



## न्यायालय मुख्य आयुक्त दिव्यांगजन

**COURT OF THE CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES (DIVYANGJAN)**  
 दिव्यांगजन सशक्तिकरण विभाग/Department of Empowerment of Persons with Disabilities (Divyangjan)  
 सामाजिक न्याय और अधिकारिता मंत्रालय/Ministry of Social Justice & Empowerment  
 भारत सरकार/Government of India

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### Case No. 13729/1101/2023

In the matter of—

Shri Rahul Bajaj,  
 Attorney, Ira Law, Senior Associate Fellow,  
 Vidhi Centre for Legal Policy,  
 R/o Block 12, Sarvapriya Vihar apartments,  
 New Delhi-110016,  
 Email: rahul.bajaj1038@gmail.com

... Complainant

### Versus

(1) Radisson Blue Hotel,  
 7, Wardha Road, Nagpur,  
 Maharashtra-440015  
 Through its Managing Director,  
 Radisson Hotel Group,  
 Chimes 61, 59, Bhagwan Mahaveer Marg,  
 Sector 44, Gurugram, Haryana 122003  
 Email: revenue@rdcitycenter.in

... Respondent No.1

(2) The Ministry of Consumer Affairs, Food &  
 Public Distribution,  
 Department of Consumer Affairs,  
 (Through The Secretary)  
 Sansad Bhawan, New Delhi-110001  
 Email: secy-ca@nic.in

... Respondent No.2

(3) The Chief General Manager-in-Charge,  
 Department of Regulations,  
 Reserve Bank of India,  
 12<sup>th</sup> Floor, Central Office Building,  
 Shahid Bhagat Singh Road,  
 Mumbai – 400001  
 Email: cgmicdor@rbi.org.in

... Respondent No.3

- (4) The Chief General Manager,  
Department of Payment and Settlement Systems,  
Reserve Bank of India,  
14<sup>th</sup> Floor, Central Office Building,  
Shahid Bhagat Singh Road,  
Mumbai-400001  
Email: cgmdpssco@rbi.org.in

...Respondent No.4

## 1. Gist of Complaint:

1.1 Shri Rahul Bajaj, a person with 100% visual Impairment filed a complaint dated 19.11.2022 under the Rights of Persons with Disabilities Act, 2016, hereinafter referred to as "the Act", regarding an inaccessible Point-of-Sale device at Radisson Blu Hotel, Nagpur (Maharashtra).

1.2 He submitted that the Respondent No.1 is a leading 5-star hotel in Nagpur and the Respondent No.2 is the nodal ministry entrusted with the implementation of Consumer Protection Act, 2019; implementation of Bureau of Indian Standards Act, 2016; implementation of Standards of Weights and Measures - The Legal Metrology Act, 2009, among other tasks. Respondent No.3 is India's Central Bank.

1.3 The Complainant alleged that Respondent No.1 violates several provisions of the Act specifically, Chapter VIII. The Bureau of Indian Standards notified IS17802 Parts 1 and 2 on December 24, 2021, and April 29, 2022, in relation to the Accessibility of ICT Products and Services dealing with Requirements and Conformance respectively. These BIS Standards are at par with international standards and are comparable to the accessibility standards adopted by Europe and the United States of America as well as the World Wide Web Consortium. These standards cover Point-of-Sale devices also.

1.4 The Complainant visited Respondent No.1's hotel on 25th October 2022 and was unable to effectively access the services due to their Point-of-Sale (POS) device being touch-screen based and having smooth surfaces that don't provide tactile or auditory access or feedback. The blind persons are unable to independently confirm that they are being charged the proper sum as they are unable to independently use a POS device. They would have no choice except to provide a friend, member of their family, or even the salesperson with their PIN number so they could input it on their behalf. This situation exposes the blind to the danger of fraud and theft. Code Factory on Windows Mobile, Android, and Apple's iPhone, iPod, and iPad have all demonstrated how a touch-screen device can be made accessible using current technology. These Apple devices have a built-in touch-screen interface with an inconspicuous Voiceover screen reader for non-sighted users, allowing blind and sighted users to coexist with a single device.

Respondent No.1's failure to make their Point-of-Sale device accessible to blind users makes it liable to face the full panoply of legal consequences flowing from this statutory contravention.

1.5 The private sector's obligation to make its offerings accessible to the disabled and to provide them reasonable accommodation was underscored in a three-judge bench decision of the Supreme Court in *Vikash Kumar v. Union Public Service Commission and Ors.*, 2021 SCC online SC 84. He quoted the relevant extracts of the judgment as below:

*"35 The principle of reasonable accommodation captures the positive obligation of the State and private parties [emphasis supplied] to provide additional support to persons with disabilities to facilitate their full and effective participation in society.*

...

*38 While most of the obligations under the RPwD Act 2016 are cast upon the government or local authorities, the Act and rules made under it have also imposed certain obligations on the private sector. The role of the private sector in the market has increased manifold since the advent of liberalization in India... It is imperative that not only the government but also the private sector takes proactive steps for the implementation of the RPwD Act 2016."*

1.6 Respondent No.1 is in violation of an international obligation arising out of the said convention which India has undertaken on itself for the empowerment of persons with disabilities by not complying with the Act and the Rules.

1.7 Section 89 of the Act provides for offences and penalties under Chapter XVI as follows:

*"89. Any person who contravenes any of the provisions of this Act, or of any rule made thereunder shall for first contravention be punishable with fine which may extend to ten thousand rupees and for any subsequent contravention with fine which shall not be less than fifty thousand rupees, but which may extend to five lakh rupees."*

1.8 In view of the foregoing, the Complainant prayed for:

(a) That Respondent No.1 be asked to start using accessible [i.e. physical keypad and text-to-speech enabled] Point-of-Sale devices forthwith and cease the use of touchscreen PoS devices that are not visually challenged friendly.

(b) That Respondent No. 1 be directed to conduct an accessibility audit of the

touchscreen interface of its Point-of-Sale device used in its restaurants and hotels respectively, and submit the Accessibility Audit report along with a statement of remedial actions taken within 3 months;

(c) That appropriate directions/orders of a peremptory nature be issued to Respondent No. 1, mandating time-bound compliance with the standards on accessibility as prescribed under the BIS Standards;

(d) That the present complaint may not be disposed of till the directions/orders issued by Chief Commissioner are not complied with by the Respondent No.1; and

(e) Any other order/direction/recommendation which the Chief Commissioner finds proper to impose or issue to meet the ends of justice in the instant complaint.

## **2. Submissions made by the Respondents:**

2.1 Respondent No.1 filed a reply on 23.03.2023 and denied that they violated several provisions of the Act and the Rules. On the day the Complainant visited the Hotel, the Point-of-Sale devices were operational and functional. All guests irrespective of their disability got complete independence to use the device and made their respective payments without interference from any third party. As soon as the payment is made the individual is updated on his/her mobile about the transaction via SMS service. Respondent No.1 denied that a non-sighted person is left with no choice but to provide their PIN number to a friend, a member of their family, or even the salesperson to input on their behalf. The Complainant cannot even allege himself to be an aggrieved person. No violation of any provision of law has been committed by Respondent No. 1 and no remedial action is required to be taken as false, frivolous, and vexatious allegations have been leveled. Respondent No.1 prayed for the dismissal of the complaint.

2.2 Respondent No.2 filed their reply dated 03.03.2023 and submitted that they examined the matter in the Department and the comments with reference to the BIS Standards pertaining to LITD are as follows:

(i) The provision of Numeric keys in ICT devices [Including Point-of-Sale (PoS Devices)] is already covered in standards IS 17802 (Part 1): 2021, Accessibility for the ICT Products and Services Part1: Requirements and IS 17802 (Part 2): 2022, Accessibility for the ICT Products and Services Part 2: Determination of

Conformance.

(ii) At present, these standards are voluntary in nature. These standards have already been submitted by the BIS to the Department of Empowerment of Persons with Disabilities (DEPwD), Government of India.

2.3 Respondent No.3 and Respondent No.4 did not file their reply.

### 3. Submissions made in Rejoinder:

No rejoinder was filed by the Complainant to the replies filed by Respondent No.1 and Respondent No.2 respectively.

### 4. Hearing (I):

4.1 The case was heard on **22.06.2023** via Video Conferencing by the Chief Commissioner for Persons with Disabilities on **22.06.2023**. The following persons were present during the hearing:

Sl. No.	Name of the parties/ Representatives	Mode of Presence
<b>From Complainant:</b>		
1.	Mr. Husain Anis Khan on behalf of the Complainant, Shri Rahul Bajaj	Online
<b>From Respondent No.1:</b>		
1.	Advocate Pepakayala Geetanjali	Online
<b>From Respondent No.2:</b>		
1.	Shri Chirag Shah	Online
<b>From Respondent Nos.3 &amp; 4:</b>		
1.	Ms. Karpagam R, AGM, RBI	Online
2.	Shri Shashank Kumar	Online
3.	Ms. Priyanka Soni	Online

4.2 **Record of Proceedings:** During the hearing, the Complainant's representative informed this Court that other establishments are using such payment devices that are accessible for Divyangjan with blindness. Further, the Complainant's representative expressed his willingness to share the list of such establishments with this Court.

4.3 This Court directed Respondent No.1 to conduct a meeting with the Complainant within 15 days from the date of the Record of Proceedings issued by this Court, to discuss the possible solutions of issues relating to accessibility of payment devices. Further, this Court also directed that the Complainant shall share the names of such

establishments which are using accessible payment devices, with this Court and also with Respondent No.1.

## **5. Compliance by Complainant (heard on 22.06.2023):**

5.1 Vide his email dated 13th July 2023, he narrated a similar experience at the Hyatt Regency Hotel and the Saleem's Hotel during his visits to these on 18th March 2023 and 06th June 2023 respectively.

5.2 In pursuance to the record of proceedings issued on 16.08.2023, no ATR was received from the respondents. However, the Complainant's email dated 09th September 2023 submitted his response and provided the names of the establishments using physical payment devices either in addition to or instead of touchscreen devices as detailed below:

### **I. Le Méridien:**

Le Méridien is an upscale, design-focused international hotel brand with a European perspective. It has more than 115 hotels across 35+ countries and has established itself as a five-star hotel chain. Upon inquiring with their Hyderabad and New Delhi branches, Mission Accessibility discovered that the hotel chain uses both physical and touchscreen payment devices in order to cater effectively to all its guests.

### **II. Hilton Garden Inn:**

Hilton Garden Inn is an American chain of mid-priced, limited, or focused service hotels owned by Hilton Worldwide. Its Saket branch is a four-star hotel located near the DLF Place Mall. Mission Accessibility enquired with their Saket branch to find that the hotel provides an option for physical payment devices for easy access to guests who have a visual impairment.

### **III. Hotel Avasa:**

Located in the heart of Hyderabad, Hotel Avasa is a luxury business hotel, offering top leisure amenities, seamless services, and elegant dining options. Avasa has established itself as a 5-star contemporary hotel. The hotel ensures the availability of a physical payment device in addition to a touchscreen device at all times.

#### **IV. Saleem's Restaurant:**

Saleem's Restaurant is a well-known long-standing eatery offering typical Indian, Mughlai & Chinese specialties. Located in Kailash Colony, the Restaurant used to only be equipped with a touchscreen EDC installed by Axis Bank. In response to a complaint, Rahul Bajaj v. Saleem's Restaurant, Case No. 2756/1105/2022/09/6864 (Court of State Commissioner for Persons with Disabilities, NCT of Delhi), highlighting the inaccessible nature of such touchscreen devices, through a letter dated 03 October 2022, the Restaurant, conscious of its customers who belong to the category of persons with disabilities, requested Axis Bank to install a physical EDC machine at its outlet. In its reply to the complaint before the Court of State Commissioner for Persons with Disabilities in Delhi, the Restaurant provided an assurance that it would promptly install the physical EDC machine as soon as it is provided by the Bank.

#### **6. Reply filed by Respondents No.3 and No.4:**

6.1 The Assistant General Manager, Department of Payment and Settlement Systems, RBI filed their reply dated 21.06.2023 on affidavit on behalf of respondents No.3 and No.4 and submitted that RBI is a statutory corporation constituted by the provisions of Section 3 of the Reserve Bank of India Act, 1934. RBI has been, inter alia, entrusted with the statutory obligation of administering the provisions of the Banking Regulation Act, 1949 (hereinafter referred to as BR Act) and Payment and Settlement Systems Act, 2007 (hereinafter referred to as "PSS Act"). Under the BR Act, RBI regulates and supervises the functioning of banks in the country. Under the PSS Act, RBI has been vested with powers to regulate and supervise payment systems in the country. The Radisson Blu Hotel, Respondent No.1 is not a Regulated Entity of RBI. Further, RBI did not issue any specific guidelines or instructions on the physical features/ accessibility of Point-of-Sale machines. Therefore, it is submitted that RBI is not a necessary party to the present proceedings.

6.2 However, RBI has relaxed Additional Factor Authentication (AFA) for card present transactions for a maximum value of ₹5,000/- per transaction subject to adherence to EMV standards in terms of the circular titled "Card transactions in Contactless mode – Relaxation in requirement of Additional Factor of Authentication", (DPSS.CO.PD No.752/02.14.003/2020-21 dated December 4, 2020) issued by RBI. This service can be availed subject to the cardholder switching on contactless transactions as detailed in the circular titled "Enhancing Security of Card Transactions" (DPSS.CO.PD No. 1343 /02.14.003 / 2019-20 dated January 15, 2020) issued by RBI.

6.3 The RBI stated to have organized a global hackathon and invited participation from domestic and global fintech entities to find innovative solutions to the existing challenges in the financial landscape. One of the problem statements selected for the second edition of the hackathon - HARBINGER 2023 is Innovative easy-to-use digital banking services for the differently abled (Divyaang)' with the objective to empower the Divyaang people of the country with easy-to-use innovative solutions for digital financial services. The modus operandi of a hackathon are that it is a competitive event where the participants submit ideas, create solutions, exhibit the prototypes, and the solutions are evaluated by an independent panel of judges to arrive at the winner/s. The solutions thus achieved are primarily technology-driven innovative solutions, which if found suitable can be later developed by interested entities following due process. RBI's role is limited to the conduct and completion of the hackathon and not beyond the same.

## 7. Hearing (II):

7.1 The next hearing was conducted on **14 November 2023 (online/offline)**. The following parties/representatives were present during the hearing:

Sl. No.	Name of the parties/ Representatives	Mode of Presence
<b>From Complainant:</b>		
1.	Shri Rahul Bajaj, Complainant	Online
<b>From Respondent No.1:</b>		
	None appeared	
<b>From Respondent No.2:</b>		
	None appeared	
<b>From Respondent Nos.3 &amp; 4:</b>		
1.	Shri Sandeep Kumar, Legal Assistant, RBI	Online

7.2 **Record of Proceedings:** During the online hearing, the Court inquired from Respondent No.03 which department looks after ATM and POS machines in the RBI. The Respondent said that two departments deal with matters related to ATM and POS machines, namely, the Department of Payment Settlement and the Department of Regulation.

7.3 The Court directed the Respondent to submit a report on the accessibility of ATMs including the room where it is kept, POS machines, all QR code-based Apps, debit/credit card machines, all operating software, all payment apps, and all other services available for a person with disabilities in the form of a PowerPoint presentation within 02 weeks from the date of proceedings.

7.4 The Court also agreed with the request of the Complainant that Respondent No. 5



should have close supervision and monitoring of the accessibility of all services mentioned above.

7.5 The Court took a serious view of the non-appearance of Respondent No.1 during the hearing and directed them to ensure their representation in the next hearing positively.

## 8. Hearing (III):

8.1 The 3<sup>rd</sup> hearing in the matter was conducted on **17.05.2024** in hybrid mode (online/offline). The following parties/representatives were present during the hearing:

Sl. No.	Name of the parties/ Representative	Mode of Appearing
<b>For Complainant:</b>		
1.	Shri Rahul Bajaj, Complainant	Online
2.	Shri Amar Jain	Online
<b>For Respondent No.1:</b>		
1.	Advocate Ashish Kumar	Online
<b>For Respondent No.2:</b>		
	None appeared	---
<b>For Respondent No.3, 4 &amp; 5:</b>		
1.	Shri Sandeep Kumar, Legal Officer, RBI	Online
2.	Shri V.K. Niranjan, DGM, Department of Payment and Settlement, RBI	Online
3.	Shri Shashank Kumar	Online

8.2 **Record of Proceedings:** During the hearing, the Complainant reiterated a brief background of his grievance which relates to the accessibility of the Point-of-Sale devices (PoS) specifically in the context of the Radisson Blu Hotel, Nagpur where the Complainant had visited. The sale device had a touch screen and was inaccessible to persons with 100% visual impairment (blindness) and partially blind (low vision). As had been directed by this Court in the last hearings, the Complainant had furnished the information about the hotels or restaurants namely, Le Meridian; Hilton Garden Inn; Hotel Avasa; and Saleem's Restaurant (ref. Para 5 above) which do have keypad based voice-enabled accessible Point-of-Sale devices. As had been directed by this Court, Respondent No.1 (the authority of the Radisson Blu Hotel) did not approach him so far for an interaction to make the Point-of-Sale accessible.

8.3 The Complainant further submitted that the Department of Regulations [Respondent No.3] and Department of Payment and Settlement Systems [Respondent No.4] of RBI were also directed to place their position on record what steps have been taken to ensure the accessibility of Point-of-Sale devices.

8.4 Advocate Ashish Kumar, the Counsel appearing for Respondent No.1 submitted that the Point-of-Sale devices are not touch screen based as stated by the Complainant. The reply filed on record from Respondent No.1, depicts the pictures of the devices. These machines of the Lura model are used world over by the world-wide companies and are accessible for persons with disabilities, especially for persons with visual impairment. The picture of the Point-of-Sale device was also put up before the Court for perusal. The learned Counsel pointed out the dot which was visible on the digit 5 and said that Respondent No.1 had instructed him to say that these kinds of machines have been always utilized at the hotel and no other kind of machines are used.

8.5 Shri Sandeep Kumar, Legal Officer, RBI inter-alia relied on the reply filed on record. However, he added that RBI has taken steps for the accessibility of bank branches, and ATMs and banks have been advised to enhance door-to-door banking facilities. In a reply to the question, the representative affirmed that RBI does not regulate PoS machines.

8.6 Shri V.K. Niranjan, DGM, Department of Payment and Settlement, RBI submitted that RBI does not prescribe any standard for any Point-of-Sale machine. The PoS is regulated by those who handle it.

8.9 Shri Amar Jain, Advocate for the Complainant submitted that clause 1.2.3 (i) of the Accessibility Standards and Guidelines for Banking Sector, issued by the Department of Financial Services, Ministry of Finance provides that "*The machines should be designed suitably so that they are easily accessible by visually impaired persons without compromising the security measures.*" In addition to that, there was a High Court Appointed Expert Committee which had given extensive recommendations to make PoS devices accessible. Those guidelines only say that the PoS machine should be made accessible to the visually impaired without compromising security and there is no other mention of what those accessible PoS machines should look like. But towards the end of the DFS standards, the power to issue instructions relating to accessibility has been delegated by the Ministry of Finance to the RBI as a regulator. So while the RBI is right in saying that they don't prescribe for manufacturers what the PoS standards could be for manufacturing, it is very much within its power to direct payment system participants and payment system operators to ensure accessibility of their entire infrastructure be it physical or digital, including PoS devices.

8.10 Shri Amar Jain pointed out the present problem that while there are keypad-based PoS devices, what amount is entered and unless the transfer transaction goes

through or is declined, the customer with visual impairment does not get to know what amount the merchant has punched in and what amount are transacting it for, as well as, when the PIN is entered, there is no announcement. So it's purely the guesswork. If one understands the keypad well, one can operate it. Further, it is not just about the ability to enter the PIN, also one needs to know where the enter button is, and where the cancel button is, those things are also not currently accessible, even with the physical keypad PoS devices.

8.11 In reply to a question, Shri Amar Jain submitted that in some cases there is no standardization of keypad buttons in the PoS devices.

8.12 The Counsel for Respondent No.1 submitted that mostly there is standardization in the PoS devices. Moreover, the picture of the PoS machine that had been shown to this Court is used mostly.

8.13 The Complainant also submitted that nobody appeared on behalf of the Respondent No.2 Department of Consumer Affairs, Ministry of Consumer Affairs, Food & Public Distribution. In the matter of hotels & restaurants, Respondent No.2 is a central consumer protection authority and it is their responsibility to issue the guidelines and instructions.

## **9. Observations & Recommendations:**

9.1 Upon considering the submissions of the parties, this Court concludes that the fact that the PoS device used for receiving payment from the Complainant when he visited Radisson Blue Hotel on 25.10.2022 was not accessible for him, either due to the design of the device or because of the lack of training of the staff of Respondent or both. Respondents are therefore, duty-bound to issue guidelines for ensuring a practicable solution where the transactions could be made by persons with disabilities, especially those with visual impairment without causing any threat to their financial security and privacy. This also compromises their dignity as they would become dependent on a third party for the payment to be processed.

9.2 This Court, therefore, directs Respondent No. 1 to ensure that they continue to use physical keypad-based Point-of-Sale devices in all their hotels across the country. The RBI (Respondent No. 3 & 4) is directed to issue appropriate guidelines to all payment system operators and payment system participants to ensure that all payment systems that are approved by them, including the Point-of-Sale devices, are accessible to persons with disabilities. It is imperative that every establishment have some keypad-

based Point-of-Sale devices as the touchscreen-based Point-of-Sale devices may have issues of accessibility for visually impaired persons in the absence of a screen reading software. Respondent No. 2 is also directed to ensure that similar guidelines are issued to all hotel and restaurant associations to ensure that they use accessible Point-of-Sale devices. The Respondents are also directed to submit an Action Taken Report/Compliance Report in terms of Section 76 of the RPwD Act, 2016 within 90 days of the issue of this Order.

9.3 The Case is disposed of accordingly.

**Signed by Rajesh Aggarwal**

**Date: 14-06-2024 15:09:54**

**(Rajesh Aggarwal)**

**Chief Commissioner for Persons with Disabilities**