



न्यायालय मुख्य आयुक्त

COURT OF 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 and Empowerment

भारत सरकार/ Government of India

Case No. CCPD/15612/1011/24

Dated: 17/10/2025

Case no. CCPD/15612/1011/2024

In the matter of:

Sumant Yadav

...Complainant

Versus

The Commissioner,

National Education Society for Tribal Students

Jeevan Tara Building

Parliament Street, New Delhi - 110001

...Respondent

1. Introduction

1.1 This proceeding is initiated on the Complaint of Shri Sumant Yadav, a person with **86% multiple disabilities** under **Sections 75(1)(a)** and **75(1)(b)** read with **Section 77** of the *Rights of Persons with Disabilities Act, 2016* ("the Act") to examine the Respondent's denial of appointment to a qualified PwBD candidate for **TGT (Hindi)** against a reserved vacancy, and to review compliance with **Sections 33 and 34** concerning identification of posts and reservation for PwBDs, in light of **DEPwD Notification No. 38-16/2020-DD-III dated**

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04.01.2021 (Expert Committee identification of posts), the **Delhi High Court judgment dated 01.11.2023** in *KVS & Ors v. Union of India & Ors* (W.P.(C) 17460/2022 and W.P.(C) 665/2023), and the resultant **DEPwD OM dated 08.11.2024**.

2. Gist of the Complaint

2.1 The Complainant cleared EMRS-2023 (TGT-Hindi). At the stage of document verification (Udaipur), he produced two valid disability certificates (2015): one for mobility disability and another for multiple disabilities. After he submitted the certificate at NESTS on **20.04.2024** (acknowledged), his provisional appointment was subsequently withdrawn and, by communication dated **19.06.2024**, his candidature was rejected on the ground that the certificate "had not been submitted." He contends repeated submissions/visits were ignored and seeks an appointment against the PwBD quota.

3. Issue of Notice

3.1 **Notice dated 29.07.2024** under Sections 75 and 77 sought the Respondent's comments with documents within 30 days; a **reminder dated 19.09.2024** followed. No reply was received until after the first hearing.

4. Summary of Responses

4.1 In a reply on affidavit dated **06.02.2025**, the Respondent stated that out of **5660** TGT posts, **133** were reserved for PwBD; that NESTS restricted TGT-Hindi eligibility to sub-categories **OA/OL/AAV/DW, VI, HI** (and "Others (MD)" as defined); and that the Complainant's multiple-disability profile (one arm and one leg, with 10% low vision) did not match the advertised sub-categories. It argued that any post-verification correction of the category would disrupt the merit list in a concluded process. A later **additional affidavit (27.02.2025)** reiterated seat earmarking and defended sub-categorisation with reference to "functional requirements" of residential EMRS.

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5. Dates of Hearings

5.1 Hearings were held on **04.02.2025** and **11.02.2025** in hybrid mode. Interim directions called for a reply on affidavit and production of relevant records.

6. Attendance (as placed on record)

Hearing (i) — 04.02.2025 (VC/Hybrid)

Sl. No.	Name & Designation	For	Mode
1	Mr. Sumant Yadav	Complainant	Online
2	Ajeet Kumar Srivastava, Commissioner, NESTS	Respondent	Online
3	Anupam Sonalkar, Joint Commissioner, NESTS	Respondent	Online
4	Ms. Priya Bhardwaj & Mr. Akshat Shrivastava	Legal Consultants for Respondent	Online
5	Adv. Amartya Sharan	Counsel for Respondent	Online

Hearing (ii) — 11.02.2025 (VC/Hybrid)

Sl. No.	Name & Designation	For	Mode
1	Mr. Sumant Yadav	Complainant	Online
2	Anupam Sonalkar, Joint Commissioner, NESTS	Respondent	Online
3	Adv. Amartya Sharan	Counsel for Respondent	Online

7. Record of Proceedings

7.1 **Hearing-I (04.02.2025):** Despite notice and reminder, the Respondent had not filed a written reply; it was directed to file an affidavit within three days. The Court flagged **Section 33** compliance and required the Respondent to examine **DEPwD Notification 04.01.2021**, which clarifies that identification of posts for PwBD is a **Central function**.

7.2 **Respondent's affidavit (06.02.2025):** NESTS asserted that the Complainant's disability

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combination was not a notified sub-category for TGT-Hindi as per its advertisement and treated the applicant's self-selection of category as a "material error." It relied on functional demands of residential EMRS schools.

7.3 **Hearing-II (11.02.2025):** The Complainant reiterated valid certificates and procedural compliance; the Respondent maintained ineligibility under its sub-categories. The Court noted **Note-2** in the *Gist of Recommendations* (2021 Notification) that the list is *indicative, not exhaustive*, and that posts not expressly listed must **not** be deemed exempt. The Court also noted the **Delhi High Court's KVS judgment (01.11.2023)** holding that departments/autonomous bodies cannot unilaterally narrow the Central identification, and the **DEPwD OM (08.11.2024)** directing strict adherence to the 2021 Notification and recognition of combinations/multiple disabilities for teaching posts.

8. Legal Position: Identification of Posts (Section 33) and Binding Instruments

8.1 **Section 33 (RPwD Act, 2016)-** The **Appropriate Government (Central)** must identify posts suitable for PwBDs, in consultation with an **Expert Committee**, and review periodically. Identification thus rests at the **Central level** and binds all Central Ministries/Departments, autonomous bodies, and PSUs.

8.2 **DEPwD Notification 04.01.2021 (Expert Committee).** The Expert Committee identified a broad suite of posts—including **teaching posts (TGT/PGT)**—as suitable for **locomotor, visual, hearing, and multiple disabilities**. **Note-2** states the list is "indicative, not exhaustive," and non-mention of a post/sub-combination does **not** imply exemption. Ministries/Departments/Autonomous Bodies may **supplement** the list positively but cannot **narrow** it to exclude otherwise suitable disability profiles.

8.3 **Delhi High Court (National Deaf Association Vs. KVS & UOI, 01.11.2023)-** The Court held that establishments **cannot substitute** their own suitability tests for the Central identification, nor can they **restrict** notified disability categories/sub-combinations absent DEPwD concurrence. The ruling reinforces that **Central identification is binding**, and blanket or unilateral exclusions violate the Act.

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8.4 **DEPwD OM 08.11.2024.** Pursuant to the **KVS** judgment, DEPwD directed all establishments to (i) **align recruitment** strictly with the 2021 Notification; (ii) **eschew restrictive sub-categorisation** that undermines identified suitability; and (iii) recognise **combinations/multiple disabilities** where the core functions are not demonstrably impeded with **reasonable accommodation**.

9. Observations

9.1 **Ultra vires restriction:** By narrowing TGT-Hindi eligibility to a few sub-categories without **DEPwD concurrence** or Expert-Committee basis, the Respondent acted **ultra vires Section 33** and counter to the **2021 Notification** and **OM 08.11.2024**.

9.2 **Equal opportunity (Art. 16(1)) and reasonable accommodation:** Denial on the basis of a disability **combination** (one arm + one leg, plus low vision) in a **teaching** post—without a job-analysis showing that **reasonable accommodation** cannot address core duties—violates the **rights-based** framework of the Act and settled jurisprudence.

9.3 **Process lapse:** The record shows acknowledged submission of certificates and later rejection on a contrary premise, indicating **procedural arbitrariness** and poor records management—both inconsistent with the duty to **facilitate**, not frustrate, PwBD employment.

10. Recommendations-

10.1 **Immediate case handling** - (a) Re-examine the Complainant's eligibility for **TGT (Hindi)** under **locomotor/multiple disability** consistent with the **2021 Notification**; (b) if a PwBD vacancy exists, issue appointment forthwith; (c) if not, place the Complainant at the **top of a priority panel** for the **next available PwBD vacancy** with a speaking order and timeline.

10.2 **Withdraw restrictive sub-categorisations** - Rescind all advertisement clauses/RRs that **restrict** Central identification; issue a **corrigendum** stating that **DEPwD Notification 04.01.2021** (as updated) and **OM 08.11.2024** govern, including **combinations/multiple disabilities**.

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10.3 Vetting of Recruitment Rules - Place NESTS RRs and EMRS recruitment templates before **DEPwD** for conformity with **Section 33**, 2021 Notification, and **KVS** judgment; incorporate **job-analysis-based** functional requirements and **reasonable accommodation matrices** (e.g., classroom assistive tech, adjusted timetables, administrative support).

10.4 Selection process safeguards-(a) Create a **PwBD Scrutiny Panel** (with at least one external accessibility expert) to vet eligibility decisions; (b) enable a **minor-correction window** for applicants to rectify category mis-ticks at verification; (c) require **speaking orders** for any PwBD rejection, citing the **2021 Notification** and accommodation explored.

10.5 Records & transparency- Digitise **document receipts/acknowledgements**; publish **PwBD vacancy, application, selection and joining** dashboards; maintain a **PwBD candidate ledger** (certificate type, category, accommodation requested/approved, final decision with reasons).

10.6 Capacity-building - Mandatory training for HR/selection boards on **Section 33, 2021 Notification, KVS** judgment, and **reasonable accommodation**; include case-based modules and certification.

10.7 Systemic alignment across EMRS - Ministry of Tribal Affairs/NESTS to circulate uniform guidance to all EMRS units to **apply Central identification**; periodic **compliance audits** with corrective action plans.

10.8 Compliance & consequences-Non-alignment in future recruitments may invite action under **Sections 89, 92, 93** of the Act; repeated violations to be escalated to the Administrative Ministry.

10.9 Compliance with Sections 76, 89, 93- The Respondent shall **accept** these recommendations or file a **reasoned non-acceptance** under **Section 76 within three months**. Failure to act may invite proceedings under **Sections 89 and 93** of the Act. If the respondent feels that the time provided under Section 76 is inadequate, it may file an **Implementation Plan within 30 days**, specifying milestones for each recommendation, responsible officers, and links to public dashboards; quarterly progress reports shall follow until full compliance.

7. Accordingly, the case is disposed of in these terms.

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