

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001

No.509/110/2004-JS-I (i)
2007.

Dated: 26 October,

To

The Chief Secretaries
of all the States and UTs

Sub: Facilities to be provided to electors with disability- Order of the Hon'ble Supreme Court in WP (Civil) No. 187 of 2004 – Disabled Rights Group Vs. The Chief Election Commissioner & Anr.

Sir,

I am directed to invite your attention to the Commission's letter of even number dated 21.04.2004 and 20.10.2005 regarding setting up of ramps in the public buildings in which polling stations are located. Your attention is also invited to the directions of the Hon'ble Supreme Court in its interim order, dated 19.04.2004 in the above mentioned writ petition. The Hon'ble Supreme Court has disposed of the above-mentioned writ petition vide its order-dated 05.10.2007, with certain directions. A copy of the order is enclosed.

2. The Hon'ble Supreme Court has taken note of the instructions issued by the Commission from time to time regarding the facilities to be provided to the electors with disability, and has directed that it should be ensured that these instructions are followed effectively. In this context, attention is particularly invited to the Commission's letter of even no., dated 20th October, 2005 (copy enclosed for easy reference), wherein it was requested that the Government/Local Authorities may provide permanent ramps in the public buildings in which polling stations for elections are located. The Commission desires that this work should be taken up and completed at the earliest in compliance with the directions of the Hon'ble Supreme Court. As already mentioned in the earlier letter, providing permanent ramps in the public buildings would also meet the requirement of the provisions of the Persons With Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995.

3. Please acknowledge receipt of this letter alongwith its enclosures immediately, and also inform the Commission about the steps being taken for completion of the task.

Yours faithfully,

(K. F. WILFRED)
SECRETARY

Copy to: The Chief Electoral Officers of all States/UTs.

IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

WRIT PETITION (CIVIL) NO.187 OF 2004

Disabled Rights Group

... Petitioner

Vs.

Chief Election Commissioner & Anr.

... Respondents

With

TP (C) No. 718-719 of 2005

ORDER

W.P. (C) No.187/2004 :

A letter written by a Disabled Rights Group, an NGO, to this Court was registered as a writ petition in public interest. The grievance expressed in the letter related to the absence of facilities to persons with disabilities to exercise their franchise in the elections. The petitioner referred to the need for : (a) wooden ramps at polling stations to enable disabled persons to have an easy access; (b) the numbers in the electronic voting machines (EVMs) being written in Braille to enable visually impaired voters to feel the numbers and press an appropriate button to cast the vote; (c) separate queues and special arrangements for persons with disability at polling stations; and (d) the polling station personnel to be

courteous and render necessary assistance to enable persons with disability to exercise their franchise with least inconvenience.

These suggestions were reiterated by the amicus curiae. The Election Commission of India have responded to these suggestions. Apart from drawing attention to Rule 49-N of the Conduct of Election Rules, 1961 and Para 39 of the 'Handbook for Returning Officers' issued by Returning Officers (relating to recording of votes of blind/infirm electors), the Commission stated that it has issued instructions to Chief Electoral Officers of all States and Union Territories, to provide ramps to enable physically handicapped persons to use their wheel chairs to go into the polling stations, to have separate queues for physically handicapped, and to sensitize poll personnel about the special needs of the disabled and be courteous to them. In regard to the suggestion relating to printing of serial numbers in Braille, the Election Commission stated that it will evolve an appropriate and satisfactory solution in consultation with the Ministry of Social Welfare and Empowerment, representatives of NGOs. engaged at the national level in the welfare of visually challenged, as also Technical Experts from the ECIL and BEL, (the two firms manufacturing EVMs). It is stated that even the existing EVMs. have been designed keeping in view the needs of the visually handicapped and hearing-impaired electors.

On 19.4.2004, this Court directed the Chief Secretaries of respective States, in coordination with the Chief Electoral Officers of those States, to make available wooden ramp facilities at polling stations situated in cities and in urban areas. By communication dated 20.10.2005, the Election Commission instructed all State Governments/Union Territories to make provisions for good quality permanent ramps in all public buildings where polling stations are located. By affidavit dated 23.4.2007, Election Commission has confirmed that in the election held after 19.4.2004, specific instructions have been issued to provide ramps at polling stations.

It is also stated that new EVMs, containing Braille numerals by the side of the ballot buttons have been introduced to assist the visually challenged. Thus Election Commission has broadly dealt with the grievances aired by the petitioner.

The learned counsel for the petitioner stated that though instructions had been issued by the Election Commission, they are not being followed in their letter and spirit by the respective Governments and several polling stations are not provided the facilities. It is true that the Election Commission should also ensure that the instructions are followed effectively.

The remedy is for the Election Commission to give appropriate directions to the officials manning the polling stations, regarding the special facilities for the physically disabled electorate at all polling stations. This should be done well-in-advance and sufficient publicity should also be given in the print and electronic

media about the availability of such facilities so that the persons with disabilities are aware of the facilities beforehand and are, thus, encouraged to go and exercise their franchise. Further, its observers should also satisfy that such facilities are given. The absence of such facilities should be notified to the respective Government for remedial/future action. On behalf of the Election Commission of India it is stated that the appropriate directions will be given in this behalf. We are of the view that the above directions/observations will meet the needs of the disabled voters. We accordingly dispose of the writ petition.

T.P. (C) Nos. 718-19 of 2005 :

In view of the disposal of this writ petition, there is no need to transfer the two petitions pending before the Bombay High Court (W.P. (PIL) No.3063/2004) and the Jharkhand High Court (W.P.(PIL) No.753/2005) on the same subject-matter. The respective High Courts may deal with the said petitions and may dispose them appropriately. The Transfer Petitions are accordingly disposed of.

.....CJI.
(K G Balakrishnan)

New Delhi;
October 5, 2007.

.....J.
(R V Raveendran)

पार : निर्वायोग
नई दिल्ली
Gr. : ELECCOM
NEW DELHI

भारत निर्वाचन आयोग सचिवालय
SECRETARIAT OF THE
ELECTION COMMISSION OF INDIA

टेलेक्स : एनडी 31 - 61312
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संख्या
No.
तारीख 199
Dated.....199

Slo No. 62(I)

निर्वाचन सदन
अशोक रोड, नई दिल्ली - 110 001
NIRVACHAN SADAN
ASHOKA ROAD, NEW DELHI - 110 001

No.: 509/110/2004/JS-I | 2802 to 2870

dated the 20th October, 2005

To
The Chief Secretaries of
all States/Union Territories.

Subject: Providing facilities to the disabled voters.

Sir,

I am directed to invite your attention to the interim order dated 19.4.2004 of the Hon'ble Supreme Court in W.P.(C) No. 187 of 2004 (Disability Rights Group Vs. Chief Election Commissioner and another) communicated to you vide the Commission's letter of even number dated 21.4.2004. In the said order, the Hon'ble Apex Court had given directions for providing ramps in all polling stations in urban areas at the then general election to the House of the People, 2004. In pursuance of the said interim order, temporary ramps were provided by the State Govts. in the polling stations in urban areas in the constituencies that went to poll in the 3rd and 4th phase of the said election. In all subsequent elections also the state Governments have been advised to comply with the directions on providing ramps.

The Commission has considered this issue further. Under the provisions of the Persons With Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, the Central/State Govts. and local authorities concerned, are responsible for providing ramps in public buildings so as to make them accessible to disabled people.

Polling stations for elections to the House of People and State Legislatures are located in public buildings, in most of the cases. The Commission is of the view that the issue of ramps at polling stations could be resolved, if the Govt./local authorities concerned provide permanent ramps at the public buildings where polling stations are located. As the public buildings are used by the general public every day for one purpose or the other, permanent ramps in such buildings would serve the purpose of the 1995 Act, and also make the polling stations disabled friendly on a permanent basis. Such permanent ramps would also be economically more viable as compared to setting up temporary ramps at each election.

In view of the above, the Commission desires that good quality permanent ramps may be constructed in all public buildings in which Polling Stations for elections to the Lok Sabha and State Legislative Assemblies are located. The list of locations of polling stations in the State is available with the Chief Electoral Officer, who will furnish the same to you. The Commission desires that the work may be taken up on priority basis.

Kindly acknowledge the receipt.

Yours faithfully,


(K.F. WILFRED)
SECRETARY

Copy to:

- (i) The Chief Electoral Officers of all States/Union Territories for information and necessary action of co-coordinating with the State Govt.
- (ii) Judicial Section-II
- (iii) Computer Section for website.


(K.F. WILFRED)
SECRETARY

