

**MOST URGENT**

भारत सरकार/Government of India  
परमाणु ऊर्जा विभाग/Department of Atomic Energy  
सचिवालय समन्वय अनुभाग/Secretariat Coordination Section

अणुशक्ति भवन/Anushakti Bhavan,  
छत्रपति शिवाजी महाराज मार्ग/C.S.M Marg,  
मुंबई/Mumbai - 400 001.  
(☎022- 22862661)  
e-mail: sectcord@dae.gov.in

No.25/17/2014-SCS/ 12164

September 24, 2014.

**Subject: Introduction of monthly report for effective implementation of the provisions of Persons with Disabilities Act, 1995 – Regarding.**

.....

A copy each of Office of the Chief Commissioner for Persons with Disabilities Letters No.4-1/CCD/2009-(Vol.II)/R4535 dated 27.06.2014 (**Annex-1**) and No.4-1/CCD/2009-(Vol.II)/R6222 dated 29.08.2014 (**Annex-2**) on the captioned subject are enclosed herewith.


2. The Office of the Chief Commissioner for Persons with Disabilities has prescribed a monthly report for monitoring the implementation of the provisions of the Act. The relevant extract of the format is forwarded herewith as **Annex-3** for filling up and submission by all DAE Units.

3. In this connection, reference is invited to this Department Note of even number/8418 dated 04.07.2014 forwarding therewith a copy of the Hon'ble Supreme Court Judgement dated 26.03.2014 passed in Writ Petition (Civil) No.116 of 1998 on the captioned subject. The Ministry of Social Justice and Empowerment has directed all Departments of Government of India to implement the said Judgement dated 26.03.2014 of Hon'ble Supreme Court.

4. All Units are once again requested to strictly comply with these instructions and fill the point-wise status in the enclosed format (**Annex-3**) and furnish the same by 5<sup>th</sup> of every month to the Department by email at [sectcord@dae.gov.in](mailto:sectcord@dae.gov.in) and [scstcell@dae.gov.in](mailto:scstcell@dae.gov.in) followed by hard copy for onward transmission to the Ministry in time.

5. This issues with the approval of competent authority in the Department.

Encl: 16 pages

  
24/9/14.

(S.S. Prasad Rao)  
Under Secretary

☎ (022) 2202 6861

e-mail: [usvig@dae.gov.in](mailto:usvig@dae.gov.in)

**All Heads of Constituent Units / PSUs / Aided Institutions**



सत्यमेव जयते

कार्यालय मुख्य आयुक्त निःशक्तजन  
OFFICE OF THE CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES  
सामाजिक न्याय और अधिकारिता मंत्रालय, भारत सरकार  
Ministry of Social Justice and Empowerment, Govt. of India

**Most Immedidate**

No.4-1/CCD/2009-(Vol.II) /R 4535

Dated: 27<sup>th</sup> June, 2014

To

The Secretary,  
Department of Atomic Energy,  
Aushakti Bhawan,  
C.S.M. Marg, Mumbai-400001.

Addl-Secy

for rule 11.

**Subject:** Implementation of the directions of Hon'ble Supreme Court to implement the provisions of Persons with Disabilities Act, 1995 in Writ Petition (Civil) No. 116 of 1998 – Justice Sunanda Bhandare Foundation Vs. Union of India & Ors.

Madam / Sir,

I am directed to enclose a copy of the Hon'ble Supreme Court of India's Order dated 26.03.2014 in the above mentioned case regarding implementation of the provisions of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 positively by the end of 2014.

2. It is requested that necessary instructions may please be issued to all concerned including Public Sector Undertakings under your administrative control and ensure implementation of the provisions of the Persons with Disabilities Act, 1995 within the above time frame.

3. The implementation may please be monitored on monthly basis and a report thereof be sent to this office by 10<sup>th</sup> of every month. The first report be sent so as to reach this office by **10.07.2014**. The Persons with Disabilities Act, 1995 is available in the website of this office.

Addl-Secy in law.

Dix (SC)

Yours faithfully,

(T.D. Dhariyal)

Dy. Chief Commissioner

Encls: As above.

Copy to: Shri D.K. Panda, Under Secretary to the Govt. of India, Ministry of Social Justice and Empowerment (DD-III Section) w.r.f. O.M. No. 29-01/2014-DD-III dated 3<sup>rd</sup> June, 2014 for information.

सरोजिनी हाउस, 6, भगवान दास रोड़, नई दिल्ली-110001 दूरभाष : 23386054, 23386154 टेलीफैक्स : 23386006

Sarojini House, 6, Bhagwan Dass Road, New Delhi-110001 Tel.: 23386054, 23386154 Telefax : 23386006

E-mail: [ccpd@nic.in](mailto:ccpd@nic.in) Website: [www.ccdisabilities.nic.in](http://www.ccdisabilities.nic.in)

US, SCS - on leave (कृपया भविष्य में पत्राचार के लिए उपरोक्त फाईल/केस संख्या अवश्य लिखें)  
SO/SCS. Smt. V.L. (Please quote the above file/case number in future correspondence)

REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL/APPELLATE JURISDICTION

WRIT PETITION (CIVIL) NO. 116 OF 1998

JUSTICE SUNANDA BHANDARE FOUNDATION      Petitioner(s)

VERSUS

U.O.I. & ANR      Respondent (s)

WITH

WRIT PETITION (CIVIL) NO. 115 OF 1998

WRIT PETITION (CIVIL) NO. 430 OF 2000

CIVIL APPEAL NO. 6442 OF 1998

CIVIL APPEAL NO. 6443 OF 1998

J U D G M E N T

R.M. LODHA, J. :

Writ Petition (Civil) No. 116 of 1998

In this Writ Petition filed by the petitioner - a charitable trust, the prayers made are (i) for implementation of the provisions of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (for short, '1995 Act'), (ii) direction for the reservation

of 1% of the identified teaching posts in the faculties and college of various Universities in terms of Section 33 of the 1995 Act, and (iii) for declaration that denial of appointment to the visually disabled persons in the faculties and college of various Universities in the identified posts is violative of their fundamental rights guaranteed under Articles 14 and 15 read with Article 41 of the Constitution of India.

2. Initially, two respondents, namely, (one) Union of India through its Secretary, Ministry of Welfare and (two) University Grants Commission (U.G.C.) through its Chairperson were impleaded as party respondents.

3. On 07.10.1998, the Court ordered impleadment of the States and so also the Union Territories and, accordingly, respondent Nos. 3 to 34 were impleaded as party respondents.

4. On 13.09.2001, the Court directed the Chief Commissioner for Persons with Disabilities, Ministry of Social Justice and Empowerment, Government of India to be impleaded as party respondent and

consequently it has been impleaded as respondent No. 35.

5. Then on 18.02.2009, the Court directed Commissioners for Persons with Disabilities of various States and Union Territories to be impleaded as party respondents and consequently respondent Nos. 36 to 70 have been impleaded who are Commissioners for Persons with Disabilities in different States and Union Territories.

6. Certain interim orders have been passed by this Court from time to time.

7. Insofar as U.G.C. (respondent No. 2) is concerned, the Court was informed on 19.03.2002 through counter affidavit that U.G.C. has acted in compliance of the 1995 Act. In paras 3, 6, 7 and 8 of the counter affidavit filed on behalf of the Chief Commissioner for Persons with Disabilities, it was stated :

"3. It is humbly submitted that in pursuance of Section 32 of the Persons with Disabilities Act (Equal Opportunities Protection of Rights and Full participation) Act, 1995, the

appropriate government (Government of India) has updated the list of identified posts. This list has been issued vide Extraordinary Gazette Notification No. 178 dated 30.6.2001. In this list, the posts of University/College/School Teacher for the blind and low-vision have been listed at Sl. No. 24-27 on page No. 592.

6. The Chief Commissioner for Person with Disabilities has taken cognizance of the arrangements provided by the University Grants Commission for persons with disabilities by way of extending 5% relaxation in cut off marks, appearing in the NET for Junior Research Fellowship and Lecturership. Thus, the arrangement extended by UGC is in consonance with the policy stand taken by Govt. of India in so far as relaxation in minimum standard is concerned. Relaxation in standards has been favoured only when the candidates belonging to reserved categories are not available on the basis of the general standard to fill all the vacancies reserved for them.

7. The relaxation extended to SC & ST candidates as per Maintenance of Standard 1998 of the Universities, provides for a 5% relaxation from 55 % to 50% in the marks obtained at Master's Degree. Since reservation for the disabled is called horizontal reservation which cuts across all vertical categories such as SC, ST, OBC & General. Therefore, all such blind/low-vision persons who belonged to SC, ST vertical category would automatically enjoy the benefit of 5 % relaxation at the minimum qualifying marks obtained at Master's Degree level. Thus, only the blind and low vision belonging to OBC & General

categories are deprived of the relaxation of 5 % marks at masters' level.

8. The blind/low-vision and other visually disabled persons belonging to SC & ST category are in any case enjoying the benefit of 5% relaxation in marks obtained at the master's level for appearing in the NET examination conducted by the UGC. By extending the same relaxation to particularly blind/low-vision and in general all disabled at par with SC & ST disabled would bring parity amongst all persons with disabilities irrespective of their vertical categories."

8. Thus, insofar as U.G.C. is concerned, this Court in the order 19.03.2002 observed that nothing survives for consideration and the matter is disposed of as against U.G.C.

9. On 19.07.2006, the Court directed the Union of India and the State Governments to file their responses in the form of affidavits within a period of four weeks, failing which it was observed that the Court may be compelled to direct personal appearance of the Chief Secretaries of the concerned States though the Court would like to avoid in making such a direction. Some of the States have filed their responses and some have not.



10. Be that as it may, the beneficial provisions of the 1995 Act cannot be allowed to remain only on paper for years and thereby defeating the very purpose of such law and legislative policy. The Union, States, Union Territories and all those upon whom obligation has been cast under the 1995 Act have to effectively implement it. As a matter of fact, the role of the governments in the matter such as this has to be proactive. In the matters of providing relief to those who are differently abled, the approach and attitude of the executive must be liberal and relief oriented and not obstructive or lethargic. A little concern for this class who are differently abled can do wonders in their life and help them stand on their own and not remain on mercy of others. A welfare State, that India is, must accord its best and special attention to a section of our society which comprises of differently abled citizens. This is true equality and effective conferment of equal opportunity.

11. More than 18 years have passed since the 1995 Act came to be passed and yet we are confronted with the problem of implementation of the 1995 Act in its

letter and spirit by the Union, States, Union Territories and other establishments to which it is made applicable.

12. Ms. Sunita Sharma, learned counsel for the Union of India, informs us that insofar as Union of India is concerned, it has implemented the provisions of the 1995 Act and the reservation of 1% of the identified teaching posts in the faculties and college of various Universities in terms of Section 33 of the 1995 Act has been done.

13. In our view, the 1995 Act has to be implemented in the letter and spirit by the Central Government, State Governments and Union Territories without any delay, if not implemented so far.

14. We, accordingly, direct the Central Government, State Governments and Union Territories to implement the provisions of the 1995 Act immediately and positively by the end of 2014.

15. The Secretary, Ministry of Welfare, Government of India, the Chief Secretaries of the States, the Administrators of Union Territories, the Chief Commissioner of the Union of India and the

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Commissioners of the State Governments and Union Territories shall ensure implementation of the 1995 Act in all respects including with regard to visually disabled persons within the above time.

16. Writ Petition is disposed of in the above terms.

Writ Petition (Civil) No. 115 of 1998, Writ Petition (Civil) No. 430 of 2000, Civil Appeal No. 6442 of 1998 and Civil Appeal No. 6443 of 1998

Writ Petitions and Appeals are disposed of in terms of the judgment passed today in Writ Petition (Civil) No. 116 of 1998.

2. No costs.

3. Interlocutory Applications for intervention and impleadment filed in Civil Appeal No. 6442 of 1998, in view of the above, do not survive and they stand disposed of as such.

.....J.  
( R.M. LODHA )

.....J.  
( SUDHANSU JYOTI MUKHOPADHAYA )

NEW DELHI; .....J.  
MARCH 26, 2014 ( DIPAK MISRA )



सत्यमेव जयते

**कार्यालय मुख्य आयुक्त निःशक्तजन**  
**OFFICE OF THE CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES**  
**सामाजिक न्याय और अधिकारिता मंत्रालय, भारत सरकार**  
**Ministry of Social Justice and Empowerment, Govt. of India**  
**निःशक्तता कार्य विभाग / Department of Disability Affairs**

No.4-1/CCD/2009(Vol.II) / R6222

Dated: 29<sup>th</sup> August, 2014

To

The Secretary,  
 Department of Atomic Energy,  
 Anushakti Bhawan,  
 C.S.M. Marg,  
 Mumbai-400001.

Urgent

27.12/19

**Subject: Implementation of the directions of Hon'ble Supreme Court vide order dated 26.03.2014 in Writ Petition (Civil) No. 116 of 1998 - Justice Sunanda Bhandare Foundation Vs. Union of India & Ors. to implement the provisions of Persons with Disabilities Act, 1995.**

Sir/Madam,

I am directed to refer to this office letter of even number dated 27<sup>th</sup> June, 2014 on the above subject and to say that Hon'ble Supreme Court in the above mentioned order have directed the Central Government, State Governments and Union Territories to implement the provisions of the Persons with Disabilities Act, 1995 positively by the end of 2014. Hon'ble Supreme Court have further directed the Secretary, Department of Disability Affairs, Government of India, the Chief Secretaries of the States, the Administrators of the UTs, the Chief Commissioner for Persons with Disabilities and the State Commissioners for the State Governments and Union Territories to ensure implementation of the PwD Act, 1995 within the above mentioned time.

2. In compliance of the above directions of the Hon'ble Supreme Court, this office requested all the Ministries for ensuring implementation of the PwD Act, 1995 and to send a report to this office by 10<sup>th</sup> of every month vide this office letter referred to above. It is observed from the reports received from various Ministries/Departments/Organizations that most of them have not covered all the provisions of the PwD Act, 1995 with which they are concerned.

Addl. Secy may kindly  
 see in dak stage

Vinayalatha S.  
 10.9.14

Most Urgent  
 P. Division - 5

Urgent. Pls. discuss 12/9

Contd... p/2

① SO/SCS

② SO/SSC

15-9-14

सरोजिनी हाउस, 6, भगवान दास रोड़, नई दिल्ली-110001, दूरभाष : 23386054, 23386154 टेलीफैक्स : 23386006

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E-mail: [ccpd@nic.in](mailto:ccpd@nic.in) Website: [www.ccdisabilities.nic.in](http://www.ccdisabilities.nic.in)

(कृपया भविष्य में पत्राचार के लिए उपरोक्त फाईल/केस संख्या अवश्य लिखें)

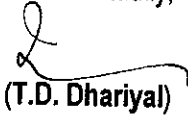
(Please quote the above file/case number in future correspondence)

Copy given to  
 SO/SCS G

- 2 -

3. In view of the above, a format for reporting section-wise implementation of the provisions of the PwD Act, 1995 has been prepared and is available in the home page of the website of this office [www.ccdisabilities.nic.in](http://www.ccdisabilities.nic.in). The format also indicates the name of the concerned Ministry/Department likely to be responsible for ensuring implementation of each section/sub-section. It is requested that the next consolidated report in respect of your Ministry/Department may please be sent in the prescribed format by 10<sup>th</sup> of every month, (the first report from now on falls due on 10<sup>th</sup> September, 2014) through email: [ccpd@nic.in](mailto:ccpd@nic.in) under intimation to the Department of Disability Affairs, Ministry of Social Justice and Empowerment at [jsda-msje@nic.in](mailto:jsda-msje@nic.in) to facilitate compilation of the overall status of implementation.

Yours faithfully,



(T.D. Dhariyal)  
Dy. Chief Commissioner

Report as on:

**Status of implementation of Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995**

Sr. No.	Min. Sr. No.	Provisions	Action Points	Point-wise Status	Remarks
(1)	(2)	(3)	(4)	(5)	(6)
1.	13.	<p><b>Section 33: Reservation of Posts</b></p> <p>Every appropriate Govt shall appoint in every such percentage of vacancies not less than three percent for persons or class of persons with disability of which one percent each shall be reserved for persons suffering from:</p> <p>(1) Blindness or low vision                      (2) Hearing impairment                      (3) Locomotor disability or cerebral palsy in the posts identified for each disability</p>	<p>(i) Whether vacancies in all Groups are being reserved in all the establishments of the Ministry/Departments/State Govt./UTs for persons with disabilities? If not, reasons thereof?</p> <p>(ii) Whether Special Recruitment Drive is being conducted to fill the backlog vacancies? If yes, please provide the time frame fixed. If not, reasons thereof?</p> <p>(iii) Whether procedure for implementation of reservation under Section 33 of the Act has been prescribed and circulated to all concerned?</p>	(i)  (ii)  (iii)	

2.	<p><b>Section 34: Special Employment Exchange</b></p> <p>(1) The appropriate Government may, by notification, require that from such date as may be specified, by notification, the employer in every establishment shall furnish such information or return as may be prescribed in relation to vacancies appointed for persons with disability that have occurred or are about to occur in that establishment to such Special Employment Exchange as may be prescribed and the establishment shall thereupon comply with such requisition.</p> <p>(2) The form in which and the intervals of time for which information or returns shall be furnished and the particulars, they shall contain shall be such as may be prescribed.</p>	<p>(i) Whether the details of information/returns are being obtained from the employer in every establishment regarding the occurrence of vacancies for persons with disabilities?</p> <p>(ii) Whether any form for furnishing the information/returns has been prescribed?</p> <p>(iii) Whether any time interval has been prescribed for furnishing the information/returns to Special Employment Exchange?</p> <p>(iv) Number of Districts with Special Employment Exchanges</p> <p>(v) Number of District without Special Employment Exchanges</p> <p>(vi) Number of persons with disabilities registered with each Special Employment Exchange and year upto which registered PWDs has been placed.</p>	<p>(i)</p> <p>(ii)</p> <p>(iii)</p> <p>(iv)</p> <p>(v)</p> <p>(vi)</p>
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3.	<p><b>Section 36: Carry forward of vacancies</b></p> <p>Where in any recruitment year any vacancy under Section 33 cannot be filled up due to non-availability of a suitable person with disability, vacancy shall be carried forward/interchanged among the three categories and only then the vacancy be filled by a person, other than a person with disability.</p>	<p>(i) Please provide the details of unfilled vacancies in all the establishments in Group A, B, C &amp; D posts which have been carried forward due to non-availability of a suitable PWDs.</p> <p>(ii) Please provide the details of vacancies reserved for PWDs in all the establishments which were filled by persons other than PWDs.</p>	(i)  (ii)																																																				
4.	<p><b>Section 37: Maintenance of records</b></p> <p>Every employer shall maintain record in relation to persons with disabilities employed in his establishment.</p>	<p>Whether record of employment of PWDs in the establishments is being maintained? If Yes, please provide the details in following format:</p> <table border="1" data-bbox="836 470 1226 1500"> <thead> <tr> <th rowspan="2">Group</th> <th colspan="2">No. of sanctioned posts</th> <th colspan="2">No. of vacancies filled up since 1996</th> <th rowspan="2">No. of PWDs appointed</th> <th rowspan="2">Backlog</th> <th rowspan="2">Action Plan clearing backlog</th> </tr> <tr> <th>Notified</th> <th>Filled</th> <th>Identified</th> <th>Unidentified</th> </tr> </thead> <tbody> <tr> <td>A</td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>B</td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>C</td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>D</td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>TOTAL</td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> </tbody> </table>	Group	No. of sanctioned posts		No. of vacancies filled up since 1996		No. of PWDs appointed	Backlog	Action Plan clearing backlog	Notified	Filled	Identified	Unidentified	A								B								C								D								TOTAL								
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5.	26.	<p><b>Section 47: Non-discrimination in Government employment</b></p> <p>No establishments shall dispense with, or reduce in rank, an employee who acquires a disability during his service.</p> <p>No promotion shall be denied to a person merely on the ground of his disability.</p>	<p>(i) Please indicate whether the provision of Section 47 are being implemented?</p> <p>(ii) Please provide the details of instructions issued for ensuring compliance of the provisions.</p> <p>(iii) Please indicate the number of supernumerary posts created to adjust the employees with disabilities who acquired disability during service.</p>	(i)  (ii)  (iii)	
6.	34.	<p><b>Section 69: Fraudulent availing of benefits</b></p> <p>Whoever, fraudulently avails or attempts to avail, any benefit meant for persons with disabilities, shall be punishable with imprisonment for a term which may extend to two years or with fine which may extend to twenty thousand rupees or with both.</p>	<p>Please indicate number of cases in which benefits meant for persons with disabilities have been availed fraudulently.</p>		