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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ MAC.APP. 870/2011

JYOTI SINGH

..... Appellant

Through: Mr. Saurabh Kansal and Mr. Manish
Kumar, Advs.

versus

NAND KISHORE & ORS

..... Respondents

Through: Mr. Gautam Narayan, ASC for
GNCTD with Ms. Nitika Pancholi,
Adv.

Mr. Ajjay Aroraa and Mr. Kapil Dutta
for North DMC, Advocates.

Mr. Rikky Gupta, SC for DTC with
Mr. Deepesh, Adv.

Mr. A.K. Soni, Adv. for R-3/
Insurance company.

Mr. Tarun Johri, SC for DMRC.

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER

% **16.12.2021**

The hearing has been conducted through hybrid mode (physical and virtual hearing).

1. In compliance of the previous order dated 01.12.2021, a meeting was called by the Chief Secretary, GNCTD, to assess the existing public infrastructure, including roads and other modes of transportation apropos persons with disabilities.
2. The court is informed that this exercise would be best undertaken under sections 2(x), 2(zd), 2(ze), 28, 40, 41, 42, of the Rights of Persons with Disability Act, 2016.
3. The practical way forward would be that a Nodal Officer be appointed

by the Department of Social Welfare, GNCTD.

4. Let an officer of a rank not lower than the Director be appointed by the Chief Secretary for enabling persons with requisite facilities, in terms of the aforesaid statute.
5. The said officer will be appointed in a week of receipt of this order, she/he shall ensure that a Social Disability Audit is carried out, preferably within six weeks. It will be open to the GNCTD to take the assistance of the School of Planning and Architecture, New Delhi ('SPA'). All agencies in Delhi, who provide facilities to the public, including road maintaining authorities, DTC, DMRC, Railways, airports authority, etc., shall assist and coordinate with the said designated officer so that the objectives of said statute are met at the earliest possible. A person such as the present petitioner, who as a young school girl has been permanently debilitated below the waist and is now wheelchair bound, is inconvenienced or unable to use footpaths, narrow streets, and transportation facilities be it through bus or metro, and other forms of public transport.
6. All agencies shall endeavour to respect the dignity and individual autonomy of persons with disabilities. It needs to be borne in mind that this exercise is necessary and needs to be carried out in terms of objectives and context of enactment of the Rights of Persons with Disability Act, 2016, which reads *inter alia* as under:-

“An Act to give effect to the United Nations Convention on the Rights of Persons with Disabilities and for matters connected therewith or incidental thereto.

WHEREAS the United Nations General Assembly

adopted its Convention on the Rights of Persons with Disabilities on the 13th day of December, 2006.

AND WHEREAS the aforesaid Convention lays down the following principles for empowerment of persons with disabilities,—

(a) respect for inherent dignity, individual autonomy including the freedom to make one's own choices, and independence of persons;

(b) non-discrimination;

(c) full and effective participation and inclusion in society;

(d) respect for difference and acceptance of persons with disabilities as part of human diversity and humanity;

(e) equality of opportunity;

(f) accessibility;

(g) equality between men and women;

(h) respect for the evolving capacities of children with disabilities and respect for the right of children with disabilities to preserve their identities;

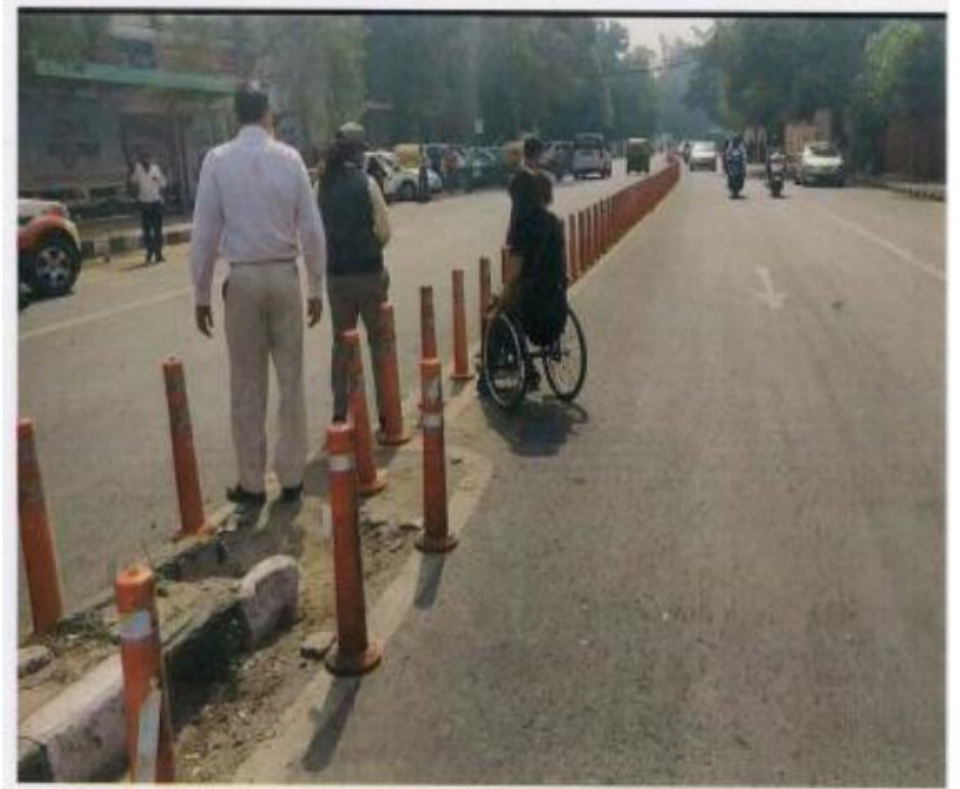
AND WHEREAS India is a signatory to the said Convention;

AND WHEREAS India ratified the said Convention on the 1st day of October, 2007;

AND WHEREAS it is considered necessary to implement the Convention aforesaid.”

7. Albeit, a wheelchair has been supplied to the injured-appellant by the Insurance Company, she cannot use the same optimally, she is unable to access public transportation or wheel herself out of her residence on to a footpath, as shown in the following photographs:-







8. The non-availability of requisite and enabling infrastructure for persons with disability is glaring and apparent throughout the city. It is also a violation of the Article 21 of the Constitution of India. Freedom of movement has to be honoured and assured in every way possible, it cannot be restrained by lack of civic amenities.
9. A part of the compensation provided to the petitioner under the Motor Vehicles Act, 1988, would be meaningless, if the public infrastructure in the city limit her movement.
10. Each agency including North Delhi Municipal Corporation, Public Works Department, DISCOM, Delhi Police, Delhi Traffic Police, Delhi Transport Corporation, Delhi Metro Rail Corporation, New Delhi Municipal Council as well as such other agencies, shall appoint a senior officer not below the rank of the Executive Engineer to assist and coordinate with the Nodal officer appointed by the GNCTD, for provision of due facilities to persons with disabilities. This exercise

shall be completed within six weeks. It is hoped that in three months streets not less than two kilometres each in the South, East, North, West and Central regions will be identified, and made ready, in terms of the social disability audit, and as may be advised by the SPA.

11. While, DMRC did assist robustly in an earlier exercise to facilitate the travel of the appellant from her residence to Connaught Place and back, the Court is informed that ordinarily women personnel from the DMRC are not available for assistance to persons like the appellant.

12. It is hoped that the DMRC will ensure due assistance through lady members at the metro station.

13. The learned Standing Counsel for DMRC says that this order shall be promptly attended to.

14. List on 22.02.2022 for compliance in terms of the above.

15. List the appeal for hearing on 02.02.2022.

NAJMI WAZIRI, J

DECEMBER 16, 2021/dss