

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.11.2021

CORAM :

THE HON'BLE MR.SANJIB BANERJEE, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE P.D.AUDIKEVALU

W.P.No.21830 of 2021

Vaishnavi Jayakumar

.. Petitioner

Vs

- 1.The Central Public Works Department,
rep. by its Director General,
Room No.306 a, Nirman Bhawan,
New Delhi.
- 2.The Union of India,
rep. by its Secretary,
Ministry of Housing and Urban Affairs,
Room No.122C, Nirman Bhawan,
New Delhi.
- 3.The Union of India,
rep. by its Secretary,
Ministry of Social Justice and Empowerment,
Room No.253, A-Wing,
Shastri Bhawan,
New Delhi – 110 001.
- 4.The Chief Commissioner for Persons with Disabilities,
Sarojini House,
Bhagwan Das Road,
New Delhi.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of mandamus directing respondents 1 and 2 to publish the draft "Harmonized guidelines and standards for universal accessibility in India, 2021" in accessible format and in vernacular, make printed copies available for inspection at designated offices, provide wide publicity in print and electronic media about the draft guidelines, invite public comments for a minimum of 30 days and consider the same while finalizing the guidelines.

For the Petitioner : Mr.A.Yogeshwaran

For the Respondents : Mr.R.Shankaranarayanan
Additional Solicitor-General
assisted by
Mr.M.Karthikeyan
CGSC

ORDER

(Order of the Court was made by P.D.AUDIKEVALU, J.)

सत्यमेव जयते

The Petitioner, who is an activist for cross disability rights, has filed this Public Interest Litigation seeking a direction to the Central Government to publish the draft "Harmonised Guidelines and Standards for Universal Accessibility in India, 2021" in accessible format and in vernacular, make printed copies available for inspection at designated offices, provide wide publicity in print and electronic

media about the draft guidelines, invite public comments for a minimum of 30 days and consider the same while finalising the guidelines.

2. The First Respondent has filed counter-affidavit explaining the various steps that had been taken for preparing the relevant draft guidelines, and its summary reads as follows:-

"1. A perception survey was conducted 5th - 28th February 2021. The perception survey aimed at involving various stakeholders including Persons with disabilities, Disable Persons Organizations, Civil Societies Organizations, Implementing Agencies, policy makers, architects, engineers, domain experts etc. To maximize participation of the intended stakeholders an extensive social media campaign was also conducted through social media (twitter) for 10 days (Feb 5th - Feb 16th) - Impact numbers attached. Along with it, over 300 email communications were sent to various individuals and experts on disability rights, universal

accessibility, survey was responded by more than 40 participants comprising of disability Rights Individuals/Experts (12 nos), Accessibility Professionals (9 nos), Urban Practitioners (12 nos), Implementing Agencies (10 nos), Policy Makers (5 nos), Others (6 nos). The survey form is enclosed as Annexure R2.6."

2. Two consultations were also organised in the month of April 2021. Due to Covid-19 related restrictions, the consultations were conducted on a virtual platform (Zoom). Invites were sent to disability right groups and associations (~28 organizations) for active participation from the concerned beneficiaries. Along with this, public participation was invited through NIUA social media handles. The consultations attracted participation from across the country. Engagement numbers for the social media outreach are attached. The consultations aimed at getting insights from the citizenry on key thematic areas (Residential, Mobility, Education/employment, Recreational, Healthcare) to

understand their concerns and seek suggestions.

1) Over 60 registrations for both days from different parts of the country and from different types of disabilities were received. The consultation conducted with Persons with Disabilities, Elderly and their caregivers had about 40 participants through the length of the consultation. Prominent disability rights experts including Shampa Sengupta, Ruchira Sarin, Anubha Mahajan etc participated in the public consultations and shared insightful examples.

2) A detailed form for post consultation feedback was also sent out to all participants, who were requested to share their suggestions and insights, as well as share examples from India on elements of universal design and accessibility. 10 responses were received till date. Form is enclosed as Annexure R2.5."

The said summary also mentions that the report of the key findings and recommendations of the consultation is available on the NIUA website in public domain and the report along with the recordings was sent to all the participants. The consultation is reported to have received substantial press coverage in national and local newspapers for which links have also been provided. It is further informed that the draft framework and recommendations of the guidelines was presented to a group of national and international experts from the domains of Universal Accessibility and Disabilities Rights.

3. It has been brought to notice that thereafter the draft guidelines in furtherance to Rule 15 of the Rights of Persons with Disabilities Rules, 2017 have been prepared and that by an Office Memorandum dated August 12, 2021, the draft guidelines had been put up in public domain seeking public comments which were to be received up to August 27, 2021 at an email id mentioned therein and the said time-limit had been extended further up to October 28, 2021 by an Office Memorandum dated October 13, 2021, which was apparently for a period of more than 30 days.

4. Learned Counsel for the Petitioner contends that the Pre-Legislative Consultative Policy dated February 5, 2014 of the Central Government, has not been complied in this case. In response thereto, Learned Additional Solicitor-General asserts that all possible efforts have been taken to ensure feedback of the widest extent from the stakeholders, and materials have been placed to substantiate that various views received have been duly taken into consideration for finalizing the guidelines. It is also agreed on behalf of the Respondents that the finalized guidelines would be made available on the official website in public domain for a period of atleast ten days from today so that all interested persons would have the opportunity to make any other suggestions or objections concerning the same.

5. Having regard to the aforesaid submissions made, this Court is satisfied that there has been substantial compliance by the Respondents in carrying out the prescribed procedure for publishing the draft guidelines and inviting the views of the public. As a matter of fact, even most of the suggestions for the manner of carrying out the exercise as sought in the Writ Petition, have already been given effect by the Respondents. In any event, the guidelines even after their

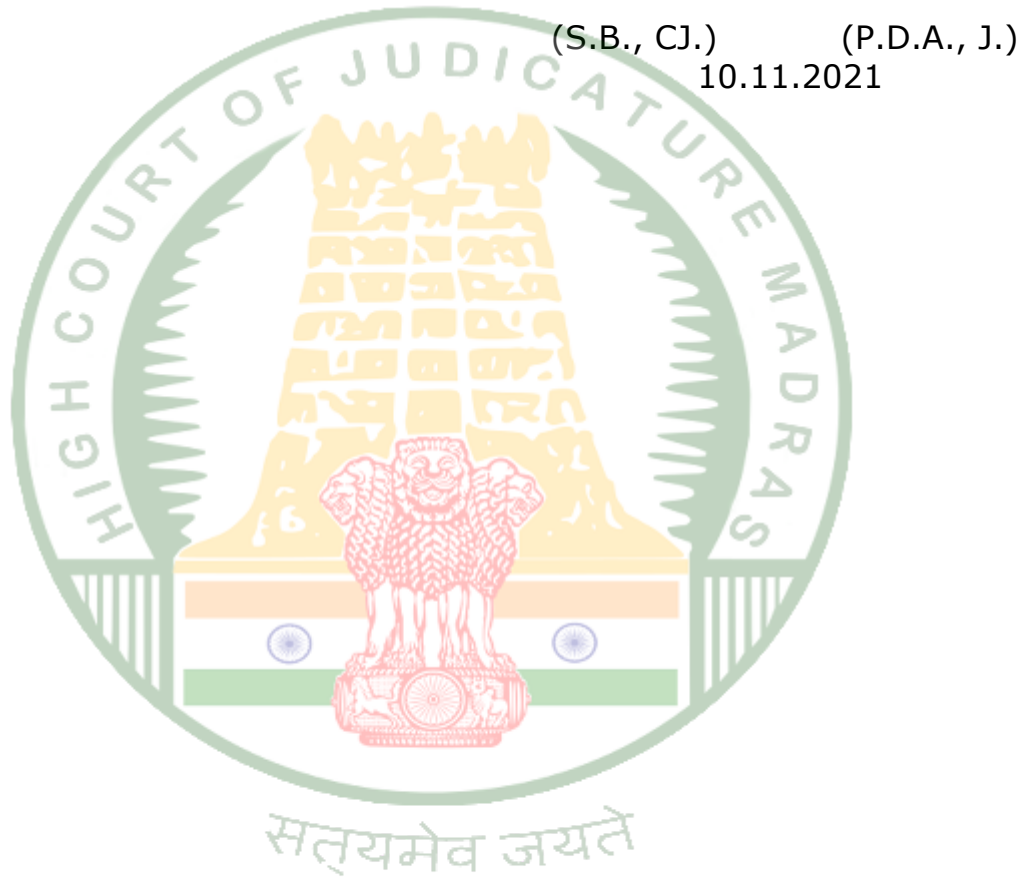
publication, are always subject to any change, if required, following the due process, or to any challenge before the appropriate forum in the manner recognised by law.

6. At this juncture, it would be necessary to point out that considering the linguistic diversity amongst the people of the country, it would be more appropriate if efforts are taken to ensure that draft legislations, like the present one, are circulated in all the official languages across the country including in printed form so that there could be wider consultation with the public at large for achieving better and broader perspectives to all issues involved before taking final decision.

7. While concluding, Learned Counsel for the Petitioner made a request that the draft guidelines, which could not be easily accessed in PDF format presently provided, may be converted into HTML format which would be more user friendly in operation, and Learned Additional Solicitor General states that its feasibility would be examined. It is earnestly hoped that a positive response would ensue in this regard.

8. In the upshot, W.P.No.21830 of 2021 is disposed on the aforesaid terms. Consequently, W.M.P.No.23013 of 2021 is closed. No costs.

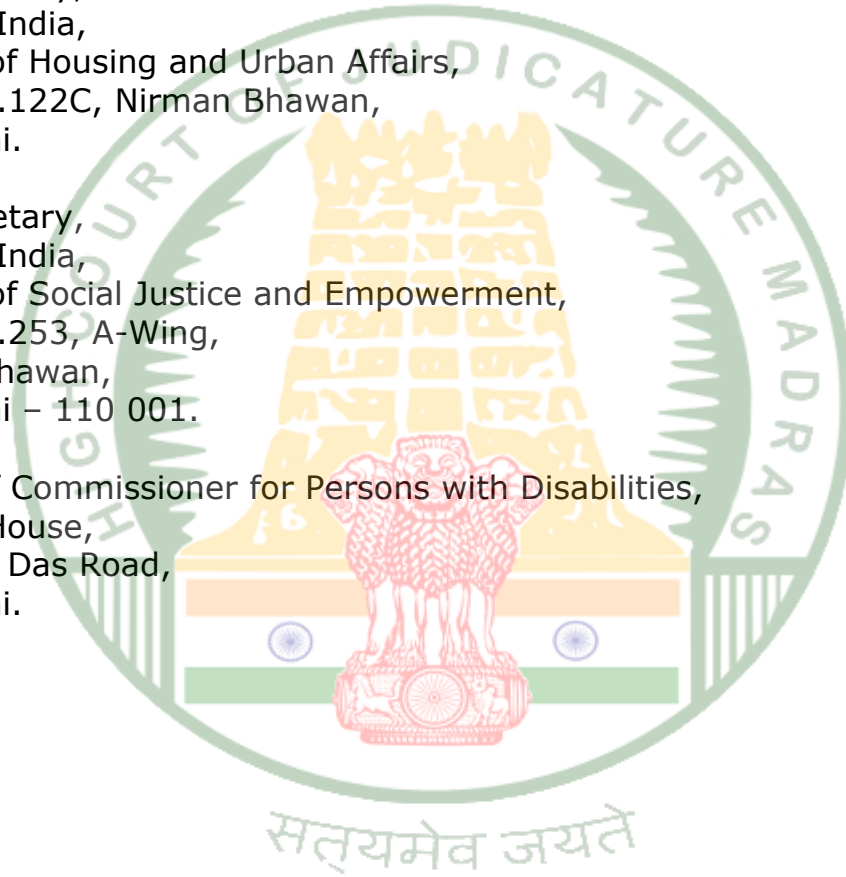
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To:

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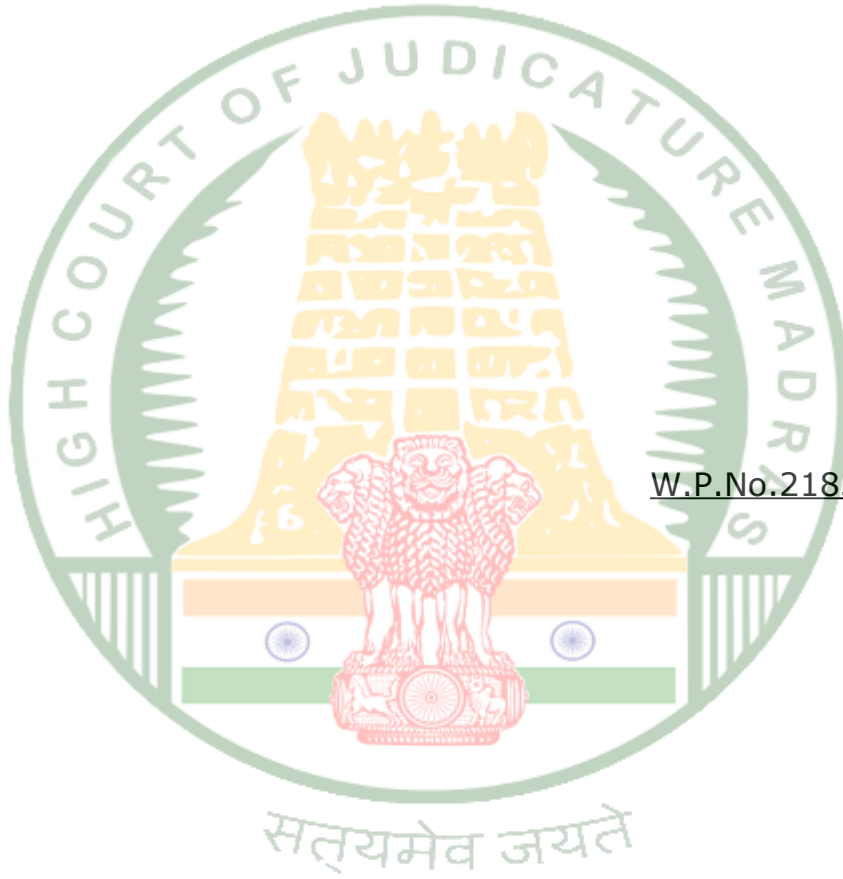


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