

**IN THE COURT OF  
THE STATE COMMISSIONER FOR PERSONS WITH DISABILITIES**

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(Vested with powers of Civil Court under Rights of Persons with Disabilities Act, 2016)

**CASE NO. 02/SCPD/2021-22**

Mr. AgumbeNda,  
Son of Mr. HialungNda,  
Resident of Chümoukedima,  
Dimapur, Nagaland.

.....APPLICANT/COMPLAINANT

-VERSUS-

1. The Secretary,  
To the Government of Nagaland,  
Department of Nagaland State Transport,  
Nagaland, Kohima.
2. The General Manager,  
Directorate of Nagaland State Transport,  
Dimapur, Nagaland.
3. The Regional Transport Officer,  
District Transport Office, Chümoukedima,  
Dimapur, Nagaland.
4. The Motor Vehicle Officer,  
District Transport Office, Chümoukedima,  
Dimapur, Nagaland.
5. The Principal Secretary,  
Department of Health and Family Welfare,  
Nagaland, Kohima.
6. The Principal Director,  
Department of Health and Family Welfare,  
Nagaland, Kohima.

7. The Medical Superintendent,  
District Hospital,  
Dimapur, Nagaland.

.....RESPONDENTS.

### **ORDER**

**Date :**     15/11/2022.....

The present application is in regard to denial of a driving test to the applicant solely on grounds of his disability. The applicant is presently serving as Primary Teacher at Assam Rifles Public School, Sokhuvi, District: Chümoukedima, Nagaland.

The brief fact of the case is that the applicant has been trying to get a driving license since 2019. After undergoing various medical tests from the District Civil Hospital, Dimapur, Nagaland, he was found fit for driving the following mode of transport- Tricycle (manual or motorized)/Invalid Carriage. However, a regular Learners License bearing License No. NL-07/LL/438/20-21 was issued to the applicant on 23.01.2020, validity period being 6 months i.e., upto 22.07.2020. The claim of the applicant is that while applying for a Driving License, a day was fixed for driving test where he took his vehicle – Maruti Alto Lxi for the said test. However, he was not allowed to undertake the driving test by the Officer-in-charge on noticing his disability. When the applicant approached the Motor Vehicle Officer (MVO), he was further humiliated by stating that the applicant should be dependent on others and that he should not have applied for a driving license in the first place as he is a disabled person.

On 8.10.21, the applicant along with respondent Nos. 1, 2, 3 and 4 were summoned before the Court for recording their statements. In the course of examination and recording of statements, it became imperative to implead respondent Nos. 5, 6 and 7 as necessary parties as various anomalies were observed by this Court in regard to issuance of Medical Certificate.

The observations of the Court were as follows:

1. **Faulty “Mode of Vehicle” in Learners License:** The Learners License bearing No. NL-07/LL/438/20-21, issued by the competent authority to the applicant had not mentioned the mode of vehicle as prescribed in his Medical Examination Report dated 3.08.2019 which is a “tricycle

(manual or motorized)/ invalid carriage". Instead, he was permitted to drive like any ordinary person, a "motor cycle without/with gear, light motor vehicle non transport".

2. **Incomplete Form 1-A-Medical Certificate:** The Medical Certificate, Form 1-A (Annexure-1 to the Affidavit-in-reply), is to be filled by a registered Medical Practitioner appointed for the purpose by the State Government or person authorized in this behalf by the Government. It is seen that some columns have been left out and no details/remarks have been mentioned in regard to the applicant by the Senior Specialist, District Hospital, Dimapur, Nagaland, who had signed the Medical Certificate dated 20.2.2020. This only goes to show that the Senior Specialist, District Hospital, Dimapur, Nagaland, neglected the various medical tests undergone by the applicant and has completely ignored the Medical Examination Report dated 3.08.2019 (enclosed in the main Application dated 13.04.2021) which is reproduced below:

"The above mentioned person has been physically examined and has been found to be normal on bilateral upper limb, while there is weakness of bilateral lower limb.

Hence, basing on the above conclusion, he is fit for driving the following mode of transport- Tricycle (manual or motorized)/Invalid Carriage".

3. **Incomplete Form 1- Application-cum-Declaration as to Physical Fitness:** The applicant had not made any declaration as to his physical condition in Form 1 (Annexure-1 to the Affidavit-in-reply). This fact has also been admitted by the applicant.

On the basis of the above observations, the Court by Order dated 10.11.2021, had directed the applicant/complainant to approach the concerned authority once again under the right category along with the proper mode of vehicle as under the Motor Vehicles Act, 1988, the applicant's condition is not barred in applying for a Driver's License. The respondent Nos. 1, 2, 3 and 4 were directed to immediately identify and authorize reputed vehicle workshops in every District within the State for alteration of vehicles so as to make it suitable to drive by persons with disabilities as it had come to the attention of the Court that the State of Nagaland had not implemented the procedures laid down by the Government of India, Ministry of Shipping, Road Transport & Highways (Department of Road Transport & Highways) through its Letter No. RT-11012/12/2001-MVL dated 29.05.2009, for alteration in the cars to facilitate

persons with disabilities. Further, to make Identification Symbol available to persons with disabilities. An Action Taken Report to this effect by the respondents be duly submitted to the Court within a period of 3 (three) months time on receipt of the Order. Respondent Nos. 5, 6 and 7 were to immediately set up a Fact Finding Committee against the Senior Specialist, District Hospital, Dimapur, Nagaland, who had signed the said Form-1-A, Medical Certificate dated 20.2.2020, without examining the medical tests/report of the applicant. The Report of the Committee must be duly submitted to this Court within 2 (two) months time on receipt of the Order.

In compliance to the above Order, the State respondents for the Transport Department, Nagaland i.e., respondent Nos. 1, 2, 3 and 4 by Notification and Addendum of even number TPT/MV-8/98(Pt-I) dated 31.05.2022 and dated 12.07.2022, has authorized 2 (two) automobile workshops namely, M/S Bimal Automobiles and M/S Bhai Bhai Engineering Works (BBE Workshop) along with their respective addresses and contact numbers situated at Dimapur and Kohima respectively.

Since the State respondents for Department of Health and Family Welfare, Nagaland failed to submit the Report of the Fact Finding Committee against the Senior Specialist, District Hospital, Dimapur, Nagaland, by Order dated 30.08.2022, the respondents were summoned to appear before the Court on 16.09.2022. The applicant/complainant as well as the respondent No. 5 along with the Director, Family Welfare, Nagaland and the Legal Counsel, Mr. N. Mozhui appeared in person on 16.09.2022. By Letter bearing No. MS/DHD/Misc/2021-22/343-45 dated 09.06.2022, the Report of the Fact Finding Committee was submitted to the Court stating that, the concerned Senior Specialist was performing operation and there was no OPD consultation on the date when the Medical Certificate was issued i.e. on 20.02.2020. The Committee further stated that the appended signature does not belong to the Senior Specialist as the signature appended does not match the signature recorded in the Nagaland Medical Registration and thus, enclosed a copy of the Certificate of Practice issued by the Nagaland Medical Council, Nagaland for reference. The Committee further states that the non-filling in the Certificate of Medical Fitness does not indicate any interpretation and has no value.


Basing on the above Report, the applicant/complainant stated that he does not know who the Senior Specialist was on 20.02.2020, the day of signing the Medical Certificate. He stated that he submitted the Medical Certificate to the person attending to the Senior Specialist and was made to wait outside the Office room and after getting it signed the Medical Certificate was handed over to him. As such, he has no knowledge whether the appended signature belongs to the Senior Specialist or as to who signed the Medical Certificate. During the

course of examining, the State respondents requested that the matter may be amicably settled since at present the applicant/complainant is already the holder of a Driving License. The applicant/complainant was also agreeable and conceded to the request being made to him. Hence, with the above facts and circumstances, the parties have amicably settled amongst themselves in regard to the signature appended in the Medical Certificate.

The Court opines that this present case has brought to light the lackadaisical manner in which the procedures are being observed/followed by the Offices in the State. Such attitude must not be ignored and must be brought to an end so that there is no space for negligence, carelessness, or recklessness which thereby, affects the lives of others. There is also a large lacuna in awareness and understanding of laws and rights of persons with disabilities. Therefore, the respondents are directed to widely conduct awareness campaigns within the Departments with regard to the laws and provisions of the Rights of Persons with Disabilities Act 2016 as well as sensitisation programmes regarding interacting and dealing with Persons with Disabilities.

With the above, the matter is disposed off.

Given under my hand and seal on this the 15<sup>th</sup> day of November, 2022.



(DIETHONO NAKHRO)

State Commissioner for Persons with Disabilities

Court of Commissioner (Disabilities)  
New Secretariat Road  
Nagaland : Kohima

Copy to:

1. The Chief Secretary, Government of Nagaland for information.
2. The Chief Commissioner for Persons with Disabilities, New Delhi for information.
3. The Commissioner & Secretary, Social Welfare Department, Nagaland for information.
4. Parties concerned.
5. Office Copy.



(DIETHONO NAKHRO)

State Commissioner for Persons with Disabilities,  
Nagaland: Kohima