

**2023 LiveLaw (SC) 545**

**IN THE SUPREME COURT OF INDIA**

**D.Y. CHANDRACHUD; CJI., PAMIDIGHANTAM SRI NARASIMHA; J., MANOJ MISRA; J.**

**WRIT PETITION (CIVIL) Diary No(s). 29329/2021; 17-07-2023**

**SEEMA GIRIJA LAL & ANR. versus UNION OF INDIA & ORS.**

**Right of Persons with Disabilities Act, 2016 - The Supreme Court directed all State Governments to comply with the provisions of the RPwD Act expeditiously before September 30, 2023 also to appoint Chief Commissioners for persons with disabilities by August 31, 2023. (Para 5)**

*For Petitioner(s) Mr. K. Parameshwar, Adv. Mr. Akshay Sahay, Adv. Mr. A. Karthik, AOR Ms. Smrithi Suresh, Adv. Ms. Sreepriya K, Adv. Mr. Arsh Khan, Adv.*

*For Respondent(s) Mr. Vikramjit Banerjee, A.S.G. Mr. Amrish Kumar, AOR Mr. Nachiketa Joshi, Adv. Mrs. Swarupama Chaturvedi, Adv. Mrs. Ruchi Kohli, Adv. Mr. Jitendra Kumar Tripathi, Adv. Mr. Sidharth Sinha, Adv. Mr. Santosh Krishnan, AOR Mr. Sahil Bhalaik, Adv. Mr. Sumeer Sodhi, AOR Mr. Arjun Nanda, Adv. Mr. Nishe Rajen Shonker, AOR Mrs. Anu K Joy, Adv. Mr. Abraham C Mathew, Adv. Mr. Alim Anvar, Adv. Dr. Ravindra Chingale, Adv. Mr. Siddharth Dharmadhikari, Adv. Mr. Aaditya Aniruddha Pande, AOR Mr. Bharat Bagla, Adv. Mr. Sourav Singh, Adv. Mr. Shreekanth Neelappa Terdal, AOR Mr. Kanu Agrawal, Adv. Mr. Varun Chugh, Adv. Mr. Ankit Raj, Adv. Mr. Bhuvan Kapoor, Adv. Dr. N. Visakamurthy, Adv. Mr. Sahil Bhalaik, AOR Mr. Tushar Giri, Adv. Mr. Siddharth Anil Khanna, Adv.*

**ORDER**

**1** The Union government has filed an affidavit through the Joint Secretary in the Department of Empowerment of Persons with Disabilities in the Ministry of Social Justice and Empowerment. Annexure II to the affidavit indicates the status of the implementation of the provisions of the Rights of Persons with Disabilities Act 2016<sup>1</sup> in the States/Union Territories as on 11 May 2023.

**2** The status of implementation of the legislation indicates a dismal position across the country. For convenience of reference, the tabulated statement, as annexed by the Union of India to the affidavit, is reproduced below:

**“Status of implementation of the provisions of Rights of Persons with Disabilities Act, 2016 by the States/UTs as on 11.05.2023**

<b>Sr. No.</b>	<b>Relevant sections of the Rpwd Act, 2016</b>	<b>States yet to comply</b>
1	Notification of Rules as per Section 101 of the RPwD Act, 2016	Chattisgarh, Ladakh, Maharashtra
2	Constitution of State Advisory Board as per Section 66 of the RPwD Act, 2016	Andhra Pradesh, Dadra and Nagar Haveli and Daman and Diu, Ladakh, Rajasthan
3	Independent Commissioner for PwDs as per Section 79 of the RPwD Act, 2016	Andaman and Nicobar Islands, Andhra Pradesh, Chandigarh, Chattisgarh, Dadra and Nagar Haveli and Daman and Diu, Himachal Pradesh, Jharkhand, Karnataka, Ladakh, Lakshadweep, Punjab, Tamil Nadu, Tripura
4	Constitution of District Level Committees as per Section 72 of the RPwD Act, 2016	Chandigarh, Dadra and Nagar Haveli and Daman and Diu, Kerala, Ladakh and Lakshadweep

<sup>1</sup> “Act”

5	Designation of Special Court as per Section 84 of the RPwD Act, 2016	Arunachal Pradesh, Chattisgarh, Ladakh, West Bengal
6	Appointment of Public Prosecutor as per Section 85 of the RPwD Act, 2016	Arunachal Pradesh, Chattisgarh, Dadra and Nagar Haveli and Daman and Diu, Goa, Haryana, Jammu and Kashmir, Jharkhand, Ladakh, Maharashtra, Manipur, Mizoram, Nagaland, Sikkim, Telangana, Uttarakhand, West Bengal
7	Appointment of Nodal Officer in District Education office as per Sections 16,17 and 31 of the RPwD Act, 2016 and Rule 7 of the RPwD Rules 2017	Assam, Bihar, Dadra and Nagar Haveli and Daman and Diu, Goa, Jharkhand, Maharashtra, Nagaland, Puducherry, Tripura
8	Constitution of Assessment Board for issuance of Disability Certificate as per Chapter 7 of RPwD Rules 2017	Chattisgarh (Not provided any information)
9	Constitution of Assessment Board for high support needs as per Chapter 5A of the RPwD Amendment Rules, 2019	Andaman and Nicobar Islands, Andhra Pradesh, Assam, Dadra and Nagar Haveli and Daman and Diu, Himachal Pradesh, Jammu and Kashmir, Jharkhand, Kerala, Ladakh, Maharashtra, Mizoram, Odisha, Telangana, West Bengal
10	Whether State fund for PwDs created as per Section 88 of the RPwD Act, 2016	Andhra Pradesh, Assam, Dadra and Nagar Haveli and Daman and Diu, Delhi, Goa, Himachal Pradesh, Jammu and Kashmir, Kerala, Ladakh, Maharashtra, Manipur, Meghalaya, Mizoram, Nagaland, Tripura, West Bengal
11	Constitution of Committee for Research on Disability as per Section 6 (2) (ii) of the RPwD Act, 2016	Andhra Pradesh, Arunachal Pradesh, Bihar, Dadra and Nagar Haveli and Daman and Diu, Jammu and Kashmir, Jharkhand, Karnataka, Kerala, Ladakh, Lakshadweep, Manipur, Nagaland, Puducherry, Punjab, Rajasthan, Sikkim, West Bengal
12	Designated authority to provide limited guardianship as per Section 14 of the RPwD Act, 2016	Andhra Pradesh, Arunachal Pradesh, Assam, Ladakh, Maharashtra, Nagaland, Sikkim, West Bengal
13	Appointment of authority for registration of institutions working in disability sector as per Section 49 of the RPwD Act, 2016	Lakshadweep

\*The States/UTs having separate departments for persons with disabilities: Andhra Pradesh, Assam, Bihar, Chattisgarh, Madhya Pradesh, Maharashtra, Odisha, Rajasthan, Tamil Nadu, Telangana, Uttar Pradesh (Total 11)”

**3** From the above statement, it appears that Rules under Section 101 of the Act have yet not been notified by the States of Chhattisgarh, Maharashtra and by the Union Territory of Ladakh. Counsel appearing on behalf of the State of Chhattisgarh states that Rules have been notified by the State of Chhattisgarh.

**4** The Chief Commissioners are entrusted with statutory duties including the duty of monitoring the implementation of the provisions of the Act. This is evident from the provisions of Sections 75(1)(h) and Section 80(g) which define the functions of the Central

and State Commissioners, respectively. Independent Commissioners under Section 79 have not been appointed by several States and UTs, which is evident from Serial No 3 of the tabulated statement, extracted above.

**5** We direct the State Governments to ensure compliance with the provisions of the Act so as to rectify the deficiencies which have been noted in the affidavit filed by the Union government expeditiously on or before 30 September 2023. Since the Commissioners are entrusted with an important statutory function of overseeing the implementation of the provisions of the Act, the States/UTs shall ensure appointment of the Commissioners by 31 August 2023.

**6** Since both the Central and State Commissioners are statutorily entrusted with the duty to ensure the implementation of the provisions of the Act under Sections 75(1)(h) and 80(g), they shall be accountable to this Court for ensuring that due compliance has been effected in terms of this order.

**7** All State Governments/Union Territories shall upload the relevant data pertaining to the status of compliance on the dashboard of the Union Ministry of Social Justice and Empowerment. The Ministry of Social Justice and Empowerment shall coordinate with all the State Governments/Union Territories through the respective Ministries and submit a status report to this Court by 15 September 2023.

**8** List the Petition on 18 September 2023.

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