

**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: 011-23216003-04, Email: comdis.delhi@delhi.gov.in
[Vested with powers of Civil Court under the Rights of Persons with
Disabilities Act, 2016]**

Case No. 2684/1121/2022/07/6418-6423

Dated: 10-08-22

In the matter of:

Mrs. Anshu M/o Adarsh,

N-260, Mangol Puri, Saraswati Vihar,
North West, Delhi-110083
(Email: kapil.vssd1994@gmail.com)

.....Complainant

Versus

The Medical Superintendent/ Director,

Dr. Baba Saheb Ambedkar Hospital,
Sector-6, Rohini, New Delhi-110085.
(Email id: msbsah@yahoo.com)

.....Respondent No. 1

The Medical Superintendent/Director,

Sanjay Gandhi Memorial Hospital
Mangol Puri, Delhi-110083
(Email id: mssgmh@rediffmail.com)

.....Respondent No. 2

The Medical Superintendent,

Bhagwan Mahavir Hospital,
Pitampura, Delhi-110034
(Email id: msbmh-dhs-delhi@nic.in)

.....Respondent No. 3

Dr. Yogesh Kataria

Nodal Officer (Disability)
DGHS (HQ), GNCTD
F-17, Karkardooma, Delhi-110032
(Email: disabilitycelldghshq@gmail.com)

.....Respondent No. 4

The Secretary,

Department of Health and Family Welfare,
GNCT of Delhi, 9th Level, A-Wing, IP Estate,
Delhi Secretariat, Delhi-110002

.....Respondent No. 5

Date of Hearing: 08.08.2022

Present: Complainant:

Sh. Kapil Kumar Aggarwal, Founder & CEO, Viklang Sahara Samiti, Delhi alongwith Mrs. Anshu, Mother of Master Adarsh

Respondents 1 to 5:

Dr. Namita, Chairperson, Disability Board alongwith Ms. Meena Jain, Asstt. Director appeared on behalf of Dr. BSA Hospital

Dr. Ashok Sharma, Chairperson (Disability) appeared on behalf of SGMH.

Dr. Daljeet Kaur, DMS appeared on behalf of BMH.

Sh. Yogesh Kataria, Nodal Officer, Disability Cell appeared on behalf of DHS.

Sh. Kuldeep Singh, Addl. Secretary (H&FW) appeared on behalf of H&FW Deptt.

Others:

1.Sh. Rahul Aggarwal, DD(Disb.), Deptt. of Social Welfare.

2.Mrs. Saroj Rawat, DSWO (SW) & (West), DSW

3.Ms. Anchal Raizada, State Coordinator, UDID, Deptt.of Social Welfare.

ORDER

The above complaint of Mrs. Anshu, Mother of Master Adarsh was received through Viklang Sahara Samiti Delhi vide email dated 01.07.2022. It was informed that Mrs. Anshu, M/o Master Adarsh R/o of JN-260, Mangol Puri, North West, Delhi-110083 applied online for her son's Disability Certificate(DC) and then visited to the designated Bhagwan Mahavir Hospital, but the hospital authorities did not issue her Disability Certificate by citing reason of 'Non-availability of Specialist' for Mental Illness in the Hospital and advised her to visit Dr. BSA Hospital. The staff of Dr. BSA Hospital also informed her that no specialist for mental retardation was available. Subsequently, she visited Sanjay Gandhi Hospital but there also she could not succeed in getting the requisite disability certificate for her son. The matter was brought to the notice of this Court.

2. In several such matters also in the past, many hospital authorities including Bhagwan Mahavir Hospital, Dr. Baba Saheb Ambedkar Hospital and Sanjay Gandhi Hospital did not help the concerned PwDs with DC. This issue was also taken up from the O/o SCPD vide letter No. SCD/7/Misc./UDID/1900/2021/08/4087-90 dated 28/02/2022 and letter No. SCD/7/Misc./UDID/1900/2021/08/4845-49 dated 20/04/2022. In compliance ATR by respondent hospitals, it was informed that due to non availability of Specialists, the hospital authority was not in position to issue disability certificate.

3. The subject matter was also considered & discussed in the meeting held on 20/12/2021 under the Chairmanship of the State Commissioner for Persons with Disabilities with some Hospital Authorities, Nodal Officers for UDID (DGHS) & Dy. Director (DSW), wherein it was decided that services of specialist doctors from other hospitals should be obtained in case of non-availability in any hospital. No case should be referred to other hospital for issue of DC for PwDs and all help need to be rendered w.r.t. issue of disability card.

4. In spite of above directives, persons with disabilities continue to face difficulties in getting DCs/UDID Cards and act of the hospital authorities in such cases reflects insensitivity and indifferent attitude towards Persons with Disabilities which lead towards avoidable harassment.

5. Keeping in view of the above facts, a hearing with all the respondents was scheduled on 08.08.2022 at 11.30 AM to showcause as to why they could not requisition Specialist doctors (in case of non-availability) from other hospitals and complete the assessment process of persons with disabilities in their own Hospital, instead of referring the PwDs to other Hospitals. All parties submitted their respective reasons & facts as under:-

6. Representatives of the Respondent No. 1 reiterated their written submission dated 08.08.22 and informed that the BSA hospital could not issue DC in case of Master Adarsh, Master Mayank and many other such as Master Aman as these cases were related to mental illness and Hemophilia. They found it difficult to comply the orders of H&FW Deptt. dated 02.05.2019 due to non-availability of Specialist i.e. Clinical Psychologist in the hospital and the same is required for issuing disability certificates. They had written several letters to H&FW Deptt. IHBAS and LNJP Hospital etc. to depute clinical psychologist but they did not receive any positive response. It was further informed that more than 1100 disability certificates were issued to the inmates of Asha Kiran Home by Dr. BSA Hospital as it has in-house facility of clinical psychologist. Thus, BSA Hospital though is making every effort to issue Disability Certificate in-house but due to inability to make arrangement for clinical psychologist after repeated efforts, it is not being possible.

7. Representative of Respondent No. 2 informed that facility of assessing mental illness cases is not available in Sanjay Gandhi Hospital thus, the case of Master Adarsh being a Mental Retardation case was transferred to IHBAS hospital and his parents were informed accordingly. However, the case was discussed with Dr. Yogesh Kataria, Nodal Officer, DHS and doctors of IHBAS and complainant was also directed to report to IHBAS but due to some difficulties she failed to do so. On this, complainant informed that she was not able to approach IHBAS earlier due to illness of his son, now she can report to IHBAS for assessment and issuance of DC to her son. Accordingly, she was requested to visit IHBAS for requisite issuance of DC for her son Master Adarsh on 12.08.2022.

8. Representative of Respondent No. 3 informed that the case of Master Adarsh, Master Mayank and Master Aman could not be considered that due to their mental retardation conditions, the disability certificate for the this field can

only be issued after prior assessment of grade of disability by the concerned Specialist / Board. However, in the absence of concerned specialist / board, the applicants were advised to visit RML/IHBAS and any other hospital where such facility is available. It was further informed that BMH being a secondary level hospital, it would not be feasible for them to assess the disability due to lack of infrastructure.

9. Mrs. Saroj Rawat, DSWO (South West) & West District informed that respondent hospitals are not only referring cases of mental illness but they are also referring cases of other disabilities. She also shared her experience during UDID Camp conducted by her in South West district for issuance of Disability Certificates / UDID Cards in which respondent hospitals showed their inability to issue DCs to mental illness cases even if she tried to arrange clinical psychologists from NIMH/NIB. She also informed that these Hospitals are having a large number of pendency of UDID Cards in respect of mental illness cases on the plea of non-availability of any Specialist for the purpose. Thus, she suggested that there is an urgent need to resolve such issues to avoid unnecessary harassment to the persons with disabilities.

10. Ms. Anchal Raizada, State Coordinator, UDID, Deptt.of Social Welfare informed that earlier all the hospitals had tendency to transfer such cases to other hospitals, but now they were properly instructed to not to transfer any case instead in case of any issue or non-availability of any specialist, they should write to DHS or H&FW Deptt. for making some arrangement or till such time make their own arrangements by taking help from other hospitals.

11. Representative of respondent No. 4, informed that there is acute shortage of Specialists of Mental illness and clinical psychologist in govt. hospitals as most of them resigned from tertiary / prominent hospitals.

12. After due deliberations and discussion on the case, the court recommended as under:

- (i) Court observed the fact with concern that hospitals are not providing proper services to the persons with disabilities and they have to move from place to place for their assessment & getting DC/UDID Card issued. Thus, all respondent hospitals are hereby directed to remain more empathetic towards the needs of persons with disabilities and resolve their problems.
- (ii) Complainant is directed to report to IHBAS for assessment and issuance of DC/UDID Card in respect of her son Master Adarsh positively by 12.08.22. Respondent No.2 is also directed to ensure all assistance to complainant in this regard.
- (iii) Respondent No. 5 is directed to take cognizance of the issue relating to referral of persons with disabilities by hospitals and pass fresh orders to ensure that no hospital to transfer case to another hospital.
- (iv) Court observed that Respondent No. 5 i.e. Health & Family Welfare Deptt. being the cadre controlling authority of hospitals under GNCT of Delhi is responsible for problems being faced by hospitals like non-availability of doctors / specialist & other infrastructural issues. Thus, Respondent No. 5 is also directed to have dialogues with all Medical Superintendents, hold deliberation & meeting to resolve this issue of the Hospitals and take all efforts for implementation of Circular No.24/Misc.Policy/Disability/DHS/NHC/1039-45 dated 02/05/2019.
- (v) Simultaneously, in order to dispose of the pendency relating to DC/UDID Cards and provide maximum relief to persons with disabilities with mental illness it is recommended that respondent hospitals should also explore the possibility of taking services of clinical psychologist available in different universities / colleges and

other educational institutes in case of shortage of Specialist / Clinical psychologist in govt. sector.

13. The case is closed with the above recommendations and action taken be intimated to this court within 3 months from the date of receipt of this order as required under section 81 of the Act.

14. Given under my hand and the seal of the Court this 10^h day of August, 2022.

(Ranjan Mukherjee)
State Commissioner for Persons with Disabilities