

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

Case No.107/1141/2018/02/9702-05

Dated:07/09/2018

In the matter of:

Sh. Dilip Kumar
Sh. Vikram (Victim)
Karuna Path, Khasra No.22,
GTK Road, Libaspur,
Delhi-110042.

...Complainant

Versus

The District Magistrate (North),
DM Office Complex,
Alipur, Delhi-110036.

.....Respondent No.1

The Divisional Commissioner
5 Sham Nath Marg,
Delhi-110054.

.....Respondent No.2

The Chairman
National Trust for the Welfare of Persons with Autism, Cerebral Palsy,
Mental Retardation and Multiple Disabilities
16-B, Bada Bazar Road, Old Rajinder Nagar, Rajinder Nagar,
Delhi-110060.

... Respondent No.3

Date of hearing: 05.09.2018

Present: None

ORDER

A representation dated 18.12.2013 submitted by Ms. Lalli regarding appointment of legal guardian in respect of her mentally retarded son Master Vikram was taken up with the District Magistrate (North) vide letter dated 31.12.2013 followed by reminder dated 23.04.2015. She submitted that her son Vikram, is a child with 90% mental retardation and her other son is also mentally retarded. Her husband has expired and she has no support.

2. Sh. Dilip Kumar (Mob.:9899335009) informed that the guardianship certificate of Master Vikram had not been issued. District Magistrate (North) was directed vide letter dated 12.03.2018 to submit an action taken report by 28.03.2018, failing which the matter would be considered for further proceedings under section 82/93 of the Rights of Persons with Disabilities Act, 2016 hereinafter referred to as the Act.

3. As no action taken report was received, a hearing was scheduled on 11.05.2018. Ms. Ira Singhal, SDM(North District) appeared and informed that the relevant papers relating to the complaint were not available in the record. However, meeting of Local Level Committee was going to be held shortly. Sh. Dilip Kumar neither appeared nor could be contacted on telephone.

4. On the next date of hearing on 25.06.2018 SDM(North), Alipur intimated her inability to attend the hearing due to pre-occupation.

5. Sh. Dilip Kumar submitted that it is very difficult for him to visit respondent's office repeatedly and attend the hearings as well. The entire exercise has proved infructuous.

6. This court was constrained to record its serious concern as an illiterate helpless mother who has two children with intellectual disability and has been trying to get a legal guardian appointed for her 90% intellectually disabled son was not able to get the legal guardian appointed for the last more than 5 ½ years. It amounted to making the widely acclaimed socially beneficial legislation for the protection of the rights of persons with disabilities ineffective. The 'certificate' in respect of Master Vikram issued by NIMH Regional Centre, New Delhi is also not a valid "Disability Certificate" as that centre is not a competent certifying authority.

7. If this kind of approach is allowed to continue, the lofty provisions for empowerment of persons with disabilities enshrined in the Rights of Persons with Disabilities Act, 2016 and the United Nations contention on the Rights of Persons with Disabilities will surely remain only on paper.

8. The respondent no.1 was apprised that under Section 14 of the National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999, the Local Level Committee headed by the District Magistrate is mandated to consider the applications for guardianship and make recommendation for appointment of a guardian to the Board. Respondent no. 1 was also directed to arrange for issuing a disability certificate in respect of Master Vikram by a competent certifying authority and ensure that he receives all the applicable benefits meant for persons with disabilities like disability pension etc. within 30 days from the date of receipt of the said RoP.

9. The Divisional Commissioner and Chairman, National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities were impleaded as respondents No. 2 & 3 respectively with the expectations that the appropriate action would be taken. They were advised to submit a time frame within which the legal guardian in respect of Master Vikram would be recommended by respondent No. 1 and the Board shall approve and appoint the guardian.

10. Respondent No.3 was requested to also look into the efficacy of the existing mechanism with a view to ensuring that persons with disabilities under the National Trust Act especially those who are illiterate/less educated and poor are not ignored like the complainant in this case..

11. In response to the RoP dated 25.06.2018, National Trust vide letter dated 12.07.2018 requested the District Magistrate (North) to call all the applicants for completing the online application forms through the Scheme Management System which was started by the National Trust in 2016 for issuance of legal guardianship certificate. SDM(Alipur) vide letter dated 27.07.2018 informed that a meeting of Local Level Committee(LLC), District North was held on 04.06.2018. Sh. Dilip Kumar was telephonically informed about the meeting and was requested to appear before the committee. However, no one appeared on his behalf. Another meeting was held on 05.07.2018 but Sh. Dilip Kumar did not appear even on that date. She also enclosed minutes of the meeting of the LLC.

12. On 31.07.2018 also, Sh. Dilip Kumar did not appear and his mobile number was found switched off. Sh. Kamal (9871928211)

brother of Master Vikram informed that he did not receive any intimation about the meetings of LLC.

13. This Court advised the complainant and Sh. Kamal, brother of master Vikram on their given telephone numbers to get in touch with the Office of the District Magistrate (North) and SDM(Alipur) for legal guardianship certificate as well as the disability certificate in appropriate format from the authorised certifying authority.

14. Sh. Kamal, brother of Master Vikram did not respond to the repeated calls on 05.09.2018 and as already observed in the RoP dated 31.07.2018, the family members of Master Vikram do not appear to be serious about appointing his legal guardian. Therefore, unless the National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities and the LLC take special measures to contact the mother of Master Vikram and support her, the child will get deprived of every benefit which can otherwise be available to him under the schemes of National Trust and other Departments like disability pension.

15. In the circumstances mentioned above, Chairman, National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities is requested to make necessary arrangement to contact Ms. Lalli in collaboration with District Magistrate (North)m GNCTD and ensure that a legal guardian is appointed in respect of Master Vikram and get a Disability Certificate issued in the appropriate format from an authorised certifying authority. An ATR be submitted within 30 days from the date of receipt of this order.

15. The complaint is disposed off.

17. Given under my hand and the seal of the Court this 07th day of September, 2018.

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