



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
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Case No. 14001/1143/2023

IN THE MATTER OF—

Dr. Vaibhav Bhandari

...COMPLAINANT

Versus

The Joint Secretary (Policy/Funds),
DEPwD, M/O SJ&E, GOI

...RESPONDENT

1. Gist of the Complaint:

1.1. Dr. Vaibhav Bhandari, a person with 82% Muscular Dystrophy, filed a complaint dated 20.01.2023 vide email dated 20.03.2023 requesting this Court to take action against the concerned officer working under the National Fund for Persons with Disabilities for allegedly not performing the duty in accordance with the rules made with regard to the National Fund for Persons with Disabilities.

1.2. The Complainant is a person with benchmark disability having high support needs. In reply to a letter dated 20.09.2020 of the Complainant for seeking financial assistance to provide 100 Automatic Wheelchairs for Persons with Muscular Dystrophy under the National Fund for Persons with Disabilities, the Department of Empowerment of Persons with Disabilities [DEPwD] vide letter dated 14.12.2020 informed the Complainant about the provision to assist the individual persons with benchmark disability having high support needs to meet their certain exclusive needs as recommended by Assessment Board. The DEPwD also requested the Complainant to submit the proper proposals in prescribed format for every individual person with benchmark disability

[PwBD] as mentioned in the scheme.

1.3. The Complainant submitted his application on 10.08.2021 for providing one automatic wheelchair. The DEPWD vide letter dated 21.12.2022 informed the Chairman & Managing Director, ALIMCO, that the application of the Complainant for purchase of an automatic wheelchair has been considered under the National Fund, and it was agreed in principle to provide him the automatic wheelchair through ALIMCO at the cost of ₹72,000/- approx. The DEPWD requested ALIMCO to tie up with the Complainant and arrange to provide him automatic wheelchair as per his convenience and raise the bill to the DEPWD for reimbursement under National Fund.

1.4. The Complainant further submitted that it is not mandatory in the scheme of the National Fund to provide wheelchairs from ALIMCO only. According to the scheme, the needy person can purchase an assistive device/equipment from a source other than ALIMCO. The applicant will submit final bills, utilisation certificate, etc., within 15 days of the purchase of the equipment. Accordingly, the Complainant had shared the details of an automatic wheelchair as per his need with his application and had also provided the approximate cost of the same within the prescribed limit of ₹1.00 Lakh. So, the Complainant had already informed on 22.12.2022 that the wheelchair of ALIMCO is not useful to him as it is too weighty, which makes travel impossible.

1.5. The Complainant prayed for the following reliefs —

- (1) The Respondent be directed to take action on the application according to the rules of the National Fund for PwBDs.
- (2) Exemption be given in producing the evaluation certificate by the fixed Assessment Board, else a separate scheme be made for automatic wheelchair as Section 38 of the Rights of Persons with Disabilities Act, 2016 has the provision for the same.
- (3) It is ensured that a needy person having Muscular Dystrophy could get a timely help, as it is a progressive disability.
- (4) Any other directions which this Court may deem fit and proper.

2. Notice issued to the Respondent:

The matter was taken up with the then Dy. Secretary / Director (National Fund), DEPWD, vide notice dated 22.05.2023, followed by reminder dated 22.06.2023 for forwarding to this Court their comments on the complaint.

3. Reply filed by the Respondent:

3.1. The DEPWD filed its reply dated 30.06.2023 and submitted that as per the guidelines of National Fund, the assistive device/equipment which are available with the ALIMCO [a CPSE under the DEPWD], will not be allowed for procurement from any other source. Accordingly, instructions were given to ALIMCO to provide customized wheelchair to the Complainant.

3.2. The DEPWD also furnished a copy of the Revised Guidelines for Providing Financial Assistance under the National Fund for Persons with Disabilities, 2023. According to which, under the section how to apply under the respective scheme, it has been written that *"The eligible applicant may submit the proposal online. In case the Governing Body allows purchase of assistive devices/equipment from a source other than ALIMCO, the applicant will submit final bills, utilization certificates etc. within 15 days of the purchase of the equipment."*

3.3. In the Revised Guidelines, the ibid scheme narrates as under:

"C. Support certain exclusive needs of persons with high support needs as recommended by the Assessment Boards on specific recommendation by the States on a case-to-case basis.

PURPOSE - *To provide financial support to assist the individual person with benchmark disability having high support needs to meet their certain exclusive needs as recommended by the Assessment Board.*

ELIGIBILITY -

a. *Persons with benchmark disabilities having high support needs as*

recommended by the Assessment Board constituted by the States/UTs.

- b. *The annual family income of the PwD should not be more than Rs 3 lakh or as may be specified by the Governing Body.*
- c. *The applicant must not have obtained for financial assistance for the same purpose from any other source. A certificate will be submitted to this effect along with the application.*

EXTENT OF FINANCIAL ASSISTANCE -

The financial assistance is limited to actual cost of the customized mobility equipment to improve activity of daily living or Rs 1 lakh whichever is lower. The assistive device / equipment available with the ALIMCO (a CPSE under the DEPwD), will not be allowed for procurement from any other source.

HOW TO APPLY -

The eligible applicant may submit the proposal online. In case the Governing Body allows purchase of assistive devices/equipment from a source other than ALIMCO, the applicant will submit final bills, utilization certificates etc. within 15 days of the purchase of the equipment.

Approving Authority - The Governing Body will be the competent authority to approve the proposal."

4. Rejoinder filed by the Complainant:

4 . 1 . The Complainant filed his rejoinder dated 11.07.2023 and inter-alia submitted that —

- a) The Guidelines furnished by the DEPwD was revised in 2023 whereas his application for financial assistance is pending with them from August 2021. As submitted by the DEPwD in accordance with the Revised Guidelines, no such things were mentioned in the original guidelines, which read as under:

"C. Support certain exclusive needs of persons with high support needs as recommended by the Assessment Boards

on specific recommendation by the States on a case-to-case basis.

PURPOSE -

To provide financial support to assist the individual person with benchmark disability having high support needs to meet their certain exclusive needs as recommended by the Assessment Board.

ELIGIBILITY -

Persons with benchmark disabilities having high support needs as recommended by the Assessment Board constituted by the States/UTs who have approached the States and the States could not provide such assistance from their Fund and has recommended for consideration under the Fund. The annual family income of the PwD should not be more than Rs 3 lakh or as may be specified by the Governing Body. Extent of Financial Assistance - The financial assistance would cover the following components:

The financial assistance is limited to the actual cost of the customized mobility equipment to improve activity of daily living or Rs 1 lakh whichever is lower.

HOW TO APPLY -

The eligible individual persons with benchmark disabilities seeking high support needs who have been assessed by the State Assessment Boards may submit the proposal as per the proforma placed at Annexure III to these guidelines addressed to Joint Secretary & CEO of the Fund, Room No. 527, 5th Floor, B-III Wing, Pt. Deendayal Antyodaya Bhawan, CGO Complex, Lodhi Road, New Delhi – 110003.

While submitting the proposal, the following documents need to be provided:

- (a) Copy of valid permanent certificate of disability

- (b) AADHAAR Number or AADHAAR enrollment number (if AADHAAR not yet obtained).
- (c) Copy of the recommendations of the Assessment Board
- (d) Certificate from the State Government conveying that initially the proposal was submitted to them and it was not possible for the State to grant any assistance. In addition, a copy of the recommendation from the State clearly indicating the requirement of assistance.

Scrutiny, Evaluation and Sanction - The proposal submitted by the eligible organizations will be scrutinized and evaluated by a Committee as may be constituted with the approval of JS&CEO of the Fund. Such Committee will submit its report for consideration of the Governing Body for sanctioning of the proposal."

- b) The Complainant had informed on 22.12.2022 itself that the DEPWD that the automatic wheelchair of ALIMCO is not useful for him.
- c) The mobility of a person with MDy is challenging as MDy is a progressive disability.
- d) In the year 2021, ten (10) applications were submitted which were not processed due to not having the cost/evaluation certificate of mobility equipment issued by the concerned state.
- e) From the information available, no person with MDy has so far been benefitted out of the seventeen (17) applications submitted to DEPWD.
- f) The Complainant himself had submitted his application on 10.08.2021 with the Cost/Evaluation Certificate issued by the Govt. of Rajasthan, but he was not provided the financial assistance.

5. Hearing:

5.1. A hearing was held on 25.02.2025. The following parties were present:

- A. Dr Vaibhav Bhandari (Complainant)
- B. Ms. Debala Bhattacharya, Under Secretary [Policy and National Fund] in the (Respondent).

5.2. At the outset, the Complainant reiterated his grievance. He

highlighted that wheelchairs made by ALIMCO, being very weighty, are not suitable for those with muscular dystrophy. He underscored the centrality of wheelchairs for persons with muscular dystrophy to lead lives of dignity. It was his say that his application for a wheelchair from the National Fund was submitted in August 2021, and the Guidelines being cited by the Respondent were from 2023. He argued that he had acquired a vested right to be considered under the extant guidelines at the time of his application. The extant guidelines did not have an embargo on procuring a wheelchair outside ALIMCO. He said that his name was erroneously published in the list of beneficiaries in 2022-23 by the Respondent when, in point of fact, no wheelchair was actually provided to him. He argued that the cost of a wheelchair has increased since he made his application in August 2021. He prayed that in addition to the cost of a wheelchair being reimbursed to him, disciplinary action be taken against concerned officials.

5.3. The Respondent reiterated its stand on the matter and sought to draw strength from the embargo in the 2023 guidelines on procuring wheelchairs from any agency apart from ALIMCO. It was its say that the Complainant's name was not mentioned as a beneficiary in its 2022-23 annual report. Rather, all that the report stated was that the Complainant had been granted an in-principle approval for the cost of his wheelchair from ALIMCO to be reimbursed.

6. Observation/recommendations:

6.1. The Court observed that there is a need to balance two competing considerations in the instant case. On the one hand, the case relates to a policy matter. Policymakers have to be given sufficient play in the joints to revise a policy to keep pace with changing societal conditions, and no fault can be found with the same. Equally, such a policy must be alive to the lived realities of those it affects and cater to their needs.

6.2. Accordingly, this Court recommends to the Complainant that he should furnish the specifications of the wheelchair that would meet the needs of persons affected by muscular dystrophy to ALIMCO. ALIMCO must make every endeavour to design a wheelchair in line with those specifications. Only then will the wheelchair be practically useful to persons affected by muscular dystrophy. Indeed, persons with

disabilities, like their able-bodied counterparts, also have the right to move freely within the territory of India – as a natural concomitant of the fundamental right inhering in every citizen under Article 19 (1) (d) of the Constitution.

6.3. For persons with muscular dystrophy, access to a wheelchair that is comfortable and convenient for them is an essential prerequisite for them to exercise the aforesaid fundamental right. All authorities are therefore duty-bound to enable the exercise of the right of such persons to move freely with the support of a compatible wheelchair.

6 . 4 . The Complainant is recommended to provide the requisite specifications to ALIMCO within a period of 15 days. The Respondent is recommended to file an action taken report on the matter within a period of 30 days thereafter.

6.5. This case is accordingly disposed of.

(S. Govindraj)

Commissioner for Persons with Disabilities