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BEFORE THE STATE COMMISSIONER FOR PERSONS WITH DISABILITIES

ADD: SANJAY CENTRE FOR SPECIAL EDUCATION
GROUND FLOOR, PUNDALIKNAGAR,
PORVORIM-GOA.

Case No.06/SCPWDS/2022-23/437

Shri. Gopal P Naik,
C-5-D, Govt Qtrs,
Altinho Panaji Goa. -**Complainant**

V/s

The Assistant Engineer,
Office of Assistant Engineer,
Sub Division III, W.D. 1 (Bldgs),
PWD, Altinho Panaji Goa. -**Respondent**

Case filed on: 07/07/2022.
Decided on: 06/10/2022.

1. Matter in hand pertains to a complaint filed by Shri. Gopal P Naik a Person with 40% Locomotor Disability, R/o, C-5-D Govt Qtrs, Altinho Panaji Goa, before this Commission, requesting to make provision for car parking slot with reserved notified board for Persons with Disabilities.

2. The Complainant state that the complainant had written a letter addressed to the Assistant Engineer O/o the Assistant Engineer SD-III, W.D.I (bldgs) P.W.D. Altinno Panaji Goa, dated 19/03/2020 requesting to allot the reserved car parking space and temporary shed at Govt Qtrs C-5-D, Altinho Panaji Goa.

3. Complainant further stated that a reserved car parking space was allotted by the Public Work Department (PWD) at Govt Qtrs C-5-D, Altinho Panaji Goa.

4. Further application receipt dated 05/04/2022 was submitted by the complainant to the Office of The Assistant Engineer, Sub Division III, W.D.I (Bldgs), PWD, Altinho Panaji Goa, requesting to do concrete flooring for the car shed which was already erected and the same is pending unattended.

5. Complainant further stated that, the Staff/ Employee of the Assistant Engineer office approached the Complainant on 04/07/2022 and informed that the reserved parking shed is illegal and therefore needs to be demolished. The complainant further mentioned that during the telephonic conversation with the higher official PWD, the complainant has informed the official that the car parking is legal as per the application letter dated 19/03/2020.

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6. Further the official on telephonic conversation stated that the reserved car parking is not constructed by the P.W.D and therefore it is illegal. The complainant further suggested the Officer that an alternate car parking shed should be allotted for the purpose of the accessibility of Persons with Disabilities.

7. Upon receipt of this complaint, Hearing Notice was issued to both the parties vide Case No 06/Comm-PwDs/2022-23/299 dated 13/07/2022, to remain present in person on 26/07/2022 at 11:00 am, in the O/o The State Commissioner for Persons with Disabilities.

8. This office received letter dated 22/07/2022 from the Executive Engineer PWD, stating that the Assistant Engineer –III has been tested positive for COVID-19 and is under isolation, as such will not be able to attend the hearing, and hence requested to postpone the date of hearing.

9. On 26/07/2022 Complainant was present along with Shri. Vishant Nagvekar, Respondent was absent, accordingly, the next date for hearing was fixed on 12/08/2022 at 11:00am, same was conveyed to both the parties vide letter Case No.06/Comm-PwDs/2022-23/376 dated 03/08/2022.

10. On 12/08/2022, Complainant was present and the Respondent was absent. As directed by the Hon'ble Commissioner for Persons with Disabilities summon order was issued to the Assistant Engineer O/o the Asst Engineer SD-III, W.D.I, Altinho Panaji Goa, directing to remain present on 26/08/2022 at 11:00 am, in the Commissioners chamber.

11. On 24/08/2022 the Assistant Engineer PWD SD-III submitted the reply to the notice issued dated 13/07/2022 vide letter No.PWD/SDIII/WDI/F./22-23/100 dated 23/08/2022 to this office and collected the (Summon Notice/Reminder –I) copy to remain present for the next hearing.

12. The Respondent in its reply dated 23/08/2022 stated that:

1) Shri. Gopal P. Naik a resident of quarter no C-5-D of building no C-5 consist of 8 number of quarter at Altinho.

2) That for the government employee other than E- type Quarters no garage is allotted and residents are utilizing whatever garages are available to them with mutual understanding.

3) That Shri Gopal P. Naik is also utilizing the garage with the mutual consent of all occupants.

4) That a complaint was raised by one of the resident of C-5-A regarding dispute within various occupants about parking of vehicle since there are only five parking sheds for eight residents and the issue was brought to the notice of the Chief Engineer PWD. The Chief Engineer PWD then instructed the Respondents office to provide the

required parking shed to the residents and to paint the quarter nos in the parking shed in a clockwise manner to resolve the issue. 21/C

5) That their higher authorities initiated the process of providing garage whether land /garage available by developing the land/ renovating the existing garages to reduce conflict among the occupant.

6) That for redevelopment /renovation they have requested Shri Gopal P. Naik to shift his vehicle to an alternate garage so as to enable the contractor to carry out the development of land in order to provide the additional three parking sheds.

7) That since there is land constrain, construction cannot be started unless the existing parking shed where Shri Gopal P. Naik parks his vehicle is removed and it has been intimated to him that he will be provided with garage facility at the same quarters considering his urgent need.

7) That they have initiated the same process for the Building C-5 also.

8) That they have taken utmost care to provide maximum facilities within the available infrastructure available to Shri Gopal P. Naik.

13. During the hearing on 26/08/2022 the Complainant argued that till now no work has been done by the Public Works Department (PWD) for accessibility of the PwDs, like concrete flooring for reserved car parking, stoppage of leakage of water in quarters, fixing of railing /handle bars along with the steps.

14. To that the Respondent replied that, due to non availability of funds and other technical reasons the said work was delayed. Inspite of non entitlement of the Complainant, the Respondent has assured to do reserve car parking with notified reserved car parking board for PwDs near to the Complainants residence. Further the respondent also assured to carry out the repair work like water proofing to stop leakage of water, fixing of railing/handle bars along with the steps of the complainants resident at the second floor, of Govt quarter C-5-D.

15. Upon hearing both the parties and going through the issue concerned in the complaint, and considering the Rights of Persons with Disabilities, the importance of the accessibility of the physical infrastructure for Persons with Disabilities as mandates under **Section 41** and **45** of the **Rights of Persons with Disabilities Act 2016**, are as under:

Section 3 (1) of the Right of Persons with Disabilities Act2016 mandates as under:

Section 3 (1) Equality and Non Discrimination:-

The appropriate government shall ensure that the Persons with Disabilities enjoy the right to equality, life with dignity and respect for his or her integrity equally with others.

The Section 41(1) of the Right of Persons with Disabilities Act-2016 mandates as under:

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Section 41- (1) Access to transport:-

(a) The appropriate government shall take suitable measures to provide facilities for persons with disabilities at bus stop, railway station and airports conforming to the accessibility standards relating to parking spaces, toilets, ticketing counter and ticketing machines.

(b) Access to all modes of transport that conform the design standard, including retrofitting old modes of transport wherever technology feasible and

Safe for persons with disabilities economically viable and without entailing major structural changes in design

The Section 45 (1) of the Right of Persons with Disabilities Act 2016 mandates as under:

Section 45 (1) Time limit for making existing infrastructure and premises accessible and action for that purpose:-

(1) All existing public building shall be made accessible in accordance with the rules formulated by the central government within a period not exceeding five years from the date of notification of such rule. Provided that the central government may grant extension to the state on a case to case basis for adherence to this provision depending on their state of preparedness and other related parameters.

(2) The appropriate government and the local authorities shall formulate and publish an action plan based on prioritization, for providing accessibility in all their buildings and space proving essential services such as all primary health centers, civil hospitals, school, railway station and bus stop.

We have duly considered the complaint filed by the complainant viz a viz the reply of the respondent and after carefully examining the same we pass the following order:

ORDER

1. Considering the reply of the Respondent to the complaint that the Complainant will be provided with the garage facility at the same Quarters considering the urgent need of the complainant, it is hereby recommended that the Respondent shall provide a garage for car parking with notified reserved car parking signage board, dedicated for Persons with Disability, close to the residence of Person with Disability.

2. Complainant shall cooperate with the Respondent and the Contractor for temporary shifting of his vehicle to an alternate garage so as to enable the Respondent and contractor to carry out the redevelopment/renovation of land for providing proper and additional parking spaces.

3. That the Respondent to carry out work of fixing of railing /handle bars along with the steps at the earliest so as to make it accessible for Persons with Disabilities residing at the second floor of the Govt Qtrs building C-5-D.

4. The Respondent is further recommended to do overall repair work including water proofing to stop the leakage of water in the second floor Govt Qtrs building C-5-D of the Complainant.

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5. The Respondent to submit within 3 weeks the plan of action to do above recommended work with a time frame.

6. The Respondent shall submit positive compliance report on the recommendation made herein above, to this office within the period of three months on receipt of this order.

In view of the above the present complaint is hereby disposed off.

Given under my hand and seal of this Commission, on this day of 06th October 2022

State Commissioner
For Persons with Disabilities
C/o. Sanjay Centre for Special Education
Porvorim-Goa

(Guruprasad R. Pawaskar)
State Commissioner for Persons with Disabilities

State Commissioner for Persons with Disabilities
Government of Goa