



4. On 13.09.2001, the Court directed the Chief Commissioner for Persons with Disabilities, Ministry of Social Justice and Empowerment, Government of India to be impleaded as party respondent and consequently it has been impleaded as respondent No. 35.

5. Then on 18.02.2009, the Court directed Commissioners for Persons with Disabilities of various States and Union Territories to be impleaded as party respondents and consequently respondent Nos. 36 to 70 have been impleaded who are Commissioners for Persons with Disabilities in different States and Union Territories.

6. Certain interim orders have been passed by this Court from time to time.

7. Insofar as U.G.C. (respondent No. 2) is concerned, the Court was informed on 19.03.2002 through counter affidavit that U.G.C. has acted in compliance of the 1995 Act. In paras 3, 6, 7 and 8 of the counter affidavit filed on behalf of the Chief Commissioner for Persons with Disabilities, it was stated :

"3. It is humbly submitted that in pursuance of Section 32 of the Persons with Disabilities Act (Equal Opportunities Protection of Rights and Full participation) Act, 1995, the appropriate government (Government of India) has updated the list of identified posts. This list has been issued vide Extraordinary Gazette Notification No. 178 dated 30.6.2001. In this list, the posts of University/College/School Teacher for the blind and low-vision have been listed at Sl. No. 24-27 on page No. 592.

6. The Chief Commissioner for Person with Disabilities has taken cognizance of the arrangements provided by the University Grants Commission for persons with disabilities by way of extending 5% relaxation in cut off marks, appearing in the NET for Junior Research Fellowship and Lecturership. Thus, the arrangement extended by UGC is in consonance with the policy stand taken by Govt. of India in so far as relaxation in minimum standard is concerned. Relaxation in standards has been favoured only when the candidates belonging to reserved categories are not available on the basis of the general standard to fill all the vacancies reserved for them.

7. The relaxation extended to SC & ST candidates as per Maintenance of Standard 1998 of the Universities, provides for a 5% relaxation from 55 % to 50% in the marks obtained at Master's Degree. Since reservation for the disabled is called horizontal reservation which cuts across all vertical categories such as SC, ST, OBC & General. Therefore, all such blind/low-vision persons who belonged to SC, ST vertical category would automatically enjoy the benefit of 5 % relaxation at the minimum qualifying marks obtained at Master's Degree level. Thus, only the blind and low vision belonging to OBC & General categories are deprived of the relaxation of 5 % marks at masters' level.

8. The blind/low-vision and other visually

disabled persons belonging to SC & ST category are in any case enjoying the benefit of 5% relaxation in marks obtained at the master's level for appearing in the NET examination conducted by the UGC. By extending the same relaxation to particularly blind/low-vision and in general all disabled at par with SC & ST disabled would bring parity amongst all persons with disabilities irrespective of their vertical categories."

8. Thus, insofar as U.G.C. is concerned, this Court in the order 19.03.2002 observed that nothing survives for consideration and the matter is disposed of as against U.G.C.

9. On 19.07.2006, the Court directed the Union of India and the State Governments to file their responses in the form of affidavits within a period of four weeks, failing which it was observed that the Court may be compelled to direct personal appearance of the Chief Secretaries of the concerned States though the Court would like to avoid in making such a direction. Some of the States have filed their responses and some have not.

10. Be that as it may, the beneficial provisions of the 1995 Act cannot be allowed to remain only on paper for years and thereby defeating the very purpose of such law and legislative policy. The Union, States, Union Territories and all those upon whom obligation has been cast under the 1995 Act have to effectively implement it. As a matter of fact, the role of the governments in the matter such as this has to be proactive. In the matters of providing relief to those who are differently abled, the approach and attitude of the executive must be liberal and relief oriented and not obstructive or lethargic. A little concern for this class who are differently abled can do wonders in their life and help them stand on their own and not remain on mercy of others. A welfare State, that India is, must accord its best and special attention to a section of our society which comprises of differently abled citizens. This is true equality and effective conferment of equal opportunity.

11. More than 18 years have passed since the 1995 Act came to be passed and yet we are confronted with the problem of implementation of the 1995 Act in its letter and spirit by the Union, States, Union Territories and other establishments to which it is made applicable.

12. Ms. Sunita Sharma, learned counsel for the Union of India, informs us that insofar as Union of India is concerned, it has implemented the provisions of the 1995 Act and the reservation of 1% of the identified teaching posts in the faculties and college of various Universities in terms of Section 33 of the 1995 Act has been done.

13. In our view, the 1995 Act has to be implemented in the letter and spirit by the Central Government, State Governments and Union Territories without any delay, if not implemented so far.

14. We, accordingly, direct the Central Government, State Governments and Union Territories to implement the provisions of the 1995 Act immediately and positively by the end of 2014.

15. The Secretary, Ministry of Welfare, Government of India, the Chief Secretaries of the States, the Administrators of Union Territories, the Chief Commissioner of the Union of India and the Commissioners of the State Governments and Union Territories shall ensure implementation of the 1995 Act in all respects including with regard to visually disabled persons within the above time.

16. Writ Petition is disposed of in the above terms.

1998

Writ Petitions and Appeals are disposed of in terms of the judgment passed today in Writ Petition (Civil) No. 116 of 1998.

2. No costs.

3. Interlocutory Applications for intervention and impleadment filed in Civil Appeal No. 6442 of 1998, in view of the above, do not survive and they stand disposed of as such.

.....J.  
( R.M. LODHA )

.....J.  
( SUDHANSU JYOTI MUKHOPADHAYA )

NEW DELHI; .....J.  
MARCH 26, 2014 ( DIPAK MISRA )  
ITEM NO.106 COURT NO.2 SECTION PIL

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

WRIT PETITION (CIVIL) NO(s). 116 OF 1998

JUSTICE SUNANDA BHANDARE FOUNDATION Petitioner(s)

VERSUS

U.O.I. & ANR Respondent(s)

(With appln(s) for exemption from filing O.T. and office report )

WITH

W.P(C) NO. 115 of 1998

Civil Appeal NO. 6442 of 1998

(With appln.(s) for impleading party and intervention and vacating stay and with office report)

Civil Appeal NO. 6443 of 1998

W.P(C) NO. 430 of 2000

Date: 26/03/2014 These Petitions and Appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE R.M. LODHA  
HON'BLE MR. JUSTICE SUDHANSU JYOTI MUKHOPADHAYA  
HON'BLE MR. JUSTICE DIPAK MISRA

For Petitioner(s)

WP 116/1998 Mr. Ambar Qamaruddin,Adv.  
WP 430/2000 Petitioner-In-Person  
WP 115/1998 Ms. C.K. Sucharita, Adv.(NOT PRESENT)  
CA 6442/1998 &  
CA 6443/1998 Mr. Aniruddha P. Mayee, Adv.

For Respondent(s)

Mr. Prashant Kumar,Adv.  
Mr. Rajiv Mehta ,Adv  
Mr. B.Balaji ,Adv  
Ms. Susmita Lal ,Adv  
Mr. Anuvrat Sharma ,Adv  
Mr. Sanjay R. Hegde ,Adv (NOT PRESENT)  
Mr. Anil Kumar Tandale ,Adv  
Mr. Sapam Biswajit Meitei, Adv.  
Mr. Khwairakpam Nobin Singh ,Adv  
Mr. T.V.George ,Adv  
Mr. Suryanarayana Singh, Addl. AAG  
Ms. Pragati Neekhra ,Adv  
Ms. Leena Singh, Adv.  
Mr. Ranjan Mukherjee ,Adv (NOT PRESENT)  
Mr. Gulshan Bajwa ,Adv  
Mr. Anil Shrivastav ,Adv  
Mr. P.V. Yogeswaran ,Adv  
Mr. Gopal Singh ,Adv  
Mr. P.N. Gupta ,Adv  
Mr. K.V.Mohan ,Adv  
Ms. Rachana Srivastava ,Adv  
Mr. Sunil Fernandes ,Adv (NOT PRESENT)  
Mr. P.N. Ramalingam ,Adv  
Mr. Abhijit Sengupta ,Adv  
Mr. Kamlendra Mishra ,Adv  
Mr. R. Sathish ,Adv  
Mr. Satish Vig ,Adv  
Mr. Praveen Swarup,Adv  
Mr. Jagjit Singh Chhabra ,Adv  
Mr. V.N. Raghupathy ,Adv

Mr. Balaji Srinivasan ,Adv (NOT PRESENT)

Ms. Bansuri Swaraj, Adv.  
Mr. Nirnimesh Dube ,Adv

Ms. Hemantika Wahi ,Adv

Ms. Sunita Sharma, Adv.  
Mr. B.P. Singh, Adv.

Mr. D.S. Mahra ,Adv

Mr. Arun K. Sinha ,Adv

Ms. Sushma Suri ,Adv

Mr. Ashok Mathur ,Adv (NOT PRESENT)

Mr. Ranbir Singh Yadav ,Adv

Mr. C.D. Singh ,Adv

Mr. Sanjay Visen, Adv.  
Mr. Abhishek Chaudhary ,Adv

Mrs Anil Katiyar ,Adv

Mr. M.A. Krishna Moorthy ,Adv

M/S Corporate Law Group

Ms. Niranjana Singh ,Adv

Mr. Rajeev Sharma ,Adv

Mr. Dharmendra Kumar Sinha ,Adv

Mrs.D. Bharathi Reddy ,Adv

Mr. Aniruddha P. Mayee ,Adv

Mr. Shibashish Misra ,Adv (NOT PRESENT)

Mr. V.G. Pragasam ,Adv

Mr. Balasubramaniam, Adv.  
Mr. K.V. Jagdishvaran, Adv.  
Ms. G. Indira ,Adv

Ms. A.Subhashini ,Adv

Mr. G. Prakash ,Adv (NOT PRESENT)

Ms. Sumita Hazarika ,Adv

Ms. Aruna Mathur, Adv.  
Mr. Ashok S. Pillai, Adv.

Mr. G.N. Reddy, Adv.  
Mr. Debojit, Adv.  
Mr. M. Bala Shivudu, Adv.

Mr. Shreekant N. Terdal, Adv.

Mrs.Suchitra Atul Chitale, Adv.

Mr. P. Parmeswaran, Adv.

Mr. T.V. Ratnam, Adv.

Mr. Anil K. Jha, Adv.

Mr. Gopal Prasad, Adv.

Mr. V.D. Khanna, Adv.

Mr. K. Enatoli Sema, Adv.  
Ms. Ssubhada Deshpande, Adv.  
Mr. Amit Kumar, Adv.

Mr. Anip Sachthey, Adv.  
Mr. Mohit Paul, Adv.

Mr. S.S. Shamsbery, A.A.G.  
Mr. Sandeep Singh, Adv.  
Mr. Harshvardhan Singh Rathore, Adv.  
Mr. Amit Sharma, Adv.

UPON hearing counsel the Court made the following  
O R D E R

Writ Petition (Civil) No. 116 of 1998

Writ Petition is disposed of in terms of judgment.  
Writ Petition (Civil) No. 115 of 1998, Writ Petition (Civil) No. 430  
of 2000, Civil Appeal No. 6442 of 1998 and Civil Appeal No. 6443 of  
1998

Writ Petitions and Appeals are disposed of in terms of the  
judgment passed in Writ Petition (Civil) No. 116 of 1998.  
Interlocutory Applications for intervention and impleadment filed in  
Civil Appeal No. 6442 of 1998 do not survive and they stand disposed  
of as such.

(Rajesh Dham)  
Court Master

(Renu Diwan)  
Court Master

(signed reportable Judgment in placed on the file)