

**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-110002
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[Vested with powers of Civil Court under the Rights of Persons with Disabilities Act,
2016]

Case No.2657/1016/2022/06/7017-7018

Dated: 30-09-22

In the matter of:

Pt. Vikas Sharma,
National President
Disabled Helpline Foundation
Email: sharmaptvikas@gamil.com

.....**Complainant**

Versus

The Director,
Directorate of Education,
GNCT of Delhi,
Old Secretariat,
Delhi-110054.

..... **Respondent**

Date of Hearing: **29.09.2022**

Present: Pt. Vikas Sharma, Complainant
Sh. Rahul Dev, Legal Asstt. and Sh. Krishna Kumar M.,
Section Officer appeared on behalf of the respondent.

ORDER

A complaint dated 01.06.2022 of Pt. Vikas Sharma, National President, Disabled Helpline Foundation is received from the Court of Chief Commissioner for Persons with Disabilities vide letter dated 16.06.2022 under the Rights of Persons with Disabilities Act, 2016, hereinafter referred to as the Act. He submitted that Union Public Service Commission (UPSC) vide its Advertisement No. 10/2022 invited online recruitment applications for direct

recruitment by selection through website for ten different vacancies. As per Sl. No. 9, Vacancy No. 22051009328 of the above Advertisement, total 131 posts of Vice Principal in the Directorate of Education were published, however out of 131 posts, 05 posts were reserved for Persons with Benchmark Disabilities (PwBD), but no reservation was granted to the category of Persons with Both Arms (BA) Disabilities, which is a sheer violation of the Rights of Persons with Disabilities Act, 2016. Thus, he requested this Court to intervene in the matter so that the candidates of persons with both arms disabilities can also become eligible for the above post of Vice Principal.

2. The matter was taken up with the respondent vide Notice dated 27.06.2022 followed by reminders dated 18.07.2022 and 22.08.2022 for submission of their comments. However in the absence of any response from respondent, a hearing was scheduled on 29.09.2022 and both parties submitted their respective facts.

3. Complainant reiterated his written submissions and added that persons with Both Arms (BA) disabilities should also be considered eligible for applying to the posts of Vice Principal (Vacancy No. 22051009328) as per provisions of the RPwD Act, 2016.

4. Representative of Respondent vide his written submission dated 29.09.2022 submitted during hearing informed that in a recent decision taken vide File No. 1(13)/Edn.(Sectt.)/Misc./5/2021, CD No. 043679910, the Hon'ble

Lt. Governor, GNCT of Delhi has accorded the administrative approval for suitability of the Group A post as per gazette notification dated 04.01.2021 for the categories (a), (b), (c), (d) and (e) as mentioned in Section 34(1) of the RPwD Act, 2016 and which covers the post of Vice Principal for sub-category of Both Arms (BA) also. However, at the time of sending requisition to the UPSC, the same was not incorporated in the advertisement of the posts of Vice Principals in DoE, GNCT of Delhi vide advertisement No. 10/2022 for want of the approval thereof by the competent authority.

5. After due deliberations / discussion and considering the submissions of the complainant & respondent, the Court observed / recommended as under:-

- (i) Court takes serious note with regard to non-receipt of any response from the Directorate of Education and it is a regular feature not one of its kind. In the instant case three notices were sent initially on 27.06.2022, which was followed by two reminders dated 18.07.2022 and 22.08.2022 for submission of their comments but DOE has failed to furnish any reply. This is a matter of concern and needs to be looked into personally by the Director (Education). Court desires clarification in this regard within 10 days from the date of receipt of this Order, failing which Section 93 of the Rights of Persons with Disabilities Act, 2016 would be invoked and provision of imposing fine against respondent may be adhered to.

(ii) As per administrative approval of Hon'ble Lt. Governor, Delhi, sought by Directorate of Education vide File No. 1(13)/Edn.(Sectt.)/Misc./5/2021, C.D.No. 043679910 for suitability of Group-A Post as per Gazette notification No. 38-16/2020-DD-III dated 04.01.2021 issued by the Ministry of Social Justice & Empowerment for the categories of PwBDs as mandated in Section 34(1) of the RPwD Act, 2016 are:

(a) blindness and low vision;

(b) deaf and hard of hearing;

(c) locomotor disability including cerebral palsy, leprosy cured, dwarfism, acid attack victims and muscular dystrophy;

(d) autism, intellectual disability, specific learning disability and mental illness;

(e) multiple disabilities from amongst persons under clauses (a) to (d) including deaf-blindness in the posts identified for each disabilities”

wherein category of both arms disability is identified & also taken into consideration as suitable candidate for the post of Vice Principal, Vacancy No. 22051009328. Thus, Court directs DOE to take up the matter with UPSC for issuing a corrigendum to include all categories of persons with benchmark disabilities identified / suitable for the post of Vice-Principal, Vacancy No. 22051009328 in respect of the Advertisement No. 10/2021.

(iii) Court further adds that the suitability with respect to persons with both arms disabilities should be checked and verified by the DOE based on the deliberations in the Court in the instant case wherein a candidate with both arms disability should be able to function in

administrative capacity as deemed by the said post in spite of being a person with both arms disability.

6. The case is closed with the above recommendations & further direction that this Court be intimated with an ATR as required under Section 81 of the Rights of Persons with Disabilities Act.

7. Given under my hand and the seal of the Court this 29th day of September, 2022.

(Ranjan Mukherjee)
State Commissioner for Persons with Disabilities