



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
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Case No. CCPD/14733/1011/2023

In the matter of —

Shri Gopi Chand

... Complainant

Versus

The Commissioner,
 National Education
 Society for Tribal Students (NESTS)

... Respondent

1. Gist of the Case:

1.1 Shri Gopi Chand, a person with benchmark disability, filed a Complaint dated 26/12/2023 regarding the denial of reservation in recruitment for teaching and non-teaching posts under the EMRS Staff Selection Exam (ESSE)-2023 advertisement issued by NESTS.

1.2 The facts relate to the ESSE-2023 advertisement (issued around July-August 2023 for recruitment in Eklavya Model Residential Schools), where horizontal reservation for Persons with Benchmark Disabilities (PwBD) was provided only for categories like Orthopedic Handicap (OH), Visual Impairment (VI), Hearing Impairment (HI), and Multiple Disabilities (MD), excluding category (d) disabilities such as mental illness and specific learning disabilities, in violation of the Rights of Persons with Disabilities Act, 2016. The complaint arose in December 2023, with consolidated similar grievances from other cases.

1.3 Relief sought includes directing NESTS to identify posts suitable for all PwBD categories, including mental illness, provide 4% reservation with backlog computation, revise the advertisement to include relaxations, and ensure compliance to prevent discrimination.

2. Notice issued to the Respondents:

In exercise of the powers conferred u/s 75 & 77 of the Rights of Persons with Disabilities Act, 2016 [hereinafter referred to as "the Act"], a notice dated 29/12/2023 was issued for violation under sections 33, 34, and 20 of the Act to the above mentioned respondent for forwarding

to this Court comments on affidavit on the complaint within the statutory time limit.

3. Reply filed by the Respondents:

3.1 Respondent No.1 filed a reply dated 12/01/2024, stating that the reservation roster was approved by NESTS's Executive Committee and Governing Body, with 4% PwBD reservation provided for OH, VI, HI, and MD categories in ESSE-2023, claiming compliance with the Act. Further submissions were made on 13/06/2024 and 21/06/2024, reiterating the same and noting that the recruitment followed Government of India policies on an all-India basis.

4. Notice to Complainant for Rejoinder:

A copy of the reply filed by Respondent No.1 was forwarded to the Complainant vide letter dated 06/02/2024 for filing his rejoinder within 15 days. However, no response has been received so far.

5. Rejoinder filed by the Complainant:

5 . 1 The complainant submitted a further representation dated 08/08/2025. No formal rejoinder to the initial reply had been filed.

6. Hearing:

6.1 A hearing in the hybrid mode was conducted on 23.12.2025, wherein the following parties attended:

Sl. No.	Name & Designation of the Attendees (Smt./Shri)	On behalf of	Mode of Presence
1.	Gopi Chand	Complainant	Online
2.	Adv. Somesh Chandra Jha	Respondent	Online
3.	Bipin Chandra Raturi, Legal Consultant	Respondent	Online
4.	Priya Bharadwaj, Law Officer	Respondent	Online

6.2 The Complainant reiterated the shortfall in reservation (13 instead of 14 posts) and the delay in identification of posts for certain disabilities.

6.3 The Respondent informed that the matter was adjudicated by the Hon'ble High Court in connected petitions (W.P.(C) 11017/2024 and others), pursuant to which reservation was extended to PwBD candidates meeting cut-off marks and all eligible PwBD candidates from ESSE-2023 were accommodated. The 2023 cycle has lapsed, all appointments made, and fresh recruitment (EMRS 2025) for over 7000 posts notified on 19.09.2025 with full 4% horizontal reservation (1% each for VH, HI, LD, and multiple disabilities, including C&D categories).

7. Observation and Recommendations:

7.1 Upon perusal of the complaint, replies, and representation, it is observed that the initial computation of reservation in ESSE-2023, 13 instead of 14 posts, and the delay in identification of suitable posts for certain disabilities, e.g., hearing impairment, until 2021/2024, prima facie contravened Section 34 read with the lists of identified posts notified by the DEPwD/DoPT.

7.2 However, pursuant to Hon'ble High Court orders in W.P.(C) 11017/2024 and connected matters, the Respondent extended reservation benefits to PwBD candidates and accommodated all eligible ones from the 2023 cycle. The fresh recruitment EMRS 2025, notified on 19.09.2025, provides a full 4% horizontal reservation across all categories as per the RPwD Act, 2016 and DoPT O.M.'s dated 15.01.2018 & 17.05.2022.

7.3 While the 2023 cycle lapses cannot now be reopened, the initial lapses highlight systemic non-compliance with the reservation mandate under Section 34, potentially causing loss of opportunity to PwBD candidates for nearly eight years since the Act came into force.

7.4 The Respondent shall ensure strict compliance with Section 34 in all future recruitments, including timely identification of suitable posts for all 21 benchmark disabilities, accurate computation of 4% reservation (with rounding up where fraction ≥ 0.5), and carry-forward of unfilled reserved vacancies as per DoPT guidelines.

7.5 An Action Taken Report (ATR) shall be furnished within 3 months under Section 76 of the RPwD Act, 2016. Non-compliance may attract penalties under Sections 89 and 93.

8. Accordingly, the case is disposed of.

(S. Govindraj)
Commissioner for Persons with Disabilities