

**Court No. - 36**

**Case :-** WRIT - A No. - 18302 of 2021

**Petitioner :-** Pradeep Kumar Gupta

**Respondent :-** State Of U.P. Through Secretary ( Higher Education) And 4 Others

**Counsel for Petitioner :-** In Person,Prabhakar Awasthi

**Counsel for Respondent :-** C.S.C.

**Hon'ble Saumitra Dayal Singh,J.**

1. Heard the petitioner - Sri Pradeep Kumar Gupta, in person and learned Standing Counsel for the State. Also, on the request of the Court, Sri Prabhakar Awasthi, Advocate has assisted the Court to ascertain the correct facts.

2. The petitioner is a differently abled person having 50% locomotor disorder. On 24.06.2006, an advertisement was published inviting applications for appointment, amongst other, on the post of Library Peon (one post) at Government Degree College, Deoband, Saharanpur. The essential qualifications prescribed were Class V pass and ability to ride cycle. The petitioner applied for appointment on that post. He was called for interview. However, in the interview, the petitioner was not evaluated. It is his grievance, he was summarily required to leave as he could not ride a bicycle, which test was insisted upon him though the petitioner could ride a tricycle with equal efficiency. Thus, the petitioner claims violation of his rights and alleges humiliation caused to him, mainly by the then Principal of the Government Degree College, Deoband, Saharanpur.

3. The petitioner agitated the matter. Subsequently, a higher educational qualification (for the post of Library Peon) of High School was insisted. Since the petitioner did not hold that qualification, he was excluded. The

petitioner alleges hostile discrimination having been practised by the State respondents and complete violation of his special rights under the Rights of Persons with Disabilities Act, 1995 (hereinafter referred to as the 'Old Act'). The petitioner assailed the selection made, by filing Writ Petition No. 17917 of 2007.

4. Also, upon the petitioner escalating the issue and lodging complaints, the Regional Employment Exchange (Divyangjan), Meerut Division instituted an enquiry into the allegations levelled by the petitioner. It submitted report dated 23.11.2007. Thereunder, it was observed as under:

“प्रदेश के समस्त विभागों पर विकलांगजन अधिनियम 1995, विकलांगजन हेतु आरक्षण व पदों के चिन्हांकन का शासनादेश प्रभावी होने के बावजूद भी उक्त नियुक्ति प्रक्रिया में प्राचार्य/नियुक्ति प्राधिकारी द्वारा विकलांग अभ्यर्थी श्री प्रदीप कुमार गुप्ता के अधिकारों का हनन/ अतिक्रमण करके जानबूझकर उसे नियुक्ति के लाभ से वंचित किया गया है। उपरोक्त से स्वतः ही स्पष्ट है कि प्राचार्य/नियुक्ति प्राधिकारी के द्वारा अपनायी गयी चयन प्रक्रिया पूर्ण रूप से पक्षपातपूर्ण, त्रुटिपूर्ण एवं दोषपूर्ण है।”

5. Thereafter the court/office of State Commissioner (Divyangjan), exercising powers vested under Section 82 of the Old Act directed the District Magistrate, Saharanpur and the Additional Commissioner (Divyangjan), Saharanpur, to institute a magisterial enquiry into the complaint made by the petitioner. Admittedly, the magisterial enquiry was conducted and its report submitted on 09.09.2019. In that, the Magistrate found the fact allegation made by the petitioner to be correct and made the following observation:

“प्रश्नगत प्रकरण में मा० आयुक्त, सहारनपुर मण्डल, सहारनपुर के निर्देशों के क्रम में क्षेत्रीय सेवायोजन अधिकारी (दिव्यांग) मेरठ/सहारनपुर मण्डल द्वारा अपने कार्यालय के पत्रांक – सेवा-1/अ/स्थापना/0302/जांच/2008 दिनांक- 12-02-2008 को प्रेषित की गयी, जिसमें मुख्यतः उल्लिखित किया गया कि राजकीय स्नातकोत्तर महाविद्यालय, देवबन्द में प्राचार्य/नियुक्ति प्राधिकारी द्वारा नवम्बर, 2006 में परिचारक पद के चयन के

समय अपने ही द्वारा समाचार पत्रों में विज्ञापित समूह 'घ' कर्मचारी सेवा नियमावली 1985 के आधार पर चयन समिति गठन न करना, साक्षात्कार की तिथि के समय विभाग में विकलांग आरक्षित पदों के रिक्त होने के बावजूद दिव्यांग अभ्यर्थी श्री प्रदीप कुमार गुप्ता की महाविद्यालय में नियुक्ति संबंधी विकलांग जन आयुक्त, उ०प्र० व निदेशक (उच्च शिक्षा), शिक्षा निदेशालय उ०प्र० इलाहाबाद के पत्र दिनांक 13/11/2006 को संज्ञान में न लेना तथा आयोजित साक्षात्कार से पूर्व ही इन पत्रों पर अपने विभागाध्यक्ष/मुख्यालय से परामर्श में न लेना, शासन से परिचारक का पद विकलांग – जन हेतु चिन्हांकित होने के बावजूद विकलांग अभ्यर्थी श्री प्रदीप कुमार गुप्ता को प्रभावी नवीनतम शासनादेशों के अनुरूप साईकिल चलाने की परीक्षा में शिथिलता न देना तथा चयन समिति से पूर्व नियम विरुद्ध बनायी गयी समिति में हाईस्कूल का अंकपत्र प्रस्तुत न करने का सहारा लेकर प्रदीप कुमार गुप्ता को अनर्ह घोषित करना समूह 'घ' कर्मचारी सेवा नियमावली के प्राविधानों के विरुद्ध साक्षात्कार के 50 अंको का दोषपूर्ण तरीके से विभाजन करना परिचारक के पद पर लखनऊ से एक मात्र पिछड़ी जाति के अभ्यर्थी को सामान्य वर्ग में चयन करना, इसी आवेदक को बाद में विभागीय अभिलेखों में उसे पिछड़ी जाति का दर्शाना नियम विरुद्ध व शासनादेशों के विपरीत है। क्षेत्रीय सेवा योजन अधिकारी (विकलांग), मेरठ मण्डल, मेरठ द्वारा अपनी जांच में यह भी उल्लेख है कि भर्ती के समय प्रभावी शासनादेशों को संज्ञान में न रखना, नियुक्ति प्राधिकारी द्वारा भर्ती प्रक्रिया में व्यापक स्तर पर की गई अनियमितताओं, पक्षपातपूर्ण कार्यवाही ही शिकायत की सत्यता को परिलक्षित करती है। शिक्षा निदेशक (उच्च शिक्षा) उ०प्र० इलाहाबाद ने अपने पत्र में प्रभावी शासनादेशों के अनुपालन का दायित्व संबंधित। नियुक्ति प्राधिकारी का ही होना स्पष्ट किया है। वर्तमान में भी महाविद्यालय में चतुर्थ श्रेणी के रिक्त पद दफ्तरी-01, स्वीपर कम चौकीदार-01, है जिनमें दफ्तरी का पद विकलांगजन हेतु चिन्हांकित किये जाने का उल्लेख गया है। प्रदेश के समस्त विभागों पर विकलांगजन अधिनियम-1995, विकलांगजन हेतु आरक्षण व पदों के चिन्हांकन का शासनादेश प्रभावी होने के बावजूद भी उक्त नियुक्ति प्रक्रिया में प्राचार्य/नियुक्ति प्राधिकारी द्वारा दिव्यांग अभ्यर्थी श्री प्रदीप कुमार गुप्ता के अधिकारों का हनन/अतिक्रमण करके जानबूझकर उसे नियुक्ति के लाभ से वंचित किये जाने तथा प्राचार्य/नियुक्ति प्राधिकारी के द्वारा अपनायी गयी चयन प्रक्रिया पूर्ण रूप से पक्षपातपूर्ण, त्रुटिपूर्ण एवं दोषपूर्ण होने का उल्लेख किया गया है।

अतः उपरोक्त तथ्यों तथा प्रार्थी द्वारा उपलब्ध कराये गये साक्ष्यों के अवलोकन से स्पष्ट है कि उक्त चयन प्रक्रिया में प्राचार्य/नियुक्ति प्राधिकारी द्वारा शासनादेशों एवं नियमों का पालन नहीं किया गया है।

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6. Also, upon receipt of direction issued by the court/office of State Commissioner (Divyangjan) dated 23.05.2019,

the District Magistrate, Saharanpur, acting as the Additional Commissioner (Divyangjan), Saharanpur, made his own enquiry and passed an order dated 30.11.2019, wherein it was observed as under:

“उक्त प्रकरण में सम्पादित हुई जाँचाख्याओं एवं साक्ष्यों के परीक्षणोपरान्त दिव्यांगजन (समान अवसर अधिकार संरक्षण एवं पूर्ण भागीदारी) अधिकार अधिनियम के प्रावधानों तथा दिव्यांगजन हेतु उ०प्र० शासन के द्वारा समय-समय पर जारी शासनादेशों को दृष्टिगत रखते हुए राजकीय स्नात्कोत्तर महाविद्यालय, देवबन्द (सहारनपुर) के वर्तमान प्राचार्य/नियुक्ति प्राधिकारी को आदेशित किया जाता है कि दिव्यांग श्री प्रदीप कुमार गुप्ता को दिनांक 30.11.2006 में जानबूझकर नियुक्ति के अधिकार से वंचित करने तथा नियुक्ति सम्बन्धी अधिकारों का हनन करने के कारण श्री प्रदीप कुमार गुप्ता को उसी तिथि से नियुक्ति एवं नियुक्ति के अन्य सभी लाभ दिया जाना सुनिश्चित करते हुए एक सप्ताह के भीतर नियुक्ति-पत्र पंजीकृत-डाक के माध्यम से श्री प्रदीप कुमार गुप्ता को जारी करते हुए कृत कार्यवाही से इस न्यायालय/कार्यालय को भी अवगत कराये। दिव्यांगजन के हित में कार्य करना, संवेदना तथा सहानुभूति पूर्वक कार्य करना शासन के विभागों की प्राथमिकता है, ताकि उपेक्षित दिव्यांगजनों के हितों का संरक्षण करते हुए उन्हें समाज की मुख्य धारा के साथ जोड़ा जा सके, परन्तु तत्समय नियुक्ति प्राचार्य ने इसके विपरीत जानबूझकर दिव्यांग को उसके नियुक्ति एवं जीवन-यापन करने के अधिकार से वंचित किया है, उक्त प्रकरण में सम्पादित हुई जाँचाख्याओं एवं साक्ष्यों के आधार पर प्राचार्य पूर्ण रूप से दोषी पाये गये हैं। अतः तत्समय नियुक्त प्राचार्य के विरुद्ध भी कार्यवाही किया जाना अति आवश्यक है।”

7. At that stage and in view of the order dated 30.11.2019 passed by District Magistrate, Saharanpur, the petitioner withdrew his earlier writ petition No. 17917 of 2007, in belief of appointment thus assured to him.

8. However, the above order was assailed by the then Principal of the Government Degree College, Deoband, Saharanpur, in Writ – A No. 1975 of 2020 (Ashok Kumar Sharma Vs. State of U.P. & 3 Ors.). It transpires, in the course of those proceedings, office of the District Magistrate/Additional Commissioner (Divyangjan), Saharanpur, vide further order dated 17.02.2020 withdrew in entirety its earlier order dated 30.11.2019. In that regard, the following recital is contained in the order dated

17.02.2020 :

“उपरोक्त तथ्यों की पुष्टि उत्तर प्रदेश शासन के उच्च शिक्षा अनुभाग-5 से निर्गत कार्यालय-ज्ञाप दिनांक 04-03-2011 से हुई। जिसके अन्तर्गत संस्थित अनुशासनिक कार्यवाही में श्री अशोक कुमार शर्मा को दोष मुक्त पाया गया है। किन्तु जिला दिव्यांगजन सशक्तिकरण अधिकारी सहारनपुर द्वारा प्रस्तुत टीप आख्या दिनांक 11-10-2019 व 22-11-2019 में उक्त तथ्य, जो कि निर्णायक तथ्य थे, को छिपाते हुए वास्तविकता का उद्धघाटन नहीं किया गया जिसके कारण आदेश संख्या-6797/ जि०दि०ज०स०अ०, दिनांक 30-11-2019 अस्तित्व में आया। अब उक्त तथ्यों के संज्ञान में आने के उपरान्त आदेश संख्या-6797/जि०दि०ज०स०अ०, दिनांक 30-11-2019 को तत्काल प्रभाव से वापस लिया जाता है।”

9. Thereafter, the petitioner appears to have agitated the matter further and has filed the present petition. Though the relief, as framed, is not happily worded, upon assistance from the Sri Prabhakar Awasthi and the learned Standing Counsel, and upon the matter being discussed with the petitioner (in person), it transpires, he has sought remedial action against the respondents both for himself as also with respect to enforcement of the Act.

10. It has been thus submitted, the petitioner was entitled to be granted reservation as a person with disability by virtue of the Old Act. In fact, reservation was provided under the original notification dated 24.06.2006. Accordingly, the petitioner was called for interview by granting age relaxation allowable to reserved category candidates, though on that date, he was more than 40 years of age, his date of birth being 01.07.1966.

11. According to the petitioner, it is not a simple case of hostile discrimination but is one that has caused deep humiliation as during the course of interview, the petitioner was forced to part with his tricycle which he uses to commute and was called upon to ride a bicycle which obviously he could not and which fact was self apparent from the physical appearance of the petitioner. This

humiliation and discrimination is attributed (by the petitioner), to the then Principal of the Government Degree College, Deoband, Saharanpur.

12. Second, it has been submitted, only to deprive the petitioner opportunity of employment, the selection process was stalled and higher educational qualification (than that possessed by the petitioner), was pressed. It was done only to exclude the petitioner from the zone of consideration. Also, such course was adopted by the then Principal of the *Government* Degree College, Deoband, Saharanpur, only to avoid compliance of the directions issued by other State authorities to give effect to the reservation granted under the old Act.

13. Third, it has been submitted, the State Commissioner (Divyangjan), the Magistrate, Saharanpur, the District Magistrate, Saharanpur and the Magisterial enquiry had found the petitioner to have been discriminated and humiliated. At the same time, the District Magistrate, Saharanpur, had passed the order requiring the petitioner to be granted employment against the post of Library Peon at the Government Degree College, Deoband, Saharanpur. That order was wrongly withdrawn by the then District Magistrate, Saharanpur, for reasons not known to the petitioner.

14. Last, the petitioner has prayed for a high level enquiry to be instituted to hold the guilty responsible so that justice may be done to the petitioner.

15. On the other hand, learned Standing Counsel would submit, this is not the first writ petition filed by the petitioner. His earlier writ petition being Writ – A No. 17917 of 2007 filed to seek quashing of the select list

pursuant to the advertisement referred to above, was dismissed as withdrawn on 07.01.2020. Therefore, no challenge may arise to the selection already made.

16. Insofar as the enforcement of the order of the District Magistrate, Saharanpur, dated 30.11.2019 is concerned, it has been submitted, the same was withdrawn vide order dated 17.02.2020, which fact has also been taken note of in the order dated 20.02.2020 passed in Writ – A No. 1975 of 2020 (Ashok Kumar Sharma Vs. State of U.P. & 3 Ors.).

17. As for the orders passed by the State Commissioner and the Magistrate, no direction has been issued as may allow any relief of appointment (on any post), to be granted to the petitioner, at this stage.

18. Last, in view of the decision of this Court in Ashok Kumar Sharma Vs. State of U.P. & 3 Ors, no further enquiry is warranted, at this stage.

19. Having heard the petitioner (in person), learned Standing Counsel for the State and Sri Prabhakar Awasthi, in the first place, it cannot be denied, there is no room to consider the challenge to selection already made. That challenge was made in the earlier writ petition filed by the petitioner being Writ - A No. 17917 of 2007. That petition came to be dismissed as withdrawn vide order dated 07.01.2020. In absence of liberty granted to the petitioner to file a second writ petition that relief may not be granted now especially since the petitioner is past the age of fresh employment (being about 56 years of age) and he has not impleaded the duly selected candidate.

20. Besides the fact, the petitioner is about 56 years of age, in any case, before any reservation may have been

claimed for a person with disability, identification of post was necessary to be made under the Old Act. No such identification or reservation of post for person with locomotor disability is shown to have been provided before issuance of the advertisement. In absence of post identification and reservation made, the petitioner could not have claimed a right to be appointed on the post of Library Peon upon claiming reservation under the Old Act.

21. However, what is most disturbing is the fact that instead the petitioner being apprised of this fact and the consequent position in law, it does appear, the petitioner was unfairly asked to ride a bicycle which he obviously could not. In any case, in absence of specification of 'bicycle' in the advertisement dated 24.06.2006, the petitioner should have been allowed to ride a 'tricycle' which also qualifies as a cycle. In other words, if otherwise eligible the petitioner should have been allowed to compete as a General Category candidate. His carrying a disability did not render him ineligible.

22. Though the order of the District Magistrate dated 30.09.2019 stood withdrawn by the subsequent order dated 17.02.2020, it is surprising, no action has been taken pursuant to the magisterial enquiry report dated 09.09.2019, pursuant to the order of the State Commission dated 23.05.2019.

23. Here, again, the piquant situation exists, inasmuch as, the withdrawal of the order dated 30.11.2019 has not been challenged by the petitioner. In fact, on the strength of the withdrawal of that order, Writ – A No. 1975 of 2020 (Ashok Kumar Sharma Vs. State of U.P. & 3 Ors.) came to be disposed of.



24. Therefore, no positive relief is found deliverable to the petitioner in such circumstances, at this belated stage.

25. In the first place, there is found no post identified or reserved for persons with locomotor disability, before issuance of the advertisement inviting application for the post of Library Peon at the Government Inter College, Deoband, Saharanpur. Second, the petitioner was more than 40 years of age on the date of first application on 2006. In absence of reservation for person with locomotor disability, the petitioner could not have claimed benefit of relaxation of age treating himself to be candidate belonging to the reserved category. That occasion would have arisen only if the enabling reservation had been first provided for. Though necessary, clearly, that was not done. Third, at present, no relief can be granted in the nature of employment for reason of passage of time as also for reason of the enabling order passed by the District Magistrate dated 30.11.2019 was withdrawn *in toto*. Besides no challenge thereto, that action had been practically endorsed by the Court in its earlier order dated 20.02.2020 passed in Writ – A No. 1975 of 2020 (Ashok Kumar Sharma Vs. State of U.P. & 3 Ors.). Also, for that reason, no further enquiry is to be made at this belated stage.

26. However, it yet survives for consideration, whether the petitioner may be found entitled to any other relief for reason of being dealt with unfairly to the point of his dignity being violated and being humiliated at the instance of the State authorities, for no fault and for the State and its functionaries having failed to protect him, which act was against the mandate of the Constitution.

27. No occasion may have existed to make this

consideration if the respondent State authorities had apprised the petitioner of the correct facts and made him understand the same without violating his dignity as a human being and without committing any positive act of humiliation in making him feel inadequate, owing to his different ability.

28. Having done that the State and its functionaries have not only failed a special citizen but also violated his fundamental right to life and liberty - for what worth is human existence if it is denuded of dignity and respect deserving its cherished existence. Deprived of dignity, liberty is a sea-shell washed to the shore, dead and of ornate value for others but worthless to the being that used to live within it.

29. In **K.S. Puttaswamy (Privacy-9J) Vs. Union of India, (2017) 10 SCC 1**, detailed discussion and analysis of the fundamental right to life and liberty has been made. In that, considering the entire gamut of law the following pertinent observations have been made in the majority decisions:

*"108. Over the last four decades, our constitutional jurisprudence has recognised the inseparable relationship between protection of life and liberty with dignity. Dignity as a constitutional value finds expression in the Preamble. The constitutional vision seeks the realisation of justice (social, economic and political); liberty (of thought, expression, belief, faith and worship); equality (as a guarantee against arbitrary treatment of individuals) and fraternity (which assures a life of dignity to every individual). These constitutional precepts exist in unity to facilitate a humane and compassionate society. The individual is the focal point of the Constitution because it is in the realisation of individual rights that the collective well-being of the community is determined. Human dignity is an integral part of the Constitution. Reflections of dignity are found in the guarantee against arbitrariness (Article 14), the*

*lamps of freedom (Article 19) and in the right to life and personal liberty (Article 21).*

**110.** *A Bench of two Judges in Francis Coralie Mullin v. UT of Delhi [Francis Coralie Mullin v. UT of Delhi, (1981) 1 SCC 608 : 1981 SCC (Cri) 212] ("Francis Coralie") while construing the entitlement of a detainee under the Conservation of Foreign Exchange and Prevention of Smuggling Activities (Cofeposa) Act, 1974 to have an interview with a lawyer and the members of his family held that : (SCC pp. 618-19, paras 6-8)*

*"6. ... The fundamental right to life which is the most precious human right and which forms the ark of all other rights must therefore be interpreted in a broad and expansive spirit so as to invest it with significance and vitality which may endure for years to come and enhance the dignity of the individual and the worth of the human person.*

*7. ... the right to life enshrined in Article 21 cannot be restricted to mere animal existence. It means something much more than just physical survival.*

*8. ... We think that the right to life includes the right to live with human dignity and all that goes along with it, namely, the bare necessities of life such as adequate nutrition, clothing and shelter and facilities for reading, writing and expressing oneself in diverse forms, freely moving about and mixing and commingling with fellow human beings. ... Every act which offends against or impairs human dignity would constitute deprivation pro tanto of this right to live and it would have to be in accordance with reasonable, fair and just procedure established by law which stands the test of other fundamental rights."*

**111.** *In Bandhua Mukti Morcha v. Union of India [Bandhua Mukti Morcha v. Union of India, (1984) 3 SCC 161 : 1984 SCC (L&S) 389] , a Bench of three Judges of this Court while dealing with individuals who were living in bondage observed that : (SCC p. 183, para 10)*

*"10. ...This right to live with human dignity enshrined in Article 21 derives its life breath from the directive principles of State policy and particularly clauses (e) and (f) of Article 39 and Articles 41 and 42 and at the least, therefore, it must include protection of the health and strength of the workers, men and women, and of the tender age of children against abuse, opportunities and facilities for children to develop in a healthy manner and in conditions of freedom and dignity, educational facilities, just and humane conditions of work and maternity relief. These are the minimum requirements which must exist in order to enable a person to live with human dignity, and no State — neither the Central Government nor any State Government — has the right to take any action which will deprive a person of the enjoyment of these basic essentials."*

**113.** *Human dignity was construed in M. Nagaraj v. Union of India [M. Nagaraj v. Union of India, (2006) 8 SCC 212 : (2007) 1 SCC (L&S) 1013] by a Constitution Bench of this Court to be intrinsic to and inseparable from human existence. Dignity, the Court held, is not something which is conferred and which can be taken away, because it is inalienable : (SCC pp. 243 & 247-48, paras 26 & 42)*

*"26. ... The rights, liberties and freedoms of the individual are not only to be protected against the State, they should be facilitated by it. ... It is the duty of the State not only to protect the human dignity but to facilitate it by taking positive steps in that direction. No exact definition of human dignity exists. It refers to the intrinsic value of every human being, which is to be respected. It cannot be taken away. It cannot give (sic be given). It simply is. Every human being has dignity by virtue of his existence. ...*

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*42. India is constituted into a sovereign, democratic republic to secure to all its citizens, fraternity assuring the dignity of the individual and the unity of the nation. The sovereign, democratic republic exists to promote fraternity and the dignity of the individual citizen and to secure to the citizens certain rights. This is because the objectives of the State can be realised only in and through the individuals. Therefore, rights conferred on citizens and non-citizens are not merely individual or personal rights. They have a large social and political content, because the objectives of the Constitution cannot be otherwise realised."*

*(emphasis supplied)*

**114.** *In Maharashtra University of Health Sciences v. Satchikitsa Prasarak Mandal [Maharashtra University of Health Sciences v. Satchikitsa Prasarak Mandal, (2010) 3 SCC 786 : (2010) 1 SCC (L&S) 894] , this Court held that the dignity of the individual is a core constitutional concept. In Selvi [Selvi v. State of Karnataka, (2010) 7 SCC 263 : (2010) 3 SCC (Cri) 1] , this Court recognised that : (SCC p. 376, para 244)*

*"244. ... we must recognise that a forcible intrusion into a person's mental processes is also an affront to human dignity and liberty, often with grave and long-lasting consequences."*

**115.** *In Mehmood Nayyar Azam v. State of Chhattisgarh [Mehmood Nayyar Azam v. State of Chhattisgarh, (2012) 8 SCC 1 : (2012) 4 SCC (Civ) 34 : (2012) 3 SCC (Cri) 733 : (2012) 2 SCC (L&S) 449] , this Court noted that when dignity is lost, life goes into oblivion. The same emphasis on dignity finds expression in the decision in*

NALSA [National Legal Services Authority v. Union of India, (2014) 5 SCC 438] .

**119.** *To live is to live with dignity. The draftsmen of the Constitution defined their vision of the society in which constitutional values would be attained by emphasising, among other freedoms, liberty and dignity. So fundamental is dignity that it permeates the core of the rights guaranteed to the individual by Part III. Dignity is the core which unites the fundamental rights because the fundamental rights seek to achieve for each individual the dignity of existence. Privacy with its attendant values assures dignity to the individual and it is only when life can be enjoyed with dignity can liberty be of true substance. Privacy ensures the fulfilment of dignity and is a core value which the protection of life and liberty is intended to achieve."*

30. Also, the respondents are generally at fault in not providing for identification and reservation of adequate post for person with locomotor disability at Government Degree College at Deoband, Saharanpur.

31. Thus, in the entirety of the facts and circumstances of the case, cumulatively, the State has failed its special citizen. He is therefore found entitled to lump-sum compensation assessed at Rs. 5,00,000/-, which may be paid out to the petitioner by the respondent State Government directly into the following Savings Bank Account (disclosed by the petitioner), held in the name of Shivam Gupta bearing A/C No. 919010037208046 (IFSC Code UTIB0002426), within a period of three months from today. In absence of payment made within that time, that amount would attract interest @ 8% from today till the date of actual payment.

32. The amount of compensation has been awarded to let the petitioner know, the State may take time to hear & understand its citizen and his plight but, it is neither deaf nor heartless as may ever remain indifferent, forcing him

to drag his feet, almost literally, to this Court to seek justice. The citizen works at the heart of the giant being the State is. Unless the heart beats freely, the being cannot thrive.

33. Respondent no.1 is entrusted to ensure due compliance of this order. It is made plain, in this case compensation awarded is on the State as a whole and not on its executive wing alone.

34. With the aforesaid observation, the present petition stands **partly allowed**.

**Order Date :-** 31.8.2022  
Abhilash/Prakhar