

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPIL No. 93 of 2017

- Devanand Chandrakar S/o Shri Uday Ram Chandrakar, Aged About 33 Years R/o Village And Post Anda, P. S. Anda, District Durg (Chhattisgarh).

---- Petitioner

Versus

1. Union Of India Through Secretary, Ministry Of Social Justice And Empowerment, Shastri Bhavan, Dr. Rajendra Prasad Road, New Delhi, P I N 110001.
2. Medical Council Of India, Through Secretary, Pocket - 14, Sector - 8, Dwarka Phase - 1, New Delhi, P I N 110077.
3. State Of Chhattisgarh, Through Principal Secretary, Ministry Of Health, Family Welfare & Medical Education, Government Of Chhattisgarh, Mantralaya, Mahanadi Bhavan, Rakhi, Post And P. S. Rakhi District Raipur (Chhattisgarh).
4. State Of Chhattisgarh, Through Secretary, Ministry Of Social Welfare, Government Of Chhattisgarh, Mantralaya, Mahanadi Bhavan, Rakhi, Post And P. S. Rakhi District Raipur (Chhattisgarh).
5. Director, Medical Education Department State Of Chhattisgarh, Old Nurses Hostel, D K S Bhavan Parisar, District Raipur (Chhattisgarh).

---- Respondents

For Petitioner	: Shri Mayank Chandrakar, Advocate
For Respondent-1/ Union of India	: Shri NK Vyas, Assistant Solicitor General
For Respondents- 2 to 5/ State	: Shri YS Thakur, Additional Advocate General

Hon'ble Shri Thottathil B. Radhakrishnan, Chief Justice

Hon'ble Shri Justice Sharad Kumar Gupta

Order on Board

Per Thottathil B. Radhakrishnan, Chief Justice

24.07.2017

- 1) This Writ Petition is filed in public interest seeking directions in the light of the Rights of Persons with Disabilities Act, 2016 (for

short, 'the Act') which came into force with effect from 19.04.2017 in supersession of the provisions contained in the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995. The specific direction sought for is to direct the State Government to provide reservation for minimum 5% of the total seats in all categories of Educational Institutions.

2) We have heard learned counsel for the petitioner, the learned Assistant Solicitor General and and learned Additional Advocate General.

3) It is pointed out by the learned Assistant Solicitor General that the matter is gaining attention of the Hon'ble Supreme Court of India and an order has been issued by the Apex Court on 25.04.2017 on IA- 10 of 2015 in Writ Petition (Civil)- 116 of 1998. Through that order, all the States and Union Territories have been directed to file compliance report keeping in view the provisions of the Act within the time fixed as per that order. The guidelines given through that order of the Apex Court are to be followed while the States and Union Territories place their response in that matter. We may notice that while delineating the facts already brought to the notice of the Apex Court, it has been recorded that the affidavit filed on behalf of the State of Chhattisgarh is silent on compliance of Section 44 of the Act and also silent on the provision regarding restructuring of the curriculum for the benefit of children with disabilities and the mandates of Sections 30 and 31 of the Act. The said observation regarding the State of Chhattisgarh is as follows :

"Affidavit is silent on the provision regarding restructuring of curriculum for the benefit of children with disabilities, and provisioning of amanuensis as mandated under Section 30-31 of the PWD Act.

Affidavit is silent on compliance of Section 44 qua non-discrimination in transport.

Regarding provisioning of insurance schemes for PWDs the affidavit states that there is no separate insurance scheme for PWDs. Employees with disabilities are covered under the Group Insurance Schemes of the State."

4) We are assured that the State Government will place its response appropriately before the Hon'ble Supreme Court. In that view of the matter, we think it appropriate that conflict of orders have to be avoided by this Court.

5) In the light of what is aforesaid, this Writ Petition is closed without prejudice to the plea of the State before the Apex Court in the aforementioned matter. This Writ Petition is ordered accordingly.

Sd/-
(Thottathil B. Radhakrishnan)
Chief Justice

Sd/-
(Sharad Kumar Gupta)
Judge