

File No. 38-08/2021-DD-III
Government of India
Ministry of Social Justice & Empowerment
Department of Empowerment of Persons with Disabilities (Divyangjan)
Pt Deendayal Antyodaya Bhawan, CGO Complex, New Delhi

Dated: 7th July, 2021

OFFICE MEMORANDUM

Subject: Maintaining Disability Segregated Data - CIC Advisory regarding

The undersigned is directed to say that India ratified the United Nations Convention on Rights of Persons with Disabilities on 01.10.2007. The signatory parties are under obligation to maintain disability segregated data as mandated under Article 31 of the Convention which states as under:-

- States Parties undertake to collect appropriate information, including statistical and research data, to enable them to formulate and implement policies to give effect to the present Convention. The process of collecting and maintaining this information shall:
 - (a) Comply with legally established safeguards, including legislation on data protection, to ensure confidentiality and respect for the privacy of persons with disabilities;
 - (b) Comply with internationally accepted norms to protect human rights and fundamental freedoms and ethical principles in the collection and use of statistics.
- The information collected in accordance with this article shall be disaggregated, as appropriate, and used to help assess the implementation of States Parties' obligations under the present Convention and to identify and address the barriers faced by persons with disabilities in exercising their rights. 19
- States Parties shall assume responsibility for the dissemination of these statistics and ensure their accessibility to persons with disabilities and others.

SOM dso

JS(K) / JS(S)
13/07

2. The Central Government has enacted the Rights of Persons with Disabilities Act, 2016 in line with the provisions of UNCRPD. It provides various rights and entitlements for persons with disabilities which inter-alia include protection from abuse, violence, exploitation, equality before law, access to justice, etc. It also mandates the Government to take various measures to promote education, health, skill development, employment, social security, etc. It may be noted that implementation of various provisions of Act involves all concerned Ministries/Departments as well as States/UTs. It is therefore necessary for all the Ministries/Departments and States/UTs to develop mechanism for maintaining disability segregated data of persons with disabilities (gender wise/category wise) in respect of the beneficiaries under their schemes and programmes including in the matter of education, health, skill development, poverty alleviation, sports, culture, recreation, employees with disabilities, crime against PwDs, budget available, an amount spent for PwDs, etc.

3. While hearing a matter related to an RTI application filed by Sh L. Muruganatham, the Central Information Commission has advised that appropriate measures are required to be taken for creation of data relating to persons with disabilities in terms of Article 31 of UNCRPD and this data should be placed on the website (copy enclosed).

4. All the Ministries/Departments, are therefore, requested to maintain disability specific data as mentioned in para 2 of this OM and the same may be placed on their website in an accessible format. The link of such data may also be shared with this Department. They are also requested to issue appropriate instructions to all the organisations under their administrative control for taking similar action. Action taken in this regard may be intimated to this Department.

5. This issues with the approval of Hon'ble Minister, SJ&E.

Encl: As above


(K.V.S. Rao)
Director

Secretaries of all Central Ministries/Departments (as per list)

Copy to:

1. NHRC
2. CCPD with a request to compile the details and include in Annual Report of CCPD every year.
3. CCPD Division, DEPwD to pursue with CCPD for compliance
4. Dir(VP)/DS(KKJ)/DS(SY)/DS(MKS)/DS(BEC)/DS(MJ)

Copy for information to:

1. JS(PS)/JS(TR)/DDG
2. Central Information Commissioner (Shri C.A. Joseph, Dy Registrar)

Copy also to:

Shri L. Muruganantham

केन्द्रीय सूचना आयोग
Central Information Commission
बाबागंगनाथमार्ग, मुनिरका
Baba Gangnath Marg, Munirka
नईदिल्ली, New Delhi – 110067

File No : CIC/DEPDD/A/2019/648066

L Muruganantham

.....अपीलकर्ता/Appellant

VERSUS
बनाम

CPIO,
Ministry of Social Justice and
Empowerment, RTI Cell, Department
of Empowerment of Persons with Disabilities
Antyodaya Bhawan, CGO Complex,
Lodhi Road, New Delhi – 110003.

....प्रतिवादीगण /Respondent

Date of Hearing : 24/05/2021
Date of Decision : 31/05/2021

INFORMATION COMMISSIONER : Saroj Punhani

Relevant facts emerging from appeal:

RTI application filed on : 07/03/2019
CPIO replied on : 01/04/2019 & 10/07/2019
First appeal filed on : 29/04/2019
First Appellate Authority order : 22/05/2019
2nd Appeal/Complaint dated : 13/08/2019

Information sought and background of the case:

The Appellant filed RTI application dated 07.03.2019 seeking information on fifteen points:-

1. *“Provide number of Persons in each of State in India with*
 - (a) Autism Spectrum Disorder,*
 - (b) Non Verbal Autism Spectrum Disorder,*
 - (c) High functioning Autism Spectrum Disorder,*
 - (d) Each of Specific Learning Disabilities by specifying nature of Learning Disabilities,*
 - (e) Each of Mental illness by specifying nature of mental illness and*
 - (f) Multiple Disabilities showing combinations of specific disabilities.*
2. *Whether data related to Offence committed against persons with disability in India in each year is maintained by Government of India?*
3. *Provide each year data for which data is available regarding Cases registered (Crime Head Wise) in each of States of India where victim of offence is a person with*
 - (a) Autism Spectrum Disorder,*
 - (b) Non Verbal Autism Spectrum Disorder,*
 - (c) High functioning Autism Spectrum Disorder,*
 - (d) Specific Learning Disabilities,*
 - (e) Mental illness*
 - (f) Multiple Disabilities,*
 - (g) Hearing impairment,*
 - (h) Visual impairment and*
 - (i) Disability caused due to chronic neurological conditions.*
4. *Provide (i) Marital Status (ii) Employment Status (iii) Education Status of Persons above 30 years or above in each States of India with the condition:*
 - (a) Autism Spectrum Disorder,*
 - (b) Non Verbal Autism Spectrum Disorder,*
 - (c) High functioning Autism Spectrum Disorder,*
 - (d) Specific Learning Disabilities,*
 - (e) Mental illness,*
 - (f) Multiple Disabilities and*
 - (g) Muscular Dystrophy.*
5. *Whether data on number persons with disability in India who commits suicide and attempted to commit suicide each year is maintained by Government of India?*

6. Provide number of persons with disability in each States in India committed suicide or attempted to commit suicide each year is with condition:

- (a) Autism Spectrum Disorder,
- (b) Non Verbal Autism Spectrum Disorder,
- (c) High functioning Autism Spectrum Disorder,
- (d) Specific Learning Disabilities,
- (e) Mental illness,
- (f) Multiple Disabilities and
- (g) Muscular Dystrophy

7. Whether access audit done in all Central Government buildings in State of Tamilnadu. If no Provide number of such buildings access audited so far

8. Provide the following data:-

- (a) Total number of Central Government buildings in State of Tamillnadu
- (b) Total Number of Central Government buildings in State of Tamillnadu accessible to persons with disability.

9. Provide the number of Central Government employees trained in Sign Language in State of Tamilnadu.

10. Provide the total number of Sign Language Interpreters in each of States in India.

11. Please provide the total number of Special Educators in each of State of Tamilnadu.

12 (a) Whether Central Government regularly conducting orientation and sensitization programmes at schools, colleges, professional institutions, etc., in State of Tamilnadu on disability and rights of persons with disabilities, with a view to promote respect, empathy and tolerance for the differently abled? If Yes (b) provide the number of schools, colleges, professional institutions in which it is regularly being conducted

(c) provide the name of manuals, books or other materials along with author name and its publication based on which it is conducted and

(d) provide the designation, qualifications of persons who conducted such programmes.

13.(a) Whether Central Government conducted orientation and sensitisation programmes for employers and administrators on disabilities, the rights of the disabled, with a view to encourage employment and equal participation of the differently abled in the field of work and to promote respect, empathy and tolerance towards the differently abled?

(b) If yes, provide number of such program conducted and number of persons participated in it in each of departments of Central Government of Tamilnadu

(c) provide the name of manuals, books or other materials along with author name and its publication based on which it is conducted and

(d) Provide the designation, qualifications of persons who conducted such programmes.

14 (a) Whether the Central Government ensured a topic on Persons with

(i) Each Specific intellectual disabilities,

(ii) Autism Spectrum Disorder

(iii) Each Specific mental illness,

(iv) Hearing impairments,

(v) Visual impairments,

(vi) Each specific locomotor disability,

(vii) Disability caused due to chronic neurological conditions,

(viii) Multiple Disabilities and their rights as also the values of tolerance, empathy and respect for them, is included in the curriculum in schools from this academic year?

(b) If yes, provide all the complete details pertaining to the same along with relevant pages in the Book specifying the standard and name of the book.

15. Whether in absence of any of above important data sought in serial No.1 to 14 with its sub division, how come provision on Research and Development under Section 28 of the Right of Persons with Disabilities Act, 2016 and all provisions of the said Act is being effectively carried out by your department."

The CPIO furnished reply to the appellant on 01.04.2019 against point Nos. 1, 2, 3, 4, 5, 6 & 15 and CPIO also transferred the RTI application to the concerned department on the following points:-

Point Nos:- 7 & 8:- Pertains to AIC Division, RTI application has already been transferred to Concerned CPIO by the Nodal officer of the Department.

Point Nos. 9, 10 & 11:- No such information is available with the CPIO. And the RTI application has already been transferred to Concerned CPIO by the Nodal officer of the Department.

Point Nos. 12, 13 & 14:- RTI application pertains to Ministry of Human Resource Development and the RTI has been transferred to them.

The CPIO, Deptt. Of Education, National Council of Education Research And Training, New Delhi provided reply to the appellant on 10.07.2019 against point Nos. 12(a) to (d) and point Nos. 14(a) to (b) of the RTI application.

Being dissatisfied, the appellant filed a First Appeal dated 29.04.2019. FAA's order dated 22.05.2019 upheld the reply of CPIO.

Feeling aggrieved and dissatisfied, appellant approached the Commission with the instant Second Appeal.

Relevant Facts emerging during Hearing:

The following were present:-

Appellant: Present through audio conference.

Respondent: D K Panda, US & CPIO present through audio conference.

The Appellant stated that he is not satisfied with the claim of the CPIO stating that no separate census data is maintained for the categories of information mentioned in his RTI Application related to the persons with disabilities and insisted on taking into consideration his grounds of Second Appeal emphasising on the imperativeness of maintaining this data centrally by the Respondent Ministry for the proper implementation of the Rights of Persons with Disabilities Act, 2016. The relevant extract of the Second Appeal in this regard is reproduced hereunder:

"16. Rights of Persons with Disabilities Act, 2016 Act enacted under Article 253 of Constitution of India whose object states that "An Act to give effect to the United Nations Convention on the Rights of Persons with Disabilities and for matters connected therewith or incidental thereto.... And Whereas India is a signatory to the said Convention; And Whereas India ratified the said Convention on the 1st day of October, 2007; And Whereas it is considered necessary to implement the Convention aforesaid" Ministry Of Social Justice And Empowerment, Department Of Empowerment of Persons with Disabilities of Government of India, and all its Public Information Officers comes under the definition of State under Article 12 of Constitution of India that there are obligation on them under Article 31 of United Nations Convention on the Rights of Persons with Disabilities to maintain and provide all the information sought in the RTI application among other information for implementation of Rights of Persons with Disabilities Act, 2016 and in this case all information for implementation of

Provision in Rights of Persons with Disabilities Act, 2016 related to Fundamental rights and statutory rights of Persons with Disabilities. All these stated herein are very clear from the below provisions.

Article 31 of Convention on the Rights of Persons with which states that:

'1. States Parties undertake to collect appropriate information, including statistical and research data, to enable them to formulate and implement policies to give effect to the present Convention.

2. The information collected in accordance with this article shall be disaggregated, as appropriate, and used to help assess the implementation of States Parties' obligations under the present Convention and to identify and address the barriers faced by persons with disabilities in exercising their rights.

3. States Parties shall assume responsibility for the dissemination of these statistics and ensure their accessibility to persons with disabilities and others.'

Apex Court in the case of People's Union for Civil Liberties vs Union Of India And Anr on 5 February, 1997, Writ Petition (crl.) 612 of 199212

Held,

'Provisions of the covenant, which elucidate and go to effectuate the fundamental rights guaranteed by our Constitution, can certainly be relied upon by courts as facets of those fundamental rights and hence, enforceable as such.'

The above said Article 31 of Convention on the Rights of Persons with Disabilities which elucidate and go to effectuate the fundamental rights under Article 19(1)(a), 21 read with Article 14 of Constitution of India.

Ministry Of Social Justice And Empowerment, Department Of Empowerment of Persons with Disabilities of Government of India and its PIOs are having Constitutional and statutory obligation read with Article 31 of the of Convention on the Rights of Persons to maintain all these information sought in the RTI application along with other informations and also provide all those informations in all the modes and means of commutation for persons with disabilities....."

The CPIO submitted that based on the availability of records at the time, the Appellant was provided with the data of persons with disabilities (PwDs) category wise and State wise. He further submitted that the process of incorporating

segregated data on autism and specific learning disabilities is ongoing as a part of the UDID initiative i.e. *'Unique Disability ID "Unique ID for Persons with Disabilities"* which is being implemented with a view of creating a National Database for PwDs, and to issue a Unique Disability Identity Card to each person with disabilities and that under this project as many States had made the statistics available at the relevant time, the same was also provided to the Appellant.

Upon a query from the Commission regarding the availability of this segregated data on their website, the CPIO submitted that since the data collected for UDID is extremely dynamic, at present it can be only accessed by specific public officials who have right of access to the Ministry's portal. However, tending to a suggestion from the Commission, the CPIO conceded that a monthly update on the data can be made available for access to the general public. Further, as regards the data on crimes/offences, education, marital status etc. related to the persons with disabilities, the CPIO said no such data is maintained by the Ministry and that for the said points the RTI Application was appropriately transferred to the concerned public authorities.

Decision

The Commission at the outset observes that in a strict sense, the information sought for in the RTI Application largely does not conform to Section 2(f) of the RTI Act as the Appellant has raised queries premised on conjecture and has sought for clarifications and deductions/inferences to be drawn by the CPIO(s). Keeping this aspect in view the reply of the CPIO or the decision of the CPIO to transfer the RTI Application to all concerned public authorities cannot be called into question and to this extent, the reply of the CPIO is as per the provisions of the RTI Act.

However, based on a perusal of the grounds of the Second Appeal, **the Commission observes that the Appellant's case is extensively reflective of the larger public interest of the persons with disabilities and his particular reference to the Article 31 of United Nations Convention on the Rights of Persons with Disabilities succinctly captures the essence of the information sought for in the instant RTI Application.**

Now, therefore, the Commission is of the considered opinion that the Respondent Ministry ought to take certain extraordinary steps aimed at data creation entailing the aspects as pointed out by the Appellant in his RTI Application to the extent

possible and to facilitate a centralised resource centre i.e the Ministry's website for the consumption of the general public. In this regard, **a copy of this order is marked to the Secretary, Ministry of Social Justice & Empowerment to expeditiously look into the serious concerns raised by the Appellant in the instant case and to take note of the advisory of the Commission.**

Further, having observed as above, the Commission directs the CPIO to now provide a revised reply to the Appellant incorporating the updated and available data as sought for at point no. 1 of the RTI Application. **Additionally, the CPIO is also directed to place a copy of this order before their competent authority to ensure that the said data is placed in the public domain and updated on a month-to-month basis.**

Similarly, for the remaining points in the RTI Application, considering the efflux of time and the larger public interest involved in accessing the information sought for therein, the Commission directs the CPIO to now adequately liaise with the concerned record holders/public authorities to ascertain the availability of these categories of information or any relevant input that may assist the Appellant in accessing this information. The available information and relevant inputs as procured from the concerned record holders shall be collated and directly provided to the Appellant by the Respondent CPIO in a cogent manner.

The available information as directed above should be provided free of cost to the Appellant within 45 days from the date of receipt of this order under due intimation to the Commission by the CPIO.

The appeal is disposed of accordingly.

**Saroj Punhani (सरोजपुनहानि)
Information Commissioner (सूचनाआयुक्त)**

Authenticated true copy
(अभिप्रमाणित सत्यापित प्रति)

(C.A. Joseph)

Dy. Registrar

011-26179548/ ca.joseph@nic.in

सी. ए. जोसेफ, उप-पंजीयक

दिनांक /

Copy to:

Secretary

Ministry of Social Justice & Empowerment

Antyodaya Bhawan, CGO Complex,

Lodhi Road, New Delhi – 110003.

--(For appropriate action as advised above)