

**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
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.	237/1101/2018/05	Dated:15.10.2019
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	247/1101/2018/05/6629-6644	

In the matter of :

SUO-MOTU

Versus

The District Magistrate (North East),
D.C. Office Complex, Nand Nagri,
Opposite Gagan Cinema,
Delhi-110093

.....Respondent No.1

The District Magistrate (South East)
Old Gargi College Building,
Lajpat Nagar-IV, New Delhi-110024

.....Respondent No.2

The District Magistrate (New Delhi)
12/1, Jam Nagar House, Sahajahan Road,
New Delhi-110011.

.....Respondent No.3

The District Magistrate (North)
Alipur, Delhi-110036

.....Respondent No.4

The District Magistrate (North West)
Kanjhawala, Delhi-110081.

.....Respondent No.5

The District Magistrate (Shahdara)

Nand Nagri, Opposite Gagan Cinema,
Delhi-93.

.....Respondent No.6

The District Magistrate (Central)

14, Darya Ganj,
New Delhi-110002

.....Respondent No.7

The District Magistrate (East)

L.M. Bund, Shashtri Nagar,
Delhi-110031.

....Respondent No.8

The District Magistrate (South West)

Old Terminal Tax Building Kapashera,
New Delhi-110037

.....Respondent No.9

The District Magistrate (South),

M.B. Road, Saket, New Delhi-110068.

.....Respondent No.10

The District Magistrate (West),

Old Middle School Building
Lawrance Road, Rampura,
Delhi- 110085.

....Respondent No.11

Secretary revenue-cum-Divisional Commissioner

GNCT of Delhi, 5-Sham Nath Marg
Delhi-110054.

....Respondent No. 12

(Impleaded on 16.07.2019)

Last date of Hearing: 24.09.2019

Present: Sh. Hemant Kumar, Tehsildar for respondent no. 5.

Sh. Brijesh Kumar, Tehsildar (Patel Nagar), Distt. West
alongwith Sh. Kushal Raj (Legal Assistant) on behalf of
Respondent No. 11

ORDER

The Rights of Persons with disabilities Act, 2016, hereinafter referred to the "Act", enacted by Parliament received the assent of President on 27.12.2016 which came into effect from 19.04.2017. The Act has been enacted to give effect to the United Nations Convention on the Rights of Persons with Disabilities, which lays down certain principles

for empowerment of persons with disabilities. Respect for inherent dignity, freedom to make one's own choices, independence, non-discrimination, full and effective participation and inclusion in every aspect in the Society, acceptance of persons with disabilities as part of human diversity and **accessibility** are prominent among the principles of the convention.

2. Section 45 (1) of the Act provides, *"All existing **public buildings** shall be made accessible in accordance with the rules formulated by the Central Government within a period not exceeding five years from the date of notification of such rules"*. Sub Section (2) of the said Section also provides that *"The appropriate Government and the local authorities shall formulate and publish an action plan based on prioritisation, for providing accessibility in all their **buildings and spaces** providing essential services such as all primary health centres, civil hospitals, schools, railway stations and bus stops."*

3. Section 46 of the Act provides, *"The service providers whether Government or **private** shall provide **services** in accordance with the rules on accessibility formulated by the Central Government under section 40 within a period of two years from the date of notification of such rules."*

4. As per Section 2 (w) of the Act, **"public building"** means a Government or private building, used or accessed by the public at large, including a building used for educational or vocational purposes, workplace, commercial activities, public utilities, **religious**, cultural, leisure or recreational activities, medical or health services, law enforcement agencies, reformatories or judicial foras, railway stations or platforms, roadways bus stands or terminus, airports or waterways;"

5. As per Section 2(x) of the Act, **"public facilities and services"** includes all forms of delivery of services to the public at large, including

*housing, educational and vocational trainings, employment and career advancement, shopping or marketing, **religious**, cultural, leisure or recreational, medical, health and rehabilitation, banking, finance and insurance, communication, postal and information, access to justice, public utilities, transportation.”*

6. Rule 15 of the Rights of Persons with Disabilities Rules, 2017 (The Rules) requires that the standards for **public buildings** as specified in the “**Harmonised Guidelines and Space Standards for Barrier Free Built Environment for Persons with Disabilities and Elderly Persons**” issued by the Government of India, Ministry of Urban Development in 2016 shall be followed.

7. Section 44 of the Act also mandates that-

“(1) No establishment shall be granted permission to build any structure if the building plan does not adhere to the rules formulated by the Central Government under section 40.

(2) No establishment shall be issued a certificate of completion or allowed to take occupation of a building unless it has adhered to the rules formulated by the Central Government.”

8. Section 89 of the Act provides for “*punishment for contravention of the provisions of the Act or Rules or regulations made thereunder. The first contravention by any person is punishable with fine which may extend to Rs. 10,000/- and for any subsequent contravention, the fine shall not be less than Rs. 50,000/-, but which may extend to Rs. 5,00,000/-.*”

9. Section 93 of the Act provides for “*punishment for failure to furnish information/documents which is punishable with fine to the extent of Rs. 25,000/- in respect of each offence and in case of continued failure or refusal, with further fine of Rs. 1,000/- per day.*”

10. In view of the above mentioned mandatory provisions of the Act, this Court took suo motu cognizance of inaccessible built environment and transport in NCT of Delhi and took up with the concerned authorities vide show cause notice dated 19.07.2017 in case no. 4/1665/2017-Wel/CD. In that case, 14 Departments of Govt. of NCT of Delhi, all the civic authorities including DUSIB, DDA, Cantonment Board are the respondents. During the course of a series of hearings, appropriate directions have been given and a Monitoring Committee under the Chairmanship of Principal Secretary, Urban Development has also been constituted to monitor implementation of the action plans submitted by the concerned respondents which are available in the website of this Court. None of the respondents in the said suo motu case submitted the information, action plan in respect of the places of worship, hotels and restaurants, places of entertainment, apparently because most of these belong to private establishments/trusts.

11. With a view to ensure that the issue of accessibility and the rights of persons with disabilities are addressed in a wholistic manner and in real sense of the term as intended in the Act, all the respondents (11 District Magistrates of Govt. of NCT of Delhi) were requested to take appropriate action to make the places of worship in their districts accessible for persons with disabilities vide letter dated **09.05.2018** to ensure that they are also able to enjoy their right to worship on equal basis with others. They were also requested to obtain information from the concerned authority/organization and an action plan with timelines to make each place of worship accessible in the following form and to send a consolidated list to this Court by **04.07.2018**:

S.No.	Name & address of place of	Controlling authority / organisation of the place	Whether Place of worship is fully accessible for persons with	If not accessible, target date for making the place of worship fully	Remarks

	worship	of worship	disabilities (Y/N)	accessible to persons with disabilities	
(1)	(2)	(3)	(4)	(5)	(6)

12. As there was no response from the concerned District Magistrates **except DM, South East and DM, North-East** despite two reminders dated 11.07.2018 and 28.09.2018, suo motu cases were registered. Hence, a notice of hearing dated 24.05.2019 was issued with the direction to the District Magistrates to submit the information in the prescribed format by **12.06.2019** and to appear on **19.06.2019**. In view of certain deficiencies and the fact that all the places of worship in South-East District and North-East District were not accessible, they were also included in the array of respondents, though they were exempted from appearing.

13. Four hearings had to be held to obtain the information that was sought more than a year ago on **09.05.2018**. Even after lapse of nearly 1½ years and three letters dated 09.05.2018, 11.07.2018, 28.09.2018, suo motu notices and four personal hearings, the information that has been received from some of the District Magistrates is still incomplete and in some cases are incorrect. In view of this and the fact that the concerned authorities/ duty bearers have already overshoot the time prescribed in the Act to make the **public facilities and services** accessible for persons with disabilities and are now liable to be tried for contravention of the provisions of the Act/Rules by the Special Court, i.e. the Court of Additional Sessions Judge-02 in each district designated by notification no. FNo.1/19/2018-Judi/Suptlaw/1499-1507 dated 19.08.2019 of Department of Law, Justice and Legislative Affairs, it is considered expedient to dispose of the cases and make recommendations for implementation by the concerned authorities.

14. Before doing so, I would like to record my key observations during the journey of 1 year and four months which, if all the District Magistrates had taken timely action, would have finished in 2-3 months and much of the work of creating awareness amongst the concerned persons and making the places of worship accessible, would have already been done by now. Be that as it may, it is desirable that the positive and affirmation action is initiated sooner.

15. The summary analysis of the information received from the 11 District Magistrates is given in the following table:

District	Total number of places of worship	Number of accessible places of worship (Percentage)	Number of inaccessible places of worship	Whether target date given
South East	283	126 (44.5%)	157	Yes, 3-4 months
North East	101	74 (73%)	27	Not for all
North	110	72 (65.4%)	38	No
East	457	28 (6.1%)	429	Yes, only for few
Shahdara	263	23 (8.74%)	240	No
New Delhi	85	49 (57.6%)	36	Yes, only for few
West	202	126 (62.37%)	76	31.03.2020 for all.
Central	22	1 (4.54%)	21	No
North-West	326	13 (3.98%)	313	No
South-West	430	12 (2.79%)	418	No
South	50	23 (46%)	27	No

16. The details of each place of worship can be seen in the website of this Court at <http://discomm.delhi.gov.in>

17. Some District Magistrates have submitted SHO-wise information, while others have given sub-division-wise information and District Disaster Management Authority-wise. District Magistrate, West has

identified and verified the places of worship through the Tehsildars of the District.

18. This Court had to implead Secretary, Revenue-cum-Divisional Commissioner in the array of respondents as despite summons dated 24.05.2019 District Magistrate (West), District Magistrate (Central), District Magistrate (North-West), District Magistrate (South), District Magistrate (South-West) had neither submitted the information nor they or their representatives appeared for hearing on 19.06.2019. District Magistrate (New Delhi) was represented by one Tehsildar without any information or knowledge about the case.

19. District Magistrate (North-West) ignored the directions and did not even respond or intimated his inability to attend the subsequent hearing also, which *prima-facie* amounted to contravention of the mandatory provisions of the Act and continued failure to furnish information that are punishable respectively under Section 89 and 93 of the Act. The concern of this Court and the suggested action was conveyed to Secretary, Revenue-cum-Divisional Commissioner vide record of proceedings dated 27.08.2019.

20. During the course of four hearings and based on the physical verification by the functionaries of this Court and the information submitted by the concerned District Magistrates, the following was observed:

- i) Some districts had not indicated all the places of worship in their Districts;
- ii) The information about the accessibility or otherwise in respect of many places of worship was either not correct or was not accurate. This indicated that the information was supplied without verification and due care;

iii) In some cases, the persons who collected the information perhaps were themselves not aware about the details of accessibility that is required for persons with disabilities although this Court had supplied an easy to understand check list to ensure minimum accessibility;

iv) Tehsildar, Vasant Vihar even showed the office of SDM as a place of worship.

v) The information about whether a place of worship is accessible or not, has not been provided in some cases as may be seen from the table in para 15.

vi) Most of the District Magistrates did not indicate the action plan/target date for making the inaccessible places of worship accessible.

21. After the first hearing on 19.06.2019, the following comprehensive recommendations were made vide record of proceedings dated 26.06.2011 to enable the District Magistrates to take appropriate action:

i) Six District Magistrates (West, Central, North-West, South, South-West and New Delhi) were directed to submit a consolidated list of places of worship in their respective Districts in the format by 12.07.2019;

ii) All the management functionaries of the trusts/those managing the places of worship and delivering '**religious services**' to the public at large should be made aware by the concerned District Magistrates about the time bound mandate of the Act to make "**public buildings**" and "**public facilities and services**" accessible and be guided and helped in making the places of worship including the sanctum sanctorum, the points of

distribution / selling of prasad, material for worship like flowers, drinking water faucets, toilets, and parking, if any etc, accessible.

iii) Places of worship reported to be accessible, be checked with reference to **the enclosed check-list to ensure minimum accessibility and, wherever required, necessary improvement** be carried out by the concerned management / trust to ensure full inclusion of persons with various disabilities.

iv) Action plan to make the inaccessible places of worship accessible in a time bound manner in accordance with the prescribed guidelines be made by 05.07.2019 and implemented under intimation to the **Monitoring Committee** constituted by Govt. of NCT of Delhi for monitoring implementation of action plans.

v) All the concerned managements of the religious places be issued appropriate directions to provide for appropriate accessible facilities to persons with disabilities within a given time frame not exceeding 2 to 3 months.

22. Based on the examination of the information submitted by each sub division/district which is a very time consuming task, the above recommendations were made for implementation and guidance of District Magistrates. However, not much action seemed to have been taken by most of the District Magistrates as was evident from the progress reports in the subsequent hearings.

23. I also consider it in the fitness of things to record that even the Monitoring Committee constituted under the Chairmanship of Principal Secretary, Urban Development to monitor implementation of the action plans for making built environment accessible does not seem to have taken action to carry out the physical check and verification of not only

the places of worship in these cases but also in the suo motu case referred to in para 10.

24. Having recorded the above status, it is equally important for me to mention about the action taken by District Magistrate (West), Ms. Neha Bansal as observed from the report/ATR received from that district, who has submitted that physical verification of 202 places of worship which include the temples, Gurudwaras, Masjids and Churches has been carried out. The report indicates 31.03.2020 as the target date for making rest of the places of worship accessible. The list also includes the telephone numbers of the contact persons of most of the places of worship. This indicates the involvement of most of the concerned functionaries assigned the job and speaks of the seriousness with which it has been carried out by them including the District Magistrate. She has herself certified that the places of worship had been identified and verified by the concerned Tehsildar of the District West with regard to their accessibility for persons with disabilities. It deserves appreciation.

25. ***District Magistrate, West is advised to share the entire report in a MS word file alongwith the letter dated 13.09.2019 with rest of the District Magistrates with a copy to this Court. Other District Magistrates may consider adopting the method to get the work done in their respective districts.*** She is also advised to put in place an effective mechanism for monitoring the implementation of the action plans by the target dates and ensure that every place of worship in her district is made accessible by **31.03.2020** and inform this Court when the task is completed.

26. District Magistrate, West and any other District Magistrate may also consider picking up a few places of worship for making them as model accessible places of worship in their respective districts to be replicated not only by other District Magistrates in Delhi but also across

the country. If it is decided to do so, they may intimate by **10.11.2019**, the action plan to this Court, which this Court would circulate to all the State Commissioners for Persons with Disabilities for replication in the 731 Districts in the country.

27. It is also pertinent to mention that the representatives of District Magistrate (West) indicated that some Committees/Trusts do not have enough funds to create accessible facilities like ramps etc. **It is clarified that there is no scheme of Govt. of India or the State Govt. at present to provide funds for this purpose. Making the existing “public buildings” which means “a Government or private building, used or accessed by the public at large, including a building used for religious purpose like Mandir/Gurudwaras/Masjids/Churches etc. or any other place of worship, is the sole responsibility of the concerned trusts/committees/establishments/ organizations.** All of them should be made aware about the provision of the Rights of Persons with Disabilities Act, 2016 in this regard and that violation of the provision is punishable under Section 89 of the Act.

28. If any person or a trust or a society or committee or organization wants to carry out any religious activity at any place open to public, accessibility for persons with disabilities to the facility/the service/ the building must be mandatory. The concerned licensing/regulatory/ approving authority must make it clear to them in no uncertain terms.

29. Before writing this order, I personally visited some of the major places of worship such as Jama Masjid, Sis Ganj Gurdwara, Gauri Shankar Mandir and Shree Digamber Jain Mandir at Chandni Chowk, Dargah Alia Hazrat, Birla Mandir, Sacred Heart Cathedral at 1 Ashok Place, Hanuman Mandir, Gurdwara Bangla Sahib and Sai Mandir at Lodhi Road on 29.09.2019.

30. I have observed that while some access facilities for persons with disabilities like ramp have been provided at the Gurudwaras and the Churches, none of the temple authorities that I visited, has taken care to provide such facilities though the persons available at inaccessible places of worship stated that they ensure that if ever any person on wheelchair or with other disabilities wishes to visit the temple, he is helped and assisted to worship.

31. It was a pleasant sight to see that a chair lift has been installed at Gurudwara Sis Ganj at Chandni Chowk, even though it is one of the most crowded and congested areas. Similarly, the Bangla Sahib Gurudwara has also made laudable efforts to ensure that the persons with disabilities are able to worship. At the places of worship like Jama Masjid and some other Masjids, Shree Digamber Jain Mandir, Birla Mandir and the Sai Baba Mandir, the right of persons with disabilities to worship like any other person does not seem to have engaged the attention of the concerned management/trusts. It is a common sight outside the gates of the temples, masjids, gurudwaras the persons with disabilities standing, lined up, many of them on their tricycles waiting for alms, begging and “Prasad”. It is a serious matter that despite having a mandatory provision in the Act, the religious places should be completely inaccessible. These need to be made accessible like any other place such as schools, public utility buildings, commercial activities, cultural, leisure, recreational activities, medical or health services, police stations, courts, railway stations, roadways, bus stands, airports and waterways. It is also mandatory to ensure it within a period of 5 years from the date of notification of Rules, i.e. by **15.06.2022**. Every authority/owner is also mandated to make an action plan to do it, as it would not happen suddenly on 15.06.2022.

32. It is likely that it may not be possible to make every place of worship accessible as per the prescribed standards, the concerned

trust/society/organization must make the best efforts to facilitate that the persons with disabilities particularly those whose mobility is restricted, are able to participate in all the religious activities as per their choice including at the sanctum sanctorum. The issues of funds, expertise etc. should be taken care of by the concerned trust/committee/authorities.

33. It is also important to bring to the notice of the respondents that for implementation of the provisions the Act, the legislature has specifically mandated in Section 39 (1) of the Act that *“the appropriate Government, in consultation with the Chief Commissioner or the State Commissioner, as the case may be, shall conduct, encourage, support or promote awareness campaigns and sensitisation programmes to ensure that the rights of the persons with disabilities provided under this Act are protected.”* Therefore, there is an urgent need to create mass awareness, intensive as well as extensive training of the duty bearers, i.e. Govt. functionaries at all levels and also the functionaries of the trusts/committees/organizations controlling/managing the places of worship. The concerned trust/committee/authority/Govt. Department cannot escape implementation of the mandatory provisions made in the Act. Else, such progressive provision will remain a right on paper and it will only amount to paying lip service to the provisions for protecting the rights of persons with disabilities, who may feel cheated.

34. In the above view of the matter, the following recommendations are made:

- i) As has been pointed out during the record of proceedings and mentioned in the preceding paragraphs, every District Magistrate should have the consolidated information in respect of all the places of worship in his/her district compiled in the prescribed format preferably in the way done in District (West).

(ii) If necessary, an accessibility audit of the large and important places of worship should be conducted and these should be made accessible as far as possible in accordance with the “*Guidelines for Making the Religious Places Accessible*” published by the Office of Chief Commissioner for Persons with Disabilities with the help of Svayam, a voluntary organization.

(iii) A copy of the above Guidelines is enclosed and e-copy has also been uploaded in the website of this Court- [www.http://discomm.delhi.gov.in](http://discomm.delhi.gov.in) for guidance of the respondents. An easy to understand check list used by this Court to check the accessibility of the places of worship is also enclosed with this order which was shared with respondents earlier. All concerned are advised to disseminate the guidelines and the checklist to the concerned functionaries of the places of worship in NCT of Delhi for implementation.

(iv) The Monitoring Committee headed by Principal Secretary, Urban Development, Govt. of NCT of Delhi for monitoring implementation of action plans for making built environment and transport accessible in NCT of Delhi, should organize sample physical check of some places of worship across NCT of Delhi alongwith other public buildings/built environment and provide guidance for execution, where required.

35. This Court be informed of the action taken on the above mentioned recommendations within 3 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.”

36. All the above mentioned cases are disposed of.

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

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

Encl.: As above.

Copy to:

- | | |
|---|----------------------------|
| 1. Chief Secretary, Govt. of NCT of Delhi, Delhi Secretariat, I.P. Estate, New Delhi-110002. | For information |
| 2. Principal Secretary, Urban Development, GNCTD, 9th & 10th Level, Delhi Secretariat, I.P. Estate, New Delhi - 110002. | For action on para 34 (iv) |
| 3. The Secretary, Department of Social Welfare, GLNS Complex, Delhi Gate, New Delhi-110002. | For information |
| 4. Chief Commissioner for Persons with Disabilities, Sarojini House, 6, Bhagwan Dass Road, New Delhi-110001. | For information |