

**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]

Case No. 4/1665/2017-Wel/CD/8438-60

Dated: 26.11.2019

In the matter of:

SUO-MOTU

Versus

The Secretary
Urban Development Deptt.
9th Level, C-Wing
Delhi Secretariat, I.P.Estate
New Delhi -110002
....Respondent No.1

The Commissioner
North Delhi Municipal Corporation
4th Floor, Dr. S.P.M. Civic Centre
J.L.N. Marg,
New Delhi -110002
....Respondent No.2

The Commissioner
South Delhi Municipal Corporation
9th Floor, Dr. S.P.M. Civic Centre
JLN Marg, New Delhi -110002
....Respondent No.3

The Commissioner
East Delhi Municipal Corporation
419, Udyog Sadan, Patparganj
Industrial Area, Delhi -110096
.....Respondent No.4

The Chairman
New Delhi Municipal Council
Palika Kendra, Sansad Marg
New Delhi -110002
.....Respondent No.5

The Chief Executive Officer
Office of Cantonment Board
Sadar Bazar,
Delhi Cantt-110001
.....Respondent No.6

The Managing Director
Delhi Transport Corporation
I.P. Estate,
New Delhi -110002
...Respondent No.7

The Principal Secretary
Public Works Department
5th Level, B-Wing, Delhi Secretariat
New Delhi -110002
....Respondent No.8

The Secretary-cum-Commissioner
Transport Department
5/9 Under Hill Road
Delhi -110054
.....Respondent No.9

The Vice Chairman
DDA, A-Block, 1st Floor,
Vikas Sadan, Near INA Market
New Delhi-110023
.....Respondent No.10

The MD
DTIDCL, Transport Department,
5/9, Under Hill Road,
Delhi-110054
.....Respondent No. 11

The Chief Executive Officer
DUSIB, Govt. of NCT of Delhi
Punarwas Bhawan, I.P. Estate
Delhi-110002
...Respondent No. 12

The Secretary
Department of Social Welfare,
GLNS Complex, Delhi Gate,
New Delhi-110001
.....Respondent No. 13

The Principal Secretary,
Directorate of Education,
Old Secretariat,
Delhi-110054
.....Respondent No. 14

Case No.1053/1108/2019/07

Dated

In the matter of:

**Sh. Subhash Chandra Vashishth,
Director of Svayam
Jindal Centre,12 Bhikaji Cama Place
New Delhi-110066**

.....Complainant

Versus

The Commissioner
North Delhi Municipal Corporation
4th Floor, Dr. S.P.M. Civic Centre
JLN Marg, New Delhi -110002

.....Respondent No.1

The Commissioner
South Delhi Municipal Corporation
9th Floor, Dr. S.P.M. Civic Centre
JLN Marg, New Delhi -110002

.....Respondent No.2

The Commissioner
East Delhi Municipal Corporation
419, Udyog Sadan, Patparganj
Industrial Area
Delhi -110096

.....Respondent No.3

The Chief Executive Officer
Office of Cantonment Board
Sadar Bazar,
Delhi Cantt.-110010

.....Respondent No.4

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

.....Respondent no.5

The Vice Chairman
Delhi Development Authority
D Block Vikas Sadan, INA
New Delhi-110023

.....Respondent no.6

The Director
Directorate of Delhi Fire Services HQ
205-1205, New Barakhamba Road, Connaught Lane
Barakhamba, New Delhi-110001

.....Respondent no.7

The Joint Commissioner of Police
Office of the Joint Commissioner of Police: Licensing
First floor of Police Station Defence Colony,
Near Moolchand Hospital, New Delhi -110049

.....Respondent no.8

The Principal Secretary
Department of Land & Building
GNCT of Delhi, B-Block, Vikas Bhawan,
I.P. Estate, New Delhi-110002

.....Respondent no.9

Date of Hearings: 18.10.2017, 10.11.2017, 02.01.2018, 02.02.2018, 03.04.2018, 04.07.2018, 26.03.2019, 30.07.2019

ORDER

As per my observation, most built environment in the National Capital Territory of Delhi (NCTD) had neither been built as per the standards prescribed by PWD, GOI of 1998 nor the Harmonized Guidelines of Ministry of Urban Development, GOI of 2016. Even the gradient of ramps, slopes at the end of the footpaths/road crossings were such as to make them virtually unusable by persons with disabilities and elderly. Some of the common flaws and the lacunae in design and oversight in construction, were as under:

- i. The footpaths are too high from the surface of the road to climb and their height is uneven.
- ii. Footpaths constantly change level, making them unusable and unsafe.

- iii. Footpaths have no slopes where these are separated by roads/cuts.
- iv. There are no curb cuts.
- v. There are narrow spaces between bollards on the footpaths making it impossible for a wheel chair user to pass through.
- vi. Obstructions such as lamp posts, gutters, protruding objects, low height sign boards, trees on footpaths especially on the guiding tiles/ warning blocks meant for persons with visual impairment, make them it more unsafe.
- vii. Platforms at the bus queue shelters are too high from the surface of the road and are not uniformly synchronized with the height of the platform of the bus.
- viii. There are no ramps/ramps with grab bars to access the common spaces and public utility/facilities in the markets, shopping areas, parks, public and communities toilets, sports facilities, Government and other residential colonies, etc.
- ix. Guiding tiles on many footpaths and other places have no continuity and end abruptly making them useless. Very few footpaths have continuous accessibility.

2. Suo-motu cognizance of the inaccessible built environment and transport in NCT of Delhi was therefore taken and a case was registered under Section 80(b) of the Rights for Persons with Disabilities Act, 2016, hereinafter referred to as the Act and a show cause notice dated 19.07.2017 was issued to the Secretary, Urban Development, Commissioner, North DMC, Commissioner, South DMC, Commissioner, East DMC, The Chairman, New Delhi Municipal Council, The Chief

Executive Officer, Cantonment Board and The Managing Director, Delhi Transport Corporation.

3. Section 40, 41, 44, 45 and 46 of the Act, mandate to ensure accessibility of the existing built environment and transport among other things under an action plan within five years. New constructions are to be permitted only as per the prescribed standards and completion/ occupation certificate should be issued only if the prescribed mandatory guidelines have been followed. The said provisions, which are mentioned below, were brought to the notice of the respondents:

“Section 40. *The Central Government shall, in consultation with the Chief Commissioner, formulate rules for persons with disabilities laying down the standards of accessibility for the physical environment, transportation, information and communications, including appropriate technologies and systems, and other facilities and services provided to the public in urban and rural areas.”*

41. (1) *The appropriate Government shall take suitable measures to provide—*

(a) facilities for persons with disabilities at bus stops, railway stations and airports conforming to the accessibility standards relating to parking spaces, toilets, ticketing counters and ticketing machines;

(b) access to all modes of transport that conform the design standards, including retrofitting old modes of transport, wherever technically feasible and safe for persons with disabilities,

economically viable and without entailing major structural changes in design;

(c) accessible roads to address mobility necessary for persons with disabilities.

(2) The appropriate Government shall develop schemes programmes to promote the personal mobility of persons with disabilities at affordable cost to provide for,—

(a) incentives and concessions;

(b) retrofitting of vehicles; and

(c) personal mobility assistance.

44. *(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.

45. *(1) 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:*

Provided that the Central Government may grant extension of time to the States on a case to case basis for adherence to this provision depending on their state of preparedness and other related parameters.

*(2) 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.

46. *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:*

Provided that the Central Government in consultation with the Chief Commissioner may grant extension of time for providing certain category of services in accordance with the said rules.”

4. The respondents were also informed that as per rule 15 of the Rights of Persons with Disabilities Rules, 2017, hereinafter referred to as the Rules, notified by Department of Empowerment of Persons with Disabilities, Government of India, standards as specified in the **‘Harmonised Guidelines and Space Standards for Barrier Free Built Environment for Persons with Disabilities and Elderly Persons’** issued by Ministry of Urban Development, Government of India in 2016 and **‘Standard for Bus Body Code for transportation system’** as specified in the Notification of Government of India in the Ministry of Road Transport and Highways G.S.R. 895(E) dated 20th September 2016 are to be followed. Institute for Transportation and Development Policy has also developed and published **‘Footpath design: A Guide to**

creating footpath that are safe, comfortable and easy to use' of November 2013.

5. "Public buildings" and "Public facilities and services" have been defined in the Act as under:

*"(w) "**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.*

*(x) "**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. Further, Section 89 of the Act also provides, "any person who contravenes any of the provisions of this Act, or of any rule made there under shall for first contravention be punishable with fine which may extend to Rs. 10,000/- and for any subsequent contravention with fine which shall not be less than Rs. 50,000/- but which may extend to Rs. 5 lakh".

7. Despite the above provisions of the Act/ Rules/ Guidelines, concerned authorities were reconstructing footpaths in their respective jurisdictions without following the prescribed standards.

8. Some good examples of footpath design in the New Delhi Municipal Council_area and in NOIDA were also brought to the notice of the respondents.

9. The respondents were directed why the existing built environment meant for public use in the National Capital Territory of Delhi should not be made fully accessible to persons with disabilities as mandated in the Act, the Rules and the guidelines and why all the new construction and transportation should not be ensured in accordance with the provisions of the Act, the Rules and the prescribed standards. The respondents were further advised to stop forthwith any construction of facilities meant for public use without following the provisions of the Act, the Rules and the prescribed standards of accessibility to persons with disabilities. Urban Development Department of GNCT of Delhi was advised to develop an effective mechanism for monitoring and ensuring implementation and extend necessary technical and other support to the concerned authorities under intimation to this court along with their version.

10. Except for South Delhi Municipal Corporation, none of the respondents replied despite repeated reminders and therefore, a hearing was scheduled on 18.10.2017.

11. During the hearing, the representatives of the South DMC informed that roads having right of way less than 60 feet wide have no provision of footpath as these are the internal lanes of residential colonies. The existing municipal buildings such as Schools, Hospitals, Community Halls, Toilet Blocks, CTCs, Markets, Common Spaces like Parks, Stadia etc. are fully accessible. Under construction buildings are being constructed in accordance with the provisions of the Act. Further, field staff has been directed to take up the new construction activity for built environment for public use and ensure strict compliance of RPwD Act, 2016.

12. The representative of North DMC also added that some markets are under control of DDA, who should also be impleaded.

13. The representative of New Delhi Municipal Council submitted the photographs of accessible toilets with ramps and railings and zebra footpath crossings at some places.

14. The representative of Delhi Transport Corporation submitted that the Bus Queue Shelters are being looked after by M/s. Delhi Transport Infrastructure Development Corporation Limited (DTIDCL), who had

been asked to do the needful. He also submitted that DTC had procured only low floor buses which are disabled friendly. As regards the buses not being taken to the bus bays, he stated that passengers waiting for buses on the road and encroachment by auto rickshaws, rickshaws etc. are responsible for it and they need assistance of traffic police and enforcement branch of Transport Department.

15. The representative of PWD submitted that all the papers forwarded by Urban Development have not reached them and a detailed reply would be submitted shortly.

16. It was noted that for most of the construction activities including roads, footpaths, buildings, PWD was the responsible agency. Principle Secretary, Public Works Department, Secretary-cum-Commissioner, Transport Department, Vice-Chairman, Delhi Development Authority, Managing Director, Delhi Transport Infrastructure Development Corporation Limited and CEO Delhi Urban Shelter Improvement Board were impleaded as respondent no. 8, 9, 10, 11 & 12 and were directed to respond to the show cause notice.

17. After, three hearings on 18.10.2017, 10.11.2017 & 02.01.2018, Secretary, Department of Social Welfare and Principal Secretary, Education were also impleaded as respondent no. 13 and 14.

18. After gauging the seriousness about the issue, the understanding of the functionaries about the barrier free built environment, the overall scenario of the status of progress thereof and mismatch between the status communicated vis-a-vis the status on ground seen during the physical verification conducted by myself and the officers and staff of this court, the following key directions were given to the respondents vide R.O.P dated 17.11.2017 itself.

- “(i) Appoint Nodal Officers immediately for the purpose of implementing the action plan to make the built environment and transportation accessible to persons with disabilities in the NCTD and submit their contact details to this Court by 24.11.2017.*
- (ii) Submit Action Plan to this court by 24.12.2017 for their respective areas of responsibility indicating the activities that need to be undertaken and the time frame by which each activity would be completed so as to comply with the mandate of the Act and meet the dead lines given in the Action Plan. Access Audit of the buildings and the facilities, where required, should be part of the Action Plan.*
- (iii) Action to make necessary changes in the procurement policy /rules relating to production/ procurement of only such construction materials and other accessories like tiles, grab bars, door handles, electric panels, bath rooms and sanitary fittings, etc. as conform to the standards of universal design should also be taken in right earnest so*

that the products that conform to the universal design only are procured and used by all concerned.

- (iv) New Delhi Municipal Council is advised to develop a model barrier free built environment covering all possible facilities, in some selected area of its jurisdiction on priority for other agencies to replicate. Such a model can also be used for training and capacity building.*
- (v) The concerned agencies who are responsible for maintenance of the public and community toilets should upload their exact locations and addresses and the up dated status of accessible ones in the websites of their organisations to aware the public about it.*
- (vi) Secretary, Urban Development Department should make necessary arrangements for capacity building of the construction Engineers, Architects and others as may be considered necessary, in tie Government and private sector. Council of Architects and the institutions like School of Planning and Architecture and individual experts can De consulted for the purpose.*
- (vii) Secretary, Urban Development Department should constitute a Monitoring Committee comprising the Nodal Officers appointed by each of the respondents and adequate number of trained experts on accessibility preferable persons with disabilities, be constituted. The Monitoring Committee shall be responsible to monitor implementation of the action plan and advise the implementing agencies right from the planning stage to its implementation. The experts should be paid an Honorarium which should not be less than the amount*

that has been fixed by Department of Empowerment of Persons with disabilities for Expert Access Auditor sunder Accessible India Campaign and as may be revised from time to time by that Department or by Govt. of NCT of Delhi. The details can be accessed from the website of that Department: www.disabilityaffairs.gov.in.

- (viii) Secretary, Urban Development Department is also requested to forward a copy of this record or proceedings to any other Department/ Agency that is responsible for construction or maintenance of physical environment in NCT of Delhi for necessary action and compliance under intimation to this court. Those Departments/ Agencies, if any, shall also be impleaded as or respondents in this case.*
- (ix) A progress report shall be submitted by each of the respondents to this court indicating the targets for the previous quarters and the achievement with reasons for short fall, if any, and the plan to make up for the short fall indicating the time frame for the same by 31 Jan 2018, 31 March 2018, 30 June 2018, 30 Sep 2018, 31 Dec 2018, 31 March 2019 and so on till 30 June 2022 by when the Action Plan should be implemented unless extension of time is granted by the Central Government.”*

19. In the said R.O.P, the key respondent Departments were also assured of all possible support of this court in terms of getting the technical resources, capacity building of the key persons besides monitoring implementation within the available resources with this court.

20. The action plans were sought in the following common format:

S.No.	Name & Complete address of building/facility	Whether building/ facility is fully accessible for persons with disabilities (Y/N)	If not accessible, target date for making the building/ facility fully accessible to persons with disabilities	Remarks
(1)	(2)	(3)	(4)	(5)

21. R.O.P dated 15.02.2018 includes respondent-wise account of the status of action taken on the directions of this court. The same is not being repeated here for the sake of brevity.

22. In light of the inadequate responses and unconvincing reasons for not being able to make genuine and effective efforts, it was made clear that making buildings, transport and various facilities and services accessible, should not be subjected to the conditions like availability of funds, timely conduct of Access Audit, approval of the competent authority, encroachment etc. The provisions being mandatory under the Act and non-compliance could result in penalties, there is no option but to comply with the **dead line of 15.06.2019** to provide accessible

'facilities & services' and **15.06.2022** to make the **existing built environment** accessible and draw action plans for the same.

23. The respondents were therefore directed to draw and submit the action plans with timelines by 13.03.2018 and strictly follow them, as all the buildings/facilities/services could not be made accessible suddenly on the last date. Hon'ble Lieutenant Governor, NCT of Delhi had also desired that the Monitoring Committee should monitor the implementation to ensure that the action plans were scrupulously adhered to and to review the progress at his level.

24. On the next date of hearing on 03.04.2018, after hearing the parties and examination of the status reports, the following additional recommendations with respect to each respondent were made.

“(i) North DMC, South DMC, East DMC, Cantonment Board Delhi, PWD, DDA, DUSIB shall get some of the buildings and facilities access audited by professionally trained Access Auditors in order to ensure that access features incorporated/being incorporated are strictly in accordance with the standard prescribed in the Harmonized Guidelines and Space Standards issued by Ministry of Urban Development as advised vide para 3(iii) of ROP dated 15.02.2018. The status be submitted before the next date of hearing on 04.07.2018.

- (ii) North DMC shall submit by 01.05.2018, the revised action plan indicating the timelines for completion of the work in the format already shared.*
- (iii) NDMC shall submit by 01.05.2018 an action plan for developing a model barrier free area in the NDMC Zone as directed vide Para 6(iv) of the ROP dated 05.01.2018 and reiterated in ROP dated 15.02.2018.*
- (iv) Cantonment Board Delhi shall submit the status report on the observations at para 6 (ii) of this ROP by 01.05.2018.*
- (v) DTC is advised to keep a record of the crew who are deputed for refresher training as a corrective measure and intimate by 01.05.2018 the number of such crew trained up to 31.03.2018.*
- (vi) Transport Department is advised to take similar action as DTC in respect of the erring crew of the cluster buses to ensure easy access to those buses for persons with disabilities and submit the action taken by 01.05.2018.*
- (vii) A number of people have also filed separate complaints about inaccessibility of East End Apartment Road and footpaths for persons with disabilities/wheel chair users/school going children with disabilities. The present time line indicated in the action plan to complete the work is June 2019. The right of persons with disabilities to access public places cannot be restricted for so long. Accordingly, PWD (respondent No. 8 and EDMC respondent No. 4) are advised to take immediate action and make the said road and footpaths accessible to persons with disabilities on priority. If required, the assistance of Delhi Police be taken to remove encroachments as already directed vide para*

8(vii) of ROP dated 15.02.2018. The work be completed by 30.06.2018 and a report be submitted by 30.06.2018.”

25. The question whether the Department of Urban Development should constitute the Monitoring Committee or the Social Welfare Department should do it, had also not been resolved despite lapse of considerable time and therefore Principal Secretary, Urban Development was again advised to obtain a decision in the matter from appropriate authority, if necessary, by referring the matter to the Chief Secretary. It took a lot of time and effort to have the Monitoring Committee constituted by Department of Urban Development with the approval of the Chief Secretary vide order No.F.13(209)/UD/MB/2017/2531-48 dated 23.08.2018, comprising the following officers;

1.	Principal Secretary (UD)	Chairman
2.	Chief Engineer/ Nodal Officer- Delhi Development Authority	Member
3.	Chief Engineer/ Nodal Officer- PWD	Member
4.	Chief Engineer/ Nodal Officer- South DMC	Member
5.	Chief Engineer/ Nodal Officer- North DMC	Member
6.	Chief Engineer/ Nodal Officer- East DMC	Member
7.	Chief Engineer/ Nodal Officer- New Delhi Municipal Council	Member
8.	Chief Engineer/ Nodal Officer- Delhi cantonment Board	Member
9.	Chief Engineer/ Nodal Officer- Delhi Transport Corporation	Member

10.	Chief Engineer/ Nodal Officer- Delhi Urban Shelter Improvement Board (DUSIB)	Member
11.	Special Secretary/Nodal Officer- Transport Department	Member
12.	Executive Director/ Nodal Officer- Delhi Transport Infrastructure Development Corporation Limited (DTIDCL)	Member
13.	Chief Engineer/ Nodal Officer- Delhi State Industrial Infrastructure Development Corporation (DSIIDC)	Member
14.	Chief Engineer/Nodal Officer- Irrigation and Flood Department	Member
15.	Addl. Director/ Nodal Officer- Directorate of Education	Member

26. Secretary, Social Welfare was made the Member Secretary of the Monitoring Committee with Principal Secretary, Urban Development having the discretion to co-opt any other expert in the Committee.

27. DTIDCL regrettably had not been responding to the Notices/ Summons/ R.O.Ps of this court and directions of the Transport Department (Respondent No. 9) who had written 9 letters till 05.06.2018 for carrying out the survey of 10 buildings of Transport Department for their accessibility, which is a serious matter and should be dealt effectively by the concerned authorities. DTIDCL is also responsible for construction of bus queue shelters and therefore DTC or PWD were

unable to make any comments on the status of accessibility of the bus queue shelters outside the NDMC area.

28. During the hearing on 04.07.2018, all the respondents were directed to submit the progress reports by 10th of the month following the quarter and those respondents would be summoned for hearing whose progress reports were not received by the due dates.

29. In the next hearing on 26.03.2019, it was also decided that a Joint Inspection by the Nodal Officers of all the respondent Departments would be organized to see accessible facilities developed by NDMC on 23.04.2019. Sh. T.R. Meena, Superintending Engineer and Nodal Officer, NDMC was requested to coordinate the inspection.

30. It would neither be possible for this court to ensure timely compliance of the action plans submitted by the respondents nor is it its mandate. It is the responsibility of each respondent with the Monitoring Committee under the Chairmanship of Principal Secretary, Urban Development ensuring implementation of the action plans submitted by the concerned respondents/authorities within the given time frames. Responsibility should be fixed for non-compliance and if necessary, the cases of contraventions/ violations should be referred to the Special Courts (Additional Judge-02) designated in every district by Department of Law, Justice & Legislative Affairs, GNCT of Delhi for trial of offences

under the Act. The quarterly progress reports should be submitted to the State Commissioner.

31. It is also relevant to mention here that as the '**public buildings**' owned or occupied and the '**public facilities and services**' being provided by private individuals/ organisations were not covered under this Suo-Motu case, separate Suo-Motu cases were registered for making the **places of entertainment (PVRs), Cinema halls, Places of worship, Hotels and Restaurants** in NCT of Delhi accessible. Separate orders have been issued in those cases except to Hotels & Restaurants owners, which will also be issued shortly. The status/action plans submitted by the concerned respondent organisations in this case and in other cases have been uploaded in the website of this court and can be accessed at <http://www.discomm.delhi.gov.in/>.

32. The status report submitted by PWD in respect of buildings, footpaths, roads; by Municipal Corporations & NDMC in respect of Public toilets, CTCs, their buildings, parks, etc by DUSIB in respect of Night Shelters, buildings, Basti-Vikas Kendra etc; by DDA in respect of its buildings, sports complexes, footpaths, public toilets, community centres etc; Delhi Contentment Board in respect of its buildings, schools, roads, footpaths, markets, parks etc.; have been uploaded in the website of this court <http://www.discomm.delhi.gov.in/>. Any person can check the physical status and comment on it.

33 The Monitoring Committee and the concerned respondents/ authorities need to monitor the implementation regularly and the physical verification is critical to ensure proper implementation of the work of this scale.

34. It is a matter of concern for me as the State Commissioner for Persons with Disabilities that none of the respondents has fully implemented the recommendations in Case no.4/649/2014/Wel-CD for proper accessibility to the Office of the State Commissioner itself despite the fact that the matter was taken up by my predecessor, Sh. K.S. Mehra on 25.03.2015 and 7 hearings on 18.10.2017, 10.11.2017, 02.01.2018, 02.02.2018, 03.04.2018, 04.07.2018, 26.03.2019 were held and a final order was passed by me on 13.06.2019. The footpaths have not been built as per the prescribed standards. The traffic is not regulated at the traffic intersection near the office. The encroachment from the footpaths, tactile path has not been removed. Entry to the office from Maharaja Ranjit Singh Marg has not been ensured as recommended in the order.

35. The rickshaws, the autos, the taxis, the trucks continue to be unauthorisedly parked on the narrow street leading to the office of the State Commissioner for Persons with Disabilities, often making it very difficult for persons with disabilities/ their vehicles to pass through.

36. As the proceedings in this case have also been going on for two years and four months now, I consider it appropriately to pass a final order and make the recommendations, many of which had been made vide in various ROPs dated 25.10.2017, 17.11.2017, 05.01.2018, 15.02.2018, 06.04.2018, 10.07.2018, 09.04.2019. I hope that all concerned will address the matter not only as a mandate in the Act but also as their moral and pious duty to the humanity to make the built environment, transport facilities and services accessible for persons with disabilities and elderly. The accessible environment shall not only benefit persons with disabilities in NCT of Delhi but also persons who are temporarily injured, whose movement is temporarily restricted due to injury, pregnancy, those carrying load or children and the elderly persons. Accessible features in any built environment reflect, the inclusivity of a nation. As Delhi is visited by peoples of almost all the nationalities, accessible Delhi will contribute to a positive image of the country that cares for its most marginalized section of the citizens.

37. As observed by this court, the progress in implementation of the action plans is far from satisfactory and with the current speed and the strategy, it is unlikely for the concerned respondents to meet the outer deadline of 15.06.2022 to make all public **buildings/ built environment** accessible for persons with disabilities in accordance with the prescribed guidelines of the Central Government. The deadline of ensuring

provision of accessible **“Public Facilities and Services”** has already expired on **15.06.2019**. Regular monitoring by Monitoring Committee is therefore critical. Effective involvement of the officers at the highest level in all the respondent departments/organisations is also absolutely essential.

38. In Case No. 1053/1108/2019/07 filed by Sh. Subhash Chandra Vashishth, Director of Svayam, several issues related to the non-compliance of the provisions on accessibility in built environment such as public buildings/ spaces included restaurants, hotels, conference halls, banquets, cinema halls, Barat Ghars, Chaupals, Community Centres, Panchayat Bhawans, spaces rented out for public functions like ceremonies for wedding, public rallies/meetings etc. were raised. RTI replies received from SDMC confirmed on record that “Accessibility of premises is not essential requirement for grant of licence or NOC for public premises. Similarly for issuance of health trade licences through online system, prior inspection of the site wasn’t an essential criteria. This indicated systemic inadequacies which needs to be supplemented by making requisite provisions in the requirements so that the same could be monitored effectively.

39. In his rejoinder he submitted that SDMC submitted older version of Chapter 11 of Unified Building Byelaws 2016 (hereafter referred to as UBB 2016) that prescribed accessibility requirements applicable to them,

while EDMC submitted latest version of the UBB 2016. Thus not all respondents were on same page which needed to be addressed. The Delhi Fire Service also doesn't check the accessibility of the premises to persons with disabilities.

40. Delhi Police (Licensing) Branch has confirmed that they issue licenses for Eating House/ Lodging House/ Cinema without treating "Accessibility of the premises for the persons with disabilities" as one of the essential requirements for grant of licence for the same.

41. This Court is of the opinion that ensuring accessibility for all is a shared responsibility and every department has a role in it.

42. HODs/ Senior Officers should themselves monitor the status of implementation of the action plans in respect of their Department buildings and assets. They, as duty bearers have the shared responsibility to ensure accessibility to their offices as well as entire NCT of Delhi and contribute to making a dignified living for persons with disabilities in the national capital.

43. Keeping in mind that the provisions are mandatory and non-compliance or contravention of the provisions is punishable under Section 89 of the Act, the following recommendations are made for implementation;-

- (i) The action plans submitted by the respective respondent Departments through their nodal officers/ other officers received in this court till the date of this order, which have been uploaded on the website of this court <http://www.discomm.delhi.gov.in/>, be also uploaded in the websites of the concerned respondent Departments/ organisations/ offices within 7 days of receipt of this order.
- (ii) The status of implementation of action plans should be updated at regular intervals not exceeding one month, which should also indicate the progress made with reference to the base line i.e. the day when the action plan was first prepared and submitted in this court and the progress made over the previous month. The status of accessible places and the action plans should be accessible to persons with disabilities to enable them to make an informed decision to visit a place/building/facility.
- (iii) Department of Information and Technology should develop a system/ mechanism and incorporate it on every website of the Department of the GNCT of Delhi, the Corporations, Civic authorities and other organisations/ PSUs, etc. in NCT of Delhi so that the users can post/ communicate their comments on the accessibility of a particular place/ building facility/ service.

- (iv) The Heads of Departments/Organisations/PSUs, Corporations, Civic Authorities including DDA, New Delhi Municipal Council and Delhi Cantonment Board should include the status of progress made in implementation of the 'action plans' on accessibility in respect of the built environment, transport and website as one of the items for their weekly/fortnightly/monthly review meetings, as the case may be.
- (v) The team headed by the Nodal Officer already appointed by the concerned respondent Departments/Organisations, must ensure physical check and verification of the reported progress. The team must include a technically qualified person preferably a Civil Engineer/ Architect/ a person with disability who has fairly good knowledge of the accessibility requirements provided in the **Harmonized Guidelines** and the National Building Code and present report in the review meetings and recommend corrective action wherever required. This should also be reflected in the quarterly report to be submitted by the respondent Departments to the State Commissioner.
- (vi) I also recommended that the Chief Secretary, GNCT of Delhi should also include as a point for review the status of progress made in implementation of various provisions of the Act in general

and action plans on accessibility in particular, in all his review meetings with the HoDs.

(vii) The respondent organisations/ agencies who are responsible for maintenance and up keep of the public/ community toilets, should upload their exact location and updated status of accessible once, in their respective websites and also create awareness about the accessible facilities among the public.

(viii) Principal Secretary/Secretary, Urban Development Department should maintain the list of Civil Engineers, Architects involved in construction of public buildings and facilities in Government as well as in private sector who have been trained on Accessibility and Access Audit and upload the list in the website of the Department. Training and capacity building of the construction Engineers, Architects and others like masons and those deployed for inspection, licensing or monitoring should be mandatory. The Counsel of the Architects and the experts in the field should be involved for it.

(ix) The Monitoring Committee should meet more often and also ensure physical check of the status of implementation of the action plans across NCT of Delhi especially the peripheral and rural areas

where it is rare to see any signs of accessibility to built environment for persons with disabilities.

- (x) The Chairman of the Monitoring Committee should submit a quarterly report to the State Commissioner for Persons with Disabilities indicating the progress made over the previous quarter on implementation of the action plans and the reports of the physical checks. The progress reports should be submitted by 10th of the month following the end of the quarter i.e. by 10 January 2020, 10 April 2020 and so on till 10 July 2022 or till the action plans are fully implemented.
- (xi) The Monitoring Committee should also monitor the action plans in respect of the places of worship submitted by the 11 District Magistrates, 429 available Hotels and Restaurants in NCT of Delhi, the list available as on the date of this order.
- (xii) The Principal Secretary/ Secretary, Urban Development Department should, in consultation with the concerned authorities, prepare an action plan and strategy on how the accessibility in the narrow areas, unauthorised colonies now regularised and the unauthorised colonies in NCT of Delhi can be provided. All the owners/occupiers of '**public buildings**' and the '**public facilities and services**' in such areas should be made aware about the

mandatory provision and be directed either to make the public buildings owned/ used by them or the public facilities and services being provided by them, accessible or stop the operations from inaccessible place.

(xiii) Finance Department and all other concerned Departments/ organisations responsible for procurement of goods, products and services should change their procurement policy and make it explicitly clear that no product, goods or services should be procured which do not meet the requirement of accessibility or is of universal design. **Necessary circulars/ directions to all concerned should be issued within 30 days from the date of receipt of this order.** A clause/ check point should be incorporated in relevant formats/procedures to ensure compliance before a procurement proposal is approved.

(xiv) Chairman, New Delhi Municipal Council should expedite developing the entire NDMC area or some selected areas under his/her jurisdiction as fully accessible in accordance with the **Harmonised Guidelines** and give it wide publicity for others to replicate. This can also be used for the purpose of training and capacity building. At least some area should be completed by

31.12.2019 and be given wide publicity under intimation to this court.

(xv) Transport Department should ensure accessible bus queue shelters, accessible buses, stopping of buses at the right place in the bus bay, training of every driver and conductor of DTC as well as private buses, who should be issued a certificate to that effect.

(xvi) Accessibility in the premises and Accessibility in the facilities and services be made an essential requirement/ condition for grant of permission/ licence or NOC for all public premises/functions such as restaurants, hotels, conference halls, banquets, cinema halls, Barat Ghars, Chaupals, Community Centres, Panchayat Bhawans, Open Spaces rented out for public functions like ceremonies for wedding, birthdays, felicitations, public rallies/meetings etc.

(xvii) The respondents in the case of Sh. Subhash Chandra Vashishth shall submit to this court the proformae of mandatory requirements to be met for (i) issuance of completion certificate of the building and (ii) for issuance of licences for running the activities for use of public.

44. The case filed by Sh. Subhash Chandra Vashishth also stands disposed of with this order.

45. Since the action plans will continue to be implemented beyond 3 months, the concerned respondents shall submit quarterly reports to the

State Commissioner and the Monitoring Committee by 10th of the month following the end of the quarter.

46. This court has made some recommendations in the following cases as well which also need to be monitored by the Monitoring Committee.

1. Case No. 235/1101/2018/05/9969-72

Dr. Nitesh Tripathi Vs The Commissioner, North Delhi Municipal and The Owner, Dosa Point Restaurant, Sant Nagar, Burari

Order Date: 28.09.2018

Recommendations:

- (i) *“Pr. Secretary (Urban Development), GNCT of Delhi who is also chairing the Monitoring Committee to monitor implementation of the action plans to make the built environment and transportation accessible in suo motu case No.4/1665/2017/Wel/CD should examine the matter in consultation with all the stakeholders and issue directions as to the authority/department for ensuring accessibility for persons with disabilities to “public buildings” and “public facilities and services” in unauthorised areas/colonies.*
- (ii) *Issue directions to such authorities/department to take action for making “public buildings and services” accessible for persons with disabilities within the time frame prescribed in Section 45 & 46 of the Act.*

- (iii) *Issue appropriate guidelines keeping in view the constraints of space in such areas.”*

2. Case No. 326/1101/2018/06/1568-1569

Suo-Motu Vs The Chairmen, New Delhi Municipal Council, Palika Kendra, Parliament Street, New Delhi-110001 **and The Cinema Manager**, PVR Chanakya,

Order Date: 29.03.2019

Recommendations:

- (i) *“Chairman, NDMC should make necessary arrangements for creating awareness about the provisions of the Act and the Harmonised Guidelines and Space Standards for Barrier Free Environment for Persons with Disabilities and Elderly Persons issued by Ministry of Urban Development.*
- (ii) *Take steps for capacity building of the concerned architects/ engineers/functionaries to ensure that no structure is constructed without adhering to the accessibility standards. This court has already made detailed recommendations in this regard among other things, in Suo-Motu Case No.4/1665/2017-Wel/CD in which NDMC is one of the 14 respondents.*
- (iii) *Issue instructions for strict compliance of the guidelines and provisions of the Act and to bring to the notice of all concerned that contravention of any provision of the Act or the Rules/Regulations made thereunder is punishable under the Act and the fine may extend to Rs.5 lakhs.*
- (iv) *Respondent No.2 shall intimate this court soon after*

the PVRs are made fully accessible as per the action plan submitted vide letter dated 05.07.2018.”

3. Case No.679/1101/2019/01/2242-2243 & Case No. 593/1101/2018/11

Suo Motu Vs Vice Chairman DDA, Commissioner, South DMC and Dr. Nitesh Tripathi Vs Vice Chairman, DDA, Commissioner, South DMC

Order Date: 10.05.2019

Recommendations:

- (i) “DDA should submit an action plan indicating the dates by which various markets under its control in Dwarka shall be made accessible to persons with disabilities in accordance with the harmonised guidelines issued by the Ministry of Urban Development, Govt. of India referred to above. The action plan should also include accessibility of foot paths corridors, drinking water facility, toilets if any.*
- (ii) A quarterly progress report as on 30th June, 2019 onwards till the work is completed, shall be submitted by **10th July, 2019, 10th October, 2019** and so on.*
- (iii) DDA should issue a circular for providing services, facilities in accordance with the rules on accessibility to the owners, lease holders, occupiers who are providing facilities and services from their premises to the public by **15 June, 2019**, failing which appropriate action should be initiated against the contraveners of the provisions of the Act and the Rules.*

(iv) *DDA shall make available the list containing names/addresses/contact details of the original allottees and the owners / lease holders / current occupiers to this Court before **15th June, 2019.***

47. This court be informed of the action taken on the above recommendations within 3 months from the date of receipt of this order as required under Section 81 of the Act which reads as under:

“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.”

48. The cases are disposed of.

49. Given under my hand and the seal of the Court this 26th day of November, 2019.

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

Copy to:

1. Chief Secretary, GNCT of Delhi, 5th Level, Delhi Secretariat, IP Estate, New Delhi – 110002: For information and necessary action w.r.t para 43(vi)

2. Principal Secretary to Hon'ble Lt. Governor, Raj Niwas, Civil Lines, Delhi-110054: For kind information of Hon'ble Lt. Governor of NCT of Delhi.
3. Principal Secretary, Finance Department, Government of NCT of Delhi, 4th Level, A Wing, Delhi Secretariat, IP Estate, New Delhi-110002: For action on para 43(xiii).
4. To all the HoDs/ Pr. Secretaries/ Secretaries by email for action on para 42.

(T.D. Dhariyal)

State Commissioner for Persons with Disabilities