

**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-2  
Phone-011-23216002-04, Telefax: 011-23216005,**

**Email: [comdis.delhi@nic.in](mailto:comdis.delhi@nic.in)**

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

Case No. 611/1141/2018/11/2259-2260

Dated:13.05.2019

In the matter of:

**Suo Motu**

Versus

**The Secretary**

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

.....Respondent

**ORDER**

The Court of the Chief Commissioner for Persons with Disabilities, Govt. of India forwarded a copy of the representation dated 02.10.2018 of Smt. Akanksha Michyari, Child Welfare Officer, Tara Homes for Children, New Delhi vide letter dated 13.11.2018. Ms. Michyari submitted that 21 year old Sh. Vinay Gupta, a person with 61% cerebral palsy has very little family support and grew up in Tara Homes, where he was placed by the Child Welfare Committee in 2012. Sh. Vinay also has a hole in his heart, a paralysed and crooked arm, a crooked leg and various cognitive problems. He underwent many operations. Now he can walk, use both arms to some extent and has a functioning heart. His IQ is 72. He has no family support and is not able to live on his own. She further submitted that as Sh. Vinay had

turned 18 years in 2016 and as Tara Homes is registered under the Juvenile Justice Act, it can accommodate children till the age of 18 years only.

2. Tara Homes approached Muskaan which is implementing the GHARAUNDA scheme of National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities at MPCC, Dera Complex where Sh. Vinay could spend his entire life. National Trust also directed Muskaan to admit Sh. Vinay under the GHARAUNDA Scheme. After all the documents were completed, Muskaan informed that he could not be admitted in Dera as the lease of MPCC for Dera Complex had expired in June 2017.

3. CWC also directed Tara Homes to contact Chief Commissioner for persons with disabilities and the organization also requested Secretary, Department of Disability Affairs. Despite all these efforts, they were not able to find any place for Sh. Vinay to stay in Delhi.

4. While forwarding the representation to this Court, Chief Commissioner for Persons with Disabilities advised Tara Homes to pursue the matter with this Court.

5. The representatives of Tara Homes appeared before me on 17.11.2018 and informed that Sh. Vinay and his elder sister were abandoned by their father and there was no one to take their care. His sister is working with an NGO and is also pursuing her studies. She has been appointed legal guardian of Sh. Vinay Gupta under the National Trust Act.

6. This Court requested Department of Social Welfare, Govt. of NCT of Delhi to provide suitable Home for Sh. Vinay Gupta as he needed a permanent place to stay and not a school vide letter dated 20.12.2018. Simultaneously, National Trust and some other

organizations were also contacted if some arrangement could be made for the stay and care of Sh. Vinay. But there is no facility in the Govt. Sector or in any NGO where Sh. Vinay could stay in NCT of Delhi or NCR. Finally Vatsalya Gram, Mathura, Vrandavan Road agreed to admit Sh. Vinay. Tara Homes were accordingly informed and advised to admit him there vide letter dated 04.01.2019.

7. Vide email dated 29.03.2019, Ms. Basanti K. Roublin, Program Manager, Tara Homes informed that Sh. Vinay Gupta has been admitted to Vatsalya Gram, Mathura on 26.03.2019 where all his needs were being met and his dignity preserved. This Court also contacted his sister Ms. Sakshi who is working in an NGO and also studying.

8. Another case of a person with disability (Sh. Pappu) who has lost his both legs and one arm and is without proper shelter and family support except his ailing 80 year old mother living in Rithala, was also brought to the notice of the State Commissioner on 09.04.2019 by two students of MSW in Delhi University. Although efforts were made by Social Welfare Department to accommodate him in Cheshire Home Okhla, Delhi yet the students informed that Sh. Pappu and his mother were not prepared to relocate to Okhla. Many other persons with disabilities who have no family/ community support also stay in night shelters, near temples, under the flyovers, pavements, etc.

9. As Sh. Vinay Gupta was admitted to Vatsalya Gram on the advice and the recommendation of this Court, it was considered appropriate to visit and see his condition, the arrangements for his stay, care, skill training etc. and overall development before disposing of the case and making any recommendations.

10. During my visit to Vatsalya Gram, I found excellent facilities and arrangements for stay, education, skill training, care and overall development of abandoned children and adults including persons with disabilities. The organisation has schools, a rehab centre, skill training facility, etc. within the campus. Those who wish to go for higher education can do so and it is funded by the organization or sponsored by donors. These residents, majority of whom are girls and women, are kept in a family environment.

11. It is the responsibility of the state under Article 41 of the Constitution to make effective provision for securing the right to public assistance in case of disablement. Public assistance in such cases is essential for a life with dignity. Such assistance for stay, care, education and other support systems should be available in NCT of Delhi itself for residents with disabilities of Delhi who are abandoned and have no family or community support. It is not a happy situation to send such persons to other states.

12. Hon'ble Supreme Court has held that *"the right to life enshrined in Article 21 cannot be restricted to mere animal existence. It means something much more than just physical survival."* Its reflection is clearly visible in the provisions made under Section 24 of the Rights of Persons with Disabilities Act, 2016 (the Act) on Social Security which requires the appropriate Govt. to formulate necessary schemes and programmes to safeguard and promote the rights of persons with disabilities for **adequate standard of living** to enable them to live independently or in the community. It mandates that the quantum of assistance to persons with disabilities shall be at least 25% higher than the similar schemes applicable to others. Sub Section (3) (b) of Section 24 of the Act specifically requires that the social security schemes shall provide

for **“facilities for persons including children with disabilities who have no family or have been abandoned or without shelter or livelihood.”**

13. In view of the provisions in the Constitution and the Act, proper facilities catering for food, shelter, care, education/skill training, health and rehab facilities of reasonable standard must be developed and promoted by the Govt of NCT of Delhi to ensure that every abandoned person with disability who has no family and place to stay in the community is provided all these facilities and a reasonable standard of living which are essential to ensure his /her right to life.

14. Such facilities can be developed initially on a smaller scale by the Govt. of NCT of Delhi and can be run jointly with some good NGOs working in the social sector having relevant experience. It will also mitigate the problem of begging by such persons considerably, if not finish it.

15. In light of the above, following recommendations are made:

- (i) Create a facility for food, stay, care, education, skill training and rehabilitation of abandoned persons with disabilities in Delhi to ensure that they live a life of dignity within a period of one year from the date of receipt of this order.
- (ii) The Homes for children/abandoned persons being run by Govt. of NCT of Delhi or NGOs in Delhi should be asked to ensure admission of children with disabilities and provide for support systems and the facilities necessary for them. This should be made one of the mandatory conditions for registration and permission to run such

Homes in NCT of Delhi in order to promote and ensure inclusiveness.

16. Given under my hand and seal of the Court this 13<sup>th</sup> day of May, 2019.

**(T.D. Dhariyal)**  
**State Commissioner for Person with Disabilities**

Copy to:

1. Secretary, Department of Women and Child Development, Government of NCT of Delhi, 1, Canning Lane (Pandit Ravi Shankar Shukla Lane), Near Bharatiya Vidya Bhavan Bus Stop, Kasturba Gandhi Marg, New Delhi - 110 001.