

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-02

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

Case No.F.1237/1112/2019/10/ 8686-8687

Date: 29/11/2019

In the matter of:

Suo- Motu

Versus

The Secretary,

Department of Health & Family Welfare,
GNCT of Delhi, 9th Level, 'A' Wing,
Delhi Secretariat, I. P. Estate, Delhi-110002

Respondent-1

The Secretary,

Department of Social Welfare,
Govt. of NCT of Delhi, GLNS Complex,
Delhi Gate, Delhi-110002

Respondent-2

ORDER

Section 6 of the Rights of Persons with Disabilities Act, 2016 hereinafter referred to as the Act (reproduced below) mandates the appropriate Government to take measures to protect persons with disabilities against torture, cruel, inhuman and degrading treatment and prohibits a person with disability being subjected to any sort of research without his/her free and informed consent and prior permission of the Committee for Research on Disability;

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"Section 6: (1) The appropriate Government shall take measures to protect persons with disabilities from being subjected to torture, cruel, inhuman or degrading treatment.

(2) No person with disability shall be a subject of any research without,—

(i) his or her free and informed consent obtained through accessible modes, means and formats of communication; and

(ii) prior permission of a Committee for Research on Disability constituted in the prescribed manner for the purpose by the appropriate Government in which not less than half of the Members shall themselves be either persons with disabilities or Members of the registered organisation as defined under clause (z) of section 2."

2. In light of the above, this court requested the Secretary, Health & Family Welfare Department, Govt. of NCT of Delhi to nominate members of the State Committee for Research on Disability vide letter dated 29/07/2019. Further, a notice to show cause — cum-hearing was issued on 21/10/2019 vide which Respondent No. 1 was directed to show cause why he/she should not nominate the members by 01/11/2019 and why Respondent No. 2 should not constitute the State Committee for Research on Disability by 30/11/2019.

3. The Department of Health & Family Welfare, Govt. of NCT of Delhi vide Office Order dated 05/11/2019 constituted (nominated) a committee in the Department of Health & Family Welfare, Govt. of NCT of Delhi for Research on Disability at Delhi State level though a copy of the same has

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not been marked to this court. Vide Order No. F.82/1282/RPwD Act 2016/DSW/AD-III/2019-20/21507-21520 dated 21/11/2019 the Department of Social Welfare, Govt. of NCT of Delhi has also constituted State Committee for Research on Disability under section 6 of the Act and Rule 4 of the Delhi Rights of Persons with Disabilities Rules 2018 which has ten members including the Chairperson.

4. In view of the positive action by the respondents, the matter is disposed of. It is however, recommended that an intensive sensitization and training programme should be organized for the members of the State Committee for Research on Disability within 30 days from the date of receipt of this order. It is further recommended that any member inducted in future must also be sensitized and familiarized with the duties and responsibilities of the Committee.

5. This court be informed of the action taken on the above recommendations within three months from the date of receipt of this order as required under section 81 of the Act which is reproduced below:

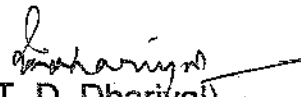
"Whenever the State Commissioner makes a recommendation to an authority in pursuance of clause (b) of Section 80, that authority shall take necessary action on it, and inform the State Commissioner of the action taken within three months from the date of receipt of the recommendation:

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Provided that where an authority does not accept a recommendation, it shall convey reasons for non-acceptance to the State Commissioner for Persons with Disabilities within the period of three months, and shall also inform the aggrieved person".

5. Given under my hand and seal on 29th day of November of 2019.




(T. D. Dhariyal)

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