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W.P No. 18378 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22-05-2025

CORAM

THE HONOURABLE MR JUSTICE G. R. SWAMINATHAN

AND

THE HONOURABLE MR JUSTICE V. LAKSHMINARAYANAN

W.P No. 18378 of 2025

B.Rameshbabu

...Petitioner

Vs

1.The Union of India,
Rep.by the Ministry of Social Justice and
Empowerment,
Department of Employment of Persons with
Disabilities, 5th Floor, Pt.Deenadayal
Antyodaya Bhawan, New Delhi.

2.The Chief Commissioner for Persons with
Disabilities (Divyanjan),
5th Floor, NISD Building,
Plot No.G-2, Sector – 10,
Dwarka, New Delhi – 110 075.

... Respondents

PRAYER : Writ Petition under Article 226 of the Constitution of India praying for the issuance of Writ of Mandamus directing the respondents herein to identify elected representatives to Statutory bodies under Central and State Acts of the disabled person, based upon the petitioner's representation dated 10.03.2025.

For Petitioner : Mr.A.Manojkumar

For Respondents : Mr.K.Ramanamoorthy for R1



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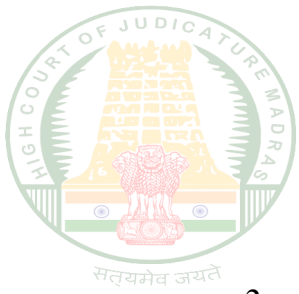
ORDER

(Order of the Court was made by G.R.Swaminathan J.)

The petitioner is a practicing lawyer. He is afflicted with polio paralysis. He has filed this writ petition in public interest. The petitioner's grievance is that persons with disabilities are not being represented in statutory bodies such as Bar Council of India, National Medical Council, Dental Council of India, Pharmacy Council of India etc.

2.The respondents have rightly not taken any adversarial stance. We notice that the Hon'ble Supreme Court of India vide order dated 06.05.2025 in Miscellaneous Application Diary No.**13992 of 2023 (Supreme Court Bar Association vs. B.D.Kaushik)** directed that women should find due representation in the Executive Committee of Supreme Court Bar Association. Paragraph 5 of the said order reads as follows :

“We have also taken into consideration the sentiments of the members of the Supreme Court Bar Association for women reservation. Giving full respect to these views and sentiments of the most of the members of the Bar, it is directed that in the ensuing election for 2025-2026, the post of Secretary of the Supreme Court Bar Association shall be exclusively reserved for a woman candidate. In addition, 1/3rd seats in the Executive Committee i.e.,



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3 out of 9 shall be exclusively reserved for women candidates. Similarly, 1/3rd seats out of the Senior Executive Members i.e., 2 out of 6 shall also be reserved for women candidates.”

While the Hon'ble Supreme Court of India in exercise of its power under Article 142 of the Constitution of India has issued such a direction, the High Court though being a constitutional court cannot issue any writ of mandamus unless the petitioner shows the existence of any legal right. However, we can certainly nudge the respondents to take appropriate steps in that direction.

3.The Hon'ble Supreme Court in the decision in ***Vikash Kumar v. UPSC***, reported in **(2021) 5 SCC 370** elaborated on the principle of reasonable accommodation in the context of The Rights of Persons with Disabilities Act, 2016 in the following terms:

“44. The principle of reasonable accommodation captures the positive obligation of the State and private parties to provide additional support to persons with disabilities to facilitate their full and effective participation in society... For the present, suffice it to say that, for a person with disability, the constitutionally guaranteed fundamental rights to equality, the six freedoms and the right to life under Article 21 will ring hollow if they are not given this additional support that helps make these rights real and meaningful for them. Reasonable accommodation is the instrumentality—are an obligation as a society



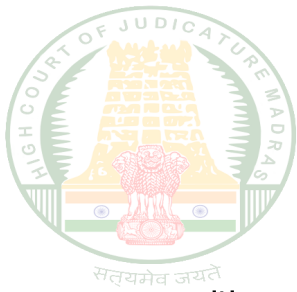
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—to enable the disabled to enjoy the constitutional guarantee of equality and non-discrimination.

60.At the heart of this case lies the principle of reasonable accommodation. Individual dignity undergirds the 2016 RPwD Act. Intrinsic to its realisation is recognising the worth of every person as an equal member of society. Respect for the dignity of others and fostering conditions in which every individual can evolve according to their capacities are key elements of a legal order which protects, respects and facilitates individual autonomy. In seeking to project these values as inalienable rights of the disabled, the 2016 RPwD Act travels beyond being merely a charter of non-discrimination. It travels beyond imposing restraints on discrimination against the disabled. The law does this by imposing a positive obligation on the State to secure the realisation of rights. It does so by mandating that the State must create conditions in which the barriers posed by disability can be overcome. The creation of an appropriate environment in which the disabled can pursue the full range of entitlements which are encompassed within human liberty is enforceable at law. In its emphasis on substantive equality, the enactment of the legislation is a watershed event in providing a legal foundation for equality of opportunity to the disabled.”

The petitioner is justified in his contention that persons with disabilities are entitled to due representation in every walk of life. That is why, the parliament enacted the Rights of Persons with Disabilities Act, 2016 providing 4% reservation. Sections 32 and 34 of the said Act provides for reservation in higher education institutions and in



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positions. Section 33 mandates the Government to identify posts in the establishments which can be held by the respective category of persons with benchmark disabilities. It is only just and proper that apart from finding a place in educational institutions and in employment, persons with disabilities also find a place in the elected bodies. Section 75 of the Act states that the Chief Commissioner for Persons with Disabilities (Divyangjan) shall promote awareness of the rights of persons with disabilities and the safeguards available for their protection. Now that we have brought it to the notice of the first and second respondents about the fact that persons with disabilities have not been represented in the elected boards of the statutory bodies, we direct the respondents to undertake appropriate steps in this regard.

4.This writ petition is disposed of. No costs.

(G.R.SWAMINATHAN J.) (V.LAKSHMINARAYANAN J.)
22-05-2025

SKM

To



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- 1.The Ministry of Social Justice and Empowerment, Union of India,
Department of Employment of Persons with Disabilities, 5th Floor, Pt.Deenadayal Antyodaya Bhawan, New Delhi.
- 2.2.The Chief Commissioner for Persons with Disabilities (Divyanjan),
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**G.R.SWAMINATHAN, J.
AND
V.LAKSHMINARAYANAN, J.**

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