

**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. 301/1093/2018/05/146-149  
(Earlier case No.301/1141/2018/05) and**

**Dated:08.01.2019**

**In the matter of:**

**Dr. Nitesh Kumar Tripathi,**  
H.No.B-241, Gali No.11,  
B-Block, Sant Nagar,  
Burari, New Delhi – 110091.

**..... Complainant**

**Versus**

**The Director,**  
Department of Social Welfare,  
GNCT of Delhi,  
GLNS Complex, Delhi Gate,  
New Delhi – 110002.

**.....Respondent**

**AND**

**Case No. 488/1093/2018/09/  
(Earlier case No. 488/1083/2018/09/**

**In the matter of:**

**Sh. Kapil Kumar Aggarwal,**  
Secretary General,  
Viklang Sahara Samiti Delhi,  
G-Block, Basti Vikas Kendra,  
Mangol Puri, New Delhi – 110083.

**..... Complainant**

**Versus**

**The Director,**  
Department of Social Welfare,  
GNCT of Delhi,  
GLNS Complex, Delhi Gate,  
New Delhi – 110002.

**.....Respondent**

**Date of hearing:** 03.01.2019 & 07.01.2019

**Present:** Dr. Nitesh Kumar Tripathi, Complainant on telephone (on 07.01.2019)

Sh. Kapil Kumar Aggarwal, Complainant on telephone (on 03.01.2019)

Dr. A. Madhvi, Deputy Director on behalf of respondent (on 03.01.2019)

### **ORDER**

#### **Case No. 301/1093/2018/05**

Dr. Nitesh Kumar Tripathi, a person with 65% locomotor disability vide his email dated 20.04.2018 addressed to Hon'ble Chief Minister and subsequent e-mails submitted that the shoes and the calliper provided to him by Pt. Deendayal Upadhyaya National Institute for Persons with Physical Disabilities (PDDUNIPPD), Department of Empowerment of Persons with Disabilities (DEPwD), Govt. of India were not of good quality. Therefore, Social Welfare Department of Government of NCT of Delhi should provide him good quality callipers preferably of Endolite which is most trusted among persons with disabilities.

2. PDDUNIPPD, with whom the matter was taken up, informed that Dr. Nitesh Kumar Tripathi was provided the appliances free of cost on 10.02.2015 and 11.05.2015 under ADIP Scheme of Govt. of India. The modified shoes were provided to him on 23.06.2016 on payment of Rs. 713/-. The Institute does not provide assistive devices made of imported material (Endolite) as it exceeds the stipulated cost of Rs.10,000/- per device under the scheme of the Govt. of India.

3. During the hearing on telephone on 07.01.2019, he stated that the calliper provided under ADIP Scheme of DEPwD did not meet the requirements of most persons with disabilities. These bend very soon and do not have auto flexibility. He requested that GNCT of Delhi should frame a

scheme under which good quality callipers and other aids and appliances of international standard should be given to persons with disabilities.

**Case No. 488/1093/2018/09**

4. Sh. Kapil Kumar Aggarwal, Secretary General, Viklang Sahara Samiti Delhi, vide his letter dated 11.07.2018 addressed to Hon'ble Chief Minister with a copy to this court submitted that vide his letter dated 03.02.2018, he had pointed out that many persons with disabilities in Delhi did not have motorised tricycles. He had requested Delhi Government to make provision for issuing motorised tricycles to persons with disabilities. He had also enclosed a copy of the letter dated 24.10.2017 of the Dte. of Specially Abled Persons of Rajasthan Government as per which Government of Rajasthan has a scheme for providing free motorised tricycles produced by reputed companies like Hero Honda, TVS, Yamaha, Bajaj etc. for persons with disabilities studying in Government/Government Recognised Schools/ Colleges in order to improve their mobility. However, he did not receive any reply and requested that he be informed of the action taken on his letter dated 03.02.2018 addressed to the Hon'ble CM.

5. The matter was taken up with the respondent vide letter dated 25.09.2018 and 08.11.2018 and an action taken report alongwith the list of persons with disabilities in need of three wheeled vehicles was called followed by a hearing on 03.01.2019 under Rights of Persons with Disabilities Act, 2016, hereinafter referred to as Act.

6. Department of Social Welfare vide letter dated 27.12.2018 inter-alia submitted that the Department at present did not have any scheme to provide Aids & Assistive Devices to persons with disabilities. Artificial Limbs Manufacturing Corporation of India (ALIMCO) under the administrative control of Department of Empowerment of Persons with Disabilities has been distributing aids and assistive devices by holding camps in collaboration with

Social Welfare Department at various places in Delhi. During 2018, 3 camps were organised at Swaroop Nagar, South District and Madipur. Department of Social Welfare actively participates in such camps. The Department also provides financial assistance to persons with disabilities @ Rs.2,500/- per month if their income is not more than Rs.1.00 lakh per annum. A copy of the said letter has also been sent to Sh. Kapil Kumar Aggarwal.

7. As per the request of the complainant, he was heard on telephone. He reiterated his request that GNCT of Delhi should have a scheme for issuing aids and appliances to the residents of Delhi with disabilities as the camps are currently organised by the concerned Members of Parliament and many persons with disabilities in need of such appliances are not able to get the motorised tricycles/vehicles. There is no centre or office of Delhi Government where a person with disability in need of any aids and assistive appliances can apply and get them.

8. The complainant was asked whether he has a list of persons with disabilities who had applied for motorised tricycles/vehicles but did not get the same in the camps. He submitted that he would be able to provide the list by 07.01.2019.

9. Dr. A. Madhvi, Deputy Director (Disability) Department of Social Welfare reiterated her written submissions and informed that the Department also does not have any such list.

10. The Rights of Persons with Disabilities Act, 2016 has been enacted to give effect to the United Nations Convention on the Rights of Persons with Disabilities and for matters connected therewith or incidental thereto. The convention lays down a number of principles for empowerment of persons with disabilities prominent among them being respect for inherent dignity; individual autonomy and independence, full and effective participation and inclusion in society and accessibility.

11. Personal mobility is critical to uphold the said principles and the Act mandates the appropriate Government to frame schemes and make provision for accessible transportation, aids and appliances, assistive devices to facilitate education and participation in different walks of life. Section 24(1) of the Act provides that the *appropriate Government shall within the limit of its economic capacity and development formulate necessary schemes and programmes to safeguard and promote the right of persons with disabilities for adequate standard of living to enable them to live **independently** or in the community.* Sub Section (3) of Section 24 of the Act specifically provide that the schemes under sub section (1) shall provide, among other things for (f) *provision of **aids and appliances**, medicine and diagnostic services and corrective surgery free of cost to persons with disabilities with such income ceiling as may be notified...*, (k) ***any other matter** which the appropriate Government may think fit.* Sub Clause (2) of Section 41 of the Act which pertains to access to transport, provides that *the appropriate Government shall develop schemes and programmes to **promote the personal mobility** of persons with disabilities at **affordable cost** to provide for – (a) incentives & concessions, (b) retrofitting and (c) personal mobility assistance.*

12. The above provisions envisage that both Central as-well-as the State Governments can frame the schemes to ensure personal mobility and access to various opportunities to ensure a life of dignity for persons with disabilities and for living independently. Irrespective of whether the Central Government or any State Government has made a scheme or not, GNCT of Delhi is obligated under the Act to frame schemes to enhance personal mobility of persons with disabilities of NCT of Delhi at affordable cost and enable them to live independently.

13. Besides governments, some NGOs like Rajiv Gandhi Foundation also provide motorised vehicles to persons with locomotor disability under a programme called Access to Opportunity (ATO). Incidentally, I have been one of the members of the committee for selection of beneficiaries. As per the

information obtained from Rajiv Gandhi Foundation, in the year 2017-18 and 2018-19 respectively, only 6.6% and 5.9% of the 137 and 118 eligible applicants could be awarded the motorised vehicles. The details of the applicants are given in the table below:-

**Access to Opportunities Programme of Rajiv Gandhi Foundation**

Year	Total Applied (From Delhi)	Total Eligible	Total selected/Vehicles awarded	Awarded as % of eligible
2017-18	384	137	9	6.6
2018-19	639	118	7	5.9

14. Although it may not be possible to make a proper needs assessment for the motorised vehicles in Delhi based on the above information, it can serve as a rough indicator for framing a scheme. The relevant information can also be obtained from ALIMCO and District offices where camps were organised, if considered necessary.

15. The Department may constitute a Technical Committee comprising persons with disabilities and those having expertise in OT&PT for framing the scheme to be implemented on a pilot basis preferably in the current financial year. If the pilot is successful and a need is established, the scheme can be scaled up. The scheme should also include the provision for monitoring of its implementation, utilization of the vehicles, other appliances and the impact of the scheme and its contribution to empowerment of the beneficiaries.

16. Sh. Kapil Kumar Aggarwal may submit by 07.01.2019 the list of persons with disabilities who had applied for motorised tricycles/motorised vehicles and other appliances in the past and the number of those who were issued the appliances to Department of Social Welfare under intimation to this court, if he has the same. As the list has not been received till date, the order is being passed to enable the Department to initiate action.

17. It is recommended that the respondent should frame a scheme for providing aids and appliances including motorised vehicles to enhance the personal mobility of persons with disabilities at affordable cost and enable them to live independently. The scheme may also provide for incentives and concessions, retrofilling of vehicles and personal mobility assistance and inform this court about the action taken within 3 months from the date of receipt of this order as required under Section 81 of the Act.

18. Both the complaints are disposed of with the above recommendation.

19. Given under my hand and the seal of the Court this 08<sup>th</sup> day of January, 2019.

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