

ITEM NO.24

COURT NO.1

SECTION PIL-W

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

WRIT PETITION (CIVIL) Diary No.29329/2021

SEEMA GIRIJA LAL & ANR.

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

**(With IA No.204291/2022 - CONDONATION OF DELAY IN REFILEING/ CURING
THE DEFECTS and IA No.727/2023 - EXEMPTION FROM FILING AFFIDAVIT)**

Date : 22-04-2024 These matters were called on for hearing today.

CORAM :

**HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE J.B. PARDIWALA**

For Petitioner(s) Mr. K. Parameshwar, Adv.
Mr. Akshay Sahay, Adv.
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For Respondent(s) Mr. Vikramjit Banerjee, ASG
Mr. Ishaan Sharma, Adv.
Mr. Nachiketa Joshi, Adv.
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Mrs. Ruchi Kohli, Adv.
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Mr. Sidharth Sinha, Adv.
Mr. Harish Pandey, Adv.
Mr. Amrish Kumar, AOR

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Ms. Rajkumari Divyasana, Adv.

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Mr. Kanu Agarwal, Adv.
Mr. Varun Chugh, Adv.
Mr. Bhuvan Kapoor, Adv.

Mr. Mrinal Elkar Mazumdar, Adv.
Ms. Indira Bhakar, Adv.
Mr. Mukesh Kumar Verma, Adv.
Ms. Pridarshini Pariya, Adv.
Mr. Rajesh Singh Chauhan, Adv.
Mr. Anil Hooda, Adv.
Mr. Shashwat Parihar, Adv.
Mr. Ankit Raj, Adv.
Mr. Piyush Beriwal, Adv.
Mr. Mukul Singh, Adv.
Mr. Mukesh Kumar Maroria, AOR

Mr. Dinesh Kr. Tiwari, Adv.
Ms. Amita Panday, Adv.
Mr. Chandan Kumar, Adv.
Mr. Shubham Raj, Adv.
Ms. Rajmala Daharey, Adv.
Mr. Santosh Kumar Tripathi, AOR

Mr. Shekhar Raj Sharma, DAG, Adv.
Ms. Nidhi Narwal, Adv.
Dr. Monica Gusain, Adv.

**UPON hearing the counsel the Court made the following
O R D E R**

- 1 The RPWD Act came into force on 19 April 2017. Though over seven years have elapsed since the enactment of the law, the implementation across the country is still in a dismal state. Many States had not framed the rules under the RPWD Act, which under Section 101(1), they were required to frame within six months from the date of commencement.
- 2 The petitioners are members of a group called “Together We Can” working for the rights of persons with disabilities. Acting on the petition, this Court has passed orders on 13 January 2023, 24 April 2023, 12 May 2023 and 17 July 2023.

3 The Union of India has filed a status report dated 28 March 2024, setting out the progress in the implementation of the Rights of Persons with Disabilities Act 2016¹ across the country.

4 We have heard Mr K Parameshwar, counsel for the petitioner and Mr Vikramjit Banerjee, Additional Solicitor General for the Union of India.

5 Mr Parameshwar has prepared a note indicating the status of compliance after duly incorporating the facts set out in the affidavit filed by the Union of India. The position as it emerges before the Court is as follows:

(i) Appointment of Commissioners under Section 79:

The States of Andhra Pradesh, Chhattisgarh, Jharkhand, Punjab, Tripura and Uttar Pradesh; and the Union Territories of Andaman & Nicobar, Lakshadweep and Chandigarh have not appointed Commissioners.

(ii) Creation of State Fund under Section 88:

The States of Gujarat, Himachal Pradesh, Kerala, Mizoram and West Bengal; and the Union Territories of Daman and Diu, NCT of Delhi and Jammu & Kashmir and Ladakh have yet not created the fund.

(iii) Special Court for speedy trial of offences under Section 84 and Public Prosecutors under Section 85:

The States of Arunachal Pradesh and West Bengal do not have Special Courts, and consequently Special Public Prosecutors. The State of Chhattisgarh and the Union Territory of Daman & Diu do not have Special Public Prosecutors.

(iv) Assessment Board for Disability Certificate under Chapter 7 of the

1 “RPWD Act”

Central Rules:

The State of Chhattisgarh has not constituted the Assessment Board.

- (v) Assessment Board to provide "High Support" under Chapter 5-A of the Central Rules:

The Union Territories of Jammu & Kashmir, Ladakh and Andaman & Nicobar do not have such Boards.

- (vi) Committee for Research on Disability under Section 6(2)(ii):

The States of Kerala, West Bengal, Punjab and Arunachal Pradesh; and the Union Territories of Daman & Diu, Jammu & Kashmir and Ladakh do not have any committee.

- (vii) Designated Authority to prove limited guardianship under Section 14:

The States of Arunachal Pradesh and Sikkim; and the Union Territories of Jammu & Kashmir and Ladakh have not notified the designated authority. In relation to the Union Territory of Ladakh, the CJM has been notified as a designated authority.

- 6 The States which have failed to appoint State Commissioners for persons with disabilities under Section 79 of the RPWD Act 2016, shall positively do so on or before 30 June 2024. The Chief Secretaries of the States of Andhra Pradesh, Chhattisgarh, Jharkhand, Punjab, Tripura and Uttar Pradesh; and the Union Territories of Andaman and Nicobar, Lakshadweep and Chandigarh shall file their affidavits of compliance by 8 July 2024.
- 7 The implementation of the Act needs to be set right. The Department of Empowerment of Persons with Disabilities in the Ministry of Social Justice and Empowerment shall duly take up the issue with all their counterparts in the States/Union Territories and report the updated status of compliance before this Court on or before the next date of listing.

8 List the Petition on 19 July 2024.

(CHETAN KUMAR)
A.R. -cum-P.S.

(SAROJ KUMARI GAUR)
Assistant Registrar