VISVA-BHARATI
SC/ST CELL
SANTINIKETAN

OFFICE ORDER

The Executive Council vide Resolution No. 12 dated 05/11/2016 approved implementation of the directions of Hon'ble Supreme Court on the provisions of Persons with Disabilities Act, 1995. Accordingly, relaxation of 5% marks in minimum standard in admission and recruitment for all categories of Persons with Disabilities (PWD) belonging to SC, ST, OBC and General categories shall be allowed with immediate effect. Copy of UGC letter and Supreme Court Order is enclosed.

This is for information and necessary action of all concerned.

Memo No.: SCT-151/2016-17
Dated: 28/02/2017

Jt. Registrar (SC/ST Cell)
Visva-Bharati

Copy to:

1. All Directors / All Principals, V.B.
2. Chairman, Central Admission Committee, V.B.
3. Chairman Admission Co-ordination Cell, V.B.
4. All Joint Registrars / Deputy Registrars, V.B.
5. Liaison Officer for SC, ST & PWD, V.B.
6. Liaison Officer for OBC, V.B.
7. C.S. to Vice-Chancellor, V.B.
8. P.A. to Registrar, V.B.
9. University Webmaster with a request to arrange uploading this Office Order in the University website.

Office of the Registrar
Visva-Bharati
Docket No. 409 Date 4/4

University Grants Commission
35, Feroze Shah Road
New Delhi-110001

LEGAL CELL
VISVA-BHARATI
04 APR 2016
DOCKET NO. 2276

March, 2016

F.No.6-7/2015(SCT)

The Registrar

Visva Bharati University
Santiniketan, Dist.-Birbhum
PIN - 731 235. (W.B.).

- 8 MAR 2016

Sub:- Implementation of the directions of Hon'ble Supreme Court vide order dated 26/03/2014 in writ Petition (Civil) No. 116 og 1988-Justice Sunanda Bhandare Foundation Vs. Union of India & Ors. To implement the provision of Persons with Disabilities Act, 1995-reg.

Sir,

I am directed to invite your kind attention to this office letter number dated 01-12-2015 (copy enclosed) on the subject mentioned above, with a request to send the action taken report urgently through e-mail (sctsection@gmail.com) as the supreme court is pressing hard in the matter.

"B"

Yours faithfully,

(Madhu Mehra)
Under Secretary

Encl.: As above.

Sub. to :
1) JR (SC/ST)
2) D.R. & L.C. Legal cell pl.

04.04.16

AR (Recruitment) : Copy of Supreme Court's judgement is enclosed. The undersigned has read the Supreme Court's judgement dated 26/3/2014. It speaks of 5% relaxation of marks for the disabled in NET/SET, which will result in 5% relaxation in marks in minimum qualifying marks in recruitment also. Please confirm

ज्ञान-विज्ञान विमुक्तये

University Grants Commission
35, Feroze Shah Road
New Delhi-110001

S.No7 (Issue)

November, 2015

F. 6-7/2015(SCT)

The Registrar,
All Central/Deemed/State Universities
(Received the grant from GDA)

E-1 DEC 2015

Subject: - Regarding implementation of the directions of Hon'ble Supreme Court vide order dated 26.03.2014 in Writ Petition (Civil) No. 116 of 1988-Justice Sunanda Bhandare Foundation Vs. Union of India & others to implement the provision of Persons with Disabilities Act, 1995.

Sir,

I am directed to enclose herewith a copy of letter number F. No. 18-17/2015-UIA dated 19/06/2015 and 12/10/2015 received from Ministry of Human Resource Development, Department of Higher Education, Shastri Bhawan, New Delhi along with its enclosures on the subject mentioned above which is self explanatory.

You are requested to ensure the implementation of each and every sections and sub-sections of Persons with Disabilities Act, 1995 and send a copy of certificate of its confirmation as implementing of the scheme.

This may also be brought to the notice of the colleges affiliated to your university.

Yours faithfully,

Madhu

(Madhu Mehra)
Under Secretary

Encl: as above

Copy to:-

1. Shri Amit Shukla, Director, Government of India, Ministry of Human Resource Development, Department of Higher Education, Shastri Bhawan, New Delhi 110 015.
2. Shri Shankar, Deputy Secretary, Government of India, Ministry of Human Resource Development, Department of Higher Education, Shastri Bhawan, New Delhi 110 015.
3. Shri S. K. Saha, Under Secretary, Government of India, Ministry of Human Resource Development, Department of Higher Education, Shastri Bhawan, New Delhi 110 015.

(Meena Kumari Nirmal)
Section Officer

REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL/APPELLATE JURISDICTION

WRIT PETITION (CIVIL) NO. 116 OF 1998

JUSTICE SUNANDA BHANDARE FOUNDATION Petitioner(s)

VERSUS

U.O.I. & ANR Respondent(s)

WITH

WRIT PETITION (CIVIL) NO. 115 OF 1998

WRIT PETITION (CIVIL) NO. 430 OF 2000

CIVIL APPEAL NO. 6442 OF 1998

CIVIL APPEAL NO. 6443 OF 1998

J U D G M E N T

R.M. LODHA, J. :

Writ Petition (Civil) No. 116 of 1998

In this Writ Petition filed by the petitioner – a charitable trust, the prayers made are (i) for implementation of the provisions of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (for short, '1995 Act'), (ii) direction for the reservation

of 1% of the identified teaching posts in the faculties and college of various Universities in terms of Section 33 of the 1995 Act, and (iii) for declaration that denial of appointment to the visually disabled persons in the faculties and college of various Universities in the identified posts is violative of their fundamental rights guaranteed under Articles 14 and 15 read with Article 41 of the Constitution of India.

2. Initially, two respondents, namely, (one) Union of India through its Secretary, Ministry of Welfare and (two) University Grants Commission (U.G.C.) through its Chairperson were impleaded as party respondents.

3. On 07.10.1998, the Court ordered impleadment of the States and so also the Union Territories and, accordingly, respondent Nos. 3 to 34 were impleaded as party respondents.

4. On 13.09.2001, the Court directed the Chief Commissioner for Persons with Disabilities, Ministry of Social Justice and Empowerment, Government of India to be impleaded as party respondent and

consequently it has been impleaded as respondent No. 35.

5. Then on 18.02.2009, the Court directed Commissioners for Persons with Disabilities of various States and Union Territories to be impleaded as party respondents and consequently respondent Nos. 36 to 70 have been impleaded who are Commissioners for Persons with Disabilities in different States and Union Territories.

6. Certain interim orders have been passed by this Court from time to time.

7. Insofar as U.G.C. (respondent No. 2) is concerned, the Court was informed on 19.03.2002 through counter affidavit that U.G.C. has acted in compliance of the 1995 Act. In paras 3, 6, 7 and 8 of the counter affidavit filed on behalf of the Chief Commissioner for Persons with Disabilities, it was stated :

> "3. It is humbly submitted that in pursuance of Section 32 of the Persons with Disabilities Act (Equal Opportunities Protection of Rights and Full participation)

appropriate government (Government of India) has updated the list of identified posts. This list has been issued vide Extraordinary Gazette Notification No. 178 dated 30.6.2001. In this list, the posts of University/College/School Teacher for the blind and low-vision have been listed at Sl. No. 24-27 on page No. 592.

6. The Chief Commissioner for Person with Disabilities has taken cognizance of the arrangements provided by the University Grants Commission for persons with disabilities by way of extending 5% relaxation in cut off marks, appearing in the NET for Junior Research Fellowship and Lectuership. Thus, the arrangement extended by UGC is in consonance with the policy stand taken by Govt. of India in so far as relaxation in minimum standard is concerned. Relaxation in standards has been favoured only when the candidates belonging to reserved categories are not available on the basis of the general standard to fill all the vacancies reserved for them.

7. The relaxation extended to SC & ST candidates as per Maintenance of Standard 1998 of the Universities, provides for a 5% relaxation from 55 % to 50% in the marks obtained at Master's Degree. Since reservation for the disabled is called horizontal reservation which cuts across all vertical categories such as SC, ST, OBC & General. Therefore, all such blind/low-vision persons who belonged to SC, ST vertical category would automatically enjoy the benefit of 5 % relaxation at the minimum qualifying marks obtained at Master's Degree level. Thus, only the blind and low vision belonging to OBC & General

categories are deprived of the relaxation of 5 % marks at masters' level.

8. The blind/low-vision and other visually disabled persons belonging to SC & ST category are in any case enjoying the benefit of 5% relaxation in marks obtained at the master's level for appearing in the NET examination conducted by the UGC. By extending the same relaxation to particularly blind/low-vision and in general all disabled at par with SC & ST disabled would bring parity amongst all persons with disabilities irrespective of their vertical categories."

8. Thus, insofar as U.G.C. is concerned, this Court in the order 19.03.2002 observed that nothing survives for consideration and the matter is disposed of as against U.G.C.

9. On 19.07.2006, the Court directed the Union of India and the State Governments to file their responses in the form of affidavits within a period of four weeks, failing which it was observed that the Court may be compelled to direct personal appearance of the Chief Secretaries of the concerned States though the Court would like to avoid in making such a direction. Some of the States have filed their responses and some have not.

10. Be that as it may, the beneficial provisions of the 1995 Act cannot be allowed to remain only on paper for years and thereby defeating the very purpose of such law and legislative policy. The Union, States, Union Territories and all those upon whom obligation has been cast under the 1995 Act have to effectively implement it. As a matter of fact, the role of the governments in the matter such as this has to be proactive. In the matters of providing relief to those who are differently abled, the approach and attitude of the executive must be liberal and relief oriented and not obstructive or lethargic. A little concern for this class who are differently abled can do wonders in their life and help them stand on their own and not remain on mercy of others. A welfare State, that India is, must accord its best and special attention to a section of our society which comprises of differently abled citizens. This is true equality and effective conferment of equal opportunity.

11. More than 18 years have passed since the 1995 Act came to be passed and yet we are confronted with the problem of implementation of the 1995 Act in its

letter and spirit by the Union, States, Union Territories and other establishments to which it is made applicable.

12. Ms. Sunita Sharma, learned counsel for the Union of India, informs us that insofar as Union of India is concerned, it has implemented the provisions of the 1995 Act and the reservation of 1% of the identified teaching posts in the faculties and college of various Universities in terms of Section 33 of the 1995 Act has been done.

13. In our view, the 1995 Act has to be implemented in the letter and spirit by the Central Government, State Governments and Union Territories without any delay, if not implemented so far.

14. We, accordingly, direct the Central Government, State Governments and Union Territories to implement the provisions of the 1995 Act immediately and positively by the end of 2014.

15. The Secretary, Ministry of Welfare, Government of India, the Chief Secretaries of the States, the Administrators of Union Territories, the Chief Commissioner of the Union of India and

Commissioners of the State Governments and Union Territories shall ensure implementation of the 1995 Act in all respects including with regard to visually disabled persons within the above time.

16. Writ Petition is disposed of in the above terms.

Writ Petition (Civil) No. 115 of 1998, Writ Petition (Civil) No. 430 of 2000, Civil Appeal No. 6442 of 1998 and Civil Appeal No. 6443 of 1998

Writ Petitions and Appeals are disposed of in terms of the judgment passed today in Writ Petition (Civil) No. 116 of 1998.

2. No costs.

3. Interlocutory Applications for intervention and impleadment filed in Civil Appeal No. 6442 of 1998, in view of the above, do not survive and they stand disposed of as such.

.....J.
(R.M. LODHA)

.....J.
(SUDHANSU JYOTI MUKHOPADHAYA)

NEW DELHI;
MARCH 26, 2014

.....J.
(DIPAK MISRA)