

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. 1097/1101/2019/08 / 8829 - 8832 Dated: 12/12/2019

In the matter of:

Suo-Motu

Versus

Vice Chancellor,
University of Delhi
Delhi -110007

.....Respondent No. 1

The Principal Secretary,
Public Works Department,
5th Level, B-Wing, Delhi Secretariat
New Delhi-110002

.....Respondent No. 2

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

.....Respondent No. 3

DCP Traffic,
Central Range,
Old Tara Chand Road,
Old Police Line, New Delhi-110054
Email: dcptcr@gmail.com
sodcptnorth@gmail.com

.....Respondent No. 4

Date of hearing: 27.11.2019

Present: Dr. Bipin Tiwary, OSD, E.O.C, DU on behalf of
Respondent No. 1
Sh. Mohal Lal, SE(N) on behalf of Respondent No.
2
Sh. Ved Prakash Jha, Traffic Inspector, Delhi Police
on behalf of respondent No. 4

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ORDER

As per a news item published in Hindustan (Hindi Edition) dated 28.08.2019, the students with disability studying in North Campus of University of Delhi were struggling due to lack of facilities. It was alleged that the lift inside the campus was out of order, the footpaths outside the campus were either broken or have been encroached.

2. In view of the provision in Section 16(ii) of the Rights of Persons with Disabilities Act, 2016, hereinafter referred to as the Act which mandates that buildings, campus and various facilities in an educational institution shall be made accessible for persons with disabilities.

3. Section 45 and 46 of the Act provide for the time limit of 5 years and 2 years from the date of notification of the rules on accessibility. Section 40 of the Act require 'public building' and 'public facilities and services' to be made accessible for persons with disabilities by 15 June 2022 and 15 June 2019 respectively.


4. Further, Rule 15 of Rights of Persons with Disabilities Rule, 2017 notified by Ministry of Social Justice and Empowerment (Department of Empowerment of Persons with Disabilities) vide notification dated 15.06.2017 provides that the standard of 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 complied by every establishment.

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5. The matter was therefore taken up with the respondents vide showcause-cum-hearing-notice dated 30.08.2019 and the respondents were directed to submit the reasons for not providing accessible facilities to students with disabilities in and around University of Delhi within 15 days of receipt of the notice and a hearing was also scheduled on 09.10.2019.

6. Vide email dated 08.10.2019, Professor Anil K. Aneja and Dr. B.K. Tiwary submitted that the notice was received in their office on 07.10.2019. Due to prior commitment it was not possible for them to attend the hearing. It has therefore been requested that the hearing may be scheduled after 20.10.2019 in the afternoon. It has also been submitted that Delhi University is a statutory body under an Act of Parliament and under the Jurisdiction of UGC and MHRD. Therefore, Office of Chief Commissioner for Persons with Disabilities is empowered to look into any grievance relating to University of Delhi. It has further been contended that no judicial/quasi-judicial action could be initiated merely on the basis of a Newspaper report especially, when there is no specific complaint before the Court.

7. Sh. Bhagat Singh, Administrative Officer, Civil Line Zone-02, North DMC filed a reply dated 09.10.2019 which gives details of the action taken w.e.f 01.04.2019 till 18.09.2019 for removal of temporary encroachment in Delhi University area.


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8. 16 encroachment removal actions were conducted in the University campus in which 6 vehicles on 15.04.2019 were removed/impounded and 292 items were seized. It had been submitted that action with regard to the maintenance of roads, pavements and lift is to be taken by PWD, GNCT of Delhi and University of Delhi. He also added that many students and other people park their motorcycles/vehicles on the footpath. The Delhi Police during a meeting held with them pointed out that the students start quarrelling if their motorcycles/vehicles were towed away.
9. North DMC was directed to increase the frequency of temporary encroachment removal action in and around Delhi University campus to ensure that these do not become barriers to the safe movement for persons with disabilities in the campus.
10. The university administration should issue an advisory to the students and the faculty/staff to report such encroachments to the concerned functionaries of North DMC preferably to the Zonal Control Room telephone no. 23923392 and 23923394.
11. DCP Traffic, Southern Range was advised to instruct the concerned officers of Delhi Traffic Police/SHO to ensure that no motorcycle/vehicle is parked on the footpaths in and around University campus and take action strictly in accordance with the law.
12. Sh. Mohan Lal, SE(N) on behalf of PWD appeared and submitted that the concerned division of the road may have taken note of the matter

and corrective action taken. He will also in his capacity as a Nodal Officer, will speak to the concerned Superintending Engineer and ensure that the broken footpaths are repaired. He will also advise him to submit status/an action taken report within a week.

13. On the next date of hearing on 07.11.2019, Sh. Mohan Lal, SE(N), PWD alongwith Sh. Abhishek Raj, SE(C&ND), PWD and Sh. Yadvinder Singh, EE(C&ND), who is responsible for maintaining PWD roads, footpaths etc. in and around University of Delhi, submitted a reply dated 06.11.2019 alongwith the photographs of the footpaths and roads. Sh. Abhishek Raj informed that accessible facilities have been incorporated and the footpaths are also being repaired from time to time. They specifically pointed out that damage is done to the footpaths and the tactile tiles due to unauthorised parking on the footpaths. They need the assistance of North DMC and the Traffic Police which was not adequate. It will be appropriate for PWD to consult a Professional on Accessibility and their representative from Equal Opportunity Cell.

14. From the photographs produced during the hearing, it is observed that trees and electric polls are mainly the obstructions on the footpaths and the guiding path. Ensuring the footpaths and the roads free of barriers is the joint responsibility of PWD, North DMC and Traffic Police. The role of University of Delhi is limited to issuing a circular and advising the students and faculty not to park their vehicles on the footpaths.

15. Unfortunately, none has appeared on behalf of the Commissioner, North DMC and the Police as the copy of ROP dated 09.10.2019 was addressed to DCP, Southern Range, J.B. Tito Marg, Sadiq Nagar, New Delhi-110049, though the matter pertains to North Campus of Delhi University and DCP Central Range is the concerned officer.
16. Considering the importance of the matter and need for coordination amongst the concerned authorities and the convergence, DCP Traffic, Central Range is impleaded as respondent no. 4. All the respondents are directed to ensure that their representatives are present on the next date of hearing with complete facts so that the case can be disposed of with appropriate directions/ recommendations. A copy each of the showcause-cum-hearing notice dated 16.10.2019 and ROP dated 16.10.2019 are enclosed for DCP, Traffic, Central Range.
17. On the next date of hearing on 27.11.2019, Sh. Ved Prakash Jha, Traffic Inspector, Delhi Police submitted a written statement dated 26.11.2019 which reads as under:

".....it is submitted that adequate traffic staff are being deployed around North Campus, Delhi University. A total 3 Zonal Officers, 1 Head Constable and 5 Constables are being deployed for traffic regulation and prosecution against traffic violators in North Campus, Delhi University area.

1 ZO, 2 Cts deployed at Patel Chest Chowk, 1 ZO, 2 Cts deployed at Kranti Chowk (Law Faculty) and 1 ZO, 1 HC and 1 Ct deployed at Chatra Marg Mall Road Crossing. They have been briefed not to allow parking of vehicles on footpath.

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Regular action have been taken by the traffic staff against violator of traffic rules especially improper parking in the area of North Campus and its surrounding area.

During the year 2019 upto 15.10.2019, total 126 vehicles driver/owners have been prosecuted against improper parking and 165 vehicles have been towed and prosecuted from the University Marg near SBI Bank, VC office area.

As per the direction of Hon'ble court further sincere efforts are being made to free North Campus area from improper parking of vehicles on foot path to provide free movement in the interest of safety of visually impaired person.

Submitted please

TI/SMC"

18. He also clarified that the Police personnel deployed for different areas are assigned a particular area and therefore they may not be always available at the particular point.

19. Dr. Bipin Tiwary, OSD, EOC of Delhi University stated that despite deployment of Police personnel, there is huge problem in traffic regulation and of encroachment. If his suggestion to make audio announcements about no parking on the footpaths/roads, pasting of the warning notices for towing away & fine for unauthorised parking and encroachments in and around the campus, there is a fair chance of improving traffic and pedestrian movement and better compliance by the motorist and vendors. He submitted that the speed breakers are too bumpy and therefore these should be designed in a manner that the wheelchair users can smoothly

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use them wherever there are no footpaths or it is not possible to use footpaths.

20. Dr. Tiwary also suggested that a study on better management of traffic circulation in and around the University Campus by Delhi Traffic Police as a pilot study, should also be done.

21. Sh. Mohal Lal, SE (N) and Nodal Officer, PWD reiterated the written submissions and stated that the construction activity has completely been banned on the directions of the DPCC and therefore the work for improvement/ repair of footpaths will be taken up after lifting of the ban.

22. As nobody appeared on behalf of Commissioner, North DMC, Ms. Ira Singhal, Nodal Officer for disability matters in North DMC was contacted on telephone. She informed that the Assistant Commissioner, Civil Lines Zone who had filed the reply in the matter should have appeared for hearing. However, she will convey to him about this matter.


23. The issues raised in the notice have not appropriately and fully been addressed. In view of the need for taking action on priority, the following recommendations are made after hearing the parties:

(i) The instances of encroachment and unauthorised parking on the footpaths and roads should be reported to MCD and Delhi Traffic Police within 7 days from the date of receipt of this order by

OSD, EOC, Delhi University.

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- (ii) The concerned road owning agencies namely PWD, North DMC with the assistance of Police shall organise a joint encroachment removal drive within 3 days of reporting by OSD, EOC.
- (iii) After the first encroachment and unauthorised removal parking drive, the concerned agencies namely the concerned officers of North DMC and the Delhi Police shall keep a regular watch and take immediate action for removal of unauthorised parking and encroachment to ensure that barriers to smooth movement of persons with disabilities are removed regularly within the minimum possible time.
- (iv) Delhi Police should implement the suggestion given by Dr. Bipin Tiwary for pasting of warning notices and audio announcement as a deterrent against unauthorised parking and encroachment and sensitisation.
- (v) A study of flow of traffic in and around the campus with a view to improve the flow of traffic should be conducted by Delhi Police in collaboration with the University of Delhi within 30 days from the date of receipt of this order. The outcome of the study should be implemented on pilot basis for a period for one month. If the pilot is successful, the same should be implemented.


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24. 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."

25. The matter is disposed of.

26. Given under my hand and the seal of the Court this 12th day of December, 2019.





(T.D. Dhariyal)

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