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न्यायालय मुख्य आयुक्त दिव्यांगजन

COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES (DIVYANGJAN)

दिव्यांगजन सशक्तिकरण विभाग/Department of Empowerment of Persons with Disabilities (Divyangjan)

सामाजिक न्याय और अधिकारिता मंत्रालय/Ministry of Social Justice & Empowerment

भारत सरकार/Government of India

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Case No. 13532/1102/2022

In the matter of —

Shri Amar Jain,
M2/5, Model Town 3,
Delhi-110009;
Phone: 9892622230;
Email: amarjain@amarjain.com

... Complainant

Versus

The Director/The Company Secretary,
Ani Technologies Private Limited,
Regent Insignia, #414, 3rd Floor,
4th Block, 17th Main, 100 Feet Road,
Koramangala, Bangalore-560034;
Email: CompanySecretary@olacabs.com;
bhavish.aggarwal@olacabs.com

... Respondent

1. Gist of Complaint:

1.1 Shri Amar Jain, a person with 100% Visual Impairment filed a complaint dated 05.09.2022 regarding the violation and non-implementation of the provisions of accessibility as stipulated in the Rights of Persons with Disabilities Act, 2016 [hereinafter referred to as "the Act"] and Rules thereunder by M/s Ani Technologies Private Limited, Bangalore [the Respondent].

1.2 The Complainant submitted that the respondent is a private company registered under the Companies Act, 2013, and provides services under the brand name of "Ola". Ola is India's largest mobility platform. The Ola app offers mobility solutions by connecting customers to drivers and a wide range of vehicles across

bikes, auto-rickshaws, metered taxis, and cabs enabling convenience and transparency for hundreds of millions of consumers and over 1.5 million driver-partners.

1.3 The Complainant submitted that he is unable to effectively access the Ola IOS application due to various accessibility barriers which inter-alia include the following:

- (a) The services offered on the app such as cab bookings, auto bookings, and bike bookings, are thoroughly unorganized and completely inaccessible with a screen reading software. Some buttons are not labeled at all. Some others have nonsensical labels;
- (b) Multiple elements are clubbed together which prevents screen reader users from selecting a given service and operating functionality of the app;
- (c) Many images do not have the alt text which makes images completely inaccessible for persons with blindness:
- (d) Banners have no meaningful text which is confusing in terms of accessibility;
- (e) The app has no accessibility framework embedded which prevents persons with blindness from operating the app;
- (f) Persons with blindness are not able to select pick-up location and destination from the search results as that is not announced by the screen reader;
- (g) Owing to all of these barriers combined, the experience of accessing the app for the Complainant is akin to a sighted person being required to access an app in a foreign language that she does not understand.

1.4 The Complainant further alleged that even after the implementation of the Act on April 19, 2017, and the Rules being notified on June 15, 2017, the app is not accessible.

2. Submissions made by the Respondent:

2.1 The Respondent filed its reply dated 22.12.2022 and denied all allegations.

They submitted that the scope of guidelines is limited to the government websites and portals, belonging to both the Central Government as well as State/UT Governments, (including District Administrations to Village Panchayats). Therefore, the compliance stated under the said Guidelines is not mandatorily applicable to private organizations like them.

2.2 The Respondent denied that their App does not provide such accessibility features at all. The App is already enabled with some features for indiscriminate use by all the users in general (as per the list attached). About the compliance of other things, being a customer-oriented organization, requisite actions towards complete enabling features have already been initiated. However, due to technicality and phase-wise rollout of the features and a complete enabling of the features on the app, a further period of 9 months is required for which the respondent implored.

2.3 The Respondent further submitted that they have not indulged in any non-compliance. Being a consumer-driven organization that provides services for the benefit of all the consumers as well as for the drivers, they are willing to enhance and improve their services for the betterment of their consumers.

2.4 The Respondent prayed for a personal hearing in the matter so that no adverse order is passed.

3. Submissions made in Rejoinder:

3.1 The Complainant filed a rejoinder vide email dated 23.02.2023 and submitted that despite supplying Practo order and a note explaining how the Act and the Rules apply to private establishments, such as a company like this along with the complaint which leaves no room for any ambiguous interpretation, the Company is denying the applicability of the very legal obligations themselves. The respondent is duty-bound to comply with the legal obligations under the RPwD Act, 2016. As far as the inaccessibility of the Ola app is concerned, and without agreeing to the annexure supplied by the Company, a very quick audit demonstrates how inaccessible the Company's app is for anyone to avail of the basic services it offers. For real solutions to problems being faced by people with disabilities, this Court must order the Company to undergo an accessibility evaluation which brings out the gaps and provides remedial measures. Failing that, at this juncture, it is impossible for someone with blindness to use a screen reader to even book a ride on the app.

4. Hearing (1):

4.1 An online hearing through video conferencing was conducted on **30.05.2023**. The following parties/representatives were present:

- (1) Complainant in person along with Adv. Rahul Bajaj
- (2) Ms. Sukirti, Sr. Legal Manager along with Ms. Aparna, Legal Assistant

4.2 During the online hearing the Complainant submitted that it is a long process to make the 'mobile app' of the Respondent's establishment called 'Ola' [hereinafter referred to as "app"] accessible and would require substantive time, however, some issues deserve immediate attention and necessary action, such as the features of pickup & drop location and driver information should be accessible for Persons with Disabilities.

4.3 This Court agreed with the preliminary observations made by the Complainant. This Court recommended that the Respondent should make features such as pickup & drop location and driver information accessible for Persons with Disabilities so that Persons with Disabilities can make these inputs without the assistance of another person.

4.4 This Court further recommended that the Respondent should conduct a meeting with the Complainant and identify issues relating to the accessibility of the app and prepare a roadmap for making all features of the app accessible for Persons with Disabilities.

4.5 Considering the continuous nature of the Complaint, this Court decided that a hearing should be conducted again in the present Complaint. The Respondent was directed to inform this Court about the compliance of the above two recommendations during the next hearing.

5. Response to Record of Proceedings dated 03.06.2023:

5.1 No response was received from the Respondent.

6. Hearing (2):

6.1 The next hearing (online through video conferencing) was conducted on **04.09.2023**. The following parties/representatives were present during the hearing:

- (1) Shri Amar Jain, the Complainant

(2) Ms. Aparna Tripathi, Assistant Manager for the Respondent

6.2 Since the main issue raised by the Complainant was the accessibility concern of the app of the Respondent, during the hearing, it was highlighted that the essential features of the app need to be made accessible to ensure true accessibility. This Court recommended that the Respondent must take steps to make all essential features of the app accessible for Persons with visual impairment within 2 weeks from the date of the Order.

6.3 Further, the Respondent was instructed to conduct testing of the app by involving some persons having blindness as well as by involving persons with low vision, to ensure its accessibility and the Respondent establishment should compare their app with the accessibility features of apps from other companies.

7. Response to the hearing conducted on 04.09.2023:

7.1 The Complainant vide email dated 06.09.2023 submitted that while two weeks is a fair time for compliance for blindness and low vision persons, the Respondent should be strictly directed to make its application accessible to all categories of persons with disabilities in line with the prevailing standards in a time bound manner. Failing which, the Respondent would fall foul of the Act and the rules made thereunder which would entail penal and other consequences.

7.2 No response was received from the Respondent.

8. Hearing (3):

8.1 The next hearing (online through video conferencing) was conducted on **04.11.2023**. The following parties/representatives were present during the hearing:

- (1) Shri Amar Jain, the Complainant
- (2) Ms. Aparna Tripathi, Assistant Manager for the Respondent

8.2 At the outset, the Chief Commissioner gave a background referring to the last Record of Proceedings dated 06.09.2023 of the hearing wherein the respondent was asked to have a meeting with the Complainant and members from blind and low vision community for their feedback on accessibility; to compare their App with similar Apps of other service providers and finally to make the essential feature of their App accessibility in the next two weeks.

8.3 The Court then sought the status from the Respondent. The Respondent confirmed that they had meetings with Shri Amar Jain and an employee from their

own company. One of the main concerns of the Complainant has been that the App is working fine with the Android version but not on the iOS. She said that iOS is a complex version. However, based on the feedback received from the Complainant and their employee, they made significant improvements in the App. Ms. Tripathi then made a video presentation to show the talkback/screen reader functionality of the App.

8.4 The Complainant, however, expressed his reservation, particularly on the aspect of inaccessibility of search result options on entering the pick-up and drop location. The Complainant explained that when one enters the pick-up and drop location several options pop up as the search results. But when any of those search results are selected, the screen reader is not able to read it out. The Complainant also expressed his concern that the internal employee can give valuable suggestions as a user, but he or she may not have the skill of an accessibility auditor.

8.5 This Court appreciated the efforts made by the respondent. However, it was concerned at the slow speed of the progress. The Court directed the respondent to make the App fully accessible by 15.12.2023 after getting it audited comprehensively by a recognized professional access auditor having IAAP certification on its accessibility for persons with various disabilities.

8.6 The Respondent sought some more time to comply with the directions, which were not accepted by the Court. Accordingly, the respondent was directed to submit an action taken report along with an undertaking that the App of the respondent complies with the BIS17802 Standards notified by the Ministry of Social Justice & Empowerment vide GSR 359(E) on 10.05.2023.

9. Response to the hearing conducted on 04.11.2023:

9.1 The Complainant vide email dated 14.11.2023 submitted that a video was shot by a person who has sight. But when a blind person navigates or types, that is not how one uses a screen reader. Even while choosing the alphabet, the finger was pointed at the exact location as opposed to touching letters and figuring out the alphabet which one wants to type. Best smartphone users with blindness globally are not able to do it with the precision that was shown in the video. Hence people with blindness need to be included while shooting the video.

9.2 The Complainant further submitted that the ability to select pick-up and drop-destinations is not fixed, which was the major complaint since day one.

Because, these persons with visual impairment are not able to book a ride at all. He prayed that the Respondent should be directed to conduct a proper accessibility audit from the people who are certified accessibility professionals from the International Association of Accessibility Professionals, with the designation "Certified Professional on Web Accessibility". Further, the audit report should be in line with the Bureau of Indian Standards 'IS 17802 parts one and two respectively. And that report should be placed on record for this Court's examination along with a copy of the same to him for review being a Complainant. The audit should be conducted for all criteria so that the issues can be addressed for all persons with disabilities and not just people with blindness. A community of users should be identified to regularly test the app from the user's perspective to ensure that the user inputs are factored in.

9.3 The Complainant vide email dated 22.12.2023 submitted that the Respondent has moved in the right direction by fixing the ability to choose pick up and drop location issue on IOS. As a result of just this fix, at least customers with disabilities have a choice to use another transport aggregator like Ola. They certainly have other issues like the cab quality or lack of sensitization of drivers, or never once in life charging the fair that was shown at the time of booking, but despite that, at least the consumer is empowered with one choice, especially in cities where they have a huge presence.

9 . 4 The Complainant further submitted that he has been requesting Ola ever since 2012 while others have been taking up the matter for the last 10 years. With the intervention and pro-activeness of this Court in the last one year, it has got to a stage where inaccessibility issues are now being taken seriously by Ola. The Complainant requested that the Respondent be directed to take all measures required to continue the newly added features to the App and make further improvements based on compliance with the BIS IS 17802, feedback from the PwD community and periodic access audit results. He submitted his request as under:

- (a) A written undertaking from the Respondent that they would comply with IS17802 (which is part of the last ROP issued by this Court);
- (b) Annual self-certification to be signed by the CEO and an Independent Director that they are complying with accessibility standards and the same should be produced to this Court upon requisition. Unless the CEO and Independent Director signature mechanism is brought in, the compliance will be done half-heartedly. As a lawyer having 10 years of experience he said

that the moment this mechanism is introduced, an Independent Director will not even look at a certificate without a backup that satisfies them on the due diligence being done to certify accessibility compliance;

(c) A clear direction that all existing features will be made accessible and any new features will not be rolled out without accessibility by design;

(d) Steps taken to ensure compliance with the ROP issued regarding the appointment of an accessibility auditor and other measures;

(e) Clear roadmap with timelines to ensure that existing flow will be made accessibility compliant in a time-bound manner;

(f) Ola to have specific training materials and workshops for Ola partners/drivers on how to deal with customers who have a disability;

(g) An excellent example of how it is being done by Namma Yatri, a Bengaluru-based auto rickshaw booking app who have launched Purple Rides for persons with disabilities, allowing users to disclose their disability in their profile, and conducting targeted training for drivers;

(h) These may be issued as interim directions, and once the timelines are abided by, this Court may hold a final hearing and assess if needful is done; and

(i) The progress may be monitored by this Court, otherwise just like other companies have dropped the ball like Make My Trip once the matter was disposed of, the same may happen in this case too.

10. Observations & Recommendations:

10.1 Upon considering the facts of the case and the submission of the parties, this Court concludes that the Respondent has shown its willingness and commitment to making their App accessible to the PwDs. They have made significant strides towards the same during the pendency of this case.

10.2 The Court recommends the Respondent to take the following measures for standardization and further improvement in the accessibility of the App:

(a) Allow users to disclose their disability in their profile alerting their

partners/drivers, if their next booking involves passengers with disabilities. The alerts can be sent in appropriate and sensitive graphics in addition to text or pop-up messages. Appropriate monitoring mechanisms should be put in place for monitoring unfair cancelations of bookings made by the PwD passengers ;

(b) Design and conduct appropriate training programs for the drivers on their joining the aggregator to sensitize them about the needs of persons with disabilities and train them on handling passengers with different types of disabilities.

(c) Appointment of an accessibility auditor and a nodal/grievance redressal officer;

(d) A clear direction from the CEO that all existing features will be made accessible and new features will be rolled out only after ensuring accessibility;

(e) Full compliance with IS 17802 and submission of an undertaking in this regard;

(f) Annual self-certification of continued compliance with accessibility standards to be signed by the CEO/an Independent Director which should be produced to this Court upon requisition.

10.3 A compliance report within 90 days, failing which it shall be presumed that the Respondent has not complied with the Order and the issue will be reported to the Parliament in accordance with Section 78 of the Rights of Persons with Disabilities Act, 2016.

10.4 Accordingly, the case is disposed of.

(Rajesh Aggarwal)
Chief Commissioner
for Persons with Disabilities