



सत्यमेव जयते

न्यायालय मुख्य आयुक्त दिव्यांगजन

COURT OF THE CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES (DIVYANGJAN)

दिव्यांगजन सशक्तिकरण विभाग/Department of Empowerment of Persons with Disabilities (Divyangjan)

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

भारत सरकार/Government of India

5वाँ तल, एन.आई.एस.डी. भवन, जी-2, सेक्टर-10, द्वारका, नई दिल्ली-110075; दूरभाष : (011) 20892364

5th Floor, N.I.S.D. Bhawan, G-2, Sector-10, Dwarka, New Delhi-110075; Tel.: (011) 20892364

Email: ccpd@nic.in; Website: www.ccdisabilities.nic.in

Case No. 14321/1041/2023

In the matter of —

Mx Anushka Priyadarshini ... **Complainant**

Versus

- (1) The Secretary,
Department of Empowerment of
Persons with Disabilities (Divyangjan), ... **Respondent No.1**
- (2) The President,
Consortium of National Law University ... **Respondent No.2**

1. Gist of Complainant:

1.1 Mx Anushka Priyadarshini, a person with 48% intellectual disability filed a Complaint dated 06.07.2023, presenting herself as an aggrieved person, regarding the denial of Scribe in Common Law Admission Test-2024 to persons with disabilities except for blindness, both arms affected and cerebral palsy, by the Consortium of National Law Universities in its Notification dated 01.07.2023.

1.2 The Complainant submitted that it is a clear violation of the Rights of Persons with Disabilities Act, 2016 [hereinafter referred to as "the Act"] and Para IV of the 'Guidelines for conducting Written Examination for Persons with Benchmark Disabilities' [Guidelines] issued by the Department of Empowerment of Persons with Disabilities, Ministry of Social Justice & Empowerment [DEPwD/MSJE] vide Office Memorandum No.34-02/2015-DD-III dated 29.08.2018, which reads as

under:—

"IV. The facility of Scribe/Reader/Lab Assistant should be allowed to any person with benchmark disability as defined under Section 2(r) of the RPwD Act, 2016 and his limitation in writing including that of speed if so desired by him/her.

In case of persons with benchmark disabilities in the category of blindness locomotor disability (both arm affected-BA) and cerebral palsy, the facility of scribe/reader/lab assistant shall be given, if so desired by the person.

In case of other category of persons with benchmark disabilities, the provision of scribe/reader/lab assistant can be allowed on production of a certificate to the effect that the person concerned has physical limitation to write, and scribe is essential to write examination on his behalf, from the Chief Medical Officer/Civil Surgeon/ Medical Superintendent of a Government health care institution as per proforma at APPENDIX-I."

1.4 The Complainant further submitted that not providing a reader/scribe to persons with benchmark disabilities about mental illness (insomnia), ADHD and learning/intellectual disabilities, chronic fatigue syndrome, etc., goes against the international norms and the spirit of the Act. It is ridiculous for the candidates to obtain a medical certificate if the same is required as per OM dated 29.08.2018, as once it is certified that the concerned person suffers from such a disability he/she may require either a reader or scribe or both. It is just harassment of persons with disabilities to obtain such a certificate from a doctor every time despite having a UDID Card and Disability Certificate from a competent medical authority.

1.5 Further, if the concerned examination authority is mandating a certain category of candidates to obtain a medical certificate for the requirement of scribe/reader each time then it should make the same rule applicable for all irrespective of one's disability and no exception should be carved out for blind persons, locomotor disability (both arm affected-BA), and cerebral palsy.

1.6 That every person who falls under section 2 (r) of the Act is allowed to use the service of a scribe/reader provided that the assistance of reader or scribe or both is essential due to the very fact of their disabilities; whose nature of disability is to fundamental that demanding those persons who fall under section 2 (r) with

certain kind of disabilities is like asking a fish to prove this fact every time that it cannot come out of the water or fly in the sky. The Complainant prayed that DEPWD/MSJE be directed to issue a fresh Office Memorandum after obtaining an opinion from a Committee of medical professionals.

2. Notice issued to the Respondents:

The matter was taken up and a notice dated 26.07.2023 was issued to (1) The Secretary, DEPWD/MSJE; and (2) The Registrar, National Law School of India University, Bengaluru for forwarding their comments on the affidavit on the complaint within 30 days.

3. Reply filed by the Respondents:

3.1 The DEPWD/MSJE [Respondent No.1] filed its reply dated 18.08.2023 and inter-alia submitted that the said Guidelines are based on the findings of a Committee constituted on 26.03.2015 under the Chairmanship of Secretary, DEPwD which has representation from UPSC, SSC, DoPT, Department of Higher Education, National Institutes under DEPWD/MSJE, Office of Chief Commissioner for Persons with Disabilities and representatives from PwD organizations.

3.2 As given in Para IV of the Guidelines dated 29.08.2018, the manner of availing scribe/reader/lab assistant for various categories of disabilities was extensively deliberated in the Committee and a Sub Committee was further constituted to specifically look into the issue relating to engagement of scribe while taking written examination. Hence, the provision for availing scribes for various categories of benchmark disabilities has been arrived at after due deliberation.

3.3 The Registrar, National Law School of India University [NLSIU], Bengaluru filed its reply dated 07.09.2023 and inter-alia submitted that Prof. (Dr.) Vijender Kumar, Vice-Chancellor, MNLU, Nagpur is the current President of the Consortium of NLU, and therefore, he is the appropriate authority to receive the Notice in the instant complaint. He further submitted that to assist this Court a soft copy of the Notice issued by this Court had been shared to the Consortium of NLUs. The Registrar, NLSIU is neither the President of the Consortium of NLUs nor a member of the Consortium of NLUs in his professional capacity.

3.4 Dr. Sudhir Krishnaswamy, Secretary-Treasurer, Consortium of National Law Universities [Respondent No.2] filed its reply on affidavit dated 16.10.2023 and

inter-alia submitted that the impugned Notification dated 01.07.2023 for availing a scribe for Persons with Benchmark Disabilities was issued by Para IV of the Guidelines dated 29.08.2018 and read with the Guidelines issued vide OM No. 29-6/2019-DD-III dated 10.08.2022 which provide that persons with Benchmark Disabilities shall be provided scribe assistance if so desired by them. According to these Guidelines, the facility of a scribe shall only be granted solely to those having difficulty in writing subject to the production of a certificate from the competent medical authority certifying that the person concerned has a limitation that impedes writing and that the scribe is essential to write the examination on their behalf. The impugned notification imposes the same requirements to provide scribe facilities to candidates. The proforma to the impugned Notification for the certificate required for such scribe assistance is a verbatim copy of the proforma prescribed in the 2022 Guidelines and as such cannot violate the Act.

3.5 Respondent No.2 also submitted that there is no need for candidates to obtain any separate medical certificate, which is especially issued for the CLAT examination. Candidates having a medical certificate issued under the 2022 Guidelines are allowed to use the same certificate to request scribe assistance at the CLAT examination also. The Complainant's grievance is misconceived, as the rules of the CLAT exam do not restrict scribe assistance to only candidates with benchmark disabilities. Scribe assistance is offered to all candidates with disabilities, who face an impediment in writing.

4. Rejoinder filed by the Complainant:

4.1 The Complainant filed her Rejoinder dated 30.10.2023 and reiterated her Complaint. She added that the 2018 Guidelines cannot be applied in conjunction with the 2022 Guidelines, as they are mutually exclusive and apply to two different categories, specifically section 2(r) and 2(s) of the Act, respectively. The 2018 Guidelines specify the provision of a scribe/reader/lab assistant for individuals falling under section 2(r) (persons with benchmark disabilities) upon the submission of a medical certificate, as per the format provided in APPENDIX-I. The impugned Notification dated 1st July 2023 complies with the 2022 Guidelines but not with the 2018 Guidelines, as it entirely excludes individuals with benchmark disabilities from receiving scribe/reader assistance, failing to mention APPENDIX-I of the 2018 Guidelines in its CLAT notification. The rules of the CLAT examination restrict reader assistance to candidates who face impediments in writing, thereby excluding those individuals who suffer from mental or brain impairments from

receiving reader assistance.

4.2 Consequently, both the contested notification dated 01/07/2023 and the Office Memorandum (OM) from the Department of Empowerment of Persons with Disabilities (Divyangjan) dated 10/10/2022 are in violation of the RPwD Act, 2016, and the judgment of the Supreme Court of India in Vikash Kumar v. UPSC (2021). This violation is due to their restriction of reasonable accommodations to only specified disabilities, as outlined in Section 2(zc) of the RPwD Act, 2016, which runs counter to the broader provisions of Section 2(s) and the overarching intent of the RPwD Act.

5. Clarification sought from the Complainant:

5.1 This Court vide letter dated 25.04.2024 asked the Complainant to clarify/furnish as to whether she appeared in the ibid Common Law Admission Test-2024 and whether the facility of the scribe was denied to her. She was also asked to file supporting documents, such as a copy of the complaint made with the concerned authority or any other document.

6. Clarification submitted by the Complainant:

The Complainant vide email dated 17.05.2024 inter-alia submitted that due to financial constraints, she could not get admission in BA LL.B program. She, however, apologized for any inconvenience caused due to the filing of this case; and requested to close the case.

7. Observations & Recommendations:

In light of the facts mentioned above and the documents available on file, it is apparent that the Complainant has not been able to establish prima facie any case of denial of any rights of a person with disabilities or of any discrimination on grounds of disability. Hence, no further intervention is warranted in this case, and the case is disposed of as withdrawn with the approval of the Chief Commissioner for Persons with Disabilities.

(Praveen Prakash Ambashta)
Dy. Chief Commissioner

