



## 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

5<sup>th</sup> 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: 14458/1031/2023**

**In the matter of -**

Ashish Syed

... Complainant

**Versus**

The Commissioner, Navodaya Vidyalaya Samiti... Respondent

### 1. GIST OF THE COMPLAINT:

1.1 Shri Ashish Syed, who is 100% visually impaired, filed a complaint on 18.04.2023 alleging discrimination in the 2022-23 Direct Recruitment by Navodaya Vidyalaya Samiti (NVS). He stated that although NVS called him for an interview for the Postgraduate Teacher (PGT) English post, he was declared ineligible and barred from the interview solely due to his blindness, with NVS allegedly claiming it never recruits persons with visual impairment. The complainant noted that posts like PGT and Assistant Warden are officially recognised as suitable for visually impaired persons, according to a 04.01.2021 notification by the Department of Empowerment of Persons with Disabilities. He argued that NVS's policy is arbitrary, discriminatory, and violates the Rights of Persons with Disabilities Act, 2016.

### 2. NOTICE ISSUED TO THE RESPONDENT:

2.1. A notice dated 02.06.2023 was issued by this Court under Sections 75 and 77 of the RPwD Act, 2016, directing the Respondents to furnish their comments on the complaint and place on record supporting

documents and justifications, if any.

### **3. REPLY FILED BY THE RESPONDENT:**

3.1 The Assistant Commissioner (Estt.I), NVS, in a reply dated 28.06.2023, stated that the recruitment notification reserved PGT posts for candidates with low vision under the visual impairment (VI) category, excluding those with total visual impairment. Accordingly, the complainant, being 100% visually impaired, was found ineligible for the post as per the notification.

3.2 NVS further referenced this Court's Order dated 28.12.2022 in Case No. 13354/1011/2022 (Shri Harendra Singh vs. NVS), which acknowledged that while NVS had violated the DEPwD list of posts suitable for persons with disabilities, it had reserved 4% of vacancies for persons with disabilities in line with Section 34 of the Rights of Persons with Disabilities Act, 2016. The Court held that altering the reservation structure at an advanced recruitment stage would be unfair to other candidates and declined to intervene. The Court also recommended that, since NVS claimed the duties of PGTs and TGTs differ from those in the DEPwD list, NVS should seek an exemption from the appropriate authority and adhere to the DEPwD list in future advertisements until such exemption is granted. NVS was directed to submit a compliance report within three months, with non-compliance to be reported to Parliament under Section 78 of the Act.

3.3 In compliance, NVS formed a committee to assess suitable disabilities for its posts and, on 29.03.2023, applied to the DEPwD/MSJE for exemption from the 04.01.2021 list. NVS also committed, in writing, to follow the DEPwD list in all future recruitment until an exemption is approved. The present complaint is similar to the earlier case, and NVS has already initiated the process of seeking exemption as directed.

### **4. REJOINDER FILED BY THE COMPLAINANT:**

4.1 In the rejoinder dated 26.12.2023, the complainant argued that

NVS's commitment to inclusion is superficial, despite government policies promoting it. He cited the Harender Singh case, where the Court directed NVS to seek exemption from the DEPwD list and strictly adhere to it in future recruitment until an exemption is granted.

The complainant questioned why, despite the Court's instructions to include candidates with disabilities in future advertisements, the same protection was not extended in the 2022-23 NVS recruitment. He emphasised that disabilities are unique and should be considered individually, asserting that the precedent set in Harender Singh's case (involving a different disability) should not automatically apply to his case involving blindness.

4.2 He further contended that NVS has disregarded the principle of 'reasonable accommodation' as defined by Article 2 of the UN Convention on the Rights of Persons with Disabilities, which requires necessary modifications to ensure equal opportunity for persons with disabilities. He claimed that NVS offers no such support or adjustments and instead disqualifying competent candidates solely on the basis of their disability.

## **5. HEARING:**

5.1 A hearing in hybrid mode (online/offline) was conducted on 13.02.2025. The following parties/representatives were present during the hearing:

<b>S. No.</b>	<b>Name and designation of the Party/ Representative</b>	<b>For Complainant/Respondent</b>	<b>Mode of attendance</b>
1.	Mr. Ashish Syed -	Complainant	Online
2.	Mr. Vikram Joshi, Joint Commissioner, Navodaya Vidyalaya Samiti	Respondent	Online

## **6. RECORD OF PROCEEDINGS:**

6.1 The complainant reiterated that, despite achieving qualifying marks, he was denied the opportunity to interview for the PGT English post at NVS solely due to his 100% visual impairment—even after requesting consideration under the general category. He argued that the recruitment notification did not explicitly disqualify candidates with blindness and criticised the lack of clarity and transparency in the selection process, stressing the negative implications for future candidates with disabilities.

6.2 In response, the Joint Commissioner of NVS maintained that the recruitment notification reserved posts only for candidates with low vision, not total blindness. He explained that prior operational challenges in residential schools led NVS to prefer candidates with some residual vision, referencing specific difficulties in accommodating fully blind teachers in such roles. The respondent also expressed regret for any perceived discourtesy or procedural shortcomings and affirmed NVS's commitment to inclusivity and continued support for persons with disabilities.

## **7. OBSERVATIONS/ RECOMMENDATIONS:**

7.1 The Court heard both parties, acknowledging Mr. Ashish Syed's pursuit of this case for the broader benefit of candidates with disabilities, and commended NVS for its overall efforts to employ PwDs. However, the Court found that denying Mr. Syed an interview, despite his eligibility under the general criteria, was *prima facie* discriminatory. Excluding fully visually impaired candidates based on internal experiences, without formal exemption from DEPwD, is not permitted under the Rights of Persons with Disabilities Act, 2016.

7.2 The Court clarified that organisations cannot unilaterally alter the central list of identified posts without a proper exemption from the competent authority. No sanction or order from the CCPD has allowed deviation from this list without such exemption; thus, the Respondent's contention is rejected. Referring to the Supreme Court's judgment in *Syed Bashir-ud-din Qadri v. Nazir Ahmed Shah* (2010), the Court emphasised the need for reasonable accommodation, not exclusion, for persons with disabilities. The Hon'ble Supreme Court, in the said

judgment, held that a person having cerebral palsy should be given access to an external electronic aid as a reasonable accommodation to offset the impact of his inability to write on the blackboard. The apex Court held as follows:

*“31. ...while a person suffering from cerebral palsy may not be able to write on a blackboard, an electronic external aid could be provided which could eliminate the need for drawing a diagram and the same could be substituted by a picture on a screen, which could be projected with minimum effort.”*

7.3 The Court concluded that individual adjustment difficulties cannot justify blanket disqualification, as this constitutes discrimination under the Act. The case is disposed of with these recommendations, expecting NVS to take corrective action and uphold the rights of persons with disabilities in all future recruitments.

7.4 The Court held that eligibility for teaching should not be narrowly defined by specific disabilities, and NVS's restriction to candidates with low vision, excluding the fully blind, was unjustified. Employment challenges should be addressed through reasonable accommodation, not denial. The Court directed NVS to strictly follow the central list and guidelines, avoid subjective decision-making, and ensure non-discrimination and reasonable accommodation in future recruitments.

7.5 This Case is disposed of with the above observations and recommendations, with the expectation that NVS will take necessary corrective actions and uphold the rights of persons with disabilities in all future recruitments. ATR shall be submitted by the Respondent within 3 months of the receipt of these recommendations in accordance with Section 76 of the RPwD Act.

**(S. Govindraj)**  
**Commissioner for Persons with Disabilities**

