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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 8213/2016

THIRUVARA HANSA PANDEY & ORS. .... Petitioners  
Through: Ms. Avneet Toor Gupta, Advocate.

versus

UNION OF INDIA & ORS. .... Respondents  
Through: Ms. Bharathi Raju, Advocate for  
respondent Nos. 1 & 4.  
Mr. Sushil Bajaj and Mr. Sayed Atif,  
Advocates for respondent No. 3.  
Mr. Sarfaraz Khan, Advocate for  
respondent No. 6/ DSLSA.  
Ms. Harshita Mishra, Secretary  
(Litigation), DSLSA.  
Mr. Tushar Sannu and Ms. Ritika  
Priya, Advocate for GNCTD.

**CORAM:**  
**HON'BLE MR. JUSTICE GAURANG KANTH**

**ORDER**  
**08.09.2022**

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The hearing has been conducted through hybrid mode (physical and virtual hearing).

1. This Court, vide order dated 29.01.2020, directed respondent No. 5/ Department of Social Welfare, Government of NCT of Delhi to consider the case of petitioner Nos. 1 & 2 and take a decision on the support that needs to be provided to the said petitioners, keeping in view the mandate as well as the object and purpose of 'The Rights of Persons with Disabilities Act, 2016'.

2. While passing the order dated 29.01.2020, this Court was conscious of the fact that respondent No. 2/ Government of NCT of Delhi being the appropriate Government has not notified 'Authority' as required under Section 38(1) of the Act and hence, there is no scheme which would presently cover the case of the petitioners. The Court directed respondent No. 5 to consider the case of the petitioner Nos. 1 & 2 not as the 'Appropriate Authority' under Section 38(1) of the Act but as a State which is responsible for taking steps to protect the best interest of all the children residing in the State of Delhi.

3. Respondent No. 5 has filed an affidavit dated 02.09.2022 after a delay of more than two and a half years, inter alia, stating as follows:-

*“3. It is respectfully submitted that a letter dated 10.02.2020 was addressed to the Deputy Director (Disability), Department of Social Welfare, Govt. of NCT of Delhi for the consideration of the issue relating to the welfare of child with disability and further implementation the provisions of the Rights of Persons with Disabilities Act, 2016.*

*4. In view of the above submissions, the implementation of Section 38 of the Rights of Persons with Disabilities Act, 2016 does not come under the purview of this Department. That the Department of WCD reiterates its commitment and assures the Hon'ble Court for taking all necessary steps so as to protect the best interest of children in the NCT of Delhi.”*

4. The affidavit filed by Joint Director (CPU), Department of Women and Child Development, Government of Delhi shows the sorry state of affairs of children in the State of Delhi. The affidavit has been filed to address the concern of this Court in providing assistance to petitioner No. 1 & 2. On the one hand, respondent No. 5 is assuring this Court to take all

possible steps in the best interest of the children in the State of Delhi, but even after two and a half years of giving this assurance to this Court, respondent No. 5 has miserably failed to carry out their duties as a 'State'.

5. It appears that respondent No. 5 is not in a position to even consider the case of petitioner Nos. 1 & 2 positively or to take any steps for providing adequate assistance to support the needs of the petitioners.

6. This Court records its displeasure about the conduct of respondent No. 5, which is highly contemptuous and hence, this Court is inclined to issue contempt notice to the Secretary, Department of Social Welfare, Government of NCT of Delhi.

7. At this stage, learned counsel for respondent No. 5 seeks one last opportunity to comply with the order dated 29.01.2020 of this Court. He is at liberty to take appropriate action in compliance of order dated 29.01.2020 passed by this Court.

8. This Court also notes that no affidavit has been filed on behalf of respondent Nos. 1, 2, 4 & 8 in compliance of the order dated 29.01.2020. Last opportunity is granted to the said respondents to file their respective affidavits within a period of two weeks, failing which the concerned officer of the respondents shall remain present in Court for explaining the reasons for non-filing of the same.

9. List on 23.09.2022.

**GAURANG KANTH, J**

**SEPTEMBER 08, 2022**

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