

**Court No. - 4**

**Case :-** WRIT - C No. - 3647 of 2024

**Petitioner :-** Aakarsh Matta Thru. His Father Manoj Kumar Matta

**Respondent :-** Consortium Of National Law Universities, National Law School Of India Uni. Thru. Secy. And Another

**Counsel for Petitioner :-** Rachit Gupta, Sushant Singh, Sushil Yadav

**Counsel for Respondent :-** Rajat Gangwar, Ashmita Singh, Shishir Yadav

**Hon'ble Abdul Moin, J.**

1. Rejoinder affidavit filed today is taken on record.
2. Heard Shri Vikas Singh, learned counsel who has filed vakalatnama on behalf of the petitioner, which is taken on record, Shri Rajat Gangwar, learned counsel appearing for respondent No.1 and Shri Manik Sinha, learned Senior Advocate assisted by Shri Shishir Yadav, learned counsel for respondent No.2.
3. Under challenge is the email dated 22.01.2024, a copy of which is annexure 14 to the petition, as well as the email dated 05.02.2024, a copy of which is annexure 18 to the petition sent by the respondent No.1 whereby it has been indicated that as the petitioner has failed to produce Person With Disability (PWD) Certificate of permanent disability as per University norms, the National Law University, in this case the respondent No.2, has rejected the claim of the petitioner for admission in the seat under PWD category.
4. A further prayer is for quashing the decision taken by the respondent No.2 in respect of rejecting the petitioner's disability

certificate dated 20.12.2023, quashing the 3rd provisional list of CLAT 2024 published by respondent No.1 as contained as annexure 13 to the petition and for reinstating the admission of the petitioner at the respondent No.2 University as per the 2nd provisional list and to further conduct the rounds of admission counselling process of CLAT 2024 only after redetermining and re-publishing the 3rd provisional list issued for CLAT 2024 and to grant admission to the petitioner on the basis of his All India Rank under PWD category in CLAT 2024.

5. Bereft of unnecessary details, the facts of the case as set forth by the learned counsel for the petitioner are that the petitioner, as a PWD candidate, had appeared in CLAT 2024 conducted by the respondent No.1. The petitioner claims to have secured admission in the respondent No.2 Institution in the second round of counselling with the respondent No.2 University for the purpose of admission in the law course under CLAT 2024. The petitioner claims that he is having the disability certificate issued by the Department of Psychiatry And National Drug Dependence Treatment Centre (NDDTC), AIIMS, South Delhi which has diagnosed the case of the petitioner as "Specific Learning Disability in Writing Only" and his disability has been indicated as greater than 40%. The age of the petitioner in the certificate has been indicated as 17 years, his date of birth being 13.09.2006 and the said certificate is valid up to 20.12.2026 i.e. for a period of 3 years from the date of the said certificate having been issued i.e. on 20.12.2023.

6. Despite the petitioner having secured the admission in the second round of counselling in the respondent No.2 University, with which the present controversy is concerned, as per the aforesaid e-mail sent by the respondent No.1, the petitioner has been informed that the respondent No.2 has rejected the

admission of the petitioner as he has failed to produce the PWD certificate of permanent disability as per the University norms.

7. Attention of the Court has been invited towards the definitions as given under Sections 2(r), 2(zc) of the Rights of Persons with Disabilities Act, 2016 (**hereinafter referred to as "Act, 2016"**) along with Sections 16 & 17 of the Act, 2016 and Clause 2 of the Schedule annexed with the Act, 2016.

8. The contention is that Section 2(r) of the Act, 2016 defines "person with benchmark disability" as a person with not less than forty percent of a specified disability; Section 2(zc) defines "specified disability" as the disabilities as specified in the Schedule.

9. Clause 2 of the Schedule of the Act, 2016 indicates the intellectual disability as a condition characterised by significant limitation both in intellectual functioning and adaptive behaviour including (a) "specific learning disabilities" meaning heterogenous group of conditions wherein there is a deficit in processing language, spoken or written, that may manifest itself as a difficulty to comprehend, speak, read, write, spell or to do mathematical calculations.

10. Para 16 of the Act, 2016 prescribes a duty of educational institutions to provide inclusive education to the children with disabilities and towards that end, to admit them without discrimination and provide education and opportunities for sports and recreation activities equally with others.

11. Reliance has also been placed on the Guidelines for the purpose of assisting the extent of specified disability of a person included under The Rights of Persons with Disabilities Act, 2016 (hereinafter referred to as 'Guidelines') as published in the

Gazette of India on 05.01.2018 to contend that Clause 22 of the Guidelines indicates about the specific learning disability (sld) of which Clause 22.1 of the Guidelines defines "specific learning disabilities" which has the same meaning as assigned in Clause 2(a) of the Schedule of the Act, 2016 and Clause 22.6 of the Guidelines indicates about the validity of certificate which provides that the certification will be done for children aged eight years and above only and that the child will have to undergo repeat certification at the age of 14 years and at the age of 18 years and that the certificate issued at the age of 18 years will be valid life-long.

12. Placing reliance on the aforesaid, the argument of Shri Vikas Singh, learned counsel for the petitioner is that in terms of the disability certificate issued by the department, which is valid up to 20.12.2026, the petitioner has been diagnosed as having specific learning disability. The age of the petitioner has been indicated as 17 years and in terms of Clause 22.6 of the Guidelines, the said certificate having being issued for a person less than 18 years, as in this case, is having a validity up to 20.12.2026 i.e. for a period of three years, and only a certificate issued at the age of 18 years would be valid life-long.

13. The argument is that the respondents have failed to consider this aspect of the matter while rejecting the admission of the petitioner on the ground that the petitioner has failed to produce the PWD certificate as per the University norms which is an order which would run contrary to the provision of the Act, 2016, the Schedule and the Guidelines which have been issued in this regard by the Government of India.

14. The further argument is that once the petitioner is having the disability certificate which has been issued in terms of the Guidelines as issued by the Government of India, consequently

the rejection of his claim for admission by the respondents is patently misconceived and thus, it is prayed that the impugned orders / email be quashed with a further direction to respondents to admit the petitioner towards the law course under the respondent No.2 in terms of his merit assessed as per his status as PWD.

15. On the other hand, Shri Manik Sinha, learned Senior Advocate assisted by Shri Shishir Yadav, learned counsel for respondent No.2 has defended the orders / emails impugned whereby the admission of the petitioner has been rejected.

16. The contention of Shri Manik Sinha, learned Senior Advocate is that Section 2(s) of the Act, 2016 defines a person with disability as a person with long term physical, mental, intellectual or sensory impairment.

17. The argument of Shri Sinha is that a person seeking admission under PWD is required to have a permanent certificate of being physically handicapped while the certificate which has been produced by the petitioner is only a temporary certificate valid up to the year 2026 and as such, it is always open for the petitioner to get a permanent certificate and thereafter stake his claim for admission in the respondent No.2 University.

18. Reliance has also been placed on an Office Memorandum dated 17.05.2022 issued by Government of India, Ministry of Personnel Public Grievance & Pension, Department of Personnel and Training, New Delhi to contend that there has to be a permanent disability of a person in order to be entitled to seek admission in an educational institution.

19. Shri Rajat Gangwar, learned counsel appearing for

respondent No.1 states that the respondent No.1 has no role in the matter inasmuch as, conscious decision has been taken by the respondent No.2 University to not admit the petitioner and that the counselling is now over.

20. Shri Sinha also states at bar that despite the respondent No.2 University having indicated in the counter affidavit that the quota for PWD towards the physically handicapped is full yet he has got instructions from the University that sufficient number of seats are still available against the physically handicapped quota inasmuch as, despite an allotment having been made in the fourth round of counselling to another physically handicapped candidate, the said candidate has opted for some other University and as such, the seat is still lying vacant.

21. Heard the learned counsels for the parties and perused the record.

22. From a perusal of the record, it emerges that the petitioner is a physically handicapped student who has secured admission in the second round of counselling with the respondent No.2 University against PWD quota. His admission has been turned down by the University by means of the two emails dated 22.01.2024 and 05.02.2024, copies of which are annexures 14 & 18 to the petition respectively, on the ground that the petitioner has failed to produce the PWD certificate of permanent disability as per the University norms.

23. The said ground has been elaborated by Shri Sinha, learned Senior Advocate by contending that the disability certificate, as possessed by the petitioner, only indicates that it is a temporary certificate which is valid up to 20.12.2026 and thus, as the petitioner is not having a permanent disability certificate,

consequently, there cannot be any question of he being admitted in the respondent No.2 University.

24. In order to consider the grounds of rejection as taken by the respondent No.2 University, the Court may have to consider the provisions of the Act, 2016, more particularly, Sections 2(r), Section 2(zc), the Schedule annexed to the Act, 2016 as well as Guidelines dated 05.01.2018.

25. Section 2(r) reads as under:

*"(r) "person with benchmark disability" means a person with not less than forty per cent. of a specified disability where specified disability has not been defined in measurable terms and includes a person with disability where specified disability has been defined in measurable terms, as certified by the certifying authority;"*

26. Section 2(zc) reads as under:

*"(zc) "specified disability" means the disabilities as specified in the Schedule;"*

27. The Schedule to the Act, 2016, more particularly, Clause 2 reads as under:

*"2. Intellectual disability, a condition characterised by significant limitation both in intellectual functioning (reasoning, learning, problem solving) and in adaptive behaviour which covers a range of every day, social and practical skills, including-*

*(a) "specific learning disabilities" means a heterogeneous group of conditions wherein there is a deficit in processing language, spoken or written, that may manifest itself as a difficulty to comprehend, speak, read, write, spell, or to do mathematical calculations and includes such conditions as perceptual disabilities, dyslexia, dysgraphia, dyscalculia, dyspraxia and developmental aphasia;*

*(b) "autism spectrum disorder" means a neuro-developmental condition typically appearing in the first three years of life that significantly affects a person's ability to communicate, understand relationships and relate to others, and is frequently associated with unusual or stereotypical rituals or behaviours."*

28. From perusal of Section 2(r) of the Act, 2016, it emerges that a person with benchmark disability has been defined as a person with not less than 40% of a specified disability. Section

2(zc) of the Act, 2016 defines specified disability as disabilities specified in the Schedule. The Schedule indicates the specified disability of which Clause 2(a) of the Schedule defines a specific learning disability as a condition wherein there is a deficit in processing language, spoken or written, that may manifest itself as a difficulty to comprehend, speak, read, write, spell or to do mathematical calculations.

29. As per the disability certificate of the petitioner, the certificate defines the disability of the petitioner as specific learning disability in writing only and thus the said disability is covered in terms of Clause 2 of the Schedule read with Section 2(r) of the Act, 2016 as well as Section 2(zc) of the Act, 2016.

30. However the disability certificate of the petitioner is only valid up to 20.12.2026 having been issued on 20.12.2023 i.e. has been issued for a period of 3 years by indicating the age of the petitioner as 17 years.

31. The ground of rejection, as has been taken by the respondents, is that the petitioner is not having a permanent disability certificate.

32. As the petitioner is aged 17 years, he obviously cannot be possessed of a permanent disability certificate considering the provision of Clause 22.6 of the Guidelines dated 05.01.2018 which itself indicates that for children aged less than 18 years, there has to be repeated certification and that a certificate issued at the age of 18 years will be valid life-long. Once the Guidelines to the Act, 2016 themselves do not provide for a permanent disability certificate to be issued for children less than 18 years of age and a permanent certificate can only be issued at the age of 18 years as such, in case the petitioner, who is aged less than 18 years, is not having a permanent disability



certificate, consequently the same cannot be held against him in order to deprive him of admission in the respondent No.2 University more particularly when admittedly the petitioner has already secured the admission in the second round of counselling as per his merit under PWD in the respondent No.2 University.

33. So far as the ground taken by Shri Sinha, learned Senior Advocate of an office memorandum dated 17.05.2022 is concerned, needless to mention that the same pertains to the reservation in promotion to persons with benchmark disabilities. The petitioner is not seeking any promotion after his employment rather he is only seeking admission in an educational institution and thus, the said office memorandum shall have no applicability in the present facts and circumstances.

34. Thus, it is apparent that the ground taken by the respondents while rejecting the claim of the petitioner for admission in the respondent No.2 University is patently misconceived and consequently, the impugned communications in this regard merit outright quashing.

35. Shri Manik Sinha, learned Senior Advocate has fairly stated that one vacancy towards the physically handicapped quota is still available in the respondent No.2 University.

36. Keeping in view of the aforesaid discussion, the writ petition is **allowed**. The orders / emails impugned dated 22.01.2024 & 05.02.2024, copies of which are annexures 14 & 18 to the petition respectively are **quashed**. A writ in the nature of mandamus is issued commanding the respondent No.2 University to admit the petitioner in the BA LLB course against the vacancy of physically handicapped quota.

37. It is further provided that after the petitioner attains the age of 18 years, he would also be submitting a permanent disability certificate with the respondent No.2 University within six months of the petitioner attaining the age of 18 years. In case the certificate is not submitted, it would be open for the University to act against the petitioner in accordance with law.

38. At this stage, learned counsel for the petitioner informs that the last date for deposit of fee was only till today i.e. 10.06.2024. He prays that the petitioner may be permitted to deposit the fee which would be deposited within next seven days.

39. Considering the aforesaid, the petitioner is permitted to deposit the fee within next seven days which will be accepted by the University.

40. Shri Manik Sinha, learned Senior Advocate assisted by Shri Shishir Yadav, learned counsel for respondent No.2 shall inform about this order to the respondent No.2 University without waiting for the certified copy of this order.

**Order Date :- 10.6.2024**  
S. Shivhare