

**2026 LiveLaw (SC) 464**

**IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE/ORIGINAL JURISDICTION  
VIKRAM NATH; J., SANDEEP MEHTA; J.**

**WRIT PETITION (CIVIL) NO(S). 116 OF 1998; APRIL 28, 2026**

**JUSTICE SUNANDA BHANDARE FOUNDATION *versus* UNION OF INDIA & ORS.**

**Rights of Persons with Disabilities Act, 2016 – Policy of "Own Merit" and Upward Movement of PwBD Candidates - The Supreme Court endorsed the policy framework of the Union of India (DoPT) regarding the adjustment and upward movement of Persons with Benchmark Disabilities (PwBD). A PwBD candidate selected on the basis of their own merit, without availing relaxed standards, must be adjusted against unreserved (UR) vacancies and not against the reserved quota - those who avail relaxed standards are to be adjusted against reserved vacancies - This principle applies to both direct recruitment and promotions (including seniority-cum-fitness and selection-based promotions) - Facilitative measures like the provision of a scribe or compensatory time do not constitute relaxed standards, whereas relaxations in cut-off marks, age, or number of attempts do - Disability itself shall not be treated as a relaxed standard in medical fitness tests for determining "own merit". [Paras 9, 10]**

**Rights of Persons with Disabilities Act, 2016 – Implementation and Monitoring Framework - Noting persistent gaps and minimal compliance by various States and Union Territories nearly eight years after the enactment of the 2016 Act, the Supreme Court directed a structured assessment of its implementation - Following the appointment of Nodal Officers across almost all States/UTs, the Supreme Court entrusted the National Law Universities (NLUs) under "Project Ability Empowerment" to undertake a substantive, detailed evaluation of compliance with statutory mandates, institutional mechanisms, and accessibility measures - National Law University, Delhi was specifically directed to map the extent of compliance achieved by the Union of India, with a mandate for a Joint Secretary-rank officer from the Department of Social Justice and Empowerment to coordinate. [Paras 12 - 16]**

**WITH CIVIL APPEAL No(s). 11938 OF 2016 DIARY No(s). 29329 OF 2021 DIARY No(s). 26974 OF 2024**

**ORDER**

1. This Court, *vide* order dated 15th April, 2026, recorded submissions advanced by Mr. Colin Gonsalves, learned senior counsel appearing for the appellant in Civil Appeal No. 11938 of 2016 regarding non-compliance by several States and Union Territories with the directions issued in the judgment dated 12th September, 2025, particularly concerning the appointment of Nodal Officers. It was noted that despite the lapse of seven months, multiple States and Union Territories<sup>1</sup> had failed to act, thereby impeding the effective functioning of National Law Universities in discharge of the mandate of this Court and undermining the implementation of statutory mandates affecting vulnerable sections of the society. Expressing serious displeasure at such inaction, this Court granted a final opportunity to the defaulting States and Union Territories to ensure compliance before the next date of hearing, failing which senior officials, including Chief Secretaries and

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<sup>1</sup> States of Kerala, Jharkhand, Odisha, Sikkim, Arunachal Pradesh, Manipur, Meghalaya, Tripura, Madhya Pradesh, Chhattisgarh and Telangana, as well as the Union Territories of Puducherry, Lakshadweep Islands, Ladakh, Delhi, Chandigarh, and Andaman and Nicobar Islands.

concerned departmental Secretaries, were directed to remain personally present with affidavits explaining the delay.

2. Further, this Court took note of the submissions advanced by learned counsel appearing for the petitioner in Writ Petition (Civil) No. 116 of 1998 concerning the broader implementation of the Rights of Persons with Disabilities Act, 2016, and granted time to the counsel for petitioner to file a status report. The Court also expressed concern over the continued failure of the Union of India to respond to a specific query raised in paragraph 53 of the judgment dated 12th September, 2025, relating to the provision of upward movement of meritorious candidates in reserved categories. Noting the lack of response/representation on behalf of the Union of India, the Court granted a final opportunity to file the requisite response before the next date of hearing. The matter was accordingly directed to be listed on 28th April, 2026 for further consideration. For ready reference, the relevant portion of the said order is extracted hereinbelow: -

“1. Mr. Colin Gonsalves, learned senior counsel appearing for the appellant in Civil Appeal No. 11938 of 2016, submitted that certain States and Union Territories have still not appointed Nodal Officers in compliance with the directions issued by this Court vide judgment dated 12th September, 2025. It is submitted that such non-compliance is causing serious impediments in the effective functioning of the National Law Universities in discharge of the mandate of this Court.

2. It has been brought to the notice of this Court that the States of Kerala, Jharkhand, Odisha, Sikkim, Arunachal Pradesh, Manipur, Meghalaya, Tripura, Madhya Pradesh, Chhattisgarh and Telangana, as well as the Union Territories of Puducherry, Lakshadweep Islands, Ladakh, Delhi, Chandigarh, and Andaman and Nicobar Islands, have not appointed Nodal Officers even after a lapse of seven months from the date of the aforesaid judgment.

3. We express our serious displeasure at the lackadaisical and indifferent approach displayed by the aforesaid States and Union Territories in complying with the directions of this Court. The directions issued pertain to a matter of considerable sensitivity and significance, impacting the effective implementation of statutory mandates and the rights of vulnerable sections of the society. Such continued inaction not only undermines the authority of this Court but also defeats the very purpose for which the directions were issued. The concerned authorities are, therefore, expected to act with promptitude and a sense of responsibility commensurate with the importance of the subject matter.

4. However, considering the facts and circumstances of the case, one last opportunity is granted to the aforesaid States and Union Territories to appoint the Nodal Officers in terms of the directions issued by this Court vide judgment dated 12th September, 2025, on or before the next date of hearing. Failing such compliance, the Chief Secretaries and the Secretaries, Department of Social Justice and Empowerment/Department of Social Welfare of the concerned States and Union Territories shall remain personally present before this Court on the next date of hearing, along with an affidavit explaining the reasons for the delay in appointing the Nodal Officers. It is clarified that in the event compliance is effected and the Nodal Officers are duly appointed by the next date of hearing, the requirement of personal presence of the Chief Secretaries and the Secretaries, Department of Social Justice and Empowerment/Department of Social Welfare of the concerned States or Union Territories, as the case may be, shall stand exempted, subject to the filing of an affidavit evidencing such compliance. 6. Learned counsel appearing for the petitioner in Writ Petition (Civil) No. 116 of 1998 submitted that the larger issue in the present matters concerns the faithful implementation of the provisions of the Rights of Persons with Disabilities Act, 2016, and sought time to place on record a status report. Accordingly, time is granted to the learned counsel to file the status report on or before the next date of hearing.

7. We are constrained to note that despite several opportunities granted to the Union of India to place on record its response as to the query raised in Para 53 of the judgment dated 12th September, 2025, i.e., whether upward movement of meritorious candidates applying against

posts reserved for persons with disabilities is permissible in cases where such candidates secure marks higher than the cut-off prescribed for the unreserved category, no clarity has been forthcoming. Neither has any counsel appeared on behalf of the Union of India to address this issue, nor have we been informed as to whether any affidavit in this regard has been filed. In these circumstances, we grant last opportunity to the Union of India to file its response on record by the next date of hearing.

8. List on 28<sup>th</sup> April, 2026 for further consideration.”

3. For the sake of clarity and to facilitate a structured consideration of the issues involved, the present order is being addressed under three distinct heads, which are being considered *seriatim*:

#### **A. Appointment of Nodal Officers**

4. When the matter was taken up on 28th April, 2026, Mr. Colin Gonsalves, learned senior counsel appearing for the appellant in Civil Appeal No. 11938 of 2016, submitted that out of the States and Union Territories referred to in the order dated 15th April, 2026, the States of Chhattisgarh, Meghalaya, Manipur, Sikkim, Tripura, Mizoram and Uttarakhand as well as Union Territory of Delhi have since appointed Nodal Officers. However, the States of Kerala, Jharkhand, Odisha, Arunachal Pradesh, Madhya Pradesh, and Telangana, as well as the Union Territories of Puducherry, Lakshadweep Islands, Ladakh, Chandigarh and Andaman and Nicobar Islands, had still not appointed Nodal Officers, as directed by this Court *vide* judgment and order dated 12th September, 2025 and the subsequent order dated 15th April, 2026.

5. However, counsel appearing for the States of Kerala, Jharkhand, Odisha, Arunachal Pradesh, Madhya Pradesh and Telangana, and the Union Territories of Puducherry, Chandigarh and Andaman and Nicobar Islands, submitted that Nodal Officers have since been appointed on different dates in April, 2026. Consequently, only the Union Territories of Lakshadweep Islands and Ladakh are yet to appoint Nodal Officers. In respect of the said Union Territories, Mr. K.M. Nataraj, learned Additional Solicitor General, submitted that Mr. Vatsal Joshi, Advocate-on-Record, shall take necessary steps in the matter.

6. In view of the above, a final opportunity is granted to the Union Territories of Lakshadweep Islands and Ladakh to appoint Nodal Officers in terms of the directions issued by this Court. The said exercise shall be completed positively on or before 15<sup>th</sup> May, 2026.

7. The Registry is directed to forthwith transmit a copy of this order as well as order dated 15th April, 2026 to Mr. Vatsal Joshi, Advocate-on-Record, for ensuring compliance.

#### **B. Clarification on Reservation and Upward Movement of PwBD Candidates**

8. Learned counsel appearing for the Union of India submitted that the compliance affidavit in terms of paragraph 53 of this Court’s judgment and order dated 12th September, 2025 had, in fact, been filed on 2nd January, 2026 itself. It was further submitted that, owing to the inadvertent absence of counsel on the previous date of hearing, the said affidavit could not be brought to the notice of this Court earlier.

9. A perusal of the said affidavit indicates that the Union of India, through the Department of Personnel and Training (DoPT), has already issued comprehensive instructions governing the issue of adjustment/upward movement of persons with benchmark disabilities<sup>2</sup> against unreserved vacancies. The affidavit refers to Office

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<sup>2</sup> For short, “PwBD”.

Memoranda dated 15<sup>th</sup> January, 2018; 17<sup>th</sup> May, 2022; and 27<sup>th</sup> September, 2022, which collectively provide and emphasise that a PwBD candidate selected on the basis of his/her own merit, without availing relaxed standards, is to be adjusted against unreserved (UR) vacancies and not against the quota reserved for PwBD category. Conversely, candidates who avail relaxed standards are to be adjusted against reserved vacancies. The executive instructions further extend this principle to both direct recruitment and promotions, including both seniority-cum-fitness and selection-based promotions. It is also clarified that certain facilitative measures such as the provision of a scribe or compensatory time shall not be treated as relaxation of standards, whereas relaxations in cut-off marks, age, number of attempts or other eligibility criteria would amount to relaxed standards. It is further clarified that the disability of a person, which he or she is suffering from, shall not be treated as a relaxed standard in the medical fitness test for the purpose of determining “own merit.” The affidavit further emphasizes that reservation for PwBD candidates operates horizontally across categories and that the policy of “own merit” is consistently applied to ensure that meritorious candidates are not denied their rightful placement while also safeguarding the interests of those requiring reservation benefits.

**10.** Having considered the aforesaid affidavit and the policy framework placed on record, we are satisfied that the Union of India has adequately addressed the query raised in paragraph 53 of the judgment and order dated 12<sup>th</sup> September, 2025. The position in law, as clarified, ensures that meritorious candidates belonging to the PwBD category are entitled to be considered against unreserved vacancies on the basis of their own merit, while preserving the efficacy and purpose of reservation. We, accordingly, endorse the said position and exhort the Union of India, as well as all States and Union Territories, to scrupulously adhere to and implement the policy of upward movement in its true letter and spirit, so as to advance the constitutional mandate of equality, dignity and inclusion for persons with disabilities.

**C. Status of Implementation of the Rights of Persons with Disabilities Act, 2016**

**11.** Learned counsel appearing for the petitioner in Writ Petition (Civil) No. 116 of 1998 submitted that a status report has been filed in pursuance of the liberty granted by this Court *vide* order dated 15<sup>th</sup> April, 2026, stating that despite several orders passed by this Court directing the States and Union Territories to implement the provisions of the Rights of Persons with Disabilities Act, 2016, there has been minimal compliance.

**12.** A perusal of the said status report reveals that the issue of non-compliance is longstanding and persists despite repeated judicial directions. The status report traces the history of the proceedings, noting that even under the earlier regime of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, compliance by States and Union Territories remained inadequate, necessitating continued monitoring by this Court. It further records that, following the enactment of the Rights of Persons with Disabilities Act, 2016 and the directions issued by this Court in its judgment and order dated 25<sup>th</sup> April, 2017, States and Union Territories were required to file compliance reports and take immediate steps to implement the statutory mandate in its letter and spirit. Despite multiple subsequent orders, wherein timelines were fixed, affidavits of compliance were sought, and senior officials were directed to ensure implementation, the status report indicates persistent gaps. As reflected, while some States and Union Territories have filed compliance affidavits, a significant number continue to remain either noncompliant or only partially compliant.

**13.** The status report also highlights deficiencies such as failure to establish mandatory institutional mechanisms, including State Funds for Persons with Disabilities, and

inadequate implementation across key areas of the Act, 2016. It further notes that although monitoring mechanisms such as “**Project Ability Empowerment**” was put in place pursuant to this Court’s directions, the interim reports have not adequately addressed the issue of implementation of the Rights of Persons with Disabilities Act, 2016. Overall, the status report underscores that, nearly eight years after the coming into force of the Rights of Persons with Disabilities Act, 2016, full and effective compliance by all States and Union Territories remains elusive, thereby necessitating continued judicial oversight.

**14.** Considering the status report placed on record and the submissions advanced, we are of the opinion that, in view of the fact that almost all the States and Union Territories have now appointed Nodal Officers, the issue relating to the implementation of the Rights of Persons with Disabilities Act, 2016 can be more effectively and comprehensively examined by the National Law Universities entrusted with the exercise under “**Project Ability Empowerment.**” The appointment of Nodal Officers provides an institutional framework for coordination and accountability, which was hitherto lacking, and is expected to facilitate the collection of accurate data, identification of deficiencies, and prompt redressal of gaps in implementation across jurisdictions.

**15.** In this backdrop, we consider it appropriate that the National Law Universities entrusted with the exercise under “**Project Ability Empowerment**”, in terms of the directions issued by this Court, undertake a detailed and structured assessment of the implementation of the Rights of Persons with Disabilities Act, 2016 across all States and Union Territories. Such monitoring shall not be merely formal but must involve a substantive evaluation of compliance with statutory mandates, including the creation of requisite institutional mechanisms, enforcement of rights, and accessibility measures. The concerned authorities and more particularly the Nodal Officers shall extend full cooperation to the National Law Universities to enable an effective and time-bound assessment, so that the object and purpose of the enactment are meaningfully realized.

**16.** It is further directed that National Law University, Delhi shall undertake the exercise of mapping the extent of compliance with the provisions of the Rights of Persons with Disabilities Act, 2016 achieved by the Union of India. For the purpose of ensuring effective coordination and meaningful engagement, the Secretary, Department of Social Justice and Empowerment, Union of India, shall depute an officer not below the rank of Joint Secretary to participate in the meetings to be convened by National Law University, Delhi in relation to the directions issued by this Court in the present order.

**17.** A copy of this order shall be transmitted to the Registrar of each of the eight National Law Universities as mentioned in paragraph 36 of the judgment and order dated 12th September, 2025, as well as to the Secretary, Department of Social Justice and Empowerment, Union of India and Chief Secretaries of all States and Union Territories, for immediate compliance.

**18.** List on 22nd September, 2026 for receiving the updated status reports from the National Law Universities.