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GOVERNMENT MEDICAL COLLEGE & HOSPITAL, CHANDIGARH

(Hospital Building), Sector 32-B, Chandigarh-160030 (Ph. 0172-2665253-59, Fax. 0172-2608466)

(ESTABLISHMENT BRANCH-IV)

To

1. The Deputy Controller (F&A),
2. Registrar (Academic),
3. Office Superintendents (Establishment Branch-I, II, III, IV, HA-I, II)

No. GMCH/EIV/EA3/2018/

Dated, Chandigarh, the

Subject: Implementation of the direction of Hon' ble Supreme Court vide order dated 26.03.2014 Justice Sunanada Bhandare Foundation Vs Union of India & Ors to implement the provision of Person with Disabilities Act, 1965 Regarding.

Refer to the subject cited above.

The Secretary Health, Chandigarh Administration has enclosed copies of letter Nos. 168352 dated 16.01.2018 from the Additional Secretary, Medical Council of India, New Delhi, letter No. V.11025/04/2017-MEP(Pt.II) dated August, 2017 from the Section Officer, Govt. of India, Ministry of Health & Family Welfare, and No. V.11025/04/2017-MEP(Pt.II) dated 27<sup>th</sup> April, 2017 from the Under Secretary to Govt. of India, Ministry of Health & Family Welfare, New Delhi alongwith a copy of the directions passed by the Hon' ble Supreme Court of India dated 26.03.2014 in the writ petition (Civil) No. 116 of 1998 titled "Justice Sunanda Bhandare Foundation Petitioner (s) Vs. UOI & ANR, which is self-explanatory for strict compliance.

Please find enclosed herewith a copy of the letter No. 247/FII(6)-2018/3080 dated 06.03.2018 alongwith copies of all aforesaid enclosures for information and strict compliance.

Encl: As above.

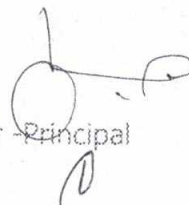
  
Director-Principal

Endst. No.: GMCH/EIV/EA3/2018/ 13070-71

23 MAR 2018  
Chandigarh the,

A copy of the same is forwarded to the followings for information and further action:-

1. The System Analyst, IT Centre, GMCH alongwith its enclosures. He is also requested to e-circulate/email the same to all the HODs/Branch Incharges of GMCH Chandigarh.
2. The Secretary Health, Chandigarh Administration w.r.t their letter No. 247/FII(6)-2018/3080 dated 06.03.2018.

  
Director-Principal



CHANDIGARH ADMINISTRATION  
HEALTH DEPARTMENT

8 MAR 2018

No.247.FII(6)/2018/ 3080

Dated, Chandigarh the 06-03-18

To

- 1) The Director Principal,  
GMCH, Sec.32, Chandigarh.
- 2) The Director Health & Family Welfare,  
U.T., Chandigarh.

Subject:-

Implementation of the direction of Hon'ble Supreme Court  
vide order dated 26-3-2014 Justice Sunanda Bhandare  
Foundation Vs Union of India & Ors to implement the  
provision of person with Disabilities Act, 1995 Regarding.

Please find enclosed herewith a copy of letter No.34(1)/2017/168352  
dated 16-1-2018 received from Additional Secretary, Medical Council of India, New  
Delhi on the subject noted above for taking necessary action in the matter.

DA : As above

For

Superintendent Health  
Secretary Health  
Chandigarh Administration

25367033, 25367035, 25367036  
25367033, 25367035, 25367036  
Telegrams : MEDCONCIND, New Delhi-73  
Fax : 0091-11-25367024  
E-mail : mci@bol.net.in  
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Pocket- 11, Sector- 8,  
Dwarka Phase - I  
New Delhi-110077

भारतीय आयुर्विज्ञान परिषद्  
MEDICAL COUNCIL OF INDIA

मा.आ.प.-34(1) (स्नातक-पूर्व)(सामान्य)/2017-आयुर्विज्ञान/168352

दिनांक

1. The Directors of Medical Education of all the States in India.
2. The Health Secretary of Medical Education of all the State Governments in India.

**Sub:- Implementation of the direction of Hon'ble Supreme Court vide order dated 26.03.2014 Justice Sunanda Bhandare Foundation Vs. Union of India & Ors to implement the provision of person with Disabilities Act, 1995 – Regarding.**

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Sir/Madam,

This is in pursuance of the order of the Hon'ble Supreme Court dated 26/3/2014 in Justice Sunanda Bhandare Foundation Vs. Union of India & Ors and in reference to Central Govt. Ministry of Health & F.W. letter dated 27/4/2017 & 22/8/17 with regard to implementation of the provision relating to reservation in employment for persons with Disabilities as provided for in the Persons with Disabilities Act, 1995.

In this regard, I am directed to inform you that the matter was considered by the Executive Committee of this Council at its meeting held on 14/12/17 and the Committee decided that the orders of the Hon'ble Supreme Court may be strictly implemented by all concerned. The copy of orders of the Hon'ble Supreme Court is enclosed for compliance at your end.

Health Branch  
Diary No. 247  
Dated 30/1/18

भवदीय,  
एस. सविता  
(एस. सविता)  
सहायक सचिव  
दिनांक

मा.आ.प.-34(1) (स्नातक-पूर्व)(सामान्य)/2017-आयुर्विज्ञान/

Copy forwarded for information to:

- 1/ The Deans/Principals of all the Medical Colleges/Institutions in India.
- 2/ The Registrars of all the Universities in India.
- 3/ The Secretary, Govt. of India, Ministry of Health & Family Welfare, Nirman Bhawan, New Delhi with regard to their letter dated 27/4/17 & 22/8/17.

Received

(एस. सविता)

सहायक सचिव



Memorandum

S.A. 11025/04/2017-MEP/PL/11  
Government of India  
Ministry of Health & Family Welfare

Nirman Bhawan New Delhi

Dated the 7 August, 2017

The Secretary,  
Medical Council of India  
Pocket-14, Sector-8, Dwarka  
New Delhi - 110 077

Implementation of the direction of Hon'ble Supreme Court vide order dated 26.03.2014. Justice Sunanda Bhandare Foundation Vs. Union of India & Ors to implement the provision of person with Disabilities Act, 1995-Reg.

adam.

I am directed to refer to this Ministry's letter of even No. dated 24.04.2017 (copy enclosed) wherein it was requested to furnish the comments of the Council on the Hon'ble Supreme Court's direction to implement the provisions of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 and for reservation of 1% of the identified teaching posts in the faculties and college of various Universities in terms of Section 3 of the above mentioned Act and to say that the requisite comments are still awaited.

2. You are therefore requested to kindly expedite the matters and furnish the comments to this Ministry at the earliest.

Yours faithfully,

(Sunil KS Bhadoriya)

Section Officer

Tele: 011-2306 1846

Encl: As above

No.V.11025/04/2017-MEP(P:II)  
Government of India  
Ministry of Health & Family Welfare

Nirman Bhawan New Delhi  
Dated the 27<sup>th</sup> April, 2017

To,  
The Secretary,  
Medical Council of India  
Pocket-14, Sector-8, Dwarka  
New Delhi – 110 077

Sub: Implementation of the direction of Hon'ble Supreme Court vide order dated 26.03.2014. Justice Sunanda Bhandare Foundation Vs. Union of India & Ors to implement the provision of person with Disabilities Act, 1995-Reg.

Madam,

I am directed to refer to subject mentioned above and to forward herewith a copy of OM received from W & PG Section of this Ministry. Hon'ble Supreme court in above mentioned matter has given direction to implement the provisions of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 and for reservation of 1% of the identified teaching posts in the faculties and college of various Universities in terms of Section 33 of the above mentioned.

2. You are therefore requested to kindly examine the matters and furnish the comments to this Ministry at the earliest.

Yours faithfully



(Amit Biswas)

Under Secretary to Govt. of India

Telefax: 23061120

Encl: As above

Copy for information to

Under Secretary, W & PG Section, M/o Health and Family Welfare, Nirman Bhawan, New Delhi



# भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

भाग II — खण्ड 1

PART II — Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं० 59] नई दिल्ली, बुधवार, दिसम्बर 28, 2016/पौष 07, 1938 (शक)

No. 59] NEW DELHI, WEDNESDAY, DECEMBER 28, 2016/PAUSHA 07, 1938 (SAKA)

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।  
Separate paging is given to this Part in order that it may be filed as a separate compilation.

## MINISTRY OF LAW AND JUSTICE

(Legislative Department)

*New Delhi, the 28th December, 2016/Pausha 17, 1938 (Saka)*

The following Act of Parliament received the assent of the President on the 27th December, 2016, and is hereby published for general information:—

### THE RIGHTS OF PERSONS WITH DISABILITIES ACT, 2016

(No. 49 of 2016)

[27th December, 2016]

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.

(l) salaries, allowances and other conditions of services of the State Commissioner under sub-section (3) of section 79;

(m) the salaries, allowances and conditions of services of officers and staff of the State Commissioner under sub-section (3) of section 79;

(n) the composition and manner of appointment of experts in the advisory committee under sub-section (7) of section 79;

(o) the form, manner and content of annual and special reports to be prepared and submitted by the State Commissioner under sub-section (3) of section 83;

(p) the fee or remuneration to be paid to the Special Public Prosecutor under sub-section (2) of section 85;

(q) the manner of constitution of State Fund for persons with disabilities under sub-section (1), and the manner of utilisation and management of State Fund under sub-section (2) of section 88;

(r) the form for preparation of accounts of the State Fund for persons with disabilities under sub-section (3) of section 88.

(3) Every rule made by the State Government under this Act shall be laid, as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses, or where such State Legislature consists of one House, before that House.

**102.** (1) The Persons with Disabilities (Equal Opportunity Protection of Rights and Full Participation) Act, 1995 is hereby repealed. 1 of 1996.

(2) Notwithstanding the repeal of the said Act, anything done or any action taken under the said Act, shall be deemed to have been done or taken under the corresponding provisions of this Act.

Repeal and  
savings.

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) Act, 1995, the

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 Lecturership. 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 the

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; .....J.  
MARCH 26, 2014 ( DIPAK MISRA )