



**203 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP-28724-2022 (O&M)

Date of decision: 02.09.2024

Chaudhary Charan Singh Haryana Agricultural University

....Petitioner

Versus

State Commissioner for the Persons with Disabilities, Haryana and
others

..Respondents

**CORAM: HON'BLE MR. JUSTICE SHEEL NAGU, CHIEF JUSTICE
HON'BLE MR. JUSTICE ANIL KSHETARPAL**

Present:- Mr. Shreenath A Khemka, Advocate for the petitioner

Mr. Naveen S Bhardwaj, Addl. AG, Haryana

Mr. Sachit Khurana, Advocate for respondent no.4

SHEEL NAGU, CHIEF JUSTICE (Oral)

1. The present writ petition has been filed assailing order dated 18.10.2022 (Annexure P-7) vide which the State Commissioner for the Persons with Disabilities, Haryana has issued certain directions, while allowing the complaint of respondent no.4, which are reproduced herebelow for ready reference and convenience:-

“11. The aforesaid act and conduct of the respondents is a clear violation of Indian Penal Code, PrwD Act, 2016 as well as the Constitution of India has no parallel body can be allowed to frustrate the law of land hence the Annexure 4 submitted by respondents alongwith therein written statement is hereby set-aside and Director



General, Health Services Haryana is hereby directed to enquire into the aforesaid matter of issuing the medical certificate defying the set procedure laid down by State of Haryana as well as Govt. of India especially when one of the SMOs had become the Chairman of such parallel Medical Board. The appropriate legal/departmental action be also be initiated against the erring officials/officers so as to maintain the law of land.

12. to 17 xxxxxx

18. In view of above, the complaint if allowed and it is recommended under Section 80 (b) read with section 82 of the Rights of Persons with Disabilities Act, 2016 to the respondents to immediately grant the admission to the complainant in B.Sc. Agriculture (Hons.) Four year course as per her already submitted application and further amend all its rules, procedures etc. Which are discriminatory in nature with the persons with disabilities and strictly adhere to the provisions of Rpwd Act, 2016, RPwD Rules, 2017 and Haryana Rpwd Rules, 2019.”

2. Learned counsel for the petitioner (University) has drawn the attention of this Court to Right of Persons with Disabilities Act, 2016 (hereinafter referred to as ‘2016 Act’) and the decision of the Apex Court in ‘**Vidhi Himmat Katariya and others vs. The State of Gujarat and others**’ Writ Petition (C) No. 885/2019 decided on 04.10.2019), relevant portion of which is extracted herebelow for ready reference and convenience:-

“8. Now so far as the submission on behalf of the petitioners that while denying admission to the petitioners the State Government and/or authorities have



not considered the relevant parameters and have not considered that the respective petitioners are able to perform well is concerned, it is required to be noted that in the present case all the expert bodies including the Medical Board, Medical Appellate Board and even the Medical Board of AIIMS, New Delhi consisting of the experts have opined against the petitioners and their cases are considered in light of the relevant essential eligibility criteria as mentioned in Appendix 'H'- 'Both hands intact, with intact sensation, sufficient strength and range of motion'. Therefore, when the experts in the field have opined against the petitioners, the Court would not be justified in sitting over as an appellate authority against the opinion formed by the experts- in the present case, the Medical Board, Medical Appellate Board and the Medical Board of AIIMS, New Delhi, more particularly when there are no allegations of mala fides."

3. From the bare reading of the 2016 Act, as explained by the decision of the Apex Court in **Vidhi Himmat Katariya's case** (supra), it is obvious that the Commission constituted under the 2016 Act is a recommendatory body, which has no authority or jurisdiction to issue any direction.

4. After having gone through the record and having heard learned counsel for the parties, this Court is of considered view that the Commissioner- respondent no.1 has travelled beyond its authority by issuing the directions, as indicated above. The Commissioner under the 2016 Act is merely entitled to make recommendations and it has no authority to issue any direction. Consequently, the writ petition stands



allowed and impugned order dated 18.10.2022 (Annexure P-7) is set aside to the extent it issues directions to the petitioner-University. The recommendations made vide Annexure P-7 shall, however, remain intact. The petitioner-University, while considering the said recommendations (Annexure P-7), is directed to take decision on its own level in terms of the prospectus, which is on record as Annexure P-1. Accordingly, the writ petition is allowed to the extent indicated above.

(SHEEL NAGU)
CHIEF JUSTICE

(ANIL KSHETARPAL)
JUDGE

02.09.2024

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No