

**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.4/1426/2016-Wel./CD6720-27

Dated:16.10.2019

In the matter of:

Dr. Satendra Singh,
Founder, Infinite Ability
Associate Professor of Physiology
UCMS & GTB Hospital,
Delhi-110095.

..... Complainant

Versus

The Pr. Secretary.
Deptt. of Health and Family Welfare,
(Medical Education),
9th Level, Delhi Secretariat,
I.P. Estate, New Delhi-110002.

.....Respondent No.1

The Dean/Principal,
MAMC, 2, Bahadur Shah Zafar Road,
Balmiki Basti, New Delhi, Delhi 110002.

.....Respondent No. 2

The Medical Director,
LNJP Hospital
Near Delhi Gate,
Jawaharlal Nehru Marg,
New Delhi-110002.

.....Respondent No.3

The Medical Director,
Guru Teg Bahadur Hospital,
Dilshad Garden, Delhi-110095.

.....Respondent No.4

The Principal,
UCMS, GTB Complex, Dilshad Garden,
Delhi-110095.

.....Respondent No.5

The Medical Director,
Dr. B.S.A. Hospital, Rohini,
New Delhi-85.

.....Respondent No.6

The Medical Supdt.,
Dr. B.S.A. Hospital, Rohini,
New Delhi-85.

.....Respondent No.7.

ORDER

Dr. Satendra Singh, a person with 70% locomotor disability, who is an Associate Professor of Physiology, UCMS & GTB Hospital vide his complaint dated 24.09.2016 submitted that based on the resolution adopted by the Central Council of Health and Family Welfare at its meeting on 8-10 January, 1999, while discussing the role of health sector in implementation of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act 1995, the Medical Council of India (MCI) in its letter MCI-34(1)/98-Med/30645 dated 05.02.1999 directed every medical college to start a Department of Physical Medicine and Rehabilitation (PMR). He also referred to the

letter No. CCPD/9-3/CCD/2007 Dated 15.05.2008 that I wrote to Ministry of Health & Family Welfare, Govt. of India in my capacity of the Dy. Chief Commissioner for Persons with Disabilities, Govt. of India that the doctors not trained on rehabilitation should restrict their treatment of children with disabilities to their medical illness / disease.

2. He further submitted that the Ministry of Health & Family Welfare in its annual report for 2011-12 had already sanctioned financial help to hospitals in Delhi to start a PMR Department. Department of Health, GNCTD sent two reminders in 2013 to the Medical Superintendents of LNJP Hospital and GTB Hospital to send budget provision for creation of PMR Department. The complainant himself sent a proposal for setting up of a PMR Department in GTB Hospital in 2013 and 2014 in his capacity of Coordinator for Persons with Disabilities. Despite all those efforts, he alleged that none of the Delhi Govt. Hospitals has a PMR Department. The complainant therefore requested to direct the Health & Family Welfare Department, GNCT of Delhi to instruct the Medical Directors of the three hospitals namely, LNJP Hospital, GTB Hospital and Dr. B.S.A. Hospital, Rohini to set up the PMR Departments at the earliest and to include doctors with disabilities in the Steering Committee for implementing this.

3. Complaint was taken up with the Health & Family Welfare Department vide letter dated 06.10.2016 followed by reminders dated 28.10.2016 and 22.11.2016.

4. Dy. Secretary (Admn.), Health & Family Welfare Department, GNCT of Delhi vide her letter dated 25.01.2017 invited the complainant for a meeting on 06.02.2017 to sort out the matter and marked a copy of to this Court.

5. The complainant vide his email dated 19.06.2017 informed that the meeting called by Dy. Secretary (Admn.) on behalf of the Spl. Secretary (H&FW) on 06.02.2017 was not held as the concerned officers were not available on that day. He referred to Section 28 of the Rights of Persons with Disabilities Act, 2016 (the Act) which provides as under:

“The appropriate Government shall initiate or cause to be initiated research and development through individuals and institutions on issues which shall enhance habilitation and rehabilitation and on such other issues which are necessary for the empowerment of persons with disabilities.”

6. As there was no progress, a Notice was issued to the Secretary, Health & Family Welfare Department for a hearing on 26.12.2017. Thereafter 11 hearings on 01.02.2018, 05.03.2018, 12.04.2018,

15.05.2018, 12.06.2018, 23.07.2018, 28.08.2018, 14.09.2018, 31.01.2019, 06.08.2019 and 11.09.2019 were held. The broad account of the progress, if it can be called so has been summed up in the succeeding paragraphs.

7. On 26.12.2017, the complainant who was heard on telephone reiterated his written submissions expressed his concern that none of the 3 hospitals which also have Medical Colleges, has Physical Medicine & Rehabilitation (PMR) Department. He had even provided the MCI guidelines for establishment of 30-bedded department of PMR in 2013.

8. The representative of the H&FW Department submitted that the matter was being examined. As it has financial implications, the proposal would be referred to the Finance Department on priority and submit a written status report within 10 days.

9. It was pointed out by this Court vide RoP dated 26.12.2017 that the need for a PMR Department in every medical college and District Hospital has been emphasised at different forums including by the Office of Chief Commissioner for Persons with Disabilities, Govt. of India. The demand for setting up PMR Department in the above mentioned 3 hospitals under Govt. of NCT of Delhi was indeed a genuine demand. It is essential for appropriate treatment and care of not only persons with

disabilities but also for senior citizens for geriatric care. In order to expedite setting up of the PMR Departments in the said three hospitals and subsequently in some more hospitals in Delhi, it was recommended that a committee of 3-4 experienced persons may be constituted to help set up the PMR Departments. One of the members of the Committee should be a senior doctor qualified in PMR with extensive knowledge of subject. Involving a doctor with disability was also advised. The timeline for various activities be also prepared and submitted to this Court along with the ATR by 12.01.2018.

10. Vide letter dated 29.01.2018, Dy. Secretary (Med. Edu.), H&FW Deptt. forwarded the copy of the RoP dated 27.12.2017 of this Court to the Medical Directors of LNJP Hospital, JN Marg, Dr. B.S.A. Hospital, Rohini and GTB Hospital, Dilshad Garden for ensuring implementation of directions of this Court and to submit the ATR on or before 31.01.2018.

11. On the next date of hearing on 01.02.2018, it was submitted that in compliance with the RoP dated 27.12.2017, **Dr. Baba Saheb Ambedkar Hospital** vide Order dated 31.01.2018 had constituted a Committee of 7 members under the Chairmanship of Dr. Navneet Goel, HOD(Ortho) to examine the setting up of PMR Department in that hospital. The

Committee was required to take into account the following for setting up of PMR Department:

- (i) Requirement of space for providing indoor / outdoor facilities.
- (ii) Manpower requirement (specialist doctors, technical and para-medical staff)
- (iii) Requirement of equipments / instruments.

Lok Nayak Hospital had nominated Dr. Dhananjay Sabat, Associate Prof. Department of Ortho for the purpose.

12. While the representative of the **GTB Hospital** informed that they would follow the guidelines of the Department of Health & Family Welfare being the competent authority for setting up PMR Department in that hospital, the Department of Health & Family Welfare had decided to issue directions to GTB Hospital to constitute a committee of its own within a week.

13. As the directions dated 27.12.2017 to intimate the timelines for various activities was not complied, therefore the respondents were directed to accord the project its due importance and take action on priority so that it is completed within a reasonable time. The guidelines of MCI were once again emailed to the respondents for guidance and expeditious action.

14. GTB Hospital also constituted a Committee under the Chairmanship of its Medical Director for establishing 30 bedded Department of PMR vide Office Order 19.03.2018.

15. During the course of hearing on 12.04.2018, it was learnt that the RML Hospital and Lady Hardinge Hospital had set up / upgraded PMR Departments under the scheme of Ministry of Health and Family Welfare, Govt. of India with the help of VMMC & Safardarjung Hospital. GTB Hospital was also supposed to set up a PMR Department under that scheme.

16. Considering the importance of PMR Department in the rehabilitation process of persons with disabilities and the geriatric population and with a view to facilitate the process, I spoke to Dr. Rajendra Sharma, Medical Superintendent, VMMC & Safdarjung Hospital and Dr. Sanjay Wadhwa, Professor, PMR Department, AIIMS, Delhi, to extend the required support to the three hospitals of GNCT of Delhi which they assured. Accordingly, it was recommended to Secretary, Health & Family Welfare Department to constitute an Advisory Committee of 2-3 PMR Specialists from VMMC & Safdarjung Hospital and AIIMS, New Delhi to advise the Committees constituted by the three hospitals so as to ensure uniformity and optimisation of resources.

17. On 15.05.2018, the representatives of **Health & Family Welfare Department** submitted that the Department had requested the concerned Medical Directors / Medical Superintendents / HODs of the hospitals and medical colleges to implement the guidelines for establishing a 30 bedded Department of PMR. But the matter had not progressed much.

18. **Dr. B.S.A. Hospital** had created one post each of Professor and Asstt. Professor and submitted that the PMR Department would be made functional as soon as Professor and Asstt. Professor join. The Hospital was advised to make those appointments on contract basis as it would take time to fill the posts through UPSC.

19. In view of a very slow progress, the Medical Directors / Deans / Principals of the three hospitals were formally impleaded as respondents and were directed to submit the ATRs.

20. On 12.06.2018, Health and Family Welfare Department informed that as per directions of this Court, an Advisory Committee under the Chairmanship of Secretary, Health & Family Welfare Department with Joint Secretary(Planning), H&FW; Dean, MAMC; Deputy Secretary (Medical Education), H&FW; Accounts Officer, H&FW, and Professor Sanjay Wadhwa and Professor S.L. Yadav nominated by PMR Department of AIIMS as members, had been constituted.

21. Rs. 5.00 lakh received as grant from Central Government for setting up the PMR Department, had been returned to the Ministry of H&FW.

22. The representative of **Dean, MAMC** informed that they had written to Health & Family Welfare Department that there was little justification to duplicate the courses of PMR at MAMC as there is already a fully functional institute for PMR namely Pt. Deen Dayal Institute for Physically Handicapped. MAMC is also supporting that institute for their basic medical science teaching. Further, there was lack of space and faculty with requisite qualification and experience to set up the PMR Department.

23. As the submissions of MAMC were factually not correct, it was clarified and conveyed vide RoP dated 14.06.2018 that Pt. Deen Dayal Institute for Persons with Physical Disabilities does not have a PMR Department and it conducts only rehabilitation courses like Physiotherapy, Occupational Therapy, Prosthetics and Orthotics. There are no medical and DNB courses in that institute. **PMR is an independent and separate discipline recognised by MCI and the purpose of setting up of PMR Department in the 3 medical institutions is that all the facilities such as physiotherapy, occupational therapy, P&O alongwith qualified PMR specialists and**

the rehabilitation staff for holistic and rehabilitative care of persons with disabilities and elderly are available at one place. The teaching Department conducts the PG and DNB level courses in PMR speciality. As per the guidelines, 15 days posting in PMR Department is mandatory for completion of internship. So, a PMR Department in a big hospital, medical college and as far as possible in a district hospital is a dire necessity.

24. Regrettably as there was little progress in the matter by **LNJP Hospital, MAMC and GTB Hospital**, on 28.08.2019 they were reminded of following actions that they were required to take:

- i) Constitution of Advisory Committee (para 3 of RoP dated 23.07.2018);
- ii) Approval for creation of posts in GTB Hospital (para 5 of RoP dated 23.07.2018);
- iii) Approval of draft advertisement for filling up the posts in BSA Hospital (para 9 of RoP dated 23.07.2018); and
- iv) Coordination within the Health & Family Welfare Department (para 10 of RoP dated 23.07.2018)

25. Secretary, Health & Family Welfare and the other respondents were once again advised to expedite their respective actions.

26. Thereafter three more hearings were held on 31.01.2019, 06.08.2019 and 11.09.2019 and again a very tardy progress was observed. It indicated half hearted efforts were being made manifesting inadequate interest in the project. Such a state of affairs could either be because of inadequate awareness about the significance of PMR Department or not being enough sensitive to a very critical rehabilitation process for persons with disabilities and geriatric care. If so much time is lost in administrative activities, and convincing authorities about its need despite clear guidelines, unless the appropriate authorities take charge at appropriate level and put genuine efforts, creation of the PMR Departments and seeing them functional may remain a far cry for persons with disabilities despite having a very well acclaimed and progressive socially beneficial legislation. This will amount to depriving them of such essential services.

27. It will be appropriate to reproduce the Record of Proceedings of the hearing dated 06.08.2019 vide which all concerned including Pr. Secretary (AR) were advised to take personal interest and take all necessary measures to operationalize the PMR Departments in the

three hospitals within two months from the date of receipt of RoP dated 08.08.2019:

“Maulana Azad Medical College(MAMC):

(i) Sh. Kamal Gautam, Planning Officer appeared on behalf of MAMC and submitted that Administrative Reforms (AR) Department has raised the query that the MCI regulation requires availability of dedicated 30 beds to start any specialty course vide their Note dated 07.12.2018. They have sought the data / information and the steps taken for establishment of PMR Department as per MCI and Health and Family Welfare Department norms. Further, Lok Nayak Hospital was requested to intimate availability of a space of 2300 sq.mtr so that they could respond to the query of AR Department.

2. LNJP Hospital:

(i) Dr. Dhananjay Sabat who appeared on behalf of the Medical Director, LNJP Hospital submitted a copy of the minutes of the meeting held on 05.08.2019. As per the said minutes, it has been decided that the PMR Department will run its OPD from the second Orthopaedics Block, 'A' Wing. It has also been decided that approximately 2000 sq.mtr. will be allotted in new block for PMR. He therefore, stated that

with this decision, the issue of space for setting up the PMR Department of space stands addressed.

(ii) Regarding the data / other information, since PMR Department does not exist in the LNJP / MAMC, the question of number of patients requiring rehabilitation services does not arise. However, the number of patients visiting the two hospitals for physiotherapy, occupational therapy, treatment relating to amputation, musculoskeletal disorders, disability certificates etc. would be one of the groups of the beneficiaries of PMR Department. The other large group would be the geriatric population who would need almost all the facilities of the PMR Department. Further, a large number of persons with disabilities who remain inadequately serviced at Pt. Deendayal Upadhyaya National Institute for Persons With Physical Disabilities would also be benefitted. The query of AR Department should be accordingly replied immediately.

(iii) Considering the importance of the PMR Department and the slow pace with which the setting up of the Department is progressing, all concerned including the AR Department are advised to take up the matter on priority and submit the proposal for creation of the posts to Hon'ble Lt. Governor for his approval.

3. GTB Hospital:

(i) Dr. Rajesh Kalra, Addl. Medical Supdt., GTB Hospital vide his letter dated 23.07.2019 has informed that the GTB Hospital is committed to establish the PMR Department in a phased manner. Proposal for creation of 11 posts for Phase-I has been re-submitted to AR Department on 04.06.2019 and a provision for 30 beds has been kept for PMR Deptt. in remodelling plan of GTB Hospital.

(ii) Medical Director, GTB Hospital and Principal, UCMS should take this matter seriously and liaise with AR Department and other concerned authorities at personal level and ensure that the PMR Department is operationalized within a fixed time period.

(iii) As the proposals for creation of posts from LNJP Hospital and GTB Hospital will finally be examined and recommended by the AR Department for approval of the Hon'ble Lt. Governor, Principal Secretary (AR) is requested to direct the concerned officers to put this matter on a fast track mode and accord necessary approvals.

4. Dr. B.S.A. Hospital:

(i) Dr. Navneet Goel, Specialist (Ortho) appeared on behalf of Medical Director, Dr. B.S.A. Hospital and submitted that they have not been able to operationalize the PMR Department as they have not received applications from eligible candidates for one post each of

Assistant Professor and Professor, PMR even after advertising the post thrice in one year.

(ii) From the copy of the advertisement published in June 2019, it is seen that the posts have been advertised for Walk-In- Interview for appointment on contractual basis for two years or till the regular incumbents join and the post of Professor is reserved for SC and the post of Assistant Professor is reserved for OBC.

(iii) The complainant stated that the eligible candidates from other categories may also be invited.

(iv) In my opinion, if the eligible SC/OBC candidates are not available for the said posts even after repeated advertisements, applications from the candidates belonging to other categories should also be invited and equal number of posts in other specialities could be reserved for SC/OBC. In any case, the regular appointments will be made as per the posts reserved for persons belonging to different categories and thus the reserved posts will not be taken away.

5. Although this important case is pending for quite long yet as requested by the complainant, one more opportunity is given to the concerned respondent hospitals to take concrete steps to set up the PMR Departments and to make them functional so that much needed

services become available to a large section of population who are in need.

6. In the light of the above, all the respondents in this case and Principal Secretary (AR) are advised to take personal interest and take all necessary measures to operationalize the PMR Departments in the three hospitals within two months from the date of receipt of this RoP.”

28. The progress report was sought on or before the next date of hearing on 11.09.2019, when the representatives of the **GTB Hospital and MAMC** informed about the proposal is being referred to various departments like Health & Family Welfare and Administrative Reforms. It is observed that the speed of taking the matter forward has not much changed. It is therefore, considered expedient to dispose of this case with final recommendations so that if need arises, the complainant or any other person can at least take the matter to the appropriate forum such as Hon'ble High Court or to the Special Court designated by the Department of Law, Justice & Legislative Affairs, Govt. of NCT of Delhi to try the offences under the Rights of Persons with Disabilities Act, 2016.

29. It is also pertinent to mention here that the MCI has already prescribed the requirements for a PMR Department. The services to be provided by the Department as mentioned at Sl.No. 13 of Part II

(Departmental Information) of MCI's Guidelines in respect of PMR are as under:

- (a) Bronchoscopy
- (b) Physiotherapy Section
- (c) PFT test and DLCO
- (d) Blood Gas analysis
- (e) RICU services
- (f) Aerosol Therapy
- (g) Treatment for MDR Tuberculosis
- (h) FNAC from Pleura and Lung
- (i) Any other.

30. All of the above are part of the hospitals in question where PMR Departments are being recommended. The need is to strengthen and make them functional in a more seamless and coordinated manner to be provided from a common premises. This explains why this Court had, at the very early stage of the proceedings, recommended constitution of a Committee comprising experts of the relevant field and also to ensure uniformity.

31. Needless to say that PMR Department has a very critical role for a proper assessment and comprehensive rehabilitation of the persons with disabilities. There can be no two views on the need for such a Department and delay in providing the services will deprive persons with disabilities of their important right to live a life of dignity.

32. In the light of the foregoing, the following recommendations are made:

- (i) **Dr. B.S.A. Hospital** should consider eligible candidates for the post of Professor and Asstt. Professor on contract basis from any category if the categories for which the posts are reserved, are not available within one month from the date of receipt of this order and to make the PMR Department functional with 45 days.
- (ii) **Heads of LNJP Hospital, MAMC and GTB Hospital and Secretary, Health & Family Welfare Department** should examine the proposals for creation of posts and for filling up the same initially on contract basis in the way Dr. B.S.A. Hospital has done, in consultation with the AR Department, GNCT of Delhi or other relevant Departments on top priority preferably in a joint meeting, within 30 days from the date of receipt of this order.

(iii) Concerned Heads of the **LNJP Hospital, MAMC and GTB Hospital** should advertise the posts for filling up on contract basis following the principles adopted by Dr. B.S.A. Hospital within 45 days from the date of receipt of this order and make the PMR Department functional in their respective hospitals in consultation with the committees already constituted within 60 days from the date of receipt of this order.

33. 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:

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.”

34. The complaint is disposed of.

35. Given under my hand and the seal of the Court this 16th day of October, 2019.

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