

**In the Court of the State Commissioner for Persons with Disabilities  
National Capital Territory of Delhi**  
25- D, Mata Sundari Road, Near Guru Nanak Eye Centre, New Delhi-110002  
Phone-23216001-04, Email: [comdis.delhi@delhi.gov.in](mailto:comdis.delhi@delhi.gov.in)  
**[Vested with powers of Civil Court  
under the Rights of Persons with Disabilities Act, 2016]**

---

**Case No.2345/1101/2021/09/4343-4380**

**Dated:25-03-22**

**In the matter of :**

**SUO-MOTU Regarding “Accessibility & barrier free movement for PwDs  
in the National Capital Territory of Delhi”**

Versus

As per enclosed list

..... **35 Respondents**

**Date of Hearing : 23.03.2022**

**Present:** As per enclosed list

**ORDER**

It has been observed/noticed that there are many obstructions/ barriers/encroachments, illegal squatters/vendors etc. on the footpaths and roads in the National Capital Territory of Delhi which creates a lots of hindrance/problem of “**Accessibility**” for the Persons with Disabilities (PwD) besides Women, Children & Elderly. Consequently, the common public spaces are becoming inaccessible and unsafe not only for persons with disabilities and elderly but also for general citizens. Some of the common flaws are as under:-

- (i) There are narrow spaces between bollards on the foot paths making it impossible for a wheel chair user to pass through;
- (ii) Some sign boards on the foot paths are of low height and at times on the tactile making it dangerous for visually impaired persons;

- (iii) Obstructions such as lamp posts, gutters, protruding objects, sign boards, trees on foot paths especially on the guiding tiles/ warning blocks make them unsafe for persons with visual impairment;
- (iv) Many Roads/footpaths are encroached by the vendors/hawkers and in open violation of the existing norms and procedure besides orders of the Hon'ble Supreme Court of India wherein the open, hazardous, unhygienic cooking and selling of food goes on;
- (v) Excavated roads/ footpaths by various agencies are not repaired quickly or haphazardly done.

2. Section 40, 41, 44, 45 and 46 of the Rights of Persons with Disabilities Act, 2016 here in after referred to as the Act, mandate the appropriate Government to ensure accessibility of existing built environment and transport among other things, to persons with disabilities under an action plan within five years and undertake the new construction only as per the prescribed standards. The said Sections are reproduced below:

***“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.”*

3. Rule 15 of the Rights of Persons with Disabilities Rules, 2017, here in after 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 March, 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 vide 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 for creating footpath that are safe, comfortable and easy to use";

4. Therefore, the undersigned has taken suo motu cognizance under Section 80 (b) of the Act of the above mentioned state of the built environment and of the fact that even at some places in Delhi new constructions are being carried out without following the prescribed standards. The respondents were accordingly directed to show cause as to 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 of built environment and transportation should not be made strictly in accordance with the provisions of the Act, the Rules and the standards prescribed for each of the facility vide Notice dated 13.09.2021 followed by reminder dated 27.10.2021, dated 24.02.2022.

5. A hearing was scheduled on 23.03.2022 on the subject. The respondents were further advised to stop forthwith any construction activity of built environment meant for public use without following the provisions of the Act, the Rules and the prescribed standards until appropriate corrective action is taken to ensure their accessibility to persons with disabilities.

6. A joint hearing was held with all the respondents, annexed at 'A' on 23.03.2022 at 11.30 AM. List of participants is annexed at 'B'. Initiating the hearing, State Commissioner for Persons with Disabilities (SCPD) deliberated and briefed about the aim, objectives and need of implementation of the Rights of Persons with Disabilities Act, 2016 in Delhi in true spirit. It was brought to the notice of all that deadline for making public buildings accessible is expiring on 15.06.2022 and for public facilities and services it had already expired on 15.06.2019.

7. A Power Point Presentation covering important aspects of the RPwD Act, 2016 was shown and deliberated upon during the hearing. The contents of the PPT in short are as under:-

- (i) Barrier Free Environment
- (ii) Basic Components of Accessibility
- (iii) Definition of Public Building & Public Facilities and Services as per the RPwD Act, 2016.
- (iv) Section 45 & 46 of RPwD Act, 2016 and Delhi RPwD Rules, 2017 provides for deadline for making built in environment barrier free as 15.06.2022.
- (v) Harmonised guidelines and Standards for Universal Accessibility in India 2021 issued by MoHUA.
- (vi) Sugamya Bharat Abhiyan
- (vii) 10 Basic Features of Accessibility
- (viii) Standards for Accessible facilities for PwDs.
- (ix) Short coming of Accessibility in different localities of NCT of Delhi

8. Some glaring shortfalls in respect of Accessibility carried out by the audit team of the Office of SCPD were pointed for benefit of all present. SCPD also mentioned about a news clipping which appeared in Times of India dated 13.03.2022 regarding Public Works Department, Delhi starting clearing footpaths encroachment as per orders of Hon'ble High Court to cover entire capital similar to the one issued by SCPD in this regard.

9. SCPD stated that there is lack of awareness among the general public/officials of executing agencies regarding Accessibility. SCPD also stressed about the need for sensitisation among all the stakeholders specially

the implementing officials. It was desired that Delhi should become the model city for PwD for Accessibility and other States should replicate the same.

10. SCPD sought the views and suggestions from the Members of the Advisory Committee/Domain Experts. Dr. Satendra Singh, Professor of Physiology, University College of Medical Sciences & GTB Hospital, Delhi, Domain Expert and a Person with Locomotor Disability expressed his views about the current status of accessibility in Delhi. He explained that Delhi is not friendly so far as accessibility is concerned for persons with disabilities and all concerned Departments responsible for executing accessibility have failed. Due to such infrastructure barriers, persons with disabilities are facing great difficulties. Even the number one premier AIIMS Hospital in Delhi is not disabled friendly/accessible for which case is pending in the Court of CCPD. All Hospitals, Markets, Stadias, Theatres, Cinema Halls etc. in Delhi need to be disable friendly. He highlighted various existing short comings and need of right approach to overcome these short comings. Shri Subhash Chandra Vashishth, Advocate and a an Accessibility Auditor, CABA Foundation addressing the participants stated that the major problem is that we have not looked up RPwD Act, 2016 with seriousness that it deserved. Lackadaisical approach is still prevailing among the municipal agencies/ implementing ageicies. As per Section 45(2) of the Rights of Persons with Disabilities Act, 2016 and in order to achieve the objective of accessibility, all the Departments are primarily required to frame an **Action Plan** based on prioritisation of how they would address accessibility and put it before the SCPD and publish it on their websites. The matter has already been delayed as above action plans were required to be submitted / framed earlier by the year 2017.

11. Engineer-in-Chief, PWD informed that currently all norms of accessibility are being followed in respect of new construction/works. As far as old works are concerned, which are owned by other departments, they are facing problems like space constraints, site restriction and in getting sanctions for

these works. On this, SCPD asked for a list of such works/departments. He also mentioned that in respect of Government buildings, they have provided the required provisions for PwDs and uploaded the list of such buildings on their website.

12. It was made clear by the SCPD that after the deadline prescribed under the RPwD Act and Rules, some punitive action may be initiated against the defaulters. Provision of imposition of penalty would be considered.

13. After due deliberations and discussions, the following recommendations are made:-

- (1) As **Public Works Department (PWD)** is the main road owning agency covering almost 85% of the roads in NCT of Delhi, it is the duty and responsibility of the PWD to maintain all roads and footpaths under its jurisdiction in proper manner specially catering to the needs of persons with disabilities mainly Persons with Visual Impairment, Persons with Locomotor Impairment and those who are wheelchair bound. Apart from other points, following are the important actionable points for the PWD:-
  - (i) **Awareness**:- Awareness about Rights of Persons with Disabilities (RPwD) Act, 2016, Universal Design of walkways/footpaths/signages. Engineer-in-Chief, PWD to chair a meeting upto the level of Junior Engineer and get them aware about the need of accessibility. This office can help them on this aspect.
  - (ii) **Training**:- No organisation can survive or improve without continues training to sensitize and update the personnel of the organisation with the latest developments/procedures to be followed. It is recommended that the executing officials of the Public Works Department should be imparted training on

accessibility preferably through access auditors. A report to this effect be sent to this Court.

- (iii) **Monitoring**:- Continuous monitoring be done by the agency that no one violates the conditions of roads and footpaths.
  - (iv) **Pelican Signals**:- Provision of Pelican signals should be considered on the roads for larger public interest.
  - (v) **Retrofitting work** should be done to create barrier free environment for PwDs.
  - (vi) This Court specifically authorises Public Works Department and all respective road owning agencies to take all possible measures to keep roads and footpaths under its jurisdiction PwD friendly, accessible and encroachment free.
- (2) These recommendations are not only for Public Works Department but for all road owning agencies/concerned departments.
- (3) It is often seen that footpaths are illegally encroached by squatters, hawkers, rehriis, vendors, illegal parking, illegal sign boards, illegal construction of porta cabins for guards etc. which obstructs easy movement of PwDs and all pedestrians .It is the duty and responsibility of the road owning agencies i.e. **PWD, MCD, Delhi Police etc.** to ensure that there is no encroachers of the pavement/footpaths. It is also the responsibility of the **Delhi Police** to ensure that adequate action is taken for immediate removal of such illegal encroachers from the footpaths. Special time bound drive is required to remove all such encroachments by 6<sup>th</sup> April 2022 and ATR be submitted.
- (4) It is the duty and responsibility of concerned **Dy. Commissioner of the Municipal Corporations** to ensure that no illegal hawker or tehbazari is allowed to sit on the road and pavement restricting movement of PwDs/Pedestrians. There has to be a Joint Action



and Enforcement Team in this regard consisting of licensing inspectors of MCD alongwith Delhi Police.

- (5) **Delhi Police** should sensitise all Police personnel specially all SHOs and Beat Constables to keep Delhi Roads and Footpaths encroachment free and PwD friendly.
- (6) While providing Sewer and Water connection to the individual households, relaying of sewer and water lines in colonies or housing societies, **DJB** often, has to dig roads for connecting water and sewer. Unfortunately, it has been observed that after completion of the work of relaying or new connection, roads and pavement are never brought back to its original condition which creates obstacles in movement of PwDs and other persons. **DJB** to take strict action/impose penalty against the persons/ organisations that does digging work without their permission. Also other service providers like IT, Power companies etc. does the same. A certificate be given by the concerned agencies that the roads and pavements are brought to its original condition after completion of the work.
- (7) **DTC** was directed to make Bus Queue Shelters Audio Video friendly for PwDs.
- (8) **Director, UTTIPEC, DDA** being the nodal agency for Unified Traffic regulation in the Capital, need to take cognizance of this important factor and hearing to initiate and take appropriate action accordingly.
- (9) Each **District Magistrate** is the overall incharge of the district to ensure that there is not a single obstruction with respect of accessibility issue for PwDs and others such as Elderly, Women and Children. Each DM is the Nodal Officer in the respective district to ensure that all concerned agencies such as PWD, MCD, Delhi Police etc. do carry out their duty in effective and

efficient manner to create barrier free, Accessible PwD friendly roads and footpaths in the District.

- (10) An **Action Plan** in this regard by all the road owning agencies/concerned departments is to be submitted to the Office of SCPD through the District Magistrates immediately for making a barrier free environment for PwDs.
- (11) **DSW** may like to issue notification regarding declaration as per the RPwD Act that the Deputy Magistrates are Additional Commissioners for Persons with Disabilities to assist SCPD in this regard.

14. This court be informed of the action taken by all the concerned respondents within 3 months from the date of receipt of this order as required under Section 81 of RPwD Act, 2016. In addition about the Action Plan for implementation by all respondents by 25<sup>th</sup> April, 2022.

15. Given under my hand and the seal of the Court this 25<sup>th</sup> day of March, 2022.

**(Ranjan Mukherjee)**  
**State Commissioner for Persons with Disabilities**

**Copy to:-**

The Pr. Secretary, Social Welfare Department, Govt. of NCT of Delhi,  
GLNS Complex, Delhi Gate, New Delhi-110 002.