

IN THE SUPREME COURT OF PAKISTAN
(ORIGINAL JURISDICTION)

501/20

PRESENT:

MR. JUSTICE GULZAR AHMED, HCJ
MR. JUSTICE IJAZ UL AHSAN
MR. JUSTICE MAZHAR ALAM KHAN MIANKHEL

AFR

3 **Constitution Petition No.64 of 2013**

Under Article 184(3) of the Constitution of the
Islamic Republic of Pakistan, 1973.

Dr. Shahnawaz Munami and others.

...Petitioner(s)

Versus

The Federal Government of Pakistan and others.

...Respondent(s)

And

H.R.C. No.8267-G/2014 in Const.P.64/2013

(Application by Muhammad Waqas Ilyas)

And

C.M.A. No.2872/2017 in Const.P.64/2013

(Application for impleadment by Muhammad Saleem Akhtar)

And

H.R.C. No.14017-P/2018 in Const.P.64/2013

(Application by Syed Umair Ali Shah)

And

Const.P. No.77/2014

(Muhammad Ikhlaq Khan & others v. Federation of Pakistan
& others)

And

C.M.A. No.10803/2018 in Const.P.77/2014

(Impleadment application on behalf of Muhammad bilal)

And

H.R.C. No.40739-P/2018

(All Blind Persons through Dr. Abdul Qayum Naz)

And

H.R.C. No.41415-P/2018

(Yousaf Alkarim Nomani)

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And

H.R.C.No.42482-P/2018
(Rasheed ul Hasan)

And

Const.P. No.54/2018
(Adeel Hussain v. Federation of Pakistan through Secretary,
M/o Law Justice & Parliamentary Affairs, Islamabad and
others)

And

H.R.C. No.41408-S/2018
(Saleem Qasim Olia)

And

C.M.A. No.10499/2018 in Const.P.77/2014
(Impleadment application on behalf of Shoukat Ali)

And

C.M.A. No.10500/2018 in Const.P.77/2014
(Impleadment application on behalf of Inam-ud-Din)

And

C.M.A. No.3068/2019 in Const.P.64/2013
(Impleadment application on behalf of Khurram Ejaz)

And

C.M.A. No.3069/2019 in Const.P.64/2013
(Impleadment application on behalf of Ejaz Ahmed)

And

C.M.A. No.3131/2019 in Const.P.64/2013
(Application for impleadment of Muneeba Ishfaq)

And

C.M.A. No.5239/2019 in Const.P.64/2013
(Application for impleadment of Muhammad Saleem)

For the Petitioner(s):

Mr. ~~Rahuel~~ Kamran Sh., ASC.
Mr. Mehmood A. Sheikh, AOR
(absent).
(in Const.P.64/2013).

Mr. M. Qasim Mirjat, ASC/AOR
(in Const.P.77/14).

Mr. M. Iqbal Hashmi, ASC.
Mr. M. Bilal
(in CMA.10803/18)

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- For the Federation: Mr. Sajid Ilyas Bhatti, Additional Attorney General for Pakistan.
Syed Abdul Kalam Ashrafi, Asstt. Commissioner.
Mr. Junaid Akhlaq, J.S. (A/E)
M/o Law.
Mr. Wajid Aziz Qureshi, S.O.
- For the ICT: Mr. Niazullah Khan Niazi, A.G.
- For Govt. of Punjab: Ch. Faisal Fareed, Addl. A. G. Pb.
Mr. Tariq Ismail, L.O. (S.W.)
Mr. M. Ashraf Janjua, Dir. (S.W.)
Mr. Zahid Mehmood, L.O. (Labour)
Mr. Adnan Bashir, L.O. (Spl. Education).
Mr. Aflan Khan, Dy. Dir.
- For Govt. of Sindh: Mr. Shabbir Shah, Addl. A.G.
(through video link from Karachi)
Mr. Farhan Ali, Dy. Dir (PCRDP)
- For Govt. of Balochistan: Mr. M. Ayyaz Sawati, Addl. A. G.
- For Govt. of KPK: Mr. Zahid Yousaf Qureshi, Addl. A.G. KP.
- For CDA: Malik Javed Iqbal Wains, ASC.
Raja Abdul Ghafoor, AOR.

Date of Hearing : 14.07.2020

ORDER

IJAZ UL AHSAN, J-. This Constitutional Petition was filed before this Court in 2013 seeking enforcement of Fundamental Rights guaranteed to citizens under the Constitution of the Islamic Republic of Pakistan, 1973 ("***the Constitution***"). It was filed by prominent Members of Disability Movement in Pakistan who had been striving hard for many years for the welfare of persons with disabilities in the country. It was stated that millions of Pakistani citizens suffering from various disabilities were being denied Fundamental Rights guaranteed to them under the Constitution.

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2. This Court being guardian of the Fundamental Rights guaranteed to the citizens was approached under Article 184(3) of the Constitution. It was pointed out to us that global movement for rights of the disabled persons had resulted in drafting of the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD). Pakistan had ratified the same. However, despite such ratification, disabled persons continue to suffer as most neglected, marginalized and unrepresented segment of the society who face serious and insurmountable barriers against their inclusion in the mainstream society.

3. We are also informed that no officially reliable information regarding the number of persons suffering from various disabilities was available. Although the Disabled Persons (Employment & Rehabilitation) Ordinance, 1981 ("**the Ordinance, 1981**") is in the field, the said law has neither been updated periodically nor has the same been implemented. It also appears that Directorate General of Special Education was formed in 1985 for provision of Special Education to persons with disabilities in order to educate them to facilitate their assimilation in the mainstream but no significant progress seems to have been made. It further appears that the National Policy for Persons with Disabilities

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made in 2002 and the National Plan of Action, 2006 to implement the said Policy of 2002 has not produced the requisite results.

4. When hearing in this matter started, all stakeholders were summoned. We were assisted amongst others by the learned Attorney General for Pakistan as well as learned Advocate Generals of all four Provinces and the learned Advocate General, Gilgit Baltistan who filed periodical reports on behalf of the Federal and Provincial Governments. Input from interested private citizens was also received and considered.

5. In the post Eighteenth Constitutional Amendment scenario, the subjects of Population Planning, Social Welfare, Mental Illness and Mental Retardation have devolved on the Provinces. Some legislation has taken place in the Provinces of Punjab and Khyber Pakhtunkhwa. Sindh and Balochistan are in the process of putting the requisite legislation in place. It is also significant to note that there is no reliable data regarding incidence of disabilities in Pakistan. However, according to the data furnished by Pakistan Poverty Alleviation Fund, 66% of persons with disabilities live in Rural areas, 28% are illiterate, 14% are employed and 70% are dependent on members of their families for financial support. It was pointed out to us that the

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Federal Government had failed to take appropriate steps to facilitate the lives of people with disabilities by providing them education, jobs and medical facilities and ease their daily lives in a manner visualized in the United Nations Convention (UNCRPD). It was also pointed out that provisions of the Ordinance, 1981 were not being implemented with regard to allocation of quota in jobs and the dream of promoting inclusion in mainstream, social life, education and abolition of disenfranchisement of people with disabilities remained unfulfilled. Even basic facilities like obtaining special national identity cards were not available to the persons with disabilities.

6. This matter was taken up at regular intervals owing to important issues raised and this Court on the basis of information furnished by all stakeholders passed orders and directed implementation. Appropriate directions were also issued relating to collection of data of the disabled persons on regular basis and in this regard Pakistan Bureau of Statistics was tasked with the responsibility to devise a suitable mechanism to do so. Directions were also issued not only to upload such data on the official website of the concerned Ministry but also to update it on periodical basis. Orders were passed directing the concerned Ministries and other Government Agencies to implement all applicable laws regarding employment of disabled persons in accordance with the

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quotas allocated in the law. It was noticed that a large number of posts reserved for persons with disabilities were either lying vacant or had been occupied by persons who though not disabled had produced false and fabricated certificates in order to get jobs on the disability quotas. Under directions of this Court, an exercise was undertaken to address the said situation. According to the reports submitted with this Court, the said issue has been addressed and appropriate action is being taken.

7. It was also pointed out to us that concessional travel rates by Train and Air were not being allowed to persons with disabilities. However, on our directions the requisite steps were taken and the grievances appear to have been redressed. We expect that the concerned Agencies will be vigilant to ensure that Pakistan Airlines as well as Pakistan Railways not only allow such concession but the availability of this facility is advertised through public service messages in the Print and Electronic Media with the assistance and consultation of PEMRA.

8. During the course of hearing, we have also noticed that there is a lack of coordination and cooperation between the Federal and Provincial Governments in implementing all laws relating to welfare of disabled persons. We are sanguine that every possible

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effort will be made to improve and streamline the coordination and cooperation of the Federal and Provincial Governments so that the relevant laws are not only made and updated but also vigorously implemented.

9. When this matter was taken up on 05.03.2020, copies of reports filed by the learned Attorney General for Pakistan and all four Provinces as well as Gilgit Baltistan were examined. Some of the learned counsel had sought time to examine the reports and assist this Court in the matter. Copies of all reports were accordingly directed to be supplied to them.

10. We have heard the learned counsel for the petitioners, some of the petitioners in person and the learned Law Officers appearing for the Federation as well as the Provinces. We are satisfied that the broad framework of guidelines provided by this Court from time to time to ensure implementation of laws and providing Fundamental Rights to persons with disabilities are being followed and implemented by the Federal as well as the Provincial Governments. Much more needs to be done. It is however encouraging to note that the process has been initiated and earnest efforts are being made to create an environment and framework where citizens with disabilities are given respect, protection and support and the requisite facilities are also made available to provide

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them opportunities of getting education, training and a conducive environment where they can be assimilated in the mainstream of the society.

11. Although the requisite guidelines and directions have been issued by this Court from time to time, we consider it appropriate to reiterate the same and incorporate them in a consolidated form in the final order of this Court. Accordingly, the following directions and guidelines are issued to the Federal and Provincial Governments and all concerned Ministries, Divisions, Departments, Agencies, Authorities and other entities working in connection with the affairs of the Federation, the Provinces or any local authorities:

- i) *All vacant posts in the employment quota of Federal Government as well as Provincial Governments should be advertised and filled. It must be ensured that disabled persons from the same area/region are accommodated/appointed against regional quotas;*
- ii) *The provisions of laws relating to rehabilitation and employment of the disabled persons be followed and implemented in letter and spirit;*
- iii) *The Federal and Provincial Governments are directed to ensure establishment of grievance redressal mechanisms to redress grievances of disabled persons and awareness campaigns regarding availability of these grievance redressal mechanism be run;*
- iv) *The Federal Government, Provincial Governments, PEMRA, PTV, PBA and PBS will raise awareness through public service broadcasts of programs or messages;*
- v) *The Federal and Provincial Governments as well as development authorities shall ensure enforcement of the Accessibility Code, 2006;*

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- vi) Road Transport Authorities are directed to ensure making public transport accessible for persons with disabilities;
- vii) Pakistan Railways shall progressively build proper ramps at Train Stations;
- viii) The transport and development authorities will ensure availability of accessible toilets at train stations, local bus stands, service areas of bus stations, motorways and highways;
- ix) The transport and development authorities shall arrange for construction of ramps and arrange safe and reliable facilities for boarding of buses and trains by disabled persons;
- x) The concerned authorities and agencies at the Federal as well as Provincial level shall make appropriate arrangements for the following:
 - a) Availability of accessible parking and ramps at public parks; and
 - b) Provision of accessible washroom and ramps in malls, parks, public places.
- xi) All development authorities will ensure enforcement of quota in allotment of residential plots and houses as provided in the relevant laws, rules and regulations;
- xii) Directions are also issued to all concerned to implement order of this Court dated 11.10.2018 in letter and spirit; and
- xiii) Pakistan Bureau of Statistics in consultation with NADRA and other departments and agencies of the Federal and Provincial Governments shall publish and periodically update, complete, accurate and updated figures and statistics regarding persons with disabilities and upload the same on its website.

12. We are also mindful of the fact that there would be individual grievances which can be brought to the notice of the relevant agencies and the appropriate *fora* which will address the same in accordance with law and the guidelines issued by this Court during the course of these proceedings from time to time.

13. In this view of the matter, no further proceedings are required in this constitutional petition.

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Accordingly, the same alongwith all connected CMAs are disposed of.



ISLAMABAD, THE
14th of July, 2020

Not Approved For Reporting

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