

IN RE:-

Complainant:

**Sh. KODAKKAL SHIVPRASAD (founder and chairman off
Indian Divyang Empowerment Association,)**

Respondent:

**The SECRETARY, Ministry of Railways (Railway Board),
Rail Bhavan, New Delhi, Delhi-110001.**

**WRITTEN ARGUMENT ON BEHALF OF
COMPLAINANT**

Brief Fact of Case

That the Ministry of Railways, which should provide concession in railway tickets to the disabled persons in alignment with the broader principles and guidelines of the Rights of Persons with Disabilities (RPwD) Act, 2016, but the railway concession policy is deviating from the RPwD Act as not providing concession to all 21 categories of disabled defined in RPWD Act, 2016. They choose only few categories of disabilities arbitrarily to provide concession in railway tickets.

Specially the condition in the Railway ticket concession format that deaf and dumb persons (both afflictions together in same person) contrary to RPwD Act, 2016 where both disabilities are separately mentioned and eligible for all protection and safeguard provided under the act.

Point for Argument

1. Disabled persons have a right for various concessions and facilities in Indian Railways, which stem from the

constitutional principle of equality and non-discrimination and are reinforced by the Rights of Persons with Disabilities (RPwD) Act, 2016. These concessions are not a matter of charity but are legally established rights designed to ensure equal opportunity and accessibility.

While the Indian Constitution doesn't explicitly list a "right to concession," it provides the foundational framework for such provisions through articles guaranteeing:

- Equality and Non-discrimination under Article 15(1) prohibits discrimination against any citizen, including disabled persons, on various grounds.
- Equal Opportunity under Article 16 secures equality of opportunity for all includes persons with disabilities.

The right to concession in Indian Railways for persons with disabilities is a provision of policy and rules established by the Ministry of Railways, which should operate in alignment with the broader principles and guidelines of the Rights of Persons with Disabilities (RPwD) Act, 2016. However, the railway concession policy is a deviation from the RPWD Act as not providing concession to all 21 categories of disabled defined in RPWD Act, 2016.

Railway doesn't have any right to discriminate between 21 categories of disabled defined in RPWD Act, 2016.

2. The RPwD Act, 2016 aims to prevent discrimination and uphold the rights of persons with disabilities. Rule 15 of the 2017 Rules specifically addresses accessibility in transportation, and the Supreme Court has recognized the right to access environments and services.

Disabled persons have a right to various concessions and facilities in Indian Railways, which are provided as a matter of state policy and legal rights under the Rights of Persons with Disabilities (RPwD) Act, 2016, other government rules and enshrined its soul in constitution.

The Indian Constitution guarantees fundamental rights such as equality (Article 14), non-discrimination (Article 15), and protection of life and liberty (Article 21) to all citizens, including those with disabilities. The concessions are the government's way of taking affirmative action to ensure these constitutional principles of equal opportunity and non-discrimination are realized in practice. **Therefore, Railway don't have any right to discriminate between 21 categories of disabled defined in RPWD Act, 2016, while giving concessions to a few of its choice and ignoring others.**

3. Indian Railways provides substantial concessions and facilities to certain category of persons with disabilities (Divyangjan) only, in compliance with the general principles of social welfare legislation, such as the erstwhile Persons with Disabilities Act, 1995 (now superseded by the Rights of Persons with Disabilities Act, 2016). However, Indian Railways is legally required to provide concessions and accessible facilities for persons with all 21 types of disabilities (PwDs) as per the Rights of Persons with Disabilities (RPwD) Act, 2016. However, the concessions apply to specific categories of disabilities and require a valid disability certificate, not automatically to

"all" disabled individuals regardless of condition or documentation.

The requirement for concessions is part of a broader initiative to ensure equal opportunities and accessibility in public transport, as mandated by the RPwD Act, 2016. The concessions are a way to mitigate the additional costs and barriers faced by PwDs.

In Railway concession form, there is discrimination toward the persons having disability hearing impaired and persons having disability of speech impaired. That only a person with both disabilities together can be eligible to have concession in railway tickets. Thus, it is clear violation of RPWD Act 2016, where both disabilities are separately mentioned and eligible for all protection and safeguard provided under the act. Similarly, there is a discrimination to the other categories of disabilities as well. The copy of comparative table for the concession provided by railway is given in the reply dated 22.09.2020 by Executive Director Passenger Marketing, Railway Board, Ministry of Railway in Case no. 9265/1103/2018, which is annexed herewith as *Annexure A-1*.

A copy of concession form of railway is annexed here as *Annexure A-2*.

4. The RPWD Act came into force on 19 April 2017. The long title of the Act states that it is "An Act to give effect to the United Nations Convention on the Rights of Persons with Disabilities and for matters connected therewith and incidental thereto".

Further, Chapter VIII pertains to the ‘Duties and Responsibilities of Appropriate Governments’. The term “appropriate government” has been defined in Section 2(b).

Section 39 imposes an obligation on the appropriate government, in consultation with the Chief Commissioner or State Commissioner, to conduct, encourage, support or promote awareness campaigns and sensitization programmes in relation to the protection of the rights of PWDs.

Section 40 pertains to “Accessibility” and states that the Central Government, shall, in consultation with the Chief Commissioner, formulate rules for “persons with disabilities laying down the standards of accessibility for physical environment, transportation, information and communication including appropriate technologies and systems, and other facilities and services provided to the public in urban and rural areas.” The word “shall” indicates that the Central Government is mandated to make rules laying down the standards of accessibility. Section 40 must be read with Section 100 of the Act, which prescribes the power of the Central Government to make rules. The railway system in India is under the central government, specifically the Ministry of Railways, which is part of the Government of India. This ministry is responsible for the country's rail transport and is overseen by the Railway Board, a statutory body under its authority. Indian Railways is a state-owned enterprise. The Central Government through its statutory body i.e, Railway Board as appropriate government after consulting with the Chief

Commissioner, should formulate rules for concession in railway for all persons with disabilities in consonance with the RPWD Act, 2016.

Section 41 deals with one aspect of accessibility, namely, 'access to transport'. It mandates the government to ensure accessibility in transportation and promote personal mobility for persons with disabilities.

Further sub section 3 (a) of section 41 states that ' the appropriate Government shall develop schemes programmes to promote the personal mobility of persons with disabilities at affordable cost to provide for:

(a) incentives and concessions;'

Thus, it is the duty of govt. along with its instrumentalities i.e, Railway department to do the needful to support such needy persons.

As per the RPWD Act 2016 sub section 3 of section 58 read with rule 19, the certificate of disability issued under this section shall be valid across the country, thus it is duty of railway to consider the certificate issued under the above said act. thus, Commercial Circular No. 18 of 2015, is defining the process for issuing a unique Photo Identity Card by the Railways to physically challenged persons for both booking tickets at Passenger Reservation System (PRS) counters and for e-ticketing via the IRCTC website, is violation of above said section as well as whole RPWD Act, 2016 as not providing concession in railway to all 21 categories of disabled person defined in RPWD Act,2016.

In Railway concession format there is discrimination toward the persons having disability hearing impaired and persons having disability of speech impaired. that only a

person with both disabilities together can be eligible to have concession in railway tickets thus it is clear violation of RPWD Act, 2016, where both disabilities are separately mentioned and eligible for all protection and safeguard provided under the act.

5. As per section 48 of the RPWD Act, 2016, the appropriate Government shall undertake social audit of all general schemes and programmes involving the persons with disabilities to ensure that the scheme and programmes do not have an adverse impact upon the persons with disabilities and meet the requirements and concerns of persons with disabilities. The appropriate Government shall undertake social audit of all general schemes and programmes involving the persons with disabilities to ensure that the scheme and programmes do not have an adverse impact upon the persons with disabilities and meet the requirements and concerns of persons with disabilities. Thus, Govt. should remove this discrimination done by railway by providing concession to certain category instead of providing concession to all 21 categories as defined in the RPWD Act, 2016.
6. According to report Indian Railways has improved its operating ratio (OR) – a key parameter to assess financial performance – to 98.32% for fiscal 2024-25, marginally lower from 98.43% in 2023-24. This means the Railway Board spent Rs 98.32 to earn Rs 100 during the year ending March 31, 2025. Total expenditure stood at Rs 2.63 lakh crore in fiscal 2024-25, up from Rs 2.52 lakh crore in 2023-24. Total receipts (earnings) were Rs 2.65 lakh crore

during fiscal 2024-25, up from Rs 2.56 lakh crore a year ago.

The Railways registered gains across passenger, goods, sundry and other revenue. Earnings from passengers stood 6.4% higher, from a year ago, at Rs 75,239 crore. Income from goods rose 1.7% to cross Rs 1.71 lakh crore in 2024-25 from Rs 1.68 lakh crore in 2023-24. Sundry other revenue – usually from non-fare sources – reported the most improvement, zooming 19.8% to cross Rs 11,562 crore during FY25.

Railway broke the freight loading, and revenue records for fourth consecutive year in 2024-25. Freight loading during the year crossed 1.61 billion tonnes, making the India's railway network the second largest in terms of freight carried annually, overtaking the US, they said. China is the only country still ahead of India in terms of cargo handled by railways.

Provisional net revenue for the Indian Railways stood at Rs 2,342 crore for fiscal 2024-25, down from Rs 3,259.68 crore in 2023-24. Budget 2025-26 projects net revenue of Rs 3,041.31 crore for the coming fiscal through Rs 92,800 crore revenue from passengers and Rs 1,88,000 crore from freight. Thus Indian Railway is not in deficit. But giving concession to of providing concession to all 21 categories as defined in the RPWD Act, 2016 can help a alots of persons with disabilities.

That according to the Census 2001, there are 2.19 crore persons with disabilities in India who constitute 2.13 Percent of the total population. This includes persons with visual, hearing, speech, locomotor and mental disabilities.

Thus, positive Judgement of this Hon'ble Court in the above said case will affect a lot of people.

Writ Petition (c)2501 of 2019 in Delhi High Court is to set aside the commercial circular 18 of 2015 and not for concession in fare for disabled in Railway. Whose review is pending for adjudication before the Hon'ble Delhi High Court.

PRAYER

It is therefore respectfully prayed that kindly accept the assertion of complainant in the above said case and direct the railway department give concession to both disabled Person hearing impaired and persons speech impaired separately.

Further remove the condition in the Railway ticket concession format that deaf and dumb persons (both afflictions together in same person) and reform the format as according to RPWD Act, 2016 where both disabilities are separately mentioned and eligible for all protection and safeguard provided under the act.

Complainant

Shri Kodakkal Shivprasad

Through Advocate

Savita Tanwar

Mobile :9205617609



ANNEXURE A-1

**GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
(RAILWAY BOARD)**

No TC-11/2196/2020/Concession court case RPWD Act 2016

NDLS, Dt 22.9.2020

To

Commissioner for persons with disabilities,
Court of Chief commissioner for persons with Disabilities
Department of empowerment of persons with Disabilities
(Divyangjan),
Ministry of social justice and empowerment,
Govt. of India
Surojini House, 6, Bhagwan Dat Road,
New Delhi-110001.

Sub: Recommendation for formation of committee for providing concession to Divyangjan as per RPWD Act 2016.

Ref: Order in Case no. 9265/1103/2018 dated 01.09.2020. Shri Varun Shukla versus Ministry of Railways.

Vide above mentioned order dated 01.09.2020, it has been recommended for formation of committee immediately by Indian Railways to modify its concession policy in the light of RPWD Act 2016 and the guidelines for evaluation and certification of

Disabilities in view the severity and functional limitations of all disabilities as scheduled in RPWD Act 2016.

In reference to above order the following is submitted:-

At present concession provided to Divyangian:

As a welfare measure, before 20.03.2020 Railway used to extend concession in passenger fare to more than 50 categories of passengers. There were 4 categories of Divyang passengers, 11 types of patients, senior citizens, Press correspondents, war widows, sports persons etc. The element of concession varies from 10% to 100%. However in view of health advisory due to Covid 19, concessions in passenger fare has been withdrawn from 20.03.2020 to all categories except 4 categories of Divyangian, 11 categories of Patients and Students.

Concessional tickets to Divyangjan passengers are issued on production of Concession certificate in the Railway format/Unique ID issued by Railways on the basis of concession certificate, e-tickets are issued only through UID card for Divyangjan verified and issued by Railways only.

Stamp

Rohit Kumar Joint Director Passenger Marketing
Ministry of Railways
Railway Board
New Delhi

The details of the four categories who are eligible for concession
are as under:

| S.No. | CATEGORY OF PERSONS | PERCENTAGE OF CONCESSION |
|---|--|---|
| 1 | Person with Disabilities (Divyangjan) | |
| 1 | Orthopaedically Handicapped/ Paraplegic persons who cannot travel without escort- for any purpose | 75% in 2 nd , SL, 1 st Class, 3AC, AC chair Car. |
| 2 | Mentally retarded persons who cannot travel without escort- for any purpose | 50% in 1AC and 2AC |
| 3 | Person with visual impairment with total absence of sight travelling alone or with an escort-for any purpose. | 25% in 3AC & AC Chair Car of Rajdhani/Shatabdi trains 50% in MST & QST One escort is also eligible for same element of concession |
| 4 | Persons with hearing and speech impairment totally (both afflictions together in the same person) travelling alone or with an escort-for any purpose. | 50% in 2 nd , SL and 1 st Class 50% in MST & QST One escort is also eligible for same element of concession. |
| The facility to book ticket alone has also been provided. However, the eligibility criteria for availing the concession remains the same | | |

2. Categories of Divyangian as per RPWD ACT 2016:

The following categories of people have been declared as disabled person under Rights of Persons with Disabilities Act (RPWD) 2016.

| | |
|---|--|
| (1) Blindness | (12) Speech and language disability |
| (2) Low Vision | (13) Intellectual disability |
| (3) Leprosy cured person- Loss of sensation, manifest deformity and paresis, extreme physical deformity | (14) Specific learning disability |
| (4) Hearing impairment | (15) Autism Spectrum disorder |
| (5) Locomotor disability | (16) chronic neurologic conditions multiple sclerosis |
| (6) Mental Retardation | (17) Parkinson's Disease |
| (7) Mental Illness | (18) blood disorder hemophilia |
| (8) Cerebral Palsy | (19) Thalassemia |
| (9) Dwarfism | (20) Multiple Disabilities |
| (10) Muscular dystrophy | (21) Sickle cell disease |
| (11) Acid attack victim | |

3. Railway concession to Divyangjan vis a vis Divyangjan as per RPWD Act 2016:-

Comparative statement for eligible disabled persons for Railway concession and eligibility as per Rights of persons with disabilities Act 2016 (RPWD Act 2016) are summarized as under:-

| As per Railways provisions | As per RPWD Act 2016 | Comments of this office |
|---|--|--|
| Orthopaedically Handicapped/Paraplegic Persons Who Cannot Travel Without Escort (Any purpose) | <ol style="list-style-type: none"> 1. Leprosy cured 2. Locomotor disability 3. Cerebral Palsy 4. Dwarfism 5. Sickle cell disease# 6. Parkinson's Disease 7. Muscular Dystrophy 8. Acid attack victim 9. Hemophilia# 10. Thalassemia# 11. Multiple sclerosis 12. Chronic conditions | <p>No common eligibility therefore concession to all such categories not recommended.</p> <p>However, concession is separately admissible for patients mentioned at following serial numbers</p> <ol style="list-style-type: none"> 1. Leprosy (non infectious) 2. Sickle cell anemia 3. Hemophilia 4. Thalassemia. <p>For patients mentioned above permanent certificate is not required. Certificate is issued by doctor at a time</p> |

| | | |
|---|--|---|
| | | of onward and return journey if required. (when travelled for treatment only) not for all purposes like Divyangjan. |
| Mentally retarded persons who cannot travel without escort (Any purpose) | <ol style="list-style-type: none"> 1. Mental Retardation 2. Mental Illness 3. Specific Learning Neurological Disabilities 4. Intellectual Disability 5. Autism Spectrum | Mental retardation and Mental illness may be considered as Mentally retarded persons who cannot travel without escort. However, other parts at SI No. (3) to (5) may not come under the category of Mentally retarded persons who cannot travel without escort. |
| Persons with visual impairment with total absence of sight traveling alone or with an escort (Any purpose) (Completely blind) | <ol style="list-style-type: none"> 1. Blindness 2. Low Vision | Blindness can be considered equivalent to persons with visual impairment with total absence of sight persons. However low vision will not come under the category of blind persons for getting |

| | | |
|--|--|---|
| | | railway concession. |
| Persons with hearing and speech impairment totally (both afflictions together in the same person) (Any purpose) (completely deaf and dumb) | 1. Hearing impairment 2. Speech and Language disability | Railway provide concession to persons with both affliction together at SI No. 1&2. Therefore it shall not be feasible to allow concession in fare on the basis of one disability at SI No. 1&2 either only hearing impairment or only speech and language disability. |
| | Multiple disabilities | Nil |

4. Communication between Ministry of Railways and Minister of Social Justice and Empowerment:

- (i) A letter dated 25.04.2018 was received from Dr. Thawarchand Gehlot, Minister of Social Justice and Empowerment, Government of India for allowing concession to all categories of persons as per RPWD ACT 2016.

In reference of above mentioned letter a reply dated 31.10.2018 has already issued stating that the concession can be given to other categories as per terms and conditions of Ministry of social Justice and Empowerment if the revenue foregone due to concession is borne by Ministry of social Justice and Empowerment. If Ministry of Social Justice and Empowerment agrees to bear the cost of revenue foregone due to concession to be given to disabled persons as per RPWD Act 2016, Railway will provide all assistance in this regard.

(ii) Letter issued by then Member Traffic/Railway Board to Secretary social justice and empowerment for reimbursement of revenue foregone due to concession being given to Divyangjan

(iii) in reference of court case pending before Hon'ble High court of Delhi, a number of letters have been sent to Ministry of social justice and empowerment to bear the cost of revenue foregone due to concession being given to the existing four categories of Divyangjan as well as if concession is given to all Divyangjan as per RPWD Act 2016 as per decision of Ministry of social justice and empowerment, the cost of revenue foregone to be borne by them not by railways. But no reply has been received from Ministry of Social justice and empowerment/Deptt. Of empowerment of persons with disabilities.

5. Pending Court Case before Hon'ble High Court of Delhi:

A Similar case is pending before Hon'ble High Court of Delhi having number WP©2501 of 2019 filed by NATIONAL PLATFORM FOR THE RIGHTS OF THE DISABLED (NPRD)

THROUGH ITS GENERAL SECRETARY against Ministry of Railways and others. As per last judgement dated 05.02.2020 uploaded on the website the case is still pending. The main issue of the case is as under-

"Allowing UDID card issued as per RPWD ACT 2016 for Railway concession."

In view of above we may wait for the final decision of Hon'ble High Court of Delhi in this regard and during the interim period Ministry of Social Justice and empowerment may be directed to examine the letters sent from Ministry of Railways and reply thereupon.

Sd/-

(Neeraj Sharma)

Executive Director Passenger Marketing
Railway Board

True type copy



Annexure A-2

Concession Certificate for persons with Disabilities
(Divyangjan)

Concession certificate form for orthopaedically handicapped/paraplegic person /patients/mentally retarded person/person with visual impairment with total absence of sight/person with hearing and speech impairment totally (both afflictions together in the same person)

| |
|---|
| Paste passport size photograph Duly signed and stamped by the issuing Doctor |
|---|

This is to certify that Km/Shri/Smt. _____ whose particulars are furnished below is a bonafide ORTHOPAEDICALLY HANDICAPPED/PARAPLEGIC PERSON /PATIENTS WHO CANNOT TRAVEL WITHOUT THE ASSISTANCE OF AN ESCORT/MENTALLY RETARDED PERSON WHO CANNOT TRAVEL WITHOUT AN ESCORT/PERSON WITH VISUAL IMPAIRMENT WITH TOTAL ABSENCE OF SIGHT/PERSON WITH HEARING AND SPEECH IMPAIRMENT TOTALLY (BOTH AFFLICTIONS TOGETHER IN THE SAME PERSON)

Particulars:

- a) Address: _____
- b) Father's /Husband's Name _____
- c) Age: _____
- d) Sex: _____

e) Nature of Handicap: (To be written by doctor whether the disability is temporary or permanent):_____

f) Signature or thumb impression of the person seeking concession (not necessary for those with both hands missing or non-functional):_____

(Signature of Government Doctor#)

Place:_____

Date:_____

Clear seal of Government Hospital# _____

Seal containing full name and

Registration Number of the Doctor#

*Strike out where not applicable.

for PERSON WITH VISUAL IMPAIREMENT WITH TOTAL ABSENCE OF SIGHT, RMP/Head of institution for the blind recognized can also issue certificate for visual impairment (with total absence of sight).

- 1) The certificate should be issued only to those ORTHOPAEDICALLY HANDICAPPED/PARAPLEGIC PERSON/PATIENTS WHO CANNOT TRAVEL WITHOUT AN ESCORT/PERSON WITH VISUAL IMPAIREMENT WITH TOTAL ABSENCE OF SIGHT/PERSON WITH HEARING AND SPEECH IMPAIRMENT TOTALLY (BOTH AFFLICTIONS TOGETHER). The photo must be signed and stamped in such a way that doctor's signature and stamp appears partly on the photo and partly on the certificate.

- 2) For mentally retarded person/PERSON WITH VISUAL IMPAIRMENT WITH TOTAL ABSENCE OF SIGHT/PERSON WITH HEARING AND SPEECH IMPAIRMENT TOTALLY (BOTH AFFLICTIONS TOGETHER), the certificate will be valid for five years from the date of issue. For temporary disability in the case of orthopaedically/paraplegic persons, the certificate will be valid for 5 years and in case of permanent disability the certificate will remain valid for (i) five years in case of persons upto the age of 25 years, (2) ten years in case of persons in the age group of 26 to 35 years and (3) in case of persons above the age of 35 years the certificate will remain valid for whole life of the concerned persons. After expiry of the period of validity of the certificate, the person is required to obtain a fresh certificate.
- 3) Photocopy of this certificate is accepted for the purpose of grant of concession. The original certificate will have to be produced for inspection at the time of purchase of concessional ticket and during the journey, if demanded.
- 4) No alternation in the form is permitted.

TRUE TYPED COPY

A handwritten signature in blue ink, appearing to read 'Anwar', is written on a light pink rectangular background.