



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.: CCPD/14645/1092/2023

In the matter of:

Anushka Priyadarshini

...Complainant

Versus

Department of School Education & Literacy,
Ministry of Education

...Respondent

1. Gist of the Complaint

1.1 The Complainant, Ms. Anushka Priyadarshini, a person with 48% intellectual disability, vide complaint dated 08.11.2023, challenged the revised guidelines of the Central Sector National-cum-Merit Scholarship Scheme administered by the Department of School Education and Literacy (DOSEL), Ministry of Education. She alleged that while the Scheme intends to prevent dropouts among economically weaker students, it fails to provide equitable relaxation or concessions for children with disabilities, such as those granted to SC/ST students in qualifying criteria and continuation conditions.

1.2 The Complainant contended that such omission violates Sections 3, 4, 16 and 17(h) of the Rights of Persons with Disabilities Act, 2016 ("RPwD Act") and Section 3 of the Right to Education Act, 2009. She requested that the Ministry amend the scheme to extend inclusive

benefits to children with disabilities, arguing that this exclusion undermines the principles of equal opportunity and non-discrimination.

2. Notice and Response

2.1 A notice dated 23.11.2023 was issued to the Respondent under Sections 75 and 77 of the RPwD Act, 2016. A final reminder was subsequently issued on 13.03.2024 under Rule 38(2) of the Rights of Persons with Disabilities Rules, 2017.

2.2 The Respondent, vide reply dated 06.04.2023, acknowledged the complaint and outlined various initiatives under Samagra Shiksha, CBSE guidelines, and the PRASHAST App for inclusive education. However, it was submitted that the National Means-cum-Merit Scholarship Scheme (NMMSS) does not expressly provide for reservations or separate relaxations for children with disabilities, as it is merit-cum-means based.

3. Hearing

3.1 The matter was listed for hearing on 13.05.2025 in hybrid mode. The Complainant did not appear despite notice. The Respondent, represented by Shri Kala Venugopala, Director (Scholarships), attended online and reiterated the contents of their reply.

3.2 While the Complainant was not present and moreover, this Court could not find any locus standi of the Complainant to file this case, as they failed to establish *prima facie* any grounds for being aggrieved in this matter, a necessary condition under Rule 38 of the RPwD Rules, 2017 to be met by the Complainant before this Court, it recognized also the larger public importance of the issues raised in the complaint, and decided to hear the Respondent ex-parte.

3.3 The Respondent contended that they have not received a copy of the complaint. This assertion was refuted by the CCPD, who clarified that a reply had already been issued on 16.04.2023. In that reply, it was highlighted that while the Respondent relied on the position that neither the *RPwD Act, 2016*, nor the *CBSE Guidelines* mandate scholarship provisions for children with disabilities, *Section 17(h)* of the *Rights of Persons with Disabilities Act, 2016*, explicitly provides that scholarships

are to be extended to students with benchmark disabilities.

3.4 The Respondent further contended that the *National Means-cum-Merit Scholarship Scheme*, operates with support from the *Samagra Shiksha Scheme*, which merely provides in its guidelines that schools are required to grant an additional thirty minutes of time during examinations to students with special needs. Beyond this, they argued, there are no further provisions concerning children with disabilities. This Court disagreed with this contention of the Respondent as well and clarified that the Scheme does, in fact, make provisions for students with disabilities to receive financial assistance and study materials, including Braille books, with particular emphasis on extending such support to girls with disabilities. The Court discussed provisions of Sections 17 (h), 31(2) and 37(b) of the RPwD Act, which mandate inclusive access to education and five per cent reservation for persons with disabilities in all Central and State sector schemes.

3.5 The Respondent submitted that they were unable to trace the complaint in their office. However, they expressed their willingness to make any necessary changes as directed by the Court in respect of the current examination. The Respondent further stated that they were unable to locate in their records the details of the student who had filed the complaint.

3.6 The Court further inquired whether there is any quota in the scholarship for PWDs, as there already are quotas for SCs & STs. To which the respondent replied that these are quotas which are to be stipulated as per the State Government's norms.

3.7 To this, the Court stated *Section 37(b) of the RPWD Act*, which states that all centre sector schemes are to have a five per cent reservation for persons with disabilities. The Court further cited *Section 31(2) of the Act* which reads as:

"(2) The appropriate Government and local authorities shall ensure that every child with benchmark disability has access to free education in an appropriate environment till he attains the age of eighteen years."

4. Observations

4.1 This Court recognizes that the grievance raised—though procedurally flawed—touches upon a significant systemic issue concerning equal access to scholarships for students with disabilities. Section 3 of the RPwD Act mandates equality and non-discrimination; Section 16 obligates educational institutions to ensure access and reasonable accommodation; and Section 17(h) explicitly requires that scholarships be provided to students with benchmark disabilities.

4.2 The Supreme Court in *Vikas Kumar v. UPSC* (2021 SCC OnLine SC 950) held that reasonable accommodation is an integral part of equality, and exclusionary schemes, even if facially neutral, may amount to discrimination against persons with disabilities. Likewise, the Delhi High Court in *Javed Abidi v. Union of India*, AIR 1999 Del 44, emphasized that policy decisions must actively promote inclusion, not merely avoid discrimination.

4.3 At the same time, this Court notes that under Section 75 (1) (b) of the RPwD Act, 2016 read with Rule 38 of the RPwD Rules, 2017, only an “aggrieved person” may file a complaint before the Chief Commissioner. The Supreme Court in *Ayaaubkhan Noorkhan Pathan v. State of Maharashtra*, (2013) 4 SCC 465, held that a complaint by a person without direct grievance or authorization is not maintainable.

4.4 In the instant case, the Complainant has not demonstrated that she is directly affected by the Scheme or has authorization to represent other students with disabilities. She has also failed to appear despite notice. Accordingly, her locus standi remains unproven, and the complaint cannot be sustained on procedural grounds.

5. Recommendations

5.1 In view of the Complainant’s non-appearance and failure to establish locus standi under Section 75 (1) (b) of the RPwD Act, 2016, the complaint is dismissed as not maintainable. Nevertheless, considering the significance of the issue, this Court is of the considered view that the issue raised merits serious policy attention. In exercise of powers under Sections 75(1)(b) and 77 of the RPwD Act, 2016, the

following recommendations are issued to the Respondent:

- (a) To undertake a comprehensive review of the National Means-cum-Merit Scholarship Scheme and similar educational support programmes, ensuring alignment with Sections 17 (h), 31(2) and 37(b) of the RPwD Act, 2016..
- (b) To issue appropriate amendments or clarificatory guidelines to ensure that students with benchmark disabilities are not excluded from benefits on account of merit criteria that do not account for reasonable accommodation.
- (c) To consult the Department of Empowerment of Persons with Disabilities (DEPwD), as the nodal ministry, and engage with DPOs, parent associations, and special educators prior to finalizing revisions to the Scheme.
- (d) To ensure regular monitoring and impact assessment of scholarship schemes from an inclusion and accessibility perspective, and to share periodic compliance reports with this Commission.
- (e) To sensitize implementing agencies and schools under Samagra Shiksha regarding the entitlements of students with disabilities under the RPwD Act.

6. Disposal of the Case:

6.1 The Respondent shall file an Action Taken Report within 90 days in accordance with Section 76 of the RPwD Act, 2016, failing which this Court may be constrained to initiate action under Sections 89 and 93 of the Act.

6.2 The case is disposed of in these terms.

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

