

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

CWP No.4623 of 2016 (O&M)

Date of Decision: 16.05.2018

All India Blind employees Association Chandigarh

... Petitioner

Versus

Union of India and others

... Respondents

**CORAM:-HON'BLE MR. JUSTICE AJAY KUMAR MITTAL, ACTING CHIEF JUSTICE
HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA**

Present:- Mr. Anil Rathee, Advocate,
for the petitioner.

Mr. Deepak Balyan, Additional A.G., Haryana.

TEJINDER SINGH DHINDSA, J.

Prayer in the instant petition filed in public interest is for quashing of the order dated 16.02.2016 (Annexure P-4) vide which respondent No.4 was appointed as Commissioner for Persons with Disabilities under Section 60 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995.

Learned counsel representing the petitioner Association would fairly state that the validity of the appointment of private respondent No.4 on the post in question need not be gone into as the tenure of his appointment has already expired and vide order dated 12.04.2017 Sh. Dinesh Shastri has been appointed for one year as Commissioner for Persons with Disabilities.

Counsel submits that the only prayer that survives in

the instant petition is with regard to the obligation of the State of Haryana to frame Rules Under Section 101 of the Rights of Persons with Disabilities Act, 2016 (for short 'the 2016 Act')

Section 101 of the 2016 Act is as follows:-

101. Power of State Government to make rules.-(1)
The State Government may, subject to the condition of previous publication, by notification, make rules for carrying out the provisions of this Act, not later than six months from the date of commencement of this Act.

(2) In particular, and without prejudice to the generality of foregoing powers, such rules may provide for all or any of the following matters, namely:—

(a) the manner of constituting the Committee for Research on Disability under sub-section (2) of section 5;

(b) the manner of providing support of a limited guardian under sub-section (1) of section 14;

(c) the form and manner of making an application for certificate of registration under sub-section (1) of section 51;

(d) the facilities to be provided and standards to be met by institutions for grant of certificate of registration under sub-section (3) of section 51;

(e) the validity of certificate of registration, the form of, and conditions attached to, certificate of registration under sub-section (4) of section 51;

(f) the period of disposal of application for certificate of registration under sub-section (7) of section 51;

- (g) the period within which an appeal to be made under sub-section (1) of section 53;***
- (h) the time and manner of appealing against the order of certifying authority under sub-section (1) and manner of disposal of such appeal under sub-section (2) of section 59;***
- (i) the allowances to be paid to nominated Members of the State Advisory Board under sub-section (6) of section 67;***
- (j) the rules of procedure for transaction of business in the meetings of the State Advisory Board under section 70;***
- (k) the composition and functions of District Level Committee under section 72;***
- (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."

A bare perusal of the statutory provision mandates the State Government to make Rules for carrying out the Provisions of the 2016 Act not later than 06 months from the date of commencement of the Act.

It has gone uncontroverted that the 2016 Act came in to force w.e.f.19.04.2017.

Learned State counsel submits that the State Government is under a bounden obligation to frame Rules and to notify the same as per mandate contained under Section 101 of the 2016 Act. He, however, is not in a position to make a statement as regards the time frame within which the Rules would be framed.

Keeping in view the laudable object sought to be achieved under the Act, the instant writ petition is disposed of with a direction to State of Haryana, Department of Social Justice and Empowerment to take necessary steps to frame Rules as per mandate of Section 101 of the 2016 Act.

The Rules be framed and notified expeditiously and in

any case within a period of 04 months from the date of receipt of a
certified copy of this order.

Disposed of.

(AJAY KUMAR MITTAL)
ACTING CHIEF JUSTICE

(TEJINDER SINGH DHINDSA)
JUDGE

16.05.2018
vandana

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No