**IN THE HIGH COURT OF MADHYA PRADESH**

 **PRINCIPAL SEAT AT JABALPUR BENCH**

**Writ Petition (PIL) No. 7794 /2020**

**Petitioner:**

AkhileshGurjar, s/o Ramesh Gurjar

Age– 31

Occupation:Social Worker

Address–Gram Bawadiya, Kaji Post, Boregaon, Tehsil Khurd, Dist. Khandwa-450001

***Versus***

**Respondents:**

1. State of Madhya Pradesh through,

Director

Social Justice and Disabled Persons Welfare Department

1250, Tulsi Nagar Bhopal-462003

dir.socialjustice@mp.gov.in

1. Commissioner,

Disabilities, Govt. of Madhya Pradesh

1250, Tulsinagar, Bhopal

dpswbpl@mp.nic.in

1. Commissioner,

Disabilities, Govt. of Madhya Pradesh,

Community Hall, New Market, T.T. Nagar, Bhopal

comdismp@rediffmail.com

1. Director

Department of Empowerment of Person With Disabilities

Ministry of Social Justice and Empowerment

Room No. 5, B-I Block, AntyodayaBhawan, CGO Complex,

Lodhi Road, New Delhi

vikash.Prasad@nic.in

1. Chief Secretary

MP State Disaster Management Authority

Paryavaranparisar E-5 Arera Colony

Bhopal- M.P.

mpstatecoord.sdma@mp.gov.in

1. Principal Secretary

Health and Family Welfare

Room No. 241, Mantralaya (VallabhBhawan),

Arera Hills, Bhopal- M. P.

pshealth@mp.gov.in

1. Commissioner

Directorate of Health Services

6th, Floor, SatpudaBhawan

Bhopal (MP)

commrhealth@mp.gov.in

1. Secretary

Department of Food, Civil Supplies and Consumer Protection

GH Block, I Floor, VindyanchalBhawan, Bhopal

dirfood@mp.nic.in

1. Collector Jabalpur

Collector Office Jabalpur

Madhya Pradesh

dmjabalpur@nic.in

1. Collector Indore

Collector Office MotiTabela

District Indore, M.P.

dmindore@nic.in

1. Collector Bhopal

Collector Office

District Bhopal, M.P

dmbhopal@mp.gov.in

1. Collector Gwalior

Collector Office

District Gwalior, M.P

dmgwalior@nic.in, dmgwalior@mp.gov.in

**WRIT PETITION UNDER ARTICLE 226 OF THE**

**CONSTITUTION OF INDIA (PIL)**

**R/w under Article 21 of the Constitution of India.**

1. **Particulars of the cause/order against which the petition is made:.**
2. Date of Order: Nil
3. Passed in (Case or File Number): Nil
4. Passed by: Nil
5. **Subject-matter in brief:**
6. Petitionerhas filed the instant petition praying forappropriate direction to the respondents to exercise theirpowers under various legal provisions and take immediatemeasures in theinterest of the Persons with Disabilities (hereinafter referred to as PwD) who are being drastically affected by the COVID-19 lockdown.
7. This is in reference to the current outbreak of COVID 19 which has affected lakhs of people in various ways and claimed around 3000 lives so far. This PIL is specifically with regard to the dire situation of PwD in the light of Covid-19 & Lockdown, calling for immediate intervention, with monetary and material support by the state government /respondents.
8. According to the NSS Survey, 2018, only 23% of adults with disabilities are working, while just 4.2% are unemployment. **This indicates that over three-fourths (77%) of PwD are depends upon other family members and government welfare schemes for their livelihood and survival.**Of those employed, the majority are involved in low productive agriculture sector, low income self-employment and casual work. So, the majority of people with disabilities who are employed are engaged in informal or low paid activities and are likely to be heavily affected by the lockdown
9. A lack of accessible information and its dissemination, a faulty built-in environment and negative social attitudes towards PwD are matters of grave concern, particularly as these times put their lives and livelihood at serious risk. Considering that PwD have no income to sustain themselves and the benefits of government schemes announced in their favour are either too small or never reached them; immediate cash assistance, home delivery of ration and other essential commodities, and immediate medical assistance and treatment for PwD is of utmost concern.
10. The petitioner and various other NGOs and platforms like Madhya Pradesh ViklangManch and its General Secretary Mrs. KiranPatidar, PragatishilViklangKalyan Trust-Khargone, AadarshDivyangKalyanSamiti on various occasions through tweets and letters have brought to the notice of the Prime Minister, the Chief Minister of Madhya Pradesh, Minister of Social Justice and Empowerment and members of Lok-Sabha the dire situation of PwD as detailed above in Point D. However, no reply or acknowledgements to letters and tweets respectively was received by any of the NGOs or platforms mentioned above.
11. **The antecedents of the petitioners :**
12. The petitioner is a Social Worker working for the upliftment and welfare of the marginalized communities of the society.
13. That, the present petition under article 226 of the constitution of India are being filed by way of PIL and the petitioner has no personal interest in the same.
14. That, the petitioner is filing the present petition on her own and not at the instant of someone as the litigation cost including the advocate fee and the travelling expenses of the lawyers are being borne by the petitioners himself.
15. **Facts of the case:**
	1. That, the current outbreak of COVID 19 has affected lakhs of people in various ways and claimed around 3000 lives in India so far. As per the census data of 2011, Madhya Pradesh has a total of 1,551,931 Persons with Disabilities (Hereinafter reffered to as PwD). The census data of 2011 stating the same has been annexed herewith and marked as **Annexure P-1**
	2. According to the NSS Survey, 2018, only 23% of adults with disabilities are working, while just 4.2% are unemployment. This indicates that over three-fourths (77%) of PwD are depends upon other family members and government welfare schemes for their livelihood and survival.Of those employed, the majority are involved in low productive agriculture sector, low income self-employment and casual work. So, the majority of people with disabilities who are employed are engaged in informal or low paid activities and are likely to be heavily affected by the lockdown.The NSS Report of December 2018 stating the same has been annexed herewith and marked as **Annexure P-2**
	3. PragatishilViklangKalyan Trust, Khargone on 16th May 2020 wrote to ShriGajendra Patel, member of LokSabha from Khargone bringing to his notice that the advance pension of Rs. 600/- of two months deposited in PwD’s account is very meagre for them to sustain themselves and their families. The trust requested ShriGajendra Patel to increase the pension amount and bring the whole issue to the notice of the Chief Minister. The letter has been annexed herewith and marked as **Annexure P-3.**However, no reply to the letter has been received by the trust till date.
	4. Madhya Pradesh ViklangManch through a letter dated 13th May 2020 brought to the notice of Chief Minister, ShriShivraj Singh Chouhan the following points:
16. The advance pension of Rs. 600 for two months to be provided to the PwD either hasn’t been received by them or has been received for only one month. Furthermore, accessibility to banks to encash the amount is a far reality owing to the current lockdown.
17. The ex-gratia of Rs 1,000 announced by the Union Finance Minister PradhanMantriGaribKalyanYojana (PMGKY) for poor senior citizens, disabled communities and widows hasn’t been received by anoone of them till date.
18. PwD who are non-bearers of Ration Card haven’t been provided with Ration even after directions from the Central Government leading to adverse condition of PwD
19. Several PwD don’t possess an Aadhar Card due to numerous formalities involving fingerprint and retina scan.
20. Patients suffering from Haemophilia and Thalassemia don’t have access to blood transfusion facility owing to the current lockdown leading to deterioration of their health.
21. Helpline Numbers 104 and 181 are unresponsive.

The letter has been annexed herewith and marked as **Annexure P-4.**However, no reply has been received by Madhya Pradesh ViklangManch till date.

* 1. Mrs.KiranPatidar, General Secretary of Madhya Pradesh ViklangManch brought the letter mentioned in point no.8.14 to the notice of PMO, India, Chief Minister of Madhya Pradesh and Minister of Social Justice and Empowerment through twitter. A screenshot of the tweet has been annexed herewith as marked as **Annexure P-5.**However, the tweet hasn’t been acknowledged by any of the above mentioned authorities till date.
	2. AadarshDivyangKalyanSamiti through a letter dated 16th May 2020 requested ShriGajendra Patel, member of LokSabha from Khargone to make arrangements for supply of ration to PwD considering their plight and also provide financial assistance to them. The letter has been annexed herewith and marked as **Annexure P-6.**However, no reply has been received by AadarshDivyangKalyanSamiti till date on same.

3.9 That, PwD can not be compared with the normal people because the have to face physiological problem and need to invest more money on their medical facilities and they have to face much larger problem during the treatment. Artificial Calliper and other support equipments for good and satisfactory life they need much more monetary expenditures.. According to The Rights Of Persons With Disabilities Act, 2016, PwD has to be incorporated appropriately in all the planning and government monetary allotments therefore In Covid 19 relief fund (Rahat Kosh) seeking to spend 4% of the allotment to PwD from the relief fund.

1. **Source of information**

 The information has been provided by the petitioner and the PwD. The data has been collected from Government and other authenticWebsites.

1. **Nature and intent of injury caused.**

 The sudden announcement of the lockdown – now extended – in the country led to panic and socioeconomic and health emergencies, wherein the PwD are among the worst affected. A lack of accessible information and its dissemination, a faulty built-in environment and negative social attitudes towards PwD are matters of grave concern, particularly as these times put their lives and livelihood at serious risk. PwD have no income to sustain themselves and the benefits of government schemes announced in their favour are either too small or never reached them

1. **Issue was neither dealt nor decided .**

 The issue was neither raised nor decided in any petition filed by the petitioner.

1. **Any representation made .**

A representation was made to the respondent by e-mail on date 21/05/2020. Representation mailed has been annexed herewith and marked as **Annexure P-8.**Receipt of Sent email is annexed herewith and marked as **Annexure P-9**.

1. **Grounds urged**

That in the abovementioned facts and circumstances, the present petition is being filed on the basis of the following, amongst other, grounds:

1. The State Government/Respondents has been gravely negligent with regard to the plight of the PwD during the COVID-19 and consequent national lockdown.
2. The State Government/Respondents has failed to take necessary steps for the welfare of the PwD residing in the state.
3. The negligence of the State Government/Respondents towards the miserable condition of the PwD in the state is in violation with the provisions of Article 14 of the Constitution of India.
4. In light of the Coronavirus crisis, it was announced that the Centre will provide three months of pension in advanceto poor senior citizens, differently-abled and widows under its National Social Assistance Program (NSAP). However, none of the PwD in the state of Madhya Pradesh have received benefits of the same till date or have received only half the amount of what was promised. Even if the sum has been deposited in PwD’s bank accounts, accessibility to banks remains far from impossible owing to the current lockdown.A newspaper article from times of India dated 27th March 2020 informing the same has been annexed herwith and marked as **Annexure P-9.**
5. Further, under the PradhanMantriGaribKalyanYojana (PMGKY), the Union Finance Minister announced an ex-gratia of Rs 1,000 over three months in two instalments for poor senior citizens, disabled communities and widows. The statement of PIB, Delhi dated 26th March,2020claiming the samehas been annexed herewith and marked as **Annexure P-10**. The amount by itself is very meagre and adding insult to injury is the fact that this will be given in two instalment spread over three months, which would average to ₹ 333.33 per month. This is grossly inadequate. Furthermore, none of the none of the PwD in the state of Madhya Pradesh have received benefits of the same till date.
6. Section 8 of The Rights Of Persons With Disabilities Act, 2016 states as follows:
	1. *“The persons with disabilities shall have equal protection and safety in situations of risk, armed conflict, humanitarian emergencies and natural disasters.*
	2. *The National Disaster Management Authority and the State Disaster Management Authority shall take appropriate measures to ensure inclusion of persons with disabilities in its disaster management activities as defined under clause (e) of section 2 of the Disaster Management Act, 2005 for the safety and protection of persons with disabilities.”*
	3. The Commissioner of Disabilities, Govt. of Madhya Pradesh vide a letter dated 27th March 2020 directed the collectors of all the districts to ensure compliance with the guidance note released by Ministry of Home Affairs and ensure protection of PwD taking into consideration Section 8 (1) and (2) of The Rights Of Persons With Disabilities Act, 2016. The letter has been annexed herewith and marked as **Annexure P-11.­**However, there seems to be no action on the part of District Collectors to ensure the same.
	4. The Commissioner of Disabilities, Govt. of Madhya Pradesh vide a letter dated 01st April 2020 directed the collectors of all the districts to ensure the following:
7. Issue passes to PwD on priority basis
8. Facilitate Home-Delivery of food, water, medicines and other essential commodities to PwD.
9. Co-ordinate with NGOs to ensure well-being of PwD during these tough times.
10. Ensure proper treatment of PwD in medical institutions by co-ordination with local NGOs.

The letter has been annexed herewith and marked as **Annexure P-12.**However no steps were taken by the district collectors to ensure home delivery of food, water, medicines and other essential commodities to PwD.

* 1. The CEO of District Ratlam wide its letter dated 24th April 2020 issued the following instructions to the collector of ratlam, janpadpanchayat of Ratlam, Alot, Jawra, Sailana, Bajna, Piploda and Nagar Parishad of Jawra, Taal, Badwada, Aalot, Sailana, Piploda, Dhamnod, Namli:
1. Arrange for issuing passes on priority basis to PwD
2. Facilitate Home-Delivery of food, water, medicines and other essential commodities to PwD.

The same was instructed vis-a-vis section 8 of The Rights Of Persons With Disabilities Act, 2016 and the letter of Commissioner of Disabilities dated 27th March, 2020. The letter has been annexed herewith and marked as **Annexure P-13.**However no steps were taken by the local governing authorities to ensure home delivery of food, water, medicines and other essential commodities to PwD.

* 1. Madhya Pradesh Social Security PwD Pension Scheme provides a financial assistance of INR 600 for the PwD. However, access to banks in the current situation remains far from impossible and thus PwD have no money to sustain themselves.
	2. The Delhi government has doubled the pension amount for widows, differently-abled and the elderly to Rs. 5000 per month. However, no such steps have been taken by the government of Madhya Pradesh in view of these tough times.
	3. The WHO has published ‘Disability Considerations during the Covid-19 Outbreak’, highlighting the greater significance of the impact of COVID-19 on the disabled population, which can only be mitigated through appropriate action and protective measures by key stakeholders. WHO’s report dated 26th March,2020 stating the same has been annexed herewith and marked as **Annexure P-14**
	4. Persons with visual disabilities rely highly on the sense of touch (reading Braille, providing inputs on electronic devices, using canes etc) for mobility and work, thus increasing their risk of getting infected.Many of the quarantine centres don’t have PwD friendly infrastructure like lifts or disabled-friendly toilets. This needs to be taken cognizance of and addressed swiftly.
1. **Details of remedies exhausted:**

No remedies exhausted except this petition.

1. **Delay if any in filing the petition:**

There is no delay in filing the petition.

1. **RELIEFS PRAYED :**

It is therefore prayed that your lordship may graciously be Pleased:

In the light of facts stated above, arguments advanced,grounds urged and authorities cited, this Hon’ble Court the Petitioner prays for the following Relief/s:-

For issuance of an appropriate writs /orders/ directions directing and commanding upon the respondents authority,

1. To direct the Director, Social Justice and Disabled Persons Welfare Department to provide a Cash assistance of Rs. 2500 per month for three months along with special provisions under the Public Distribution Scheme for the PwD on an urgent basis irrespective of whether they hold a ration card and continue so for a period of three months after the lockdown is lifted.
2. To direct the Director, Social Justice and Disabled Persons Welfare Department to ensure compliance with the Government Schemes for the welfare of PwD in view of Covid-19 namely:
3. Three months of pension in advanceto differently-abled under its National Social Assistance Program (NSAP).
4. An ex-gratia of Rs 1,000 over three months in two instalments fordisabled communities under the PradhanMantriGaribKalyanYojana (PMGKY).
5. To direct the Principal Secretary, Health and Family Welfare to provide Rice and Wheat under the Madhya Pradesh Food Security Act and additional 25 kg ration(salt, pulses, spices, sugar, tea leaves etc.),toPwD on an urgent basis irrespective of whether they hold a ration card and continue so for a period of three months after the lockdown is lifted.
6. To direct the Chief Secretary, MP State Disaster Management Authority to make arrangements for home-delivery of essential commodities for PwD on an urgent basis irrespective of whether they hold a ration card and continue so for a period of three months after the lockdown is lifted.
7. To direct the Commissioner, Directorate of Health Services to arrange for blood transfusion service for patients suffering from Haemophilia and Thalassemia on an urgent basis
8. To direct the Director, Social Justice and Disabled Persons Welfare Department to devise a mechanism to arrange for Video conferencing, telemedicine and telephone conversations by doctors to contact patients with disabilities.
9. To direct the Director, Social Justice and Disabled Persons Welfare Department to provide Access to aids, devices and necessary mobility and communication equipment to the PwD and continue so for a period of three months after the lockdown is lifted.
10. All the above mentioned medical facilities should be provided to the patients irrespective of whether the patient is the bearer of a valid medical certificate or not.
11. Be pleased to pass such other order or orders, write(s) or its direction or directions as this Hon’ble Court may deem fit and proper in the facts and circumstances of the case for the ends of justice.
12. To direct the respondents/Government of M.P., to incorporate PwD appropriately in all the planning and government monetary allotments In Covid 19 relief fund (Rahat Kosh) **seeking to spend 4% of the relief allotment to PwD from the relief fund.**
13. **Interim Order/writ, if prayed for:**
14. To allow this application and direct to provide an immediate 25kg ration support & cash assistance of Rs. 2500/- per month for at least three months for PwD as financial support to enable them to make their both ends meet and for their survival.
15. To arrange for immediate medical treatment, medical assistance, blood transfusion and other necessary ailments for the PwD.

**Caveat**:

That, no notice of lodging a caveat by the opposite party is received.

Submitted by

INDORE
DATE: 27/05/2020

**SHANNO SHAGUFTA KHAN**

 Advocate For The Petitioner

Registration No. MP200/2002

 Mobile No.9827717075,9407100777

e-mail shannokhan.adv@gmail.com

**IN THE HIGH COURT OF MADHYA PRADESH**

 **PRINCIPAL SEAT AT JABALPUR BENCH**

**Writ Petition (PIL) No. /2020**

 **Petitioner:** AkhileshGurjar

 Versus

**Respondents:** State of MP and Others.

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INDORE
DATE: 27/05/2020

 **SHANNO SHAGUFTA KHAN**

 Advocate For The Petitioner

Registration No. MP200/2002

 Mobile No.9827717075,9407100777

e-mail:shannokhan.adv@gmail.com

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Registration No. MP200/2002

 Mobile No.9827717075,9407100777

e-mailshannokhan.adv@gmail.com

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**Chronological Events**

|  |  |  |
| --- | --- | --- |
| Sr.No. | Date | Events |
| 1. | 2011 | The census data of 2011 released |
| 2. | 12/2018 | NSS Report “Persons with Disabilities in India” released |
| 3. | 26/03/2020 | The statement of Finance Minister through PIB, Delhi published |
| 4. | 26/03/2020 | WHO’s report “Disability considerations during the COVID-19 outbreak**”** released |
| 5. | 27/03/2020 | Letter of the Commissioner of Disabilities, Govt. of Madhya Pradesh released |
| 6. | 01/04/2020 | Letter of the Commissioner of Disabilities, Govt. of Madhya Pradesh released |
| 7. | 16/04/2020 | Letter of PragatishilViklangKalyan Trust, Khargone posted |
| 8. | 24/04/2020 | Letter of the CEO of District Ratlamreleased |
| 9. | 13/05/2020 | Letter of Madhya Pradesh ViklangManch posted |
| 10. | 13/05/2020 | Reference of MPVM’s letter by Mrs. KiranPatidar tweeted |
| 11. | 16/05/2020 | Letter of AadarshDivyangKalyanSamiti posted |
| 12. | 21/05/2020 | Representation sent by E-mail |

 Submitted by

INDORE
DATE: 27/05/2020

 **SHANNO SHAGUFTA KHAN**

 Advocate For The Petitioner

Registration No. MP200/2002

 Mobile No.9827717075,9407100777

e-mail shannokhan.adv@gmail.com