

4th Annual Spiritus Sports Law and Policy Competition

Case Study

Ms. X is an Indian athlete who lives and trains in Bangalore. She has represented India in the 100m, 200m and 400m athletic events at various international athletics championships. She has also represented India at the London 2012 Olympic Games. In 2013, however, as she was walking home from a late night practice session she was hit and run over by a speeding car near MG Road. Her legs were crushed in the accident and both her legs had to be amputated below the knee. She was left confined to a wheelchair.

Everyone believed this to be the end of her athletic career. Ms. X had been the sole breadwinner of her five-member family. This accident and the cost of her recovery and rehabilitation had created a huge dent in their finances. Ms. X however was not one to be cowed down by her adverse circumstances. At London 2012 she had stayed on after her events and witnessed the Paralympic Games and was impressed by the magnitude and scale of the event. She had also seen athletes participating in athletics events at the Paralympic Games on prosthetic legs and she drew inspiration from that. Keeping this in mind, she knew there was still a possibility of a career in athletics for her.

But Ms. X didn't know where to begin. Fortunately, since she had been an able bodied athlete, she had contacts in the sports ministry and within the athlete network. She began to gather information on participating in para sports. She dreamed of winning the gold medal for India at the Tokyo Paralympics in 2020.

Ms. X soon found out that her dream could be short lived. Prosthetics were expensive, had to be imported at high import duty plus GST and would cost her a fortune. She met a few para athletes, coaches and officials and realized that her best bet maybe to participate in a few wheelchair athletics events such as javelin, discuss and shot-put.

Though Ms. X was disappointed she decided to make the best of her situation. She began training for her chosen athletic events. A friend and a former able-bodied javelin coach agreed to help with her training even though he had never coached a para athlete before. Ms. X however soon found out that a firm resolve and hard work were not going to be enough to win medals. She realized that the stadium in which she had so often trained as an able bodied athlete was not as easily accessible to her anymore. Her home, which had been just a short five-minute walk from the stadium, now seemed like an arduous trek. Public transport was inaccessible to her because of her wheelchair. She had to, instead, depend on favours from friends and family. Her training sessions had to be planned in advance around the schedules of those who would be kind enough to drop her at the stadium and back home.

While the stadium had a few ramps, which helped her move around, the toilets at the stadium were narrow and could not fit her wheelchair. She had to constantly depend on stadium staff to pick her up and help her to the toilets. All this proved to be a great hindrance to her preparations. She also realized that after her training sessions she suffered from severe back pain. The pain left her unable to train for long periods of time. She realised that she needed a professionally trained and qualified coach and physiotherapist who could understand her situation.

Ms. X, while doing her research, found that the Paralympic Committee of India (PCI), which governs para sport in India, has been suspended and de-recognized a number of times by the International Paralympic Committee, putting at risk the ability of Indian athletes to compete under the Indian flag. There is also only one national event held each year, which has been organized very shabbily in the past.

One of the athletes she used to train with recommended a disability rights NGO in Bangalore, which runs a special wing, called, “You Can Play”. Their aim is to promote sport for differently abled persons. She approached them to help her search for a professionally qualified athletics coach and physiotherapist for wheelchair bound athletes like her. However, they were unable to find anyone qualified enough in India.

During her interactions with, “You Can Play”, she was informed that in order to be eligible to participate in international athletics para sport events she would need to be classified according to her disability by a classification panel recognized by the International Paralympic Committee. Since the classification events are not carried out in India she would be required to travel abroad at her own expense to get herself classified.

It has been over two years since Ms. X started seriously training in para sports. She didn’t qualify for the Rio 2016 Paralympics for which the selection trials were held only three weeks ahead of the Games and her entry to the selection trials was rejected, as she was not “classified”. She however, followed the feats of the Indian Paralympic medallists and hopes to emulate them in Tokyo.

As an able bodied Indian athlete Ms. X was aware of the difficulties and bureaucratic hurdles one had to face but as a differently-abled athlete she feels her problems have multiplied. She has approached “You Can Play” to assist her in filing a PIL on behalf of differently-abled individuals like her who wish to participate in adapted sport. Ms. X and “You Can Play” have carried out some initial research and would like to file the PIL on the following grounds:

The lack of information about para sport, lack of financial support, lack of qualified support professionals, lack of events, high cost of equipment, high entry barriers, lack of institutional support and governance and lack of adequate infrastructure in the form of transport and adequate disabled friendly training facilities results in a violation of:

- (i) Fundamental rights under the Indian Constitution.
- (ii) The Rights of Persons with Disabilities Act, 2016.
- (iii) The UN Convention on the Rights of Persons with Disabilities, 2006.

You have been approached by “You Can Play” to provide pro bono assistance with this case. As a first step they would like you to prepare a memo in **no more than 4,000 words** for their internal legal counsel detailing arguments on the maintainability of the writ petition, arguments under the three sub-heads mentioned above, the remedies that might be available under each sub-head and the reforms one might be able to expect. They also encourage you to include any additional contentions not mentioned above, as you deem appropriate.