

Nipun Malhotra vs Government Of Delhi Nct Through The ... on 21 March, 2018

Author: C.Hari Shankar

Bench: C.Hari Shankar

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*IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(C) 11711/2015

NIPUN MALHOTRA

..... Petitioner

Through : Mr. Jai A. Dehadrai,
Ms. Shivangini Gupta,
Mr. Sidharth Arora and
Mr. Daniel George, Advs.

versus

GOVERNMENT OF DELHI NCT THROUGH THE CHIEF

SECRETARY

..... Respondents

Through : Mr. Naushad Ahmed Khan,
ASC-GNCTD/R-1
Mr. Ajay Digpaul, CGSC for
R-UOI
Ms. Malvika Trivedi and
Mr. Tishar Sannu, ASCs
with Ms. Sriparna Dutta,
Adv. for R-4/NDMC
Mr. Sriharsha Peechara, SC
for R-SDMC with Ms. Vidhi
Jain, Adv. for R-5/SDMC
Mr. Sumeet Pushkarna, SC
with Mr. Devanshu Lahiry,
Adv. and Mr. M.K. Jain (SE)
Nodal Officer, DJB
Ms. Biji Rajesh, Ms. Sneha
Verma for Mr. Gaurang
Kanth, Adv. for R-6/EDMC
Ms. Puja Kalra, Adv. for
R-7/NDMC
Mr. Tarveen Singh Nanda
and Mr. Rahul Singhal,
Advs. for R-8/Delhi
Cantonment Board
Mr. Pushkar Sood and

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Mr. Rahul Keshav, Advs. for
R-10/DMRC

CORAM:

HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MR. JUSTICE C.HARI SHANKAR

ORDER

% 21.03.2018

1. Despite our orders dated 10th January, 2018 and 13th February, 2018, neither the disability audit of the buildings of the GNCTD/respondent no.1 has been conducted nor has any status report been filed in this regard. Mr. Naushad Ahmed Khan, learned Additional Standing Counsel for the Govt. of NCT of Delhi seeks leave to hand over the status report dated 21st March, 2018 which is taken on record. The same is hopelessly incomplete and is not in compliance of our orders dated 10th January, 2018 and 13th February, 2018.

2. The report has been field by Sh. Mohan Lal, Superintending Engineer who has been appointed as a Nodal Officer of the Public Works Department/respondent no.2. We find it most unfortunate that the nodal officer of the Govt. of NCT of Delhi has not bothered to attend a meeting dated 7th March, 2018 directed by this court. This level of defiance and lackadaisical conduct borders on contempt of court. In addition, public interest is gravely affected on account of its conduct. Mr. Mohan Lal shall remain personally present in court on the next date of hearing.

3. Mr. Ajay Digpaul, learned counsel has sought to place on page 2 of 9 record a tabulation of the steps taken with regard to different buildings owned by the Government of India. The same is not accompanied with any report. The tabulation shown to us in court shows that no post access audits were undertaken.

4. Copy of this tabulation has been handed over to Mr. Jai Dehadrai in court. We appoint the petitioner Mr. Nipun Malhotra as a local commissioner to randomly inspect any of the premises which have been detailed in the tabulation handed over by Mr. Digpaul. A report be submitted to this court.

5. Mr. S.L. Meena, Chief Engineer of the CPWD is present in court. Mr. Meena shall ensure that Mr. Malhotra is given full cooperation. Mr. Meena has assured this court that assistance of the petitioner's expertise will be fully utilised in ensuring that all government buildings comport to the harmonised disability guidelines. Mr. Meena shall ensure that a proper status report is brought to us before the next date of hearing.

6. We are informed by Mr. Sanjeev Sagar, learned counsel for the Delhi Development Authority/respondent no.3 that despite the DDA having tendered, nobody has come forward to facilitate a disability access to the DDA. Inasmuch as, the matter brooks no delay and Mr. Nipun Malhotra has assisted other public authorities in undertaking a possibility access, he shall assist the Delhi Development Authority in conducting a disability access of their buildings.

7. Mr. Atul Garg, Chief Engineer of the Delhi Development page 3 of 9 Authority is present. He has assured that every assistance will be given to facilitate the visits and inspections by Mr. Nipun Malhotra to undertake the disability audit. Mr. Garg shall facilitate the disability audit by Nipman Foundation and any of its members which includes Mr. Nipun Malhtora and Mrs. Preeyanka

Malhotra in undertaking the disability audit. Let the audit be completed as expeditiously as possible. A list of the buildings which are required to be audited be furnished within two days to Mr. Nipun Malhotra (Mobile 9871953332 and e-mail : nipun malh@gmail.com) who shall communicate electronically the date and time of his visit to Mr. Atul Garg (Mobile 9868020537 and e- mail : cepdda @gmail.com).

8. Judicial notice can be taken of the fact that a disability audit would require the examination of the premises and buildings from the very entrance till the last corner of the building. Many of the buildings may be multi-storeyed. Mr. Jai Dehadrai, learned counsel informs us that the inspection of the Rajghat as was directed by this court in another case, took almost 6 hours to complete. It can be reasonably expected that the disability audit of a multi-storeyed building would take more time.

9. Therefore, it is directed that Delhi Development Authority- respondent no.3 shall pay a sum of Rs.10,000/- for every inspection to the Nipman Foundation towards the expenses. Needless to say, Mr. Nipun Malhotra shall inform the Delhi Development Authority through Mr. Atul Garg, Chief Engineer of the findings upon page 4 of 9 completion of the said audit. The DDA shall thereafter forthwith commence to effect the necessary modification/rectification as would be necessary to make the building compliant with the aforesaid guidelines.

10. We are informed that the buildings of the DDA include not only multi-storied buildings but also several sport complexes; public parks etc. These shall also be inspected. So far as parks are concerned, we would request Mr. Garg, Chief Engineer to apprise Mr. Nipun Malhotra of one sample park for the time being. The recommendations qua the sample park shall be replicated in all other parks.

11. A status report dated 17th March, 2018 on behalf of the SDMC-respondent no.5 has been filed. Copy of the tabulation of the disability audit conducted by the SDMC has been handed over to Mr. Jai Dehadrai in court. Let the same be verified by the petitioner.

12. We are informed by the respondent no.5 that steps to rectify and effect modification of all buildings are carried out to ensure that they are made disabled friendly.

13. A status report dated 20th March, 2018 has been filed by the respondent no.6-East Delhi Municipal Corporation without serving an advance copy on the petitioner. Copy thereof has been furnished to the petitioner in court today. Let the petitioner conduct a random inspection of the submissions made in the status report and inform this court on the next date of hearing.

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14. No status report has been filed by the respondent no.7-North Delhi Municipal Corporation. However, we are orally informed by Ms. Puja Kalra, learned counsel that the respondent no.7 has commenced training through the State Commission For Persons With Disability as well as making rectification in its buildings.

15. The petitioner shall ensure that he conducts a random inspection of the facilities of the Municipal Corporation buildings. The Commissioners of the South, East, North Municipal Corporations shall ensure that the visits by Mr. Nipun Malhotra are facilitated and he is not obstructed from carrying out his inspections. Mr. Nipun Malhotra shall ensure that buildings of every kind (office/school/parks etc) and usage are inspected.

16. We are informed by Mr. Tarveen Singh Nanda, learned counsel appearing for the Delhi Cantonment Board/respondent no.8 that steps have been taken so far as accessibility of parks are concerned as well.

17. No report has been received from the Delhi Police/respondent no.9. We are, however, informed by Mr. Dehadrai, learned counsel that on the request of the Delhi Police, Mr. Nipun Malhotra is actually facilitating the disability access and implementation of a training module for the Delhi Police. The respondent no.9 shall ensure that a status report is filed before this court before the next date of hearing.

18. On behalf of the Delhi Metro Rail Corporation-respondent no.10, we are informed by Mr. Sood, learned counsel that the page 6 of 9 DMRC is still in the process of identifying an expert for the purposes of undertaking a disability access, that names of three experts have been recommended by the Ministry of Social Justice & Empowerment, UOI and that the DMRC has invited quotations from them with regard to access audit of 10 stations which involve the inter-changeability between metro lines. We are assured that the DMRC shall ensure that the process of assignment of the work to an expert and the audit is expeditiously completed.

Mr. Sood prays for a period of four weeks to place a status report regarding the audit and the work which shall be completed of these stations during this period. The disability audit shall be positively completed within a period of four weeks and a timeline as well regarding completion of the works be placed of the 10 stations for the time being.

Trainings

19. In our previous orders, we have directed that a training module be drawn up in consultation with all the stake holders and we are informed by Mr. Jai Dehadrai that pursuant to our orders and the directions made by us in para 17 of our order dated 13th February, 2018, the training module was discussed and the Nipman Foundation has framed a module which was circulated to all the members in the meeting on 7th March, 2018.

20. So far as the training module which was drawn up on 7th March, 2018 is concerned, all the authorities who were directed to be present by our order dated 13th February, 2018, shall nominate page 7 of 9 persons who shall be trained as trainers to undertake further trainings within their respective organisations. The petitioner shall conduct their initial training of these nominees. This will not only save man power and resources but would enable effective training of the entire departments.

21. Such training shall be scheduled by the Chief Engineer of the New Delhi Municipal Council at a place, date and time to be fixed in consultation with the petitioner which shall be informed to all the authorities.

22. It is made clear that such training module shall be strictly replicated and followed and every authority shall ensure that the officials at every level are trained and every organisation is able to report with 100% trained man power with regard to all aspects of disability.

23. All the respondents shall fix training schedules keeping in view the exigency of the service as well as convenience of the officers and the organisation. The training schedule(s) may be fixed in consultation with the petitioner who would facilitate the training of all the officials in all the authorities.

24. The training module shall be posted by all the respondents on their respective websites.

25. We are informed by Ms. Malvika Trivedi, ld. counsel on behalf of the New Delhi Municipal Council that the services of an organisation named "Samarthayan" were also sought in respect of the training module. Let the suggestions received be given to the page 8 of 9 petitioner through Mr. Jai Dehadrai, for incorporation in the module, if deemed necessary.

26. List on 19th April, 2018.

Dasti under signatures of the Court Master.

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