

F.No. SC-12/25/2023 SCT-DOP
Government of India
Ministry of Communications
Department of Posts
(SCT cell)

Dak Bhawan, Sansad Marg,
New Delhi-110001
Dated: December, 2023

To

The All Heads of Circle

Subject: Suo-motu cognizance in the matter of obstacles, risks and humiliation faced by Divyangjan regarding non-accessibility of public services - reg.

Madam/Sir,

I am directed to enclose herewith a copy of the Record of Proceedings dated 09.11.2023 received from the the Chief Commissioner for Persons with Disabilities (CCPD) on the subject cited above and to request you to take necessary action with regard to the directions contained in para 3.3(5) of the said Record of Proceedings.

2 . Para 3.3(5) of the enclosed Record of Proceedings (RoP) inter-alia mentions that **concerned officers of any government office across the country, whether a central government or a State government establishment or a local government, officiating from any buildings/ premises which are still not made accessible, shall go down to the ground floor or any other place in the building/ premises which is accessible for divyangjan along with necessary staff and equipment and provide the service there itself. This shall be applicable to any public service including outsourced service by the government such as the Passport/ Visa Services, Jan Suvidha Kendra, CSC etc.**

3. It is requested to circulate the said CCPD directions to all the postal establishments under your jurisdiction immediately for strict compliance.

4. A Compliance/Action Taken Report in this regard may be sent to this office **within a week without any fail** to enable this office submit a consolidated report to the CCPD within stipulated time.

Yours faithfully,

Encl: As above

(Prabha Sharma)
Assistant Director General (PE-I & SCT)

Copy to:

1. All DDsG of Department of Posts for information and necessary compliance.
2. GM, CEPT Mysuru with request to upload it on Department Website.
3. ADG (Admin), Dak Bhawan with a request to upload it on e-office dashboard.



न्यायालय मुख्य आयुक्त दिव्यांगजन

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 & 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, New Delhi-110075; Tel.: (011) 20892364
Email: ccpd@nic.in; Website: www.ccdisabilities.nic.in

Case No. 14580/1101/2023

To

- (1) All Secretaries to the Govt. of India
- (2) All Chief Secretaries to the States/UTs

Sub.: Suo-motu cognizance in the matter of obstacles, risks and humiliation faced by Divyangjan regarding non-accessibility of public services

Madam/Sir,

I am directed to enclose a copy of the Record of Proceedings dated 09.11.2023 and to request you to take necessary action with regard to the directions of the Chief Commissioner for Persons with Disabilities, contained in para 3.3 (5) of the said Record of Proceedings. A Compliance/Action Taken Report in this regard may please be sent to this Court within 30 days from the date of issue of this communication.

Yours faithfully,

Signed by
Praveen Prakash Ambashta
Date: 10-11-2023 09:12:20

(P.P. Ambashta)
Dy. Chief Commissioner

Encl.: As above



न्यायालय मुख्य आयुक्त दिव्यांगजन

COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES (DIVYANGJAN)
दिव्यांगजन सशक्तिकरण विभाग/Department of Empowerment of Persons with Disabilities (Divyangjan)
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Email: ccpd@nic.in; Website: www.ccdisabilities.nic.in

Case No. 14580/1101/2023

In the matter of Suo-motu cognizance —

Versus

(1) The Inspector General of Registration &
Controller of Stamps,
Office: Ground Floor,
Opp: Vidhan Bhavan (Council Hall),
New Administrative Building,
Pune – 411001 (Maharashtra)
Email: complaint@igrmaharashtra.gov.in
Contact: 020-26124012

... Respondent No.1

(2) The Secretary,
Ministry of Housing and Urban Affairs,
Room No. 122, 'C' Wing,
Nirman Bhavan, New Delhi – 110011;
Email: secyurban@nic.in

... Respondent No.2

(3) The Director General,
Central Public Works Department,
Room No.101, A-Wing,
Nirman Bhavan,
New Delhi – 110001
Email: cpwd_dgw@nic.in

... Respondent No.3

(4) The Principal Secretary,
Revenue & Forest Department,
Government of Maharashtra,
Mantralaya,
Mumbai – 400032
Email: psec.revenue@maharashtra.gov.in
osd.revenue@maharashtra.gov.in

... Respondent No.4

Hearing:

A hearing online through video conferencing was conducted on 01.11.2023. The

following persons were present/absent during the hearing —

- (1) Respondent No.1: Shri Hira Lal Sonawane, IGR & CS
- (2) Respondent No.2: Represented through Respondent No. 3
- (3) Respondent No.3: Shri Diwakar Agrawal, Director, CPWD, Delhi
Shri Pradeep Verma and Shri Vikrant, Executive Engineers,
CPWD, Mumbai
- (4) Respondent No.4: None appeared

RECORD OF PROCEEDINGS

1. Introduction and Background

1.1 At the outset, this Court expressed its anguish about the incident where a bride, Ms. Virali Modi, who is a wheelchair user, had to go through a harrowing experience on the day of her marriage which should have been the happiest day of her life, because of the insensitive handling of the matter by the concerned marriage registrar and an apathetic system which is indifferent to even the most clearly articulated intention of the legislature, that of a barrier free and accessible public environment. She has stated in her viral tweet that she had to be transported to the office of the Marriage Registrar like a piece of luggage, which is totally unacceptable. The fact that this happened despite a prior appointment for the registration of the marriage and knowledge of the concerned authority about the special need of Ms.Modi is even more shocking. Accessibility is an essence of public service. If an office providing public service is not accessible, then such an office is as good as non est, as far as divangjan are concerned.

1.2 It was clarified that though the establishment concerned and the officials responsible and the place of incident in the instant case happen to be controlled by the State Government of Maharashtra, this Court took a conscious decision to institute a suo motu quasi judicial proceeding before it as the indifference with which accessibility of public services is being dealt with by the responsible authorities is pervasive elsewhere in the country too. This Court is also aware that as per Section 40 of the RPwD Act, 2016, hereinafter referred to as "the Act", formulation of rules and laying down the standards of accessibility is the mandate of the Central Government. Various ministries and departments concerned have contributed in laying down the accessibility standards with respect to their allotted subjects. In the process, the Ministry of Housing and Urban Affairs (MoHUA), GoI have also published the Harmonised Guidelines and Standards for Universal Accessibility in India- 2021 which have since been notified by the DEPwD under Rule 15 of the RPwD Rules, 2017. However, the role of MoHUA does not end there.

2. Submission of the respondents

2.1 The Court appreciated the personal appearance of the Respondent No.1 in this very sensitive matter and asked him to explain what had actually happened and what actions were taken by the Respondent before or after receipt of the Notice dated 20th October, 2023 of this Court to punish the delinquent officials and to ensure that such act is not repeated.

2.2 Respondent No. 1 submitted that the Govt. of Maharashtra has recently launched web based marriage registration process, which the applicants can avail by making an application and uploading documents on the website. The applicants can also request for the process to be conducted at their residence. Also, they can get the marriage registered at the office of the marriage registrar. In this case Ms. Virali Modi has complained that despite request, the officer concerned did not come to the ground floor to register the marriage and hand over the certificate. The previous incumbents used to go down and serve whenever such situation arose. The department has viewed this dereliction very seriously and has suspended the

officer and also transferred him from Mumbai to Chandrapur. The Respondent also submitted that due to constraint of office space, the department has rented office space in a building owned by the MTNL, which doesn't have a lift. After receiving notice of this court, they have now identified another office accommodation of 800 sq ft on ground floor and will be shifting to the new building very soon.

2.3 The rep of CPWD, appearing on behalf of Respondent No. 3 raised a concern that many a times, the clients do not give them any sanction to take up retrofitting or repair works. He sought advice of the Court as to what to be done in such situation. The Director, CPWD also requested for a direction of this Court about provision of budgetary support for undertaking installation of lift, etc.

3. Observation and Recommendation

3.1 The Court observed that incidents like the one here, which come up with regular frequency, remind us that a total implementation of these statutory provisions are still far from achieved despite lapse of the time permitted for this in the Act. Section 44, 45 and 46 are relevant for the purpose of this case. The same are reproduced below:

"44. Mandatory observance of accessibility norms.—

(1) No establishment shall be granted permission to build any structure if the building plan does not adhere to the rules formulated by the Central Government under section 40.

(2) No establishment shall be issued a certificate of completion or allowed to take occupation of a building unless it has adhered to the rules formulated by the Central Government.

45. Time limit for making existing infrastructure and premises accessible and action for that purpose.—

(1) All existing public buildings shall be made accessible in accordance with the rules formulated by the Central Government within a period not exceeding five years from the date of notification of such rules:

Provided that the Central Government may grant extension of time to the States on a case to case basis for adherence to this provision depending on their state of preparedness and other related parameters.

(2) The appropriate Government and the local authorities shall formulate and publish an action plan based on prioritisation, for providing accessibility in all their buildings and spaces providing essential services such as all primary health centres, civil hospitals, schools, railway stations and bus stops.

46. Time limit for accessibility by service providers.—

The service providers whether Government or private shall provide services in accordance with the rules on accessibility formulated by the Central Government under section 40 within a period of two years from the date of notification of such rules:

Provided that the Central Government in consultation with the Chief Commissioner may grant extension of time for providing certain category of services in accordance with the said rules."

3.2 It is clear that various public buildings and public services are still not fully made accessible despite very clear statutory mandates as brought out above and expiry of permissible time limit. This Court is constrained to take up the matter as per its mandate under Section 75 (1) (b) and 75 (1) (h) of the Act and inquire into the gap between policy and implementation.

3.3 This Court is not inclined to issue any direction with regard to budget provision as requested by the rep of the Respondent No. 3, as it is a routine duty of every department to project their demand in this regard. Ensuring accessibility is a statutory mandate as brought out above, hence budget provision can not be cited as a limiting factor to achieve this.

3.3 This Court after hearing the parties present issues the following interim directions:

(1) The time limit for making old public buildings accessible is already over and considering that the public services run by the government are generally monopolistic, leaving no choice to the customer or citizen/beneficiary to seek the service elsewhere. Hence, concerned officers of any government office across the country, whether a central government or a state government establishment or a local government, officiating from any buildings/premises which are still not made accessible, **shall go down to the ground floor or any other place in the building/premises which is accessible for divyangjan along with necessary staff and equipment and provide the service there itself.** This shall be applicable to any public service including outsourced service by the government such as the Passport/Visa services, Jan Suvidha Kendras, CSC etc.

(2) The CPWD/State PWD/Municipal Corporation or any other agency, responsible of giving fitness or rent reasonability certificate for hiring or renting or renewal of the hiring or renting of any public or private building shall not give certificates unless the building is accessible. If a government establishment owning or managing a building or operating from a building which is not accessible and is not also willing to prioritise the required work of alteration, then the public works department concerned shall report the matter to their head of the department with information to this Court or the Court of the State Commissioner for Persons with Disabilities concerned, as the case may be.

(3) Ministry of Housing & Urban Affairs to furnish the details of training modules developed for implementation of the Harmonised Guidelines and Standards for Universal Accessibility in India- 2021 and the number of engineers, architects and town planners who have been trained on the subject within 30 days of the issue of these RoPs. MoHUA will also indicate the compliance status and steps taken to ensure implementation of Section 44 as mentioned in para 3.1.

(4) This Court is satisfied by the action taken by Respondent No. 1 & 4. Hence, their names be dropped from the array of parties in the matter. However, Respondent No. 2 & 3 shall continue to attend the hearings in this matter. Secretary, Department of Higher Education and Chairman, AICTE shall be impleaded in the matter, who shall within 30 days of the issue of these RoPs shall furnish details about incorporation of Harmonised Guidelines and Standards for Universal Accessibility in India- 2021 in the curriculum of Civil Engineering and Architecture Courses.

(5) The RoP shall be forwarded to all Secretaries of Government of India and Chief Secretaries of state governments and UT administration for their information and necessary action. This is to ensure compliance of direction in 3.3(1) above, which is repeated :"**Concerned officers of any government office across the country, whether a central government or a state government establishment or a local government, officiating from any buildings/premises which are still not made accessible, shall go down to the ground floor or any other place in the building/premises which is accessible for divyangjan along with necessary staff and equipment and provide the service there itself. This shall be applicable to any public service including outsourced service by the**

government such as the Passport/Visa services, Jan Suvidha Kendras, CSC
etc."

Signed by Rajesh Aggarwal

Date: 09-11-2023 08:17:19

Reason: Approved

(Rajesh Aggarwal)

Chief Commissioner for Persons with Disabilities

Email

O/o CCPD

Case No. 14580/1101/2023-Order

From : O/o CCPD <ccpd@nic.in>

Thu, Nov 09, 2023 12:50 PM

Subject : Case No. 14580/1101/2023-Order


 1 attachment

To : IGR Complaint <complaint@igrmaharashtra.gov.in>,
Manoj Joshi <secyurban@nic.in>, Rajesh Kumar Kaushal
<cpwd_dgw@nic.in>, psec revenue
<psec.revenue@maharashtra.gov.in>, osd revenue
<osd.revenue@maharashtra.gov.in>

Madam/Sir,

Please find the attachment.

Office of the Chief Commissioner for Persons with Disabilities (Divyangjan),
Department of Empowerment of Persons with Disabilities(Divyangjan),
Ministry of Social Justice & Empowerment, Govt. of India,
5th Floor, NISD Building, Plot No.G-2, Sector-10,
Dwarka, New Delhi-110075
Ph. No.011-20892364, 011-20892275

 **14580-order.pdf**
130 KB
