concerns as an hurdle on way to make them feel comfortable and dignified citizens without any kinds of discrimination merely on ground of disability and need immediate intervention on top priority basis without further loss of time.*

vii) *I have found some bear and tear on the road and foot path of this area that must be repaired without further loss of time as per applicable law of land.*

Viii) *All the advanced technologies as per latest technological development in disability empowerment with proper safety measures must be adopted for creating an awareness of road and places more accessible like must be well equipped with Braille enabled sign board and audio visual information systems must be used adequately so that all the stakeholders specially from disability sector must be protected from any avoidable injury and accidents due to such types of activities in near future at this hospital.*

ix) *This issue is related to protection of fundamental rights under Article 21 of Constitution so immediate intervention is requested.*

x) *I am a PwD my own and filed many a cases in this office of SCPD Delhi since more than 5 years but its worst experience to bear that I had to request other person to purchase for me (Copy of Invoice of Goods I had purchased through other person is attached herewith) . It is a serious concern related to fundamental rights of freedom and equality at all level those are binding articles of our great Indian Constitution. All this area covering many meters is completely inaccessible for PwD and this may be proved by its audit and inspection.*

Now adequate adaptation must be done so that all the PwD must be eligible to enjoy their legitimate rights of accessibility and access to services in general as meant for a citizen in toto.

xi) *It is my humble prayer to make respondent aware and sensitive towards the implementation of RPWD Act 2016 in all the means. Training for sensitization and awareness of all those officer working in administration of this hospital must be done to make them more accountable and supportive in active enforcement of AIC and RPWD Act 2016 as per its spirit for inclusion of PwD without any kind of*

negative impression of disability sectors or disability rights activists as I had faced same biased treatment with me, many a times as being a victim as well as a disability rights activists while mostly working on most needed issues of accessibility for PwD so this point must be taken in concern that organization must not work with any biased adaptation or any negative impression just for disability rights advocacy under RPWD Act 2016.

A data must be asked that how many officers working in administration level of this local body in administrative capacity have adequate training, awareness and knowledge of accessibility and RPWD Act 2016 so that they may get adequate sensitization and awareness to make them sensitized to use their human skills as key role partner in this AIC.

xii) There must be an advisory cum monitoring committee having adequate and rational representations of all the stakeholders those are key policy and decision making personnel and all the PwD coming from each possible sub categories of disability sectors who are prominent and well qualified and trained well with adequate experience in field of disability issues must be given active role to make our city a model accessible city according to vision of our P.M. that reveals in name of Accessible India Campaign (AIC)."

3. The complaints were taken up with the respondents vide notices dated 26.11.2018 and 27.11.2018 respectively. As the complaints are identical and Khadi India Outlet as well as Hotel Alka Classic, New Delhi fall under the jurisdiction of New Delhi Municipal Corporation, both the cases were tagged and are being disposed of by a common order.

4. Sh. T.R.Meena, Superintendent Engineer (Roads-I) vide his reply dated 18.12.2018 submitted that the provisions in the Harmonized Guidelines and Space Standard for Barrier Free Build Environment for Persons with Disabilities and Elderly Persons issued by Ministry of Urban Development and the Act are being complied with by NDMC keeping in view the aesthetic design of the entire complex and blocks and safety of persons with disabilities and the senior citizens. NDMC responds quickly wherever there is a need for corrective measures. Entrance for wheel

chair users is available to the Public Plaza of Regal building from Allahabad Bank side entrance and tactile paths exist along the Plaza flooring. A separate ramp with handrails has been provided from BKS Marg to Khadi India showroom. The flooring has been provided with rough surface stone. The tactiles are available in the entire area regards parking, that is in the hospital premises. Any wear and tear of the footpath is rectified promptly. He has further stated that NDMC is making every sincere effort towards making NDMC area a model accessible city. Photographs showing the tactiles, entry for wheel chair users in the plaza, ramps for wheel chair users with handrails in the area have also been enclosed.

5. Khadi India vide email dated 28.02.2019 submitted that its premises have been renovated by NBCC. It is having proper ramp in the showroom with lift facility. A ramp has been provided for persons with disabilities at the rear side of the building. As regards the ramp at the main gate, Khadi India has purchased readymade ramp which had some measurement issues and therefore another ramp was being fabricated and would be installed within 5-6 days. The photographs of the ramps with railing and the lift inside the store have also been enclosed.

6. Respondent no. 2 in case No. 595/1101/2018/11 vide reply dated 17.12.2018 submitted that Hotel Alka Classic, Connaught Place, New Delhi was built in the year 1935 and after its reconstruction in the year 1968, established as a hotel. There are limitations in permission granted for alteration or making major changes to the old building in Connaught Place area by the concerned authorities and as such the present complaint is not maintainable. It has been further stated that the majority of the facilities for persons with disabilities as per requirements are being provided since long. Department of Tourism approved the hotel for its classification on 08.03.2018 and certified vide their letter dated

12.04.2018. In addition, the staff is also trained in providing necessary help to persons with disabilities as and when required. As such, the complaint is liable to be rejected. The respondent vehemently denied the allegation of being negligent towards providing facilities for persons with disabilities as it has provided the facilities as per the provisions of the Act. It has further been stated that the complainant visited the hotel during the routine cleanup and maintenance on 11.11.2018 when the moveable ramps placed at the entrance of the hotel leading to Vega restaurant were taken out for washing, cleaning up and painting. The ramps were fixed back around 6 PM after routine cleanup. The details of the provisions made for persons with disabilities in the hotel along with the photographs are as under:

- “i. A ramp has been provided at the entrance of the Hotel-Specimen A.*
- ii. A ramp has been provided on the 2nd Step – Specimen B.*
- iii. A ramp has been provided on the 3rd step – Specimen C.*
- iv. A wheel chair has been provided – Specimen D.*
- v. A disabled toilet has been provided at the Ground floor – Specimen E.*
- vi. Low seat WC has been provided along with Grab bars inside the handle inside Specimen E-2.*
- vii. Drinking water has been placed in the Lobby for anyone needing – Specimen F.*
- viii. Lift has been provided for needs as required – Specimen G.*
- ix. A disabled friendly Room no. 105 is provided for use by “Persons with Disabilities” & on the main door a low height PEEP HOLE has been provided. Specimen H-1*
- x. Low seat WC has been provided along with Grab bars inside the toilet of Room no 105 – Specimen – H-2*

- xi. Grab bars have been provided in the bath area of the toilet of Room no 105 – Specimen – H-3*
- xii. A Disabled friendly “Wash basin’ with specialized fitting has been provide in the bathroom of Room no. 105 Specimen –I.*
- xiii. Sliding door has been provided with a handle inside the door of bathroom of Room no. 105 – Specimen J.*

The photographs of Specimen A-J as mentioned above are annexed.”

7. The allegation of the floor being slippery and toilets un-clean and unhygienic has been denied as the hotel is well maintained in compliance with hygiene standard. It has also been stated that the hotel has provided the accessible toilet and room as per the standards and there is no question of discrimination against them. As regards the facility of parking and accessible footpath outside the hotel, the same is the responsibility of NDMC.

8. While the complainant submitted his rejoinder vide email dated 08.01.2019 in case number 595/1101/2018/11, he did not submit any rejoinder in case no. 588/1101/2018/11. In the said rejoinder, the complainant stated that since respondent no. 2 has denied that no modification in the building was carried out, it confirms inaccessibility of the hotel.

9. Upon considering the written submissions of the parties, a hearing was scheduled on 27.02.2019 which was re-fixed on 28.03.2019. However, Sh. T.R. Meena, Superintendent Engineer (Roads-I), NDMC appeared on 28.02.2019 and submitted that NDMC on its part has taken the required action on the complaint and submitted its reply alongwith the photographs. Internal accessibility in the said premises is the responsibility of the owner of the building. As regards reserved parking for persons with disabilities at different parking lots, Enforcement Branch of NDMC is being advised to do the needful.

10. The complainant who was heard on telephone, offered to visit the buildings/places after 07.03.2019 and submit a report by 11.03.2019.

11. On 28.03.2019, the representative of Khadi and Village Industries Commission submitted a letter dated 27.03.2019 which reiterates that the Khadi India Showroom is having proper ramps for cleaning etc. and whenever required persons with disabilities are given assistance. Photographs of the ramps etc. have also been enclosed. Sh. Ajay Aggarwal, consultant appeared for Alka Hotel and reiterated the written submissions and explained how disabled friendly facilities have been provided.

12. As the report from complainant had not been received, the State Commissioner alongwith Welfare Officer and the representative of Khadi India Outlet and Sh. Ajay Aggarwal visited Khadi Outlet and Hotel Alka. It was observed that due to the constraint of space, the wooden detachable ramp at Khadi India Outlet cannot be of prescribed gradient of 1:12 as it would block the walkway. **Human assistance whenever required should be ensured to persons with disabilities.**

13. In front of Alka Hotel, NDMC has constructed a ramp with handrails which may need reinforcement as the same has been hit by vehicles and its base has loosened. The attendant at the parking lot informed that there is designated parking. As and when any person with disability comes, the designated space is vacated by removing the parked cars, if any, as he has the keys of the cars. It was observed that there was no signage for designated reserved parking. **NDMC therefore should direct the contractors of the parking lots in its jurisdiction to put the parking signages reserved for persons with disabilities which should be easily visible and noticeable.**

14. The entry into the hotel which is below the level of walkway has a movable ramp which is quite steep for a wheel-chair user to use it safely. The metal detector is removed and the ramp is slided to its place due to the constraint of space. The other facilities inside the hotel Alka, like accessible toilet, ramp etc. appear to be as per prescribed standard. **The hotel should put a detachable ramp of better gradient.**

15. During the course of interaction, the representatives of the hotel were positive about the idea of making it a model accessible hotel. **The owners of the hotel are therefore advised to have an accessibility audit of the hotel done and carry out necessary modifications, if required, to make it a model accessible hotel.**

16. The respondents are directed to submit action taken report on the above recommendations in para 12, 13, 14 and 15 within 3 months of the date of receipt of the order as required under Section 81 of the Act.

17. The complaint is disposed of.

18. Given under my hand and the seal of the Court this 29th day of March, 2019.

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