



सत्यमेव जयते

न्यायालय मुख्य आयुक्त विकलांगजन
COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES
विकलांगजन सशक्तिकरण विभाग / Department of Empowerment of Persons with Disabilities
सामाजिक न्याय और अधिकारिता मंत्रालय / Ministry of Social Justice and Empowerment
भारत सरकार / Government of India

Case No. 5998/1040/2016

Dated : 19.07.2016

In the matter of:

Shri RLN Sharma,
F/o Shri Sai Praneeth R, 0174
110, 2nd Main, 1st Cross,
Sarvabhounanagar, Behind HSBC,
B.G. Road, Bilekahalli,
Bangalore-560076.

..... Complainant

Versus

Indian Institute of Management,
Through its Director, 0175
Vastrapur, Ahmedabad-380015
Email – director@iima.ac.in Fax: 91-79-26308345

..... Respondent

Date of hearing : 27.05.2016, 20.06.2016

Present:

27.05.2016

1. Shri RLN Sharma, Complainant alongwith S/Shri N. Krupakar, Advocate, Amit Seth, Representative and Chakravarthy Shripada.
2. Shri M.S. Sudarsanan, Administrative Officer, IIM, Ahmedabad alongwith Ms. Anushree Kapadia, Advocate, on behalf of Respondent.

20.06.2016

1. S/Shri Amit Sethi, Friend Representative and Chakravarthy Shripada, Representative on behalf of Complainant..
2. Shri M.S. Sudarsanan, Administrative Officer, IIM, Ahmedabad alongwith Ms. Anushree Kapadia, Advocate, on behalf of Respondent.

ORDER

The above named complainant, father of Shri Sai Praneeth R, a person with 75% Visual Impairment filed a complaint vide dated nil (received on 02.03.2016) under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, hereinafter referred to as the Act regarding modification in qualification criteria for candidates with visual impairment by exempting them from the sectional cut off requirements.

2. The complainant submitted that his son appeared in the CAT Exam 2015 for admission to MBA course. The said exam was conducted by the IIMs through IIM-Ahmedabad under the reservation category for persons with disabilities. His son is suffering from 75% visual impairment and his registration no. is 5068881. His son secured 83.68 percentile in VA&RC, 46.42 percentile in QA and 18.18 percentile in DI&LR. The overall percentile secured by his son is 56.72 percentile and hence he could not meet the sectional cut off announced by various IIMs for persons with disabilities/

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DA candidate. He further submitted that being a candidate with disability his son could not secure the Sectional Cut off stipulated by IIMs in DI&LR, a paper which requires interpretation of graphs/pictures. It is an insurmountable challenge for the candidates with visual impairment to attempt the graphical questions under DI&LR Section. The candidates with visual impairment were thus not provided level playing field even among the persons with disabilities category and it is very difficult for candidates with low vision to answer and score the required Sectional cut off percentile for DI&LR prescribed by various IIMs.

3. The matter was taken up with the respondent vide this Court's letter dated 28.03.2016 advising them to submit the comments.

4. Director, IIM, Ahmedabad vide letter dated 11.04.2016 has submitted that the sectional cut off of CAT across are essential components for short-listing/selection criteria for admission to their Institute as it is absolutely necessary to test the candidates ability in different sections in order to find the candidates suitability in completing the programme successfully. He also submitted that they had a student in their programme last year who was totally blind but completed the programme successfully.

5. The complainant vide letter dated 14.04.2016 has filed the rejoinder in the matter. He submitted that the respondent has not answered the specific queries i.e. not clarified the position as mentioned in paras 2 and 3 of this Court's letter dated 28.03.2016. The candidates with visual impaired are clearly at a disadvantage as compared to their normally able counterparts under the present pattern of CAT Exam. The present pattern of CAT has not distinguished the visually impaired on the basis of their visual disabilities and does not contain the alternative set of questions for visually impaired. He also submitted that the uniform testing process be followed in CAT without providing alternate set of questions for visually impaired is against natural justice and the respondent's justification vide their above letter is inhuman and discriminative of the rights of visually disabled. He has submitted that the directions may be issued to the respondent and requested to advise IIM to review its admission process for visually impaired in line with natural justice duly empathizing with their visually disability or considering the case in a positive manner.

6. Upon considering the reply dated 11.04.2016 of respondent and the rejoinder dated 14.04.2016 of the complainant, a hearing was scheduled on 27.05.2016.

7. During the hearing, the complainant submitted that his son Shri Sai Praneeth R appeared in the CAT Exam – 2015. He is a visually impaired person to the extent of 75% of visual disability.

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under the CAT-2015 examination conducted this year by IIM, Ahmadabad, the examination pattern was divided into three Sections, namely, Verbal Section, Quantitative Section, Data interpretation and Logical Reasoning with a requirement that every candidate must score a minimum of 40% in each Section to become eligible for the interview round. Prior to 2015, there were only two Sections, namely, Verbal Section and Quantitative Section, and questions relating to logic reasoning and data interpretation were distributed in the said two sections (16 question each).

8. The complainant's son who appeared in the examination, 2015, secured 83.68% percentile in Verbal Ability and 46.42 percentile in Quantitative Ability. Under the previous pattern, when examination were conducted under two sections, the complainant could not qualified for next round having scored sectional cut off of 40% in each of the sections. However, due to the introduction of third section which contained questions on data interpretation and logical reason, the complainant's son could secure only 18.18 percentile in Data Interpretation and Logical Reasoning which contained a large number of graphical questions requiring visual inputs and no alternative questions to the same were provided. In addition, there were questions requiring visual inputs in the other two sections as well, viz., in Verbal section and Quantitative section and no alternative questions were provided thereunder as well. The CAT Examination organized and patterned under the aegis of IIM, Ahmedabad thus was in complete disregard and violation of the provisions and spirit of Persons with Disabilities Act, 1995. Further, by an Office Memorandum dated 26.02.2013, it was notified by the Ministry of Social Justice & Empowerment, Department of Disability Affairs that alternative Objective Questions in lieu of descriptive questions should be provided for hearing impairment, in addition to the existing policy of giving alternative questions in lieu of question requiring visual input for persons with visual impairment. The IIM, Ahmedabad which ran the CAT-2015 examination did not provide such alternative questions in lieu of the descriptive questions involving visual inputs.

9. The complainant further submitted that on his complaint, a direction was issued by this Court vide letter dated 02.03.2016 to IIM Ahmedabad, pursuant to which the Hon'ble Court reminded the Director IIM, Ahmedabad regarding the provisions of the law and directed him to provide the reply within 30 days. The said letter is available on record. In his letter in reply dated 11.04.2016, the Director, IIM, Ahmedabad merely stated that the Sectional cut off of CAT scores are essential components for short-listing/selection criteria for admission to their Institute. The complainant submits that the Director clearly evaded issues raised by the complainant on which reply was sought by this Court, namely, why alternative questions to questions requiring visual inputs were not provided as per

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the guidelines. The Director, IIM also did not answer whether the provisions of the Persons with Disabilities Act read with Official Memorandum are complied or not. It is submitted that the said non disclosure by the Director, IIM, Ahmedabad is an admission that IIM, Ahmedabad has contravened the guidelines and the Act. It is submitted that the Delhi High Court in Sambhavana Versus Union of India has held that the guidelines dated 26.02.2013 issued by the Ministry of Social Justice & Empowerment have statutory force and are bound to be implemented by all the departments and authorities including the IIM, Ahmedabad. The complainant submits that IIM, Ahmedabad is an Institute under the administrative control of Ministry of HRD and as such the contravention ought to be seriously pursued and the officer responsible shall be held accountable for the non compliance, viz., non provision of alternate questions to the descriptive questions requiring visual inputs. The complainant further submits that the Counsel of the Respondent has provided us the copy of the written submissions today in the Court. The said written submission travel beyond the reply given by the IIM, Ahmedabad in its letter dated 11.04.2016, and as such must be expunged from the record. It is a settled law that the parties must submit the submissions within the ambit of its reply and cannot be permitted to take new grounds in the written submission. In any event, the Director, IIM, Ahmedabad has admitted in its reply that sectional cut off are essential component which is nothing but an admission that the examination was held in complete violation of the provisions of the Act and the guidelines dated 26.02.2013. Without prejudice to the aforesaid submissions, the complainant request the Court to kindly give us time to file our response to the same.

10. During the proceedings today, the Court directed the Respondent to file the Question Paper relating to CAT 2015 examination. In that regard, it is submitted that in the interest of the principle of natural justice, the complainant out to be provided a copy of the same so that a reply can be given and Court may please pass a direction in that regard. To conclude, it is reiterated that the IIM, Ahmedabad is in violation of the provisions of Persons with Disabilities Act read with the guidelines dated 26.02.2013 inasmuch as it did not provide alternative objective questions in lieu of descriptive question (requiring visual inputs) contained in CAT Examination – 2015. It is submitted that this has result in distortion of the level playing field between the visually impaired candidates and the other candidates. Further, non compliance by IIM, Ahmedabad is also violation of the Fundamental Rights as guaranteed under Article 14, 16(1) and 21 of the Constitution of India. The complainant also submits copies of the judgments in the case of Aman Gupta Vs. Union Public Service Commission and Sambhavana Vs. Union of India for its kind perusal and record.

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11. The Counsel of the respondent submitted that it is denied that there is any non compliance by the respondent herein regarding any provisions of law or any rules, guidelines, regulations that may have been enacted or issued for persons with disabilities. The candidates who are persons with disabilities for CAT-2015 like earlier CAT examination were provided with extra/compensatory 20 minutes per hour and were allowed to bring a scribe of their own choice. Further, the question paper in large fonts for the benefit of visual impaired candidates are also made available. There is compliance of all applicable rules and guidelines. Out of the total number of PwD candidates who appeared for CAT-2015, 22% were visual impaired. There is a reservation of 3% for PwD category in admission. Out of the total students selected for admission in this category, 25% are visual impaired. The allegations and apprehensions of the complainant are unjustified and unfounded. As far as the question of pattern of the examination is concerned, DI&LR has always been a part of the examination. Earlier it was placed under Quantitative Aptitude Section and now the same is placed as a separate Section. There is no change in the pattern or type of questions. The Sectional cut off and the pattern were declared when the applications were opened for CAT-2015. Hence, the complaint regarding the cut off and the pattern is an after thought and misconceived. It is denied that respondent has evaded queries from this Hon'ble Court. A detailed response is filed today alongwith the details of admission procedure. Moreover, IIM, Ahmedabad is not responsible for designing the pattern of the examination. It is done by the CAT Group constituted by six IIMs across the country. On a rotation basis, IIM, Ahmedabad has merely convened CAT-2015. Hence, the complaint against IIM, Ahmedabad is also misconceived. It is further submitted that of the students in PwD category who have been selected for admission pursuant to CAT-2015, a 100% blind student who secured an overall percentile of 99.61 and in DI&LR Section, 99.22 percentile has been selected. Another such candidate having 75% visual impairment with Albinism has been selected for admission on account of overall percentile of 90.26 and 76.65 percentile in DI&LR Section. One more candidate having 55% visual impairment who secured overall percentile of 92.71 and in DI&LR Section 93.12 percentile has also been selected for admission. Since more than a decade, visually impaired students have been successfully clearing the CAT and have also successfully completed the course at IIM, Ahmedabad. To summarize, it is stated that there is no non-compliance of any guidelines by IIM, Ahmedabad. The complainant must show requirement of a visual input in the examination. The DI&LR Section has 32 questions of which 8 questions required analysis of chart or graph and the remaining questions require logical analysis and reasoning. A candidate in order to get the Sectional cut off must successfully attempt 8 to 12 question in DI&LR Section. 3% reservation for persons with disabilities is

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provided. 20 minutes per hour is provided as compensatory time in the examination, scribe of choice of candidate is permitted and the question paper in large fonts for the benefit of visually impaired persons is provided. There is no disadvantage to any visually impaired candidate and IIM, Ahmedabad is committed to comply with all legal requirements with respect to persons with disabilities. The two judgments referred on behalf of the complainant would not apply to the present case as the facts in both the cases are very different from the present case. The decision of Central Administrative Tribunal in the case of Aman Gupta Versus Union Public Service Commission pertains to the provision of a scribe which has been done for CAT-2015 as per the choice of the candidates and hence such a decision is not applicable to the facts of this case and the decision of the Hon'ble High Court of Delhi in case of Sambhavana Versus Union of India pertains to provisions of extra time of 20 minutes for each paper. In the present case, no such complaint for 20 minutes per hour arises.

12 After hearing both the parties, the Court directs the respondent to provide a copy of the Question Paper for CAT Examination – 2015 to this Court within 15 days from today. The complainant is also directed to file a rejoinder on the reply filed by the Counsel of the respondent in this Court on today within 10 days from today and copy to the respondent. The case was fixed for next heard on 17.06.2016, which was further rescheduled on 20.06.2016.

13. On 20.06.2016, the representative of the complainant reiterated the written submissions of the complainant and submitted that the IIM, Ahmedabad has violated the Persons with Disabilities Act read with the Office Memorandum dated 26.02.2013 issued by the Ministry of Social Justice & Empowerment by not providing the alternative questions in view of the questions required the visual inputs. It is submitted in their letter dated 11.04.2016 and the written submissions, the contentions raised by IIM, Ahmadabad are sham, frivolous, without any basis in law as well as in fact. The only issue that is required to be answered by IIM, Ahmedabad is that whether the alternative questions were provided or not. However, they continued to mislead this Court by taking frivolous contentions which are not even an issue here. In continuation of the same process, they now want to file another set of written submissions, in order to mislead this Hon'ble Court and delay the process. The same ought not be allowed. On behalf of the complainant, it is prayed that this institution has been created in order to guarantee, equality and non-discrimination to all persons with disabilities. If the IIM, Ahmedabad is permitted to continue like this and raise frivolous contentions, the entire purpose and the intent of the PwD Act will be defeated. It is prayed that complainant is aware that personally he has nothing to gain from the present proceedings, the rights and interests of thousands of visually

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challenged candidates is on stake here. In the circumstances, it is most respectfully prayed that:-

- (a) This Hon'ble Court may be pleased to pass an order declaring that the IIM, Ahmedabad has violated the Persons with Disabilities Act and the O.M. dated 26.02.2013 of the Ministry of Social Justice & Empowerment.
- (b) This Hon'ble Court be pleased to direct the IIM, Ahmedabad to file an Affidavit stating that whether the requirement of alternative question requiring visual input has been complied with.
- (c) This Court may be pleased to further pass an order that the IIM, Ahmedabad may tender a written undertaking to the effect that in all future examinations they will comply with the requirements of Persons with Disabilities Act and the O.M. issued by the Ministry of Social Justice & Empowerment.
- (d) This Hon'ble Court may be pleased to pass such and further orders which this Hon'ble Court may deem fit and proper in the interest of social justice.

14. The Counsel appearing on behalf of the respondent submitted that at the outset it is objected that the person appearing for the complainant, Shri Amit Sethi has no authority to present any arguments on behalf of the complainant and his contentions not ought to be taken on record. It is submitted the present complaint is filed against IIM, Ahmedabad, whereas it is the CAT Group, which is responsible for fixing the pattern of CAT Question Papers. The CAT Group comprises of Chairpersons of Admission Committee of six IIMs i.e. IIM, Ahmedabad, IIM, Bangalore, IIM Calcutta, IIM, Indore, IIM, Kozikode and IIM, Lucknow. Therefore, it is misconceived on the part of the complainant to allege that IIM, Ahmedabad per se has violated any provisions of the Persons with Disabilities Act or any rules thereunder. As far as the Written Submissions filed by the complainant on the 13th May, 2016 are concerned, the complainant has made allegations challenging the system, whereby the Scribe of the choice of the candidate is to be allowed by stating that such a provision is faulty and, therefore, the visually impaired students who have met the sectional cut offs must have connived with their Scribes. It is shocking that such allegations are being made in respect of the candidates which are similarly situated as the complainant's son. The additional Written Submission which is tendered today is limited to such new allegations made by the complainant in the reply filed on 13.05.2016. It is submitted that IIM, Ahemdabad can only speak for itself and cannot make any submission on behalf of the other IIMs which are all independent autonomous bodies. What has already been submitted earlier, is not repeated herein. The Question Paper has been submitted in a sealed envelope today before this Hon'ble Court. It is a fact that 4 visually impaired

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candidates who met with the sectional cut offs have been selected for admission by IIM, Ahmedabad within the 3% reservation or PwD candidates.

15. The Counsel further submitted that a number of contentions have been made by the complainant in his Written Submissions filed on 13.05.2016 which do not form a part of the complaint itself and hence do not deserve to be considered as the Opponent has not had the opportunity to reply to the same. IIM, Ahmedabad duly respect of the rights of the persons with disabilities. As far as the pattern of the paper and type of questions in the CAT Examination are concerned, the same is determined by the CATs Group and IIM, Ahmedabad cannot be held to be solely responsible for the same and the present complaint cannot be decided without joining and hearing appropriate parties. As far as the issue of alternative questions is concerned, what is stated in the Written Submissions of the Opponent and what was submitted on the earlier date of hearing is reiterated. Without prejudice to the above contentions, it is submitted that Office Memorandum dated 26.02.2013 which is heavily relied upon by the complainant contains the Guidelines for conducting written examination for persons with disabilities. These guidelines are not under Section 30(f) as claimed by the complainant nor are these made in the form of rules under Section 73 of the Act. As per Para 2 of the said Guidelines, the addressee authorities were requested to advise the Recruitment Agencies, Academic/Examination Bodies etc. under their administrative control for ensuring compliance of implementing these guidelines. None of the addressee authorities in the Office Memorandum dated 26.02.2013 have disseminated or conveyed such guidelines to IIM, Ahmedabad. In any case, IIM, Ahmedabad does not determine the pattern for CAT Examination. The examination policy, procedure, pattern of Question Paper and admission policy and the procedure are all declared in much advance prior to the examination and all such details are available on the websites of IIMs and all CAT Examination websites respectively. IIM, Ahmedabad has neither prepared the Question Paper nor has designed the pattern, it cannot be said that IIM, Ahmedabad has violated any rules when it does not prepare the Question paper for CAT Examination. The relief(s) claimed during the arguments for the complainant are not claimed in the complaint and cannot be granted. The complainant in his complaint has asked for exemption from requirement of Sectional cut offs, which is neither based on any rule nor any legal submission. The same has not even been argued or pressed before this Hon'ble Court. The present complaint is, therefore, an after thought and mis-conceived. The grievance, if any, is misconceived. IIM, Ahmedabad has no intention to deprive any candidate of any rights that may be available to them under law and is committed to protecting rights of persons with disabilities.

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16. After hearing both the parties, this Court observed that the conduct of Shri Amit Sethi, representative of the complainant is not upto the mark to appear before the Court. From the perusal of the record, this Court also observed that the Case No. 518 of 2000 titled Vikas Gupta vs. Indian Institute of Management was disposed off with the following directions to the respondents:-

- a) That no candidate with disability will be deprived of admission to various courses offered by them merely on grounds of disability.
- b) As per Section 39 of Persons with Disabilities Act, 1995, 3 percent reservation in admission would be provided to candidates with disability having not less than 40 percent disability of blindness, low vision, locomotor impairment and partial deafness.
- c) The respondents shall work out eligibility criteria for admission like in the case of other reserved categories. The same may not be identical to the eligibility criteria laid down for other reserved categories. However, reasonable relaxation in eligibility criteria must be provided to candidates with disability as an equalizing action.
- d) The respondents shall take immediate and necessary steps to ensure that the class-rooms, cafeterias, libraries, toilets, hostel building and other facilities are suitably modified for making them barrier-free for Persons with disabilities as per the model building bye-laws developed by Ministry of Urban Affairs and Employment, Government of India within a reasonable time-frame, not alter than April, 2002.
- e) That the respondents shall ensure the inclusion of a module on disability in the courses offered by them. This would not only sensitize the trainees to disability issues, but shall orient the trainee managers with specific statutory and administrative provision relating to service matters and accessibility matter for persons with disabilities, who are about 10 percent of total population.
- f) That the respondents shall initiate necessary action to modify examination system ensuring that candidates with disability are not discriminated in the matter of written test, group discussion, interview merely on account of their disability. The following modifications are suggested:-

SCRIBES/WRITERS FOR BLIND/LOW VISION AND LOCOMOTOR IMPAIRED HAVING DISABILITY IN BOTH HANDS ARE ARMS.

- (i) Blind/Low vision persons due to the nature of their disability cannot negotiate the question paper available in ink print, unless a sighted person reads out the question paper to them. Therefore, it becomes absolutely necessary that a sighted assistant is made available for blind/low vision persons for reading the question paper.
- (ii) Similarly, the Blind/Low vision persons can write their assignment in Braille script which the sighted examiners cannot comprehend, therefore, it is essential that the blind/low vision persons are provided with the assistance of a scribe/writer for the purpose of writing the tests for recruitment or promotion.

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सत्यमेव जयते

न्यायालय मुख्य आयुक्त विकलांगजन

COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES

विकलांगजन सशक्तिकरण विभाग / Department of Empowerment of Persons with Disabilities

सामाजिक न्याय और अधिकारिता मंत्रालय / Ministry of Social Justice and Empowerment

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- (iii) Persons having impairment of movement in arms and hands though can read independently but have problem in writing the test at a high speed, therefore, require assistance of a scribe for the purpose of writing the tests for recruitment or promotion.
- (iv) The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 in Section 31 states:-

"All educational institutions shall provide or cause to be provided amanuensis to blind students and students with low vision."

Writers and Scribes for Locomotor impaired persons and Cerebral Palsy persons:-

Such Locomotor impaired persons and Cerebral palsy persons who have disability in both hands and arms should also be provided with writers and scribes as Government of India way back in 1961 exempted such physically handicapped persons from the typing test for the post of L.D.C. whose disability interfere in typing skills. M.H.A., Government of India vide O.M. No.15/3/61-Estt (P) dated 23.12.1961 made this provision therefore, scribes and writers in the matter of written test, entrance, recruitment and promotion test should be provided to Locomotor impaired persons and cerebral palsy persons having disability in both hands and arms.

Terms and conditions for selecting Writers/Scribes:-

- i) Scribes/Writer must be one grade junior in academic qualification from the candidate.
- ii) Scribe/Writer should be one possessing 50 percent or less marks.
- iii) Scribe/writer should either be provided by the examining authority or can be arranged by the candidate. This is at the discretion of the examining authority.

ALLOTMENT OF EXTRA TIME IN WRITING TESTS AND EXAMINATION.

It is evident that the candidate who writes the test with the assistance of a scribe/writer would write at a slower pace. Whereas the candidate speaks the answer and the writer writes the answer after listening to the answer of the candidate. In this process the time consumed in writing the answer is higher than that of the non-disabled candidates. With the view to judge the performance of candidates writing tests with the help of scribes and candidates writing tests by themselves it is necessary to equalize the opportunities by granting extra time. The examining authorities are advised to:-

- (i) For a written test of duration of 1 hour, at least 20 minutes extra time should be allotted.
- (ii) Similarly, for written tests involving more than one or less than one hour extra time should be worked out on the basis of 20 minutes per one hour criteria.

ALTERNATIVE QUESTIONS FOR THE BLIND/LOW VISION.

Section 30(f) of the Disability Act stipulates:-

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"Without prejudice to the foregoing provisions, the appropriate Governments shall by notification prepare a comprehensive education scheme which shall make provision for suitable modification in the examination system to eliminate purely mathematical questions for the benefit of blind students and students with low vision;"

For blind/low vision persons purely mathematical questions should be eliminated as per Section 30(f). It would be logical to eliminate those sections from the written test which are purely visual in nature such as graphs, pictures or maps. If the blind persons are exempted from purely mathematical questions it would be appropriate to suitably modify other visual sections too. Therefore, it is suggested that all the examining authorities must issue instructions to the paper setters so that alternative questions of equal value are provided for blind and low vision students in lieu of the purely visual questions. In case where alternative questions in lieu of the purely visual questions are not provided then the candidates must be awarded marks on such sections based on the overall average of marks otherwise obtained by the candidates in other sections of the paper barring those involving visual sections. This would equalize opportunities in the written test for the disabled. At the same time blind students at the school level can appear in the paper since special equipment are in use for teaching and learning arithmetic, algebra, Geometry etc., therefore, care must be taken while providing option for alternative questions in lieu of purely visual sections particularly involving graphs and picture and maps.

INTERPRETERS FOR HEARING IMPAIRED PERSONS

Interview is an imported part of any recruitment process. Persons with hearing impairment and speech impairment, though having excellent communication skills must use services of an interpreter during the interview. This would ensure smooth and better communication between interviewers and the hearing impaired and speech impaired interviewers. Presence of the interpreter would rule out possibility of communication gaps. Interpreter should be ideally of the disabled person choice from the same city because in the sign language there are as many dialects as in the spoken language. Interpreter from one language zone can not interpret for another linguistic zone. For utmost efficiency, it is better that the interpreter is of the candidates own choice.

17. In another case No. 2559 of 2003 (decided on 15.10.2014) titled Mohammed Asif Iqbal vs. Indian Institute of Management, Ministry of Human Resource Development and All India Council of Technical Education, the case was disposed off as the parties unanimously agreed with that the guidelines/instructions be framed on the following lines and issued by the Ministry of Human Resource Development:-

- Wherever possible, the visual graphs should be supplemented by descriptive explanation of the graphs for visually impaired candidates;
- The font size of the question paper should not be less than 20 for the benefit of low vision candidates. They should also be allowed to use optical/electronic low vision aids such as magnifying glass;

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- c) Since one of the important factors to do the question paper is stated to be the speed for which adequate practice is necessary, persons with blindness should be allowed to use the services of a scribe of their choice who should meet the conditions that may be prescribed by the examining authorities. If the scribe is provided by the examining authorities, it should be ensured that the scribe is adequately qualified to understanding the questions and to explain them to the candidate. Scribe should be allowed to such other candidates also who cannot write themselves due to disability;
- d) Extra time of 20 minutes per hour of examination currently being allowed by IIMs to visually impaired candidates who use the services of scribe, should be allowed by all the examining agencies such as IITs/Universities./NITs etc. who conduct such entrance tests for management course.
- e) The application form should have a column for the applicant to indicate whether he/she will use the services of own scribe or would require the examining authority to arrange for it. The qualifications/eligibility conditions of the scribe should also be clearly indicated.
- f) The application form should have a provision asking low vision persons to indicate the requirement of question paper in large print. The advertisement for examination as well as the application form should also clearly mention that the low vision persons would be allowed the use of magnifying glass.
- g) All the IIMs and other management institutes/Universities should ensure that their placement cells counsel/guide the candidates with disabilities for choosing the streams/area of specialization keeping in view their employability after completion of the course. While doing so, the jobs identified for different disabilities should also be kept in view.

Section 39 of the Act provides that all Government Educational Institutions and other educational Institutions receiving aid from the Government shall reserve not less than three per cent seats for persons with disabilities. It does not envisage distribution of the reserved seats amongst different categories of disabilities unlike Section 33 of the Act which deals with reservation of vacancies in the identified posts. Therefore, three per cent seats should be reserved for persons with disabilities without any distribution amongst different categories of disabilities.

Ministry of Human Resources Development i.e. Respondent No. 2 are advised to issue the guidelines taking into account the recommendations in para 17 so that these are available to the prospective candidates of the forthcoming CAT etc. They may also supplement the proposed guidelines. Office of the Chief Commissioner for Persons with Disabilities has earlier also requested Ministry of HRD to frame guidelines relating to academic examinations for the benefit of students/candidates with disabilities.

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18. Binding clause (f) of Section 30 of the Act provides that without prejudice to the foregoing provisions, the appropriate Government shall by Notification, prepare a comprehensive education scheme which shall make provision for suitable modification in the examination system to eliminate purely mathematical questions for the benefit of blind students and students with low vision.

19. Apart from above, Ministry of Social Justice & Empowerment, Department of Empowerment of Persons with Disabilities vide letter No.33-23/2016-DD.III. dated 11.05.2015 have drawn the attention of the Director, Indian Institute of Management, Gujarat to Para XI of the guidelines notified by this Department vide Office Memorandum No. 16-110/2003-DD.III dated 26.02.2013 which states that alternative objective questions in lieu of descriptive questions should be provided for hearing-impaired persons, in addition to the existing policy of giving alternative questions in lieu of questions requiring visual inputs, for persons with visual impairment. The above guidelines are to be followed by academic and recruitment agencies for conduct of examination for persons with disabilities.

20. The respondent's contention made in para 9 of its reply dated 27.05.2016 that the guidelines dated 26.02.2013 issued by the Ministry of Social Justice & Empowerment are not the statutory guidelines and have not been issued under any of the provisions of Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 and are even otherwise not binding is not correct as the copy of the said guidelines was forwarded to all the IIMs among others vide this Court File No. 10413929/2017, 65/1041/12-13 dated 05.03.2013 for ensuring compliance of the guidelines and also to circulate the said guidelines among the concerned authorities/organizations under their control. The respondent had not taken any objection on the such guidelines at that time and questioning the binding of the guidelines is not appropriate at this stage. Further, this Court vide letter dated 18.03.2013 in Case No. 10413929/2007, 65/1041/12-13 dated 18.03.2013 had issued clarification to IBPS and copy endorsed to others among IIMs mentioning that if and when any issue arises in their implementation, the same may be resolved by relying on the principle of need-based flexibility, keeping in view the need for providing reasonable accommodation or by referring the same to Ministry of Social Justice and Empowerment, Department of Empowerment of Persons with Disabilities.

21. In view of above, this Court is of the view that the respondent has violated the guidelines issued by the Ministry of Social Justice & Empowerment, Department of Disability Affairs (re-named as Department of Empowerment of Persons with Disabilities) issued vide O.M. No.16-110/2003-DD.III dated 26.02.2013, copy of which was forwarded by the Ministry to Secretary of all Ministries/

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Department among others. Still the organizing Chairman, CAT i.e. IIM, Ahmedabad has not followed the Clause XV of the guidelines notified by the Ministry of Social Justice & Empowerment, which provides that alternative objective questions in lieu of descriptive questions should be provided for hearing-impaired persons, in addition to the existing policy of giving alternative questions in lieu of questions requiring visual inputs, for persons with visual impairment.

22. The respondent is directed to follow the guidelines notified by the Ministry of Social Justice & Empowerment in letter and spirit in future for all examinations conducted from 2016 onwards so that the persons with visual impairment cannot be deprived of their legitimate rights. Since the admission was already over and as per the respondent's reply, there is a huge gap between the marks secured by the complainant's son and the marks of the last selected candidates in visual impaired category. No direction can be given to the respondent in the matter. A copy of this order be forwarded to the Secretary, Ministry of HRD, Higher Education with a direction to issue necessary instructions to all the IIMS to follow the guidelines issued by Ministry of Social Justice & Empowerment in letter and spirit and to ensure that students with visual impairment cannot be deprived of their legitimate rights. A copy of the guidelines issued to Indian Institute of Managements be forwarded to this Court also for record.

23. The matter stands disposed off.

(Dr. Kamlesh Kumar Pandey)
Chief Commissioner
for Persons with Disabilities.

Copy to:-

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The Secretary, Ministry of Human Resource Development, Higher Education Department,
Shastri Bhawan, New Delhi-110001 for issuing necessary instructions as stated above.