

(2025) 01 DEL CK 1762

In the Delhi High Court

Case No : Writ Petition (C) No. 17617 Of 2024

Hoor Anisbhai Jinwala

APPELLANT

Vs

National Testing Agency (NTA) And Ors

RESPONDENT

Date of Decision : 04-01-2025

Acts Referred:

Constitution of India, 1950 — Article 21

Rights of Persons with Disabilities Act, 2016 — Section 75

Citation : (2025) 01 DEL CK 1762

Hon'ble Judges : Tara Vitasta Ganju, J

Bench : Single Bench

Advocate : Rahul Bajaj, Habib Muzaffar, Shehreen Gauri, Pankhuri Shrivastava, Alekshendra Sharma, Rajesh Kumar, Dr. Vijendra Singh Mahndiyan

Final Decision : Disposed Of

Judgement

Tara Vitasta Ganju, J

CM APPL. 74915/2024

1. The present Petition has been filed by the Petitioner seeking directions for the grant of facilities including the facility of a scribe, compensatory time and exemption, in compliance with the guidelines for conducting written examination for persons with benchmark disabilities dated 29.08.2018 issued by Department of Empowerment of Persons with Disability [Divyangjan] [hereinafter referred to as "DEPwD guidelines"]. This is an Application for interim relief seeking directions to be issued to the Respondent No. 1 to allow the Petitioner to use a computer system with a screen reader and make other reasonable accommodations during the UGC-NET examination to be held on 07.01.2025, that would facilitate the Petitioner in taking the UGC-NET exam without any hindrances.

2. The prayer in the present Application reads as follows:

"In light of the above, it is therefore prayed that this Hon'ble Court may be pleased to pass, by way of ad-interim ex-parte directions, a writ of mandamus or

any other similar writ/order/directions, pending the final disposal of the accompanying Writ Petition:

A. Direct the Respondent No. 1/NTA to allow the Applicant to use a computer system with a screen reader and make other reasonable accommodations during the upcoming UGC-NET examination pending the disposal of the writ petition.

B. Grant any other relief that this Hon'ble Court deems fit and proper in the interest of justice."

3. Learned Counsel appearing on behalf of the Petitioner submits that the Petitioner is a final year post-graduate student and is appearing for the UGC-NET exam in January 2025, which is an exam to apply for a Ph.D. or the job of an Assistant Professor.

3.1 Learned Counsel appearing on behalf of the Petitioner further submits that the accessibility is a facet of right to equality and right to life under Article 21 of the Constitution of India, 1950. He submits that the failure of the Respondent No. 1 to provide the necessary accommodation is causing the Petitioner, a severe mental agony as the exam is days away.

3.2 Learned Counsel appearing on behalf of the Petitioner also submits that as per the DEPwD guidelines, it has been directed that there should be uniform and comprehensive policy across the country for the persons with benchmark disability for written examinations. He seeks to rely upon Clauses 8, 9 and 15 of DEPwD guidelines in this regard, which provides for the use of facilities in cases of persons with benchmark disability including permission to take examinations on computer systems with enabling accessories should be allowed.

3.3 Learned Counsel appearing on behalf of the Petitioner further seeks to rely upon the order dated 05.12.2024 passed by the Supreme Court in Yash Dodani & Ors. v. Union of India & Ors. W.P(C) 785/2024 to submit that the Supreme Court has recently on the issue of meaningful and effective opportunity to the visually impaired candidates, had directed the Bar Council of India to ensure that for the All India Bar Examination, the facility of JAWS [Job Access With Speech] screen reader, in addition to option of NVDA [Non Visual Desktop Access] screen reader, is to be made available to candidates. It has further been directed that the candidates be permitted to use their own keyboard and customised mouse in conformity with the DEPwD guidelines.

3.4 In addition, learned Counsel appearing on behalf of the Petitioner also seeks to rely upon the Order dated 11.12.2024 passed by the Supreme Court in Yash Dodani case wherein the Supreme Court directed the Bar Council of India to permit candidates with benchmark visual disability to answer the questions on computer instead of through a scribe, if so desired by a candidate and that the Bar Council of India should make all necessary arrangements for such persons.

3.5 Learned Counsel appearing on behalf of the Petitioner submits that the All India Bar Examination of 2024 was conducted thereafter by the Bar Council of

India in compliance with these directions of the Supreme Court.

3.6 Learned Counsel for the Petitioner submits that the directions as set forth by the Supreme Court are squarely applicable to the facts of the present case and that the Respondent No. 1/National Testing Agency [hereinafter referred to as "NTA"] must also take appropriate steps to enable the Petitioner to appear in the UGC-NET exam scheduled to be held in January 2025.

4. Learned Counsel appearing on behalf of the Respondent No. 1/NTA, on the other hand, relies on a short affidavit filed on 29.12.2024 to submit that the UGC-NET examination has already commenced from 03.01.2025 and when the Petitioner had filled up her UGC-NET Examination Application Form, she had opted for the NTA to provide a scribe. She further submits that the NTA had enquired from their technical counterpart and was informed that the NTA does not have any option for integration of JAWS and NVDA screen reader software with their current examination platform.

4.1 It is further submitted that all preparations for the UGC-NET examination have already been finalized and any changes at this stage, would disturb the schedule for more than 8 lakh candidates.

4.2 Learned Counsel appearing on behalf of the NTA also submits that the screen reader or other devices, if not properly optimised, could cause an overload of the network server leading to delays or crashes that may disrupt the exam for all candidates. In addition, it is contended that the interface for such computer based examinations has complex layout with sidebars and dynamic menus that may confuse the screen reader, thus making it more difficult for the visually impaired candidates to move between the questions and understand the structure or select answers. Reliance is additionally placed on paragraphs 13 to 17 of the short affidavit filed by the NTA in this regard.

4.3 In addition and as set out in the Order dated 03.01.2025 passed by this Court, this aspect of the matter was also clarified by the Deputy Director of the NTA who was present in Court as well. It was explained by him that as far as the UGC-NET examination is concerned, the same is conducted not on a Windows based Operating System but an operating system which is based on the software 'LINUX'. The system has been customised specifically for this examination. He has further submitted that the NVDA/JAWS software which are the two screen reader software which are available for use, are not compatible with the NTA's system for examination and cannot be integrated within the short period of time with the examination system in place.

4.4 Learned Counsel further submits that the UGC-NET, December 2024 examination has already begun on 03.01.2025 and the examination will be conducted until 16.01.2025 for different subjects. Thus, it is contended that making changes at this stage would not be possible.

4.5 It is further contended that the judgment of the Supreme Court in Yash

Dodani case was with respect to the All India Bar Entrance Examination and that the UGC-NET examination is very different in nature. 4.6 Lastly, it is submitted that given the paucity of time and the fact that the UGC-NET examination of the Petitioner is in the next few days, the NTA will be unable to take requisite steps for providing the Petitioner with the facility of screen reader software within this brief time period.

5. No doubt the Petitioner has raised an issue of significant importance - the compliance for equal rights for persons with disabilities. The DEPwD guidelines as laid down by the Ministry of Social Justice & Empowerment, Government of India are required to be followed while conducting written examinations for persons with benchmark disability. Clauses 8, 9 and 15 of DEPwD guidelines are set out below:

"VIII. Persons with benchmark disabilities should be given, as far as possible, the option of choosing the mode for taking the examination i.e. in Braille or in the computer or in large print or even by recording the answers as the examining bodies can easily make use of technology to convert question paper in large prints, e-text, or Braille and can also convert Braille text in English or regional languages.

IX. In case, the persons with benchmark disabilities are allowed to take examination on computer system, they should be allowed to check the computer system one day in advance so that the problems, if any in the software/system could be rectified. Use of own computer/laptop should not be allowed for taking examination. However, enabling accessories for the computer based examinations such as keyboard, customized mouse etc should be allowed."

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XV. As far as possible, the examining body should also provide reading material in Braille or E-Text or on computers having suitable screen reading software for open book examination. Similarly online examination should be in accessible format i.e. websites, question papers and all other study material should be accessible as per the international standards laid down in this regard."

6. These DEPwD guidelines are required to be followed by all recruitment agencies, academics/examination bodies etc. for conducting examinations for persons with benchmark disabilities. The Petitioner had on 28.06.2024, addressed a communication to the NTA informing she wishes to take the UGC-NET examination by using a screen reader software NVDA. This was followed by another email dated 14.07.2024, extracting the Clauses 8, 9 and 15 of the DEPwD guidelines as well.

7. It is the case of the Petitioner that since no reply was received, the Petitioner filed a complaint under Section 75 of the Rights of Persons with Disabilities Act, 2016 with the Respondent No. 4. The Respondent No. 4 also by a Notice dated 21.11.2024 issued by the Court of Chief Commissioner for Persons with

Disabilities (Divyangjan) advised NTA to allow the Petitioner to appear in December 2024 UGC-NET examination with a screen reading software in accordance with the DEPwD guidelines.

8. It is, however, the contention of the learned Counsel appearing on behalf of the NTA, that this communication from the Office of the Disabilities Commissioner was not received by the NTA until the filing of the present Writ Petition.

9. Undisputedly, the Petitioner completed the Application Form for the UGC-NET December 2024 examination selecting the option of taking the exam with the assistance of a scribe to be provided by NTA.

10. The Court was also informed about the use of the screen reader software being used in the Delhi Higher Judicial Service Examination conducted recently. The examination conducting authority has clarified that the screen reader software was made available to the candidates, however, this was only possible, in view of the fact that the platform on which the examination was conducted, uses a Windows based Operating System.

11. As stated above, the Deputy Director, Exams, NTA appeared along with his technical consultant virtually before this Court during the hearing on 03.01.2025 and he clarified that the screen reader software was not available with the LINUX based Operating System and the software cannot be interfaced for examination of the Petitioner, within three days, since the exam is scheduled for 07.01.2025. The officials of the NTA also explained that the question paper in this exam would consist of two sections and both the sections would consist of objective type, multiple choice questions as well as questions with tables/charts and the various interfaces on the screen would require prior customisation. Unlike the All India Bar Examination exam, which is a completely text-based examination, the UGC-NET Examination covers more than 85 subjects which include questions with diagrams and graphics.

12. Given the short time span available and the inability of the NTA to deploy the screen reader software as the operating system that is used by the NTA is not compatible with the screen reader software, the request of the Petitioner cannot be acceded to.

13. Additionally, any accommodation granted to the Petitioner would need to be extended to candidates across all these subjects with Benchmark Disability. This would require making all visual questions accessible and compatible with screen reader software. Given the time constraints, implementing such extensive logistical changes would not be feasible.

14. In view of what is stated above, this Court is not persuaded to pass interim directions in favour of the Petitioner. The NTA is, however, directed to provide a scribe to the Petitioner for the examination scheduled for 07.01.2025, as was selected by the Petitioner in her Application Form.

15. The Application is disposed of in the foregoing terms.
16. It is clarified that nothing stated herein shall tantamount to the expression of the merits of the case which is yet to be adjudicated upon by the Roster Bench.
17. The parties shall act based on the digitally signed copy of the Judgement.