

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

+ W.P.(C) 812/2001

Date of Decision: 21st January, 2008

JAVED ABIDI

Through

..... Petitioner

Mr. Ashok Aggarwal, Amicus
Curiae with Mr. Anuj Aggarwal,
adv.

versus

UOI & ORS.

Through

..... Respondent

Ms. Saroj Bidawat, adv. for DTC
Mr. Rajeeve Mehra, adv. with Ms.
Divya Chaturvedi, adv. for UOI
Ms. Monika Garg, adv. for ASI
Mr. O.P. Saxena, adv. for MCD
Ms. Manika Tripathy Pandey, adv.
for Air Deccan.
Mr. Sanjay Pal, adv. for Sahara
Mr. Anurag Mathur, adv.
Ms. Neeraj Atri, Ms. Vineeta Atri,
advs. for Railways.
Mr. Sandeep Sethi, Sr. Adv. with
Mr. Amit Kumar and Kumar Sheel,
advs. for AAI.
Mr. P.C. Sen, adv. for NDMC
Mr. Ashish Kumar, adv. for Indian
Airlines Limited.
Mr. Milanka Chaudhary, adv. for
Spicejet Limited, Delhi
International Airport (P) Ltd.
Mr. U.A. Rana, Mr. Nitesh Jain,
advs. for Jet Airway India Ltd.

CORAM:

HON'BLE MR. JUSTICE T.S. THAKUR

HON'BLE MS. JUSTICE ARUNA SURESH

1. Whether reporters of local papers may be allowed
to see the judgment? Not Necessary
2. To be referred to the Reporter or not? Not Necessary
3. Whether the judgment should be reported in the Digest?
Not Necessary

Per Thakur, J (Oral)

Section 46 of the Persons with Disabilities (Equal Opportunities,
Protection of Rights and Full Participation) Act, 1995 *inter alia* enjoins
upon the appropriate Government and local authorities to provide for
ramps in public buildings, adaptation of toilets for wheel chair users,

braille symbols and auditory signals in elevators or lifts, ramps in hospitals, primary health centres and other medical care and rehabilitation institutions. The provision reads as under:

46. Non-discrimination in the built environment.- The appropriate Governments and the local authorities shall, within the limits of their economic capacity and development, provide for-

- a) ramps in public buildings;
- b) adaptation of toilets for wheel chair users;
- c) braille symbols and auditory signals in elevators or lifts;
- d) ramps in hospitals, primary health centres and other medical care and rehabilitation institutions.

2. A bare perusal of the above would show that while there is an obligation on the part of the appropriate Government and local authorities to provide for what is stipulated in clauses (a) to (d) above, the obligation is limited to the economic capacity of the Government and the local authorities. The petitioner's grievance, in the present writ petition, is that despite the provisions of Section 46 neither the appropriate Government nor the local authorities have taken any meaningful steps towards providing ramps in public buildings, adaptation of toilets for wheel chair users, braille symbols and auditory signals in elevators or lifts, ramps in hospitals, primary health centres and other medical care and rehabilitation institutions for the benefit of the physically challenged individuals visiting public buildings, hospitals, family health centres, medical care and rehabilitation institutions and other public places.

3. In response to notices issued by this Court, the respondents have appeared to file their counter affidavits in which they have *inter*

alia pointed out that suitable steps are being taken by them to provide for the facilities mentioned above in satisfactory discharge of the obligations enjoined upon the Government and the local authorities under Section 46.

4. We had, in our order dated 17th April, 2007, directed learned counsel for the petitioner to place in a tabular form the steps taken by the authorities in terms of the said affidavits and the shortcomings, if any, in the same to enable this Court to issue specific directions for removal of the same within a time frame. Mr. Aggarwal, counsel appearing for the petitioner, today submits that he was unable to prepare any such tabular statement because the information available in the counter affidavits is not, according to him, adequate for the preparation of any such statement. Mr. Aggarwal was, however, agreeable to the disposal of the writ petition with suitable directions to the respondents to keep the provisions of Section 46 of the Act in view and to take all such steps as are necessary to be taken for the benefit of the physically challenged at public places in the form of provisions for ramps and toilets, braille symbols etc. for use by such handicapped people. Learned counsel appearing for the respondents also did not have any serious objection to that course of action being followed leaving it open to the petitioner or for any other person interested in doing so to point out a failure or disobedience of the directions should any such failure or disobedience occur.

5. In the result, therefore, we allow this petition but only in part and to the extent that the respondents shall in keeping with the Section 46 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 take adequate steps within the limits of their economic capacity and development to

provide for ramps in public buildings, adaptation of toilets for wheel chair users, braille symbols and auditory signals in elevators or lifts, ramps in hospitals, primary health centres and other medical care and rehabilitation institutions. Secretary to Government of India, Ministry of Social Justice and Empowerment and Secretary to Government of India, Ministry of Human Resource Development would do well to issue proper circular directions to all concerned in regard to the statutory obligation created in terms of Section 46 of the Act and the order passed by this Court on the basis thereof. Similarly, respondents 3 to 10 would keep these directions in view and issue proper instructions to all concerned to ensure that the needful is done in keeping with the letter and spirit underlying Section 46 of the Act. Liberty is also given to the petitioner to bring to the notice of the competent authority deficiencies, if any, in compliance with the requirement of Section 46 in which event the parties concerned are expected to look into the same and take appropriate steps for removal of deficiencies within a reasonable time.

6. No Costs.

T.S. THAKUR,J

ARUNA SURESH, J

JANUARY 21, 2008
anb