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In the Court of State Commissioner for Persons with Disabilities  
National Capital Territory of Delhi  
25- D, Mata Sundri Road, Near Guru Nanak Eye Centre, New Delhi.  
Phone-011-23216002-04, Telefax: 011-23216005,  
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[Vested with powers of Civil Court under the  
Rights of Persons with Disabilities Act, 2016]

Case No.1035/1141/2019/07/7737-7739

Dated: 11/11/2019

In the matter of:

**Sh. Prasanna Kumar Pincha,**  
Flat No. 007, Ground Floor,  
Narmada Tower I, Pocket D 6,  
Vasant Kunj,  
New Delhi-110070  
Mobile no. 09899578157  
Email: [prasannapincha@gmail.com](mailto:prasannapincha@gmail.com)

.....Complainant

**Versus**

**The Vice-Chairman,**  
Delhi Development Authority,  
B-Block, 1<sup>st</sup> Floor,  
Vikas Sadan,  
New Delhi-110023.  
Email: [vcdda@dda.org.in](mailto:vcdda@dda.org.in)

.....Respondent no. 1

**The President,**  
Resident Welfare Association,  
Narmada Apartments, Pocket D6,  
Vasant Kunj,  
New Delhi-110070.

.....Respondent no. 2

### **ORDER**

Sh. Prasanna Kumar Pincha, a person with blindness vide his complaint received through email dated 22.07.2019 submitted that he is totally blind since birth and is the former Chief Commissioner for Persons with Disabilities, Govt. of India. He was allotted an apartment Flat No. 007, Ground Floor, Narmada Tower I, Pocket D 6, Vasant Kunj, New Delhi by DDA. He has been staying in the said flat since

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October/November, 2013. Both Sh. Pincha and his wife are senior citizens and his son and daughter are living abroad. On 21.07.2019 due to heavy rain, his house was flooded with water flowing out of the drain. This caused nervousness, panic, feeling of insecurity and trauma to the complainant and his wife. This has been happening in the past also, though of lesser intensity.

2. The Resident Welfare Association (RWA) deputed plumber and the care taker as per whom, the workers engaged for building the parking lot in the basement allegedly put some cloth due to which the water/sewerage does not get released. After the cloth was removed, the water started receding. The president of RWA also informed him that the fault lies with the DDA. While he is not sure, the version of the president of RWA appears to be convincing because the basement is intended to be the parking lot which is under construction for years.

3. As his safety, security and risk to his person were involved, the complainant prayed as under:-

(i) that respondent No. 1 be directed to ensure safety and security of the person and property of the petitioner and his family forthwith, inter alia, by putting in place proper sewerage/drainage systems in the campus of the Narmada apartments, and also by periodic cleaning of the drains. The direction must also include clear cut orders to the effect that no one blocks the drains in the basement as has allegedly been happening. Proper monitoring system for this purpose is indispensable.

(ii) respondent No. 2 be directed to put in place specific response mechanisms for residents with disabilities and their families to meet the exigencies of situations of risk and humanitarian emergencies. The direction may, inter alia, contain orders for sharing of contact details including phone numbers of

  
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RWA President and Secretary, care taker, plumber, electrician, and security supervisors.

(iii) any other order or direction which the hon'ble Commissioner deems fit in the facts and circumstances of the case.

4. The complaint was taken up with the respondents vide show-cause notice dated 26.07.2019 and were directed to submit their versions by 24.08.2019.

5. DDA in its reply received vide email dated 25.08.2019 has denied that the blockage was created by the workers working in the basement. In fact, sewerage lines are meant for carrying sewerage waste. However, it has been observed that some insensitive residents are involved in un-civic activity of dumping waste papers, cloths, sanitary napkins etc. in sewerage system which clogged the line in the basement leaving two incidents like the one in question. The plumber engaged by RWA usually removes the clogged waste material and leaves the waste there itself. It has further been stated that the sewerage pipes have been blocked by putting iron grills and hence are not accessible for maintenance. It is unauthorized addition and alteration in the said flat. Since the pocket is de-notified, the building activity is monitored by SDMC and necessary action needs to be taken by SDMC. Respondent no. 1 has further submitted that DDA has been monitoring and taking care of the leakage in waste water lines whenever any leakage is observed or reported, the same is made good. The DDA is, therefore not responsible for the damages.

6. As per DDA, the complainant and the RWA can possibly find the solution to the problem which is more to do with the attitude and lack of civic sense among the residents. The source of problem lies inside the flats inhabited by residents. DDA is left with no opportunity to take

quick credible, comprehensive and preventive steps as sought for setting right the drainage and sewerage system in the campus of Narmada Apartments. However, DDA takes prompt action to any reported leakage or problem regarding the sewerage/drainage system. As the complainant himself is not sure about the cause of the blockage, DDA is not responsible for the incidents. As regards the basement parking, neither the allottees were charged for parking nor the parking allotted to them. Hence, the same is not relevant to the issue concerning the complainant.

7. DDA has further submitted that it has taken various measures for making the building disabled friendly by providing ramps, railing etc. However, the facility of ramp provided near the flat of the complainant has been blocked either by the complainant or the RWA. For situations of risk and humanitarian emergencies, necessary coordination should be established by the RWA.

8. Sh. Vikram Gahlot, President, Narmada Apartment RWA vide his reply dated 26.08.2019 inter-alia submitted that the complainant was facing the problem because of a faulty drainage system constructed by DDA, who had already collected maintenance charges for 30 years.

9. The parking area and the basement have been constructed by DDA. The accumulation of water might have been caused due to the blockage on previous occasion. The complainant did not inform the RWA about the blockage on the earlier occasion and removed accumulated water with the help of personal plumber. RWA has engaged a plumber, electrician and other staff on contract basis to help the residents. It has further been submitted that as soon as he received a call from the complainant, he promptly responded and deputed the caretaker and the plumber immediately.

10. The complainant communicated his rejoinder through a voice note received on 05.09.2019 and by email dated 17.09.2019 which were forwarded to the respondents. The contents of the email are reproduced below:

*"in continuation of the whatsapp voice note/message sent/filed by the Complainant on September 5, 2019 by way of rejoinder to replies of both the respondents, The complainant/petitioner submits that the allegations levelled by Respondent No. 1 against the complainant/petitioner are utterly false, fabricated and scurrilous, and are in bad taste demonstrative of utter insensitivity to issues faced by persons with disabilities. Besides, Respondent No. 1, vide their reply to the complaint/petition have sought to distract and divert attention of this Hon'ble court from the real issues faced by the complainant/petitioner by raising extraneous and irrelevant issues and thereby have attempted to abdicate their responsibility by wrongfully shifting the blame on the complainant/petitioner and on Narmada Resident Welfare Association (RWA).*

2. *That the Complainant/Petitioner vehemently denies that he has ever indulged in any unauthorized construction of whatever description and that he has violated any norm at any point in time. On the contrary, the complainant/petitioner has done everything in his power to significantly contribute to the maintenance of healthy ecological balance in the campus which has been widely appreciated by one and all. No unauthorized addition or alteration has ever been made by the petitioner. He has only made minor internal alterations to suit his needs and convenience and to ensure safety and security of his apartment and the person of the petitioner. The two annexure containing some photographs have absolutely no bearing on the problem/issue of backflow of water from the petitioner's bathroom nor do they suggest any unauthorized construction.*

3. *that as has been stated by the petitioner in his Whatsapp voice note/message, the reply of respondent No. 1 is not in a format*

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accessible to him as a person with blindness. This explains why the petitioner could not read the reply himself. The petitioner's wife who also is a senior citizen had difficulty reading it out to him properly. Therefore, the petitioner is furnishing this reply based on whatever he understood after this being read out to him, though not very properly, by his wife. Besides, he is also relying heavily on his memory of what was read out to him. Hence, if any point raised by respondent No. 1 which runs counter to the submissions of the petitioner in his original petition and in this rejoinder gets left out or unanswered, the petitioner would readily give all clarifications if and when sought for on such specific issues. The respondent No. 1 failed to comply with the corresponding/relevant provisions of the Rights of Persons with Disabilities Act, 2016 in respect of accessing justice, inter alia by not furnishing their reply in a format accessible to the petitioner as a blind/senior citizen. Nevertheless, the petitioner, through this rejoinder is making best possible effort to cover all the points raised by respondent No. 1 though it may not necessarily be in sequential order as he is relying heavily on his memory.

4. That with regard to alleged lack of insensitivity and civic sense on the part of the residents as alleged by respondent No. 1, it is submitted that the petitioner and his wife who are in occupation of their apartment have always demonstrated exemplary civic sense which is appreciated by one and all. The petitioner and his family has never dumped stuff like sanitary napkins ETC. into the drains as mischievously alleged. However, lack of civic sense is a larger issue requiring large scale sensitization all over the country --- Hence, the relevance of the Swachchha Bharat Abhiyan.

5. That with regard to the allegation levelled by respondent No. 1 to the effect that the petitioner has put up iron grill blocking access to service line for maintenance, it is respectfully submitted that it is not true to suggest that the said iron grill has any relevance or bearing on the backflow of water as stated elsewhere in this rejoinder. Such iron

grills are put up by all and sundry to protect the wall and the building. The fact of the matter is that the said iron grill was put up by the petitioner only sometime back following a midnight mishap when a motorcycle collided with the wall of the petitioner's kitchen causing huge damage to the wall; Luckily the cooking gas supply pipe line got somehow saved. This was a wake up call for the petitioner with the result that the petitioner who is a retired person had to spend money not only to repair the wall but also to put up the iron grill to ensure safety and security of the apartment, its wall and also the gas supply pipe line. Ideally, such safety grills should have been put up by Respondent No. 1. If at all for some reason, the respondent No. 1 needs to access the service pipe line, he can do so by removing the grill and putting it back when their job is done. However, the petitioner reiterates that the said iron grill has no relevance whatsoever with the backflow of water into the petitioner's apartment from the bathroom as stated above. As late as today, i.e., September 7, 2019, the petitioner called the RWA care taker one Shri Pande who came with a plumber and another external plumber was also called by the petitioner. All these people examined the problem and confirmed and concluded that the iron grill has got nothing to do with the backflow of water corroborating the petitioner's stand. The backflow of water is happening because of faulty drainage and sewerage systems constructed by respondent No. 1. The petitioner entreats the court to consider a possible situation should it rain at night resulting in the inundation of the petitioner's apartment. Thus the petitioner is in a situation of risk and there is a constant threat to his and his family's person and property. Besides, the iron grill was put up only in the recent past; but this problem is way more older than the time when the iron grill was put up. This also proves that the iron grill could not be the cause of backflow of water as this problem existed from before the time the said iron grill was put up or installed. It is also submitted that yesterday, i.e., on September 6 2019 afternoon, it rained heavily and the drain of the petitioner's bathroom started making noise with the

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result that the petitioner's wife saw that there was backflow of water from the bathroom though such backflow was of a relatively lesser degree than the one the petitioner experienced on July 21, 2019 which triggered this complaint. This is why the petitioner had to call the RWA caretaker Shri Pande, the RWA plumber and an external plumber at petitioner's cost as stated above. Obviously, the petitioner cannot wait ad infinitum for respondent No. 1 to rectify the fault. "only the wearer knows where the shoe pinches".

6. That the statement of respondent No. 1 to the effect that only the petitioner is facing such problem is totally untrue. The residents of the Narmada do keep facing this problem on and off. When it rains heavily, the rain water also inundates the front varanda of Narmada Tower 1 where the petitioner's apartment is located on the ground floor; so much so that even the lift of Narmada 1 sometimes gets submerged in rain water. Besides, the entire Narmada and Saraswati campus gets submerged in rain water as the water does not find proper passage or outlet. What does it signify? It clearly points to the faulty drainage and sewerage systems constructed by respondent No. 1. Even the Respondent No. 2, supporting and corroborating the petitioner's assertion and empathizing with the petitioner has filed their reply which this Hon'ble court may like to refer to.

7. that to ensure safety of his apartment, the petitioner had to put up a stone barricade on the front door of his living room which opens into the front varanda where the lift/elevator is placed so that the rain water does not enter into his living room and then inundate his entire apartment. It is submitted that the petitioner continues to live in a state of constant panic as a result of such a disastrous situation.

8. That with regard to the allegation of respondent No. 1 concerning someone putting up a barricade on a ramp near the petitioner's apartment on the front side, it is submitted as follows:

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(a) that the building where the petitioner's apartment is located has more ramps than one. While the design of the ramps is questionable, it is submitted that that particular ramp may have been blocked because many people, mostly perhaps outsiders, misused that ramp and they used to bring and park heavy motorcycles and scooters on the front varanda right upto the lift/elevator causing damage to the varanda, the foundation of the building and its wall. However, other ramps, as far as the petitioner understands, are there in the same building which can be used if required by any persons/visitors with disabilities although visitors with disabilities are none, or if at all, few and far between.

(b) that the petitioner who happens to be a senior citizen with disability/blindness does not have any accessibility issue in that sense as the petitioner and his family normally use the back side of their apartment as their entry and exit as they do not usually need to use the lift/elevator since the petitioner's apartment is on the ground floor. Besides, the petitioner is not a wheelchair user and his legs are functional so that he can walk and even climb stairs. In any case, his apartment is on the ground floor; and there exist other ramps for wheelchair users if any as stated above.

9. That the allegations leveled by respondent No. 1 in reply to clause/point 6 of the complaint are false and hence denied. It is true that on July 21, 2019 when the major mishap happened, the Narmada RWA did send the caretaker along with a plumber; and, the plumber reportedly cleared the cloth from the basement resulting in the water getting cleared from the petitioner's apartment within minutes as stated in the complaint. As stated in his complaint, the petitioner reiterates that he was told by the Rwa caretaker and plumber that the DDA workers had blocked the passage of the water with a piece of cloth resulting in the backflow of water into the petitioner's bathroom and

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then inundating the apartment. Therefore, attribution of false statement to the petitioner by respondent No. 1 is an unmitigated lie and is in bad taste. The other allegations of the respondent No. 1 mentioned in their reply to point/clause 6 of the complaint have already been responded to elsewhere above in this rejoinder as well as in the petitioner's Whatsapp voice note/message and as such they require no repetition.

10. That the submission of respondent No. 1 in respect of the parking lot in the basement are irrelevant and hence uncalled for. The petitioner never stated whether or not respondent No. 1 has or has not charged or has or has not allotted parking lot as this is not related to the petitioner's instant complaint. The fact of the matter is that nobody uses that parking lot at the basement as it has not so far been allotted to anyone nor has it become operational. In fact, the parking lot at the basement is dysfunctional. Even as this rejoinder is being typed by the petitioner himself, it is raining heavily and the basement, he understand is submerged in water. It is not understood as to why respondent No. 1 has made these submissions about the basement parking lot.

11. That since the respondent No. 2 has corroborated the substantive complaint/grievance of the petitioner, there is nothing much which the petitioner needs to state at this stage except that on an earlier occasion, when the petitioner faced a similar situation about a couple of years back or so, the petitioner could not have called an external/personal plumber while the heavy rain was pouring. However, after the rain stopped, the petitioner was forced to call an external plumber as the caretaker of the Narmada RWA did not or could not take his call and obviously the petitioner could not have waited indefinitely in such a difficult and dangerous situation. In any case, the respondent No. 2 has admitted that they only have part-time plumber and electrician.

12. that in the above view of the matter, the petitioner submits that the prayer No. 2 and 3 of respondent No. 1 be summarily rejected as

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*they have absolutely no merit and justification; and these prayers are not in good taste. In order to cover up its lapses and failures, respondent No. 1, in sheer desperation has come up with lame excuses, falsities, and extraneous issues which have no relevance to the complaint/grievance of the petitioner/complainant; and, they (respondent No. 1) are beating about the bush in a sinister attempt to mislead this Hon'ble court.*

*In the above view of the matter, it is submitted that the prayer of the petitioner/complainant contained in his complaint be granted and that respondent No. 1 be directed to redress the complaint/grievance of the petitioner/complainant without delay and with a sense of urgency stressing the need for institutionalizing sensitivity and human face to approaches and policies of respondent No. 1 in respect of persons with disabilities."*

11. After going through the written versions of the parties and the voice note received from the complainant, I personally visited the site in view of the submission that iron grills have made the maintenance of sewerage pipes inaccessible. It was observed that 2-3 feet high iron grill railing from the ground around the flat has been put for safety of the flat and the person of the complainant. The stack of pipes can easily be reached with a small ladder. It is also observed that nobody appears to have approached the complainant for maintenance of sewerage pipes so far or tried to fix the problem of back flow of water through any vertical pipelines. Even if that is required, the iron grills can be designed in a manner that security as well as the access to the lower portion of the vertical stacks of pipelines can be ensured. Having said that, this is not actually the issue or a constraint for addressing the back flow of water.

12. Now that the complainant himself and with the help of RWA has addressed the immediate problem, it is necessary that the respondents

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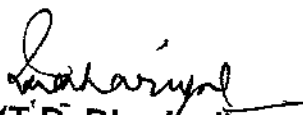
always keep in mind the specific needs of the complainant, who is senior citizen with blindness and other persons with disabilities in addressing the issues even if these may be common. The respondents and other Civic Authorities need to be extremely mindful of the trauma, the panic, feeling of insecurity that such situations can cause to a person with blindness who cannot see by himself and has little idea about what is happening around him/her, thus cannot observe the physical situation himself/herself. All the Civic Authorities including DDA and the functionaries involved in maintenance activities and provision of services, security and safety of the residents, must appreciate and be sensitive to the situation of the complainant and do their best to make the complainant feel secured and safe by addressing such small issues timely and with sensitivity.

13. In light of the above and after speaking to the complainant, I do not consider it necessary to hold personal hearing and dispose of the complaint. I hope that the concerned functionaries of DDA and the RWA shall jointly make the living of the complainant and his wife in the Narmada Apartment comfortable and joyful.

14. The complaint is accordingly disposed off.

15. Given under my hand and the seal of the Court this 11<sup>th</sup> day of November, 2019.



  
(T.D. Dhariyal)

**State Commissioner for Persons with Disabilities**

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