

IN THE HONOURABLE HIGH COURT OF SINDH AT KARACHI
(CONSTITUTIONAL JURISDICTION)

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C.P.No.D-3992 of 2016

Amin Mohammad & Others.....Petitioners

Versus

Province of Sindh & Others.....Respondents

Statement on Behalf of the Petitioners

It is most respectfully and most humbly submitted that the following action plan towards the implementation of the Sindh Differently Able Persons (Employment, Rehabilitation and Welfare) Act, 2014 – Sindh Act XVI of 2015 (hereinafter referred to as the Act) may graciously be taken on record:

PROPOSED ACTION PLAN

1. REGISTRATION OF DISABLED PERSONS

There are currently two avenues available to disabled persons to register under Section 8, read with, Section 10 of the Act i.e. either with an Employment Exchange or a District Officer of the Social Welfare Department.

a. **Employment Exchanges**: The Social Welfare Department claims that 17

Employment Exchanges currently exist in the following Districts of Sindh:

1. Karachi Korangi
2. Karachi Lyari Town
3. Karachi Gulberg Town
4. Karachi SITE
5. Karachi Malir
6. Hyderabad
7. Mirpurkhas
8. Sukkur
9. Khairpur
10. Thatta
11. Badin
12. Dadu
13. Shaheed Benazirabad
14. Shikarpur

15. Jacobabad
16. Sanghar
17. Larkana

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The counsel for the Petitioners is informed that apart from the Employment Exchange established in Shikarpur, all other Employment Exchanges are currently functional.

Proposed Action 1: The government should establish at least 12 more Employment Exchange Centres to ensure that each District has at least one Employment Exchange. Employment Exchanges should be established in the following districts of Sindh:

1. Ghotki
2. Jamshoro
3. Khambher Shahdadkot
4. Kashmore
5. Matiari
6. Shikarpur
7. Tando Allah Yar
8. Tando Muhammad Khan
9. Tharparkar
10. Morro
11. Thatta
12. Umerkot
13. Another one in the Karachi South region.

Proposed Action 2: In order to ascertain the current status of the Employment Exchange in District Shikarpur, the Petitioners propose that this Honourable Court may be pleased to direct the Honourable Nazir of this Court to inspect and submit a report regarding the current status of the aforementioned Employment Exchange.

- b. **District Offices of the Social Welfare Department:** Currently District Offices of the Social Welfare Department are functioning in all Districts of Sindh. However, at present, their role is confined to the issuance of disability certificates and for referral to a medical board before such a certificate is issued (this issue is described in further detail below). To the best of the knowledge of the Petitioners, the District Offices of the Social Welfare Department are not themselves maintaining any records regarding registrations nor are they forwarding any information to the Council.

Proposed Action 3: Since the establishment of further Employment Exchanges will take time, at present the District Offices of the Social Welfare Department can be used for registrations and they should be directed to maintain a list and submit such lists to the Council.

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c. Accessibility and awareness of the registration process for disabled

persons: The process of registration with the Employment Exchanges is overly bureaucratic and complex. A disabled person must undergo the following steps in order to register with the Employment Exchange (which steps are only revealed to prospective applicants over multiple visits as the requisite information is provided only upon inquiry during visits):

- i. A disabled person needs to visit the nearest Employment Exchange to submit a copy of his/her Computerised National Identity Card, documents certifying educational qualifications and 03 passport sized pictures.
- ii. After submission of the aforementioned documents, the Employment Exchange immediately issues a card to the applicant.
- iii. The disabled person must submit the aforementioned card and documents at the Social Welfare Department's office in order to schedule an appointment for medical examination with the Medical Board at the nearest Government Hospital to ascertain the extent of disability of the disabled person. The Medical Board consists of: Medical Superintendent Officer, a Representative of the Social Welfare Department, a Representative of the Labour Department and a Representative of the Employment Exchange.
- iv. After the medical examination, the disabled person is issued a certificate either instantly or at a later time and date.

It is apparent that the process of registration itself requires a disabled person to be present at the Employment Exchange itself and therefore there is a need for the existing Employment Exchanges to be more accessible. Furthermore, there is a pressing need for disabled persons to be made aware of the fact that they are required to be registered with either the Employment Exchanges or with a District Officer of the Social Welfare Department.

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Proposed Action 4: The process of registration should be made more accessible by allowing disabled persons to register by post, email and/or through the Social Welfare Department's website. Although the establishment of further Employment Exchanges may take time, accessibility to the current Employment Exchanges can be improved within 4-6 weeks as it will only require the creation of a universal email address, a separate page on the Social Welfare Department's website and a designated postal address where applications can be submitted. Forms should also be made available on the Social Welfare Department website along with a list of required information/documents which are essential for the registration process. Going forward a system can be implemented through which applications can be submitted online but since this will require an appropriate e-filing system, for the time being e-filing can be deferred.

Proposed Action 5: An awareness campaign should be launched comprising of advertisements in both print and electronic media inviting disabled persons to register with Employment Exchanges or the District Offices of the Social Welfare Department and describing the various methods available to disabled persons for the registration process. The documentary requirements for submission of forms must be displayed prominently on the website as well as be made a part of the awareness campaign. This can only be implemented after implementation of Proposed Action 4 and an appropriate awareness campaign can be launched within 3-5 weeks of the implementation of Proposed Action 4.

2. INFORMATION REGARDING REGISTERED DISABLED PERSONS AND TRANSMISSION OF SUCH INFORMATION TO THE COUNCIL

- a. Register: Under Section 10 of the Act, the Employment Exchange and the District Officer Social Welfare Department of the area must maintain a register of all disabled persons seeking employment as prescribed by the Government and these names must then be referred to the Council. Under Section 10(3) and 10(4) of the Act the Council is to endorse every registered disabled persons as to whether they are fit to work or whether they require rehabilitation/training. Under Section 15(3)(b) of the Act, those persons who are unable or unfit to undertake any employment are eligible for financial assistance.

Proposed Action 6: A report should be called from the Employment Exchanges and District Officers of the Social Welfare Department, providing details of all disabled persons registered including the names of disabled persons who have been referred to the Council. Furthermore, the following actions are proposed in relation to such lists:

- I. The total number of disabled persons registered. This list must then be divided into 2 categories i.e. physically disabled and mentally disabled.
- II. These lists must then be subdivided into 3 further categories:
 - a. Disabled persons who require training.
 - b. Disabled persons who possess sufficient skills but are unemployed.

- c. Disabled persons who are currently employed along with their place of employment.
- d. Disabled persons who are unable or unfit to undertake any employment

This process should not take more than two weeks. The Council should then go through these lists and after getting in contact with the registered disabled persons form the three separate lists mentioned above. Since this process requires getting in touch with the registered disabled persons it can take up to 8 weeks.

3. TRAINING OF DISABLED PERSONS AND ACCESS TO TRAINING

- a. Training Centres: The Social Welfare Department claims that there are 17 Training Centres out of which only 5 are for adults. It is yet not known whether these Training Centres cater to physical disabilities, mental disabilities or both.

Training Centres currently exist in the following Districts of Sindh:

1. Karachi Korangi
2. Karachi Lyari Town
3. Karachi Gulberg Town
4. Karachi SITE
5. Karachi Malir
6. Hyderabad
7. Mirpurkhas
8. Sukkur
9. Khairpur
10. Thatta
11. Badin
12. Dadu
13. Shaheed Benazirabad
14. Shikarpur
15. Jacobabad
16. Sanghar
17. Larkana

The counsel for the Petitioners is informed that, apart from the Training Centres established in Shikarpur and Dadu, all other Training Centres are currently functional. Furthermore, the Sindh Technical Education and Vocational Training Authority (STEVTA) has established vocational training institutions in:

1. Karachi
2. Jamshoro
3. Larkana
4. Sukkur

Proposed Action 7: In order to ascertain the current status of the Training Centres in Districts Shikarpur and Dadu, the Petitioners propose that this Honourable Court may be pleased to direct the Honourable Nazir of this Court to inspect and submit a report regarding the current status of the aforementioned Training Centres.

Proposed Action 8: A report should be called from all training centres including vocational institutes established by STEVTA which provides the following details:

- a. The total number of disabled persons enrolled at these institutes
- b. The nature of the disability of enrolled students (i.e. physical or mental)
- c. Whether these centres cater to adults or children or both?
- d. Specific vocational training courses each disabled person is receiving.
- e. What courses are currently on offer?

Proposed Action 9: The government should establish at least 12 more Training Centres particularly in the following districts of Sindh:

1. Ghotki
2. Jamshoro
3. Khambher Shahdadkot
4. Kashmore
5. Matiari
6. Tando Allah Yar
7. Tando Muhammad Khan
8. Tharparkar
9. Morro
10. Thatta
11. Umerkot.

- b. **Courses/Vocational Training Courses:** This aspect may be deferred until completion of Proposed Action 8 after which an appropriate plan should be formulated to introduce more courses.
- c. **Accessibility of Training Centres:** Awareness regarding the functions and existence of Training Centres plays a major role towards their accessibility. There is a pressing need for disabled persons to be made aware of the services extended by Training Centres.

Proposed Action 10: Appropriate paraphernalia regarding inviting disabled persons to register with Training Centres and describing the various services available to disabled persons at the Training Centres should also be printed and given to disabled persons when they register with the employment exchange or the district office of the Social Welfare Department.

4. **Fund**

- a. **Current status of Fund:** A fund has purportedly been established but details regarding this fund have not been given. Under Section 15(1) of the Act, the fund shall consist of funds paid by establishments under Section 9, grants

made by the federal government and the provincial government and/or local bodies and donations by private individuals.

Proposed Action 11: A report should be called which should give details regarding the following:

- a. What is the total amount of the fund?
- b. Details regarding grants given by the federal government, the provincial government and/or local bodies and donations by private individuals.
- c. Details regarding utilization of the fund.

- d. Grants offered to disabled persons: Under Section 4(h), the Council is responsible for the medical treatment of disabled persons. Under Section 4(k), further grants are to be given to disabled persons such as concession in admission fees, health insurance, monthly social security grant, interest free loans, etc. Under Section 15(3), the Fund is to be utilized for financial assistance to those disabled persons who are not fit to undertake any employment and for their welfare etc.

Proposed Action 12: The facilities provided to disabled persons must be made more accessible by an appropriate awareness campaign so that disabled persons are made aware of the facilities they can avail from the Council. An application process should be formulated as to how a disabled person is to apply for such grants and what particulars are required in support of such applications. Disabled persons should be able to obtain forms and get information by post, email and/or through the Social Welfare Department's website.

- c. Maximizing the fund:

Proposed Action 13: The Council should also contact and actively pursue the federal and provincial government and local bodies for grants.

Proposed Action 14: An appropriate marketing campaign should be launched so that the public at large is made aware of the Council, its functions so that donations can be invited to boost the fund.

5. Implementation of Sections 8, 9 and 18 of the Act

- a. **2% quota in establishments:** Under Section 8(1) of the Act, 2% of the total number persons employed by an establishment should be disabled persons and under Section 9, if an establishment does not employ disabled persons as required under Section 8, it shall be liable to pay to the fund each month the sum of money it would have paid as salary or wages to the disabled person had he been employed. According to the data submitted by the province of Sindh in C.P.No.D-1461 of 2012, over 63 governmental departments exist in Sindh. Furthermore, the Counsel for the Petitioners is informed that the Labour Department currently maintains records regarding private establishments in relation to EOBI and Social Security.

Proposed Action 15: The provincial government should be directed to submit a comprehensive list in the following terms:

- a. A list of the total number of departments
- b. Total sanctioned strength of employees

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- c. How many disabled persons are employed
 - d. Shortfall of employees against the reserved 2% quota
 - e. Details regarding the emoluments which would be given to each disabled person if the vacant positions was filled by a disabled person

Furthermore, once abovementioned exercise is done, the departments should then be sent notices from the Council so that the vacant positions are either filled or Section 9 is complied with by directing them to submit the sum of money to the fund it would have paid as salary or wages to the disabled person had he been employed

Proposed Action 16: The Labour Department should be directed to submit a list of private establishments which are registered with the Labour Department. The details regarding the private establishments should include:

- a. A list of the total number of establishments
- b. Total number of employees
- c. How many disabled persons are employed
- d. Shortfall of employees against the reserved 2% quota
- e. Details regarding the emoluments which would be given to each disabled person if the vacant positions was filled by a disabled person

Furthermore, once abovementioned exercise is done, the private establishments should then be sent notices from the Council so that the vacant positions are either filled or Section 9 is complied with by directing them to submit the sum of money to the fund it would have paid as salary or wages to the disabled person had he been employed

N.B:

1. Proposed Action Nos. 6, 8, 11, 15 and 16 are in the nature of detailed reports which are essential for formulating further steps towards implementation of the Act.
2. Proposed Action Nos. 2, 3, 4, 5 (5 can commence upon completion of 4), 6, 7, 8, 11, 13, 14, 15 and 16 can be implemented immediately whereas the remaining proposed actions will require more time and will be based on the results of other proposed actions.
3. Proposed Action Nos. 2 and 7 pertain to inspections by the Nazir of this Honourable Court in order to ascertain the existence and status of Employment Exchanges and Training Centres in Shikarpur and Dadu.
4. Proposed Action 12 pertains to facilities disabled persons can avail from the Council. This aspect will require a detailed implementation plan which may also include framing of appropriate rules because there is no system in place which prescribes the application process and under what criteria applicants will be granted financial and other assistance.

Advocate for the Petitioners

Karachi

Dated: 23-02-2017

3, 4, 6, 11, 15, 16