



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 667 OF 2024

Monica Madanlal Gupta

... Petitioner

Vs.

1. Union of India, through the office of Directorate
General of Civil Aviation/Airport Authority of India
DCGA Western Regional Office

2. M/s. Air India Ltd.

3. Adani Enterprise Ltd./Mumbai International
Airport Ltd.

... Respondents

WITH
WRIT PETITION NO. 178 OF 2025

Payal Saxena

... Petitioner

Vs.

1. Union of India, through the office of Directorate
General of Civil Aviation/Airport Authority of India
DCGA Western Regional Office

2. M/s. Air India Ltd.

3. Adani Enterprise Ltd./Mumbai International
Airport Ltd.

... Respondents

Mr. Aseem Naphade a/w Ms. Nishtha Malik, Ms. Sonal Kochar, Ms. Bijal Soni, Ms. Deepanjali Mishra and Mr. Tejas Horambe i/b NAS Legal Advocates for petitioners in both Matters.

Ms. Leena Patil for respondent no. 1.

Mr. Zal Andhyarujina, Sr. Adv. a/w Mr. Nitesh Jain, Mr. Hridhay Khurana and Mr. Arnav Bhansali i/b Trilegal for respondent No. 2.

Ms. Shoma Maitra a/w. Nipeksh Arvind Jaini/b Wadia Ghandy & Co. for respondent no. 3 in WP/667/2024.

Mr. Farid Karachiwala a/w Yuvraj Choksy i/b J. Sagar Associates for respondent no. 3 in WP/178/2025

CORAM: G. S. KULKARNI &
ADVAIT M. SETHNA, JJ.
DATED: 22 April, 2025

P.C.

1. These petitions raise seminal issues in relation to the ordeals of senior citizens in undertaking air travel and more particularly, in respect of non-availability of wheelchairs and other appropriate facilities being provided to them, either by the Civil Aviation companies or the Airport operators.

2. We have heard learned counsel for the parties.

3. A reply affidavit dated 11 April, 2025 is filed on behalf of respondent no. 1 by Ms. Shruti P.D. Mishra, Director General of Civil Aviation/Airport Authority of India, DGCA Western Regional Office. As also an additional affidavit dated 17 April, 2025 filed by the said affiant. We find from the affidavit that DGCA has taken a pro-active stand and has expressed its deep concern on such issues. The Court's attention is drawn to the Regulations as issued, namely, "Civil Aviation Requirements (CAR) Section 3, Series M, Part I Issue 3, Rev.7 dated 21 July, 2022 Titled 'Carriage by Air – Persons with Disability (Divyangjan) and/or Persons with Reduced Mobility", which are stated to framed to safeguard the interests of the disabled passengers and/or persons with reduced mobility. It is stated in the reply affidavit that the basic responsibility of providing wheel chairs to the passengers lie with the Airlines and the Airports. It is also stated that Ramps/Ambulifts also are required to be provided to the passengers as per their requirements. It is stated that the DGCA having issued such norms to safeguard the interests of the disabled passengers and/or persons with reduced mobility and it is expected that the Airlines shall take all reasonable efforts to provide best

possible assistance in accordance with the provisions of said norms issued by the DGCA.

4. In the additional affidavit, the DGCA has stated that in addition to the aforesaid norms, 'Carriage by Air of Persons with disability and/or persons with reduced mobility, Passengers Centric Regulations', to safeguard the interest of the travelling public are framed to address the issues on facilities to be provided by airlines due to denied boarding, cancellation of flights and delays in flights (CAR Section 3, Series M, Part IV). It is stated that such norms are amended from time to time based on the inputs of the stakeholders. Quite significantly, it is seen from the additional affidavit, that to ascertain the compliance of the said norms by the airlines, the DGCA conducts surveillance inspections/spot checks at various airports in the country. Conscious of such sufferings the passengers encounter, DGCA has also drawn the Court's attention to an unfortunate incident which had taken place in respect of senior citizen, aged 80 years, who was travelling from New York and who was not provided a wheelchair on disembarking despite a prior request made to the airline for wheelchair assistance. He collapsed and died at Mumbai airport while walking from the aircraft to the terminal. It is stated that a suo motu cognizance was taken by the DGCA on the same day after receiving information of the unfortunate incident. It is stated that considering the response from the concerned airline, it was established that there was negligence on its part contravening the provisions of Civil Aviation Requirement (CAR) Section 3, Series M, Part I, amounting to a violation of sub-rule (3) of Rule 133A of the Aircraft Rules, 1937 and accordingly, the airline was imposed financial penalty as

per the appropriate provisions. Certainly, this incident ought to have been an eyeopener, not only for the concerned airline, but for the other airlines, indicating that there cannot be any laxity, negligence and sufferance on these basic requirements of the senior citizens. It is undoubtedly a collective responsibility of all the stake holders to look after the needs of the senior citizen travellers and those with special needs. The concerned staff dealing with passengers need to be sensitized on such issues so that a respectful and humane treatment is meted out to such travellers.

5. Insofar as the recurring nature of such issues are concerned, additional affidavit of the DGCA, in paragraphs 10 and 11 would support the contentions as urged by the petitioner while stating that DGCA is concerned with the safety of the passengers as well as smooth and hassle-free travel.. The relevant paragraphs of the additional affidavit are required to be noted, which reads thus:

“10. I say and submit that a meeting was recently convened under the chairmanship of DG(CA) with airlines, Delhi Airport and Airports Authority of India for the discussion on issues related to wheelchair, wherein concerns were raised such as airlines policy for booking of wheelchair, procedure to be followed, prioritizing the passengers in case of overbooking of wheelchairs, connectivity from alighting point to gate/wheelchair spot and provisions of buggy at airports. Further appropriate actions will be taken as per laid down procedures.

11. I say and submit that the DGCA is really concerned about the safety of the passengers as well as smooth and hassle-free travel. The DGCA will abide orders passed by this Hon’ble Court with utmost respect.”

6. We may note that in our order dated 7 April, 2025 after hearing the learned counsel for the parties, we observed that there can be no two opinions that the problems, concerns and/or the miseries of the senior citizens who undertake air travel, deserve to be addressed by all the stakeholders with utmost

promptness. While making such observations, we thought it appropriate that a well thought of and a systematic regime needs to be implemented by the aviation companies and the airport operators under the rules/norms, which the Director General of Civil Aviation may implement in discharging its parental role. We had made the following observations:

“3. In our prima facie opinion, the respondents need to be alive and in fact sensitive to the travel requirements of senior citizens, patients and / or of persons with medical conditions. An effective operational mechanism in this regard needs to be framed and implemented, so that the special needs of such travellers are attended with utmost priority. Also their grievances, if any, occurring during the course of travel, either at the airport or on the flight be immediately addressed. In our prima facie opinion the approach of the aviation companies, the airport operators and the DGCA in this regard needs to be service oriented satisfying the ideal standards of service being offered rather than complaint centric.

4. We are of the opinion that insofar as the concerns of senior citizens, persons who are in need for a special assistance and/or those having medical needs of such nature, there cannot be any laxity either in implementing the relevant rules. The least which can be expected is that such issues ought not to be taken to the Courts and litigated. This is neither in the interest of the aviation companies, nor in the interest of the passengers. The air travel of these passengers needs to be absolutely smooth and a co-operative affair with all appropriate facilities and on humane considerations being made available.

5. The Director General of Civil Aviation has a parental role in implementation of the rules, and the sensitivity any situation may demand, and it would be his obligation to bring about a systematic regime to be implemented by the aviation companies.

6. Let such issues be considered by the DGCA and an appropriate affidavit on the steps it would be propose to take on such concerns, be placed on record on an affidavit, on or before the adjourned date of hearing.”

7. It is on such backdrop, we have heard learned counsel for the parties. There are several concerns which are raised by the petitioner. Significant suggestions are placed on record by Mr. Naphade, learned counsel for the petitioners. These suggestions reads thus:

“A) Since only employees of airlines can reach aircraft, as per Affidavit in

Reply by MIAL, DGCA to issue mandatory guidelines on

- 1) Minimum number of wheelchairs available per aircraft landing at each airport.
- 2) Minimum number of staff to be employed based on per wheelchair and taking into account absentism of staff (one staff per wheelchair).
- 3) A prominent grievance counter specially for wheelchair passengers at terminal where wheelchairs are stacked for immediate availability.
- 4) Make it mandatory for head of cabin crew to not abandon a wheelchair passenger till wheelchair arrives – (a person in uniform always gives hope and comfort to passengers.).
- 5) Make it possible for head of cabin crew to co-ordinate with wheelchair staff seamlessly so that wheelchair is brought to the aircraft.
- 6) A special ad hoc committee be formed to study the feasibility of above suggestions and report to High Court on next date.”

8. We may observe that the requirement of wheelchair may not be an issue, confined only to the senior citizens, however it would also be relevant to those passengers, who are sick/ailing or suffering disability. Hence, it may be anybody including children. It is, therefore, certainly one of the most fundamental human requirement that appropriate facilities of such aid and assistance, to such ‘persons in need’ are provided by the airlines/airport operators and regime in proper co-ordination with different stakeholders need to be established. The DGCA has very fairly accepted the willingness to look into all these issues.

9. In the aforesaid circumstances, as fairly conceded at the Bar, such emerging issues have arisen from the present proceedings, at this stage of the proceedings, the following order would meet the needs of justice, so that the intricacies on these issues are examined from every possible angle by having a deliberation with

all the stakeholders for workable norms which may be arrived at by DGCA, on consideration of the recommendations to be made by a Special Committee we propose to nominate in this regard. We, accordingly, pass the following order:

ORDER

(i) A three member Committee under the Chairmanship of Hon'ble Mr. Justice Goda Raghuram, Former Judge of High Court of Andhra Pradesh (Composite State) and Former Director of the National Judicial Academy, one high ranking Official from the Directorate of Civil Aviation to be nominated by Director General of Civil Aviation and Mr. Shirish Deshpande, Chairman, Mumbai Grahak Panchayat is constituted to deliberate on the issues as flagged by us.

(ii) The Committee shall hear the Civil Aviation Companies (Airlines), the Petitioners and/or representatives of the travellers, representative of the different Airport Operators, a Senior Official from the Department of the Disability Commissioner and any other appropriate parties as the Committee may deem appropriate.

(iii) After receiving suggestions from all the stakeholders and on deliberation on the relevant issues arising for its consideration, the Committee shall make an appropriate report to the DGCA, recommending the essential requirements and norms which need to be introduced, for the consideration of the DGCA for

effective implementation of the norms by the Civil Aviation Companies (Airlines) and the Airport Operators so as to enable smooth and comfortable travel of the senior citizens, persons with disabilities and persons with lack of mobility etc.

(iv) The honorarium, stay and travel expenses of the members of the Committee as may be fixed by the Committee shall be borne by the Airlines and/or the Airport Operators to be shared in equal proportion or as may be felt appropriate. The appropriate venue of the meetings shall be decided by the Hon'ble Chairman of the Committee.

10. We may observe that in passing the aforesaid order, not only the DGCA but also the other respondents have fairly supported the cause and have expressed their willingness to deliberate on such issues, which day in and day out vitally affect thousands of air travellers, so as to have an appropriate mechanism and for a lead model to be introduced and followed, which can even achieve an international recognition.

11. Before parting we clarify that such committee as constituted by us purely has a recommendatory role, to be discharged in the larger interest of the air travellers with special needs. It is for the DGCA ultimately to consider the recommendations and take an appropriate call on the issue, as may be permissible in law.

12. Needless to observe that all legal rights and contentions of all the

stakeholders, including of the air travellers, are expressly kept open, which shall not in any manner be prejudiced. This order, also in no manner is reflection of any opinion on any pending proceedings between the petitioner and the Airlines.

13. We, accordingly, adjourn the proceedings to **30 June 2025 (H.O.B.)**.

(ADVAIT M. SETHNA, J.)

(G. S. KULKARNI , J.)