



## 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. CCPD/14076/1011/2023**

**In the matter of:**

Shri Kodakkal Shivaprasad

**...Complainant**

**Versus**

The Director, Film and Television Institute of India

**...Respondent**

### RECORD OF PROCEEDINGS

#### 1. Hearing:

1.1 A hearing in hybrid mode was conducted on **09.04.2025**. The following parties/ representatives were present during the hearing:

S. No.	Name and Designation of the Attendees (Sh./ Smt./ Ms)	On Behalf of	Mode of attendance
1.	Kodakkal Shivaprasad	Complainant	Online
2.	Advocate Raj Kumar Makkar	Counsel for Complainant	Online
3.	Advocate Himalya Makkar – Associate of Complainant's Counsel	Counsel for Complainant	Online

4.	Prateek Jain, Registrar, FTII	Respondent	Online
5.	Rajendra Bagare, Liaison Officer, PwD, FTII	Respondent	Online
6.	Ashwin Sonone, Ex-Liaison Officer, PwD, FTII	Respondent	Online

## 2. Proceedings During the Hearing:

2.1 The learned Counsel for the Complainant submitted that the Respondent's reply, along with the complete advertisement, had not been provided to them. He stated that without these documents, they were unable to prepare their submissions adequately.

2.2 The Court noted that the Complainant had already filed a rejoinder. However, to avoid any further inconvenience, it directed the Respondent to resubmit the reply and the advertisement.

2.3 The Complainant's counsel submitted that Advertisement No. 01/2022 issued by FTII notified 31 posts, but no provision for the reservation of persons with disabilities as available under Section 34 of the Rights of Persons with Disabilities Act, 2016, was reflected. He also referred to Section 33 of the Act, which requires the identification of PWD categories.

2.4 It was submitted that the advertisement should have indicated whether the posts are backlog vacancies or newly created vacancies. The learned Counsel referred to Section 34 (2) of the Act, which requires that if in any recruitment year sufficient PwD candidates are not available, the vacancies must be carried forward to the succeeding recruitment year and filled through a special recruitment drive. Failure to indicate the backlog position amounted to non-compliance with this statutory obligation.

2.5 It was also submitted that only one post, i.e. Production Assistant, was shown as reserved for PwDs, and even that was confined to SC and EWS categories. The counsel argued that the reservation for PwDs is horizontal in nature and must cut across all vertical categories. He relied upon the principles laid down by the Hon'ble Supreme Court in **Indra Sawhney v. Union of India, 1992**

**Supp (3) SCC 217** and submitted that restricting PwD reservation within SC or EWS categories effectively denies the benefit to PwDs from other categories, including UR, is impermissible in law.

2.6 The Court inquired whether the matter was a personal grievance or a public interest issue. The complainant's counsel clarified that the complainant, though himself hearing impaired, was not an applicant in the recruitment. The case had been filed in a representative capacity on behalf of all PwDs aggrieved by the defective advertisement.

2.7 The Respondent submitted, through the Registrar, that FTII had complied with the statutory requirements and relevant DoPT instructions. He referred to the DoP&T Office Memorandum no. No.36035/02/2017-Estt (Res) dated 15.01.2018, which implemented reservation for PwDs through a 100-point roster to be operated separately for each group of posts. He explained that of the 31 advertised vacancies, the majority were carried forward from before 2018, and only 7 were fresh vacancies arising after 2018. He stated that, as per the Roster, the first vacancy in that cycle, the post of Film Research Officer, had been reserved for PwDs.

2.8 The Respondent further submitted that Clauses 4.6 and 5.2 of the advertisement itself provided that PwD candidates with 40% or more disability could apply for any of the advertised posts if otherwise eligible, and would be considered on the general standard of merit. It was submitted that no PwD candidate had been excluded from applying.

2.9 In reply, the Complainant's counsel argued that the advertisement remained defective as it did not specify disability-wise suitability for each post. He relied on the DoP&T Office Memorandum dated 29.12.2005, which mandated that all establishments must identify posts suitable for PwDs and specify the same in recruitment advertisements. He also referred to the DoP&T OM dated 15.01.2018, which reiterated the requirement of separate 100-point rosters for PwDs. Further, DoP&T OM dated 17.05.2022 was highlighted, which clarified the manner in which reservation and backlog vacancies for PwDs must be implemented. He submitted that without these details in the advertisement, PwDs were practically excluded, as they could not know which posts they were eligible to apply for.

2.10 The Court observed that the advertisement lacked the necessary clarity for PwD candidates. It noted that although FTII may have maintained Rosters internally, the published advertisement did not disclose the number of posts

reserved for PwDs, the suitability of posts for specific disability categories and the backlog position. The Court further noted that DoP&T OM's of 2005, 2018 and 2022 expressly require recruitment advertisements to carry this information, and these requirements had not been complied with.

2.11 The Court further observed that reservation for PwDs is horizontal and cannot be confined within SC or EWS categories. Restricting horizontal reservation into vertical categories would deprive PwDs from UR or OBC categories, and this would be contrary to the law and to the judgments of the Hon'ble Supreme Court.

2.12 The Court directed the Respondent to submit its response in an affidavit supported by all relevant documents, including copies of advertisements, Reservation Rosters, cadre strength, and backlog details, within 15 days with a copy of the same to the Complainant, who may file his rejoinder, if any, within a further period of 7 days after receiving those documents.

3. This is issued with the approval of the Commissioner for Persons with Disabilities.

**(Praveen Prakash Ambashta)**  
**Dy. Chief Commissioner**