

Original Research Paper

What We Can Get With Rights of Persons with Disabilities Act, 2016?

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ABSTRACT

Government and non-governmental organization play a vital role in implementation of RPwD Act, 2016. Government means in relation to the Central Government or any establishment wholly or substantially financed by the Government, in relation to a State Government or any establishment wholly or substantially financed by the Government or any local authority. Non Government organization means working for the empowerment of the persons with disabilities any other educational, social welfare activities as per their bylaws which is registered under Society Registration Act 1860. In order to ensure the various sections and subsection of the implementation of RPwD Act 2016 and as per its rules dated 10 March 2017 The Rules of RPwD Act 2016. Role of GOs & NGOs has been defined and according it is mandatory for the Central, State Government to implement this RPwD Act 2016 by the State Government and its local authority at various level so that the benefits and schemes it envisage in this act to be extended to the PwD for its rehabilitation and mainstreaming in the Society.

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INTRODUCTION

Right to persons with disabilities act 2016 Act No. 49 of 2016 An Act to give effect to the United Nations Convention on the Rights of Persons with Disabilities and for matters connected therewith or incidental thereto. WHEREAS the United Nations General Assembly adopted its Convention on the Rights of Persons with Disabilities on the 13th day of December, 2006; AND WHEREAS the aforesaid Convention lays down the following principles for empowerment of persons with disabilities,— (a) respect for inherent dignity, individual autonomy including the freedom to make one’s own choices, and independence of persons; (b) WHEREAS the United Nations General Assembly adopted its Convention on the Rights of Persons with Disabilities on the 13th day of December, 2006; AND WHEREAS the aforesaid Convention lays down the following principles for empowerment of persons with disabilities,— (a) respect for inherent dignity, individual autonomy including the freedom to make one’s own choices, and independence of persons; (b) AND WHEREAS the aforesaid Convention lays down the following principles for empowerment of persons with disabilities,— (a) respect for inherent dignity, individual autonomy including the freedom to make one’s own choices, and independence of persons; (b) non-discrimination; (c) full and effective participation and inclusion in society; (d) respect for difference and acceptance of persons with disabilities as part of human diversity and humanity; (e) equality of opportunity; (f) accessibility; (g) equality between men and women; (h) respect for the evolving capacities of children with disabilities and respect for the right of children with disabilities to preserve their identities; AND WHEREAS India is a signatory to the said Convention; AND WHEREAS India ratified the said Convention on the 1st day of October, 2007; AND WHEREAS it is considered necessary to implement the Convention aforesaid.

RPwD Act 2016 it has consist 16 chapters namely: Chapter 1 Preliminary has defined about short title and commencement and definitions. Chapter II – rights and entitlements Equality and non- discrimination, Women and children with disabilities, Community life, Protection from cruelty inhuman treatment, protection from abuse, violence and exploitation, protection and safety Home and family, reproductive rights, accessibility in voting, access to justice, legal capacity, provision for guardianship, designation of authorities to support. Chapter III – Education Duty of educational institutions, specific measures to promote and facilitate inclusive education, adult education. Chapter IV – Skill development and employment Vocational training and self employment, non discrimination in employment, equal opportunity policy maintenance of records, appointment of grievance redressal Officer. Chapter V – Social security, health, rehabilitation and recreation, social security, healthcare, rehabilitation, research and development, culture and recreation Sporting activities .Chapter VI – Special provisions for persons with benchmark disabilities free education for children with benchmark disabilities, reservation in higher educational institutions, identification of posts for reservation, Incentives to employers in private sector Special employment exchange Special schemes and development programmes.

Chapter VII – Special provisions for persons with disabilities with high special provisions for persons with disabilities with high support Chapter VIII – duties and responsibilities of appropriate governments Awareness campaigns, accessibility, access to transport, access to information and communication technology Consumer goods, mandatory observance of accessibility norms, time limit for making existing infrastructure and premises accessible time limit for accessibility by service providers human resource development Social audit, Chapter IX – Registration of institutions for persons with disabilities competent authority registration Application and grant of certificate of registration

Revocation of registration. Appeal Act not to apply to institutions established or maintained by Central Assistance to registered institutions Chapter X – certification of specified disabilities Guidelines for assessment of specified disabilities Designation of certifying authorities, procedure for certification appeal against a decision of certifying authority. Chapter XI – Central and state advisory boards on disability Constitution of Central Advisory Board on Disability, terms and conditions of Service of members disqualification vacation of seats by Members, meetings of the central advisory board on disability, functions of central advisory board on disability, state advisory board on disability, terms and conditions of service of members, disqualification, vacation of seats, meetings of state advisory board on disability, functions of state advisory board on disability, District-level Committee on disability, vacancies not to invalidate proceedings. Chapter XII – Chief commissioner and state commissioner appointment of chief commissioner and Commissioners. functions of Chief Commissioner, Action of appropriate authorities on recommendation of Chief powers of chief commissioner, annual and special reports by chief commissioner, appointment of state commissioner in States, functions of State Commissioner, action by appropriate authorities on recommendation of State, powers of state commissioner, annual and special reports by State commissioner. Chapter XIII – Special court Special Court, Special Public Prosecutor Chapter XIV – National fund for persons with disabilities National Fund for persons with disabilities, accounts and audit. Chapter XV – State fund for persons with disabilities State Fund for persons with disabilities. Chapter XVI – Offences and penalties Punishment for contravention of provisions of Act or rules or Offences by companies, Punishment for fraudulently availing any benefit meant for persons with Punishment for offences of atrocities, punishment for failure to furnish information, previous sanction of appropriate Government, alternative punishments. Chapter XVII – Miscellaneous Application of other laws not barred, protection of action taken

in good faith, power to remove difficulties, Power to amend Schedule, Power of Central Government to make rules, Power of State Government to make rules, Repeal and savings.

Rational of the RPwD Act 2016

Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 is the principal Act for the empowerment of Persons with disabilities. The Act was enforced 22 years back. Meanwhile, there has been a severe change in disability sector such as understanding disability and new technology and process of rehabilitation etc. India signed the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) and subsequently ratified the same on 1st October, 2007. The Convention came into effect on 3rd May 2008. Being a signatory to the Convention, India has an international obligation to comply with the provisions of the Convention lays down the following principles for empowerment of persons with disabilities.

- a) Respect for inherent dignity, individual autonomy including the freedom to make one's own choices, and independence of persons.
- b) Non- discrimination
- c) Full and effective participation and inclusion in society.
- d) Respect for difference and acceptance of persons with disabilities as part of human diversity and humanity.
- e) Equality of opportunity
- f) Accessibility
- g) Equality between men and women
- h) Respect for the evolving capacities of children with disabilities and respect for the right of children with disabilities to preserve their identities.

Keeping in view the fact that the existing Act of 1995 is not fully in conformity with the UNCRPD, a need was felt to have a rights-based legislation with a strong institutional mechanism.

RPwD Act 2016 provides free education facilities for persons with benchmark disabilities at the age of 6 to 18 years PwD will be allowed a relaxation in the upper age limit by 5 years for admission in higher education in institutes, to increase reservation from 3% to 4% in Government jobs for certain persons or class of persons with benchmark disability, provides for grant of guardianship by District Court under which there will be joint decision – making between the guardian and the persons with disabilities. Strengthening of the Office of Chief Commissioner of Persons with Disabilities and State Commissioners of Disabilities has been proposed, which will act as regulatory bodies and Grievance agencies and also monitor implementation of the Act. These Offices will be assisted by an Advisory Committee comprising of experts in various disabilities. It is expected that the RPwD Act 2016 will be extended to the PwD for its rehabilitation and mainstreaming in the Society in a satisfactory manner.

Role of Government (Central/State) & Non- Governmental organization in implementation of RPwD Act, 2016

District Executive Administrations/Magistrate:

- ✓ The executive magistrate on receipt of information of act of abuse, violence or exploitation has been against any persons with disability shall take immediate steps to steps or prevent its occurrence.
- ✓ To rescue the victim of such act, authorising the police or any organization working for persons with disabilities to provide for the safe custody or rehabilitation of persons with disabilities, to provide maintenance to such person with disability.

Municipality/Panchyat (Local authority):

- ✓ The local authority should ensure that the women and children with disabilities enjoy their rights equally with other.

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- ✓ The local authority should ensure that all children with disability shall have right on an equal basis to freely express their views on all matters affecting them and provide them appropriate support keeping in view their age and disability.
- ✓ To ensure that persons with disabilities have access to any scheme, programme, facility or service offered by them equally with others.
- ✓ To conduct survey of school going children in every five years for identifying children with disabilities, ascertaining their special needs.
- ✓ Provide free healthcare services in the rural area.
- ✓ Screen all the children at least in a year for the purpose of identifying at-risk cases.
- ✓ Educate the public through the masses through television, radio and other mass media on the causes and prevention of disabilities.

District Court:

- ✓ If parents of children with disabilities are unable to take care of a child with disability, the competent court shall place such child with his/her near relations, and failing that within the community in a family setting or exceptional cases in shelter home run by the state government/central government or non- governmental organization.

Institutions/District Education Officer/ Headmaster/ School Teacher

- ✓ Institutions should admit to children with disabilities without discrimination and provide education and opportunities for sport and recreational activities equally with others.
- ✓ Make building, Camps and various facilities accessible, provide reasonable accommodation according to the individual's requirements,

- ✓ School/institute should ensure that the education to persons who are blind or deaf or both is imparted in the most appropriate language in term of communication.
- ✓ School Teacher should detect specific learning disabilities in children at the earliest and take suitable pedagogical and measure to overcome them.
- ✓ The school teacher should monitor in respect of participation, progress, level and completion of education of the every student with disabilities.
- ✓ Institutions should provide transportation facilities to the children with disabilities.
- ✓ Government should conduct survey of school going children in every 05 years to identifying children with disabilities and find out their special needs. 1st survey to be conducted within a period of 02 years from the date of commencement of this Act.
- ✓ Central/ State government should establish adequate number of teacher training institutions.
- ✓ Central/State government department should train and employ teachers, including teachers with disabilities who are qualified in sign language and Braille and also teachers who are trained in teaching children with intellectual disabilities.
- ✓ Provide training to professionals and staff to support inclusive education at all level of school education.
- ✓ Central/State Govt. Should establish adequate number of resource centre to support educational institutions at all levels of school education.
- ✓ The Government should promote the use of appropriate augmentative and alternative modes including communication, Braille and sign language to supplement the use of one's own speech to fulfil the daily communication needs of persons with speech communication or language disabilities and enables them to participate and contribute to their community and society.

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- ✓ The Government should provide scholarships, books, other learning materials and appropriate assistive device to students with disabilities free of cost up to age of 18 years.
- ✓ The government should conduct research to promote learning.
- ✓ Education department should ensure that every child with disabilities has access to free education in an appropriate environment till the age of 18 years.
- ✓ All Government of Higher education shall be given an upper age relaxation of 05 years for admission in institution of higher education to persons with disabilities.
- ✓ All Government department of higher education shall reserved not less than 5% seats for persons with disabilities.

Medical Officer/PHC In- Charge/Medical Doctor

- ✓ To create awareness among persons with disabilities regarding reproductive and family planning.
- ✓ To conduct survey, investigations, research in respect of causes of disabilities.
- ✓ To promote various methods for preventing disabilities.
- ✓ To educate the public through the pre-schools, schools primary health centres, village level workers and aganwadi workers.
- ✓ To create awareness amongst the masses through television, radio and other mass media on the cause of disabilities and prevention of disabilities.
- ✓ To provide health care facilities during the time of nature disasters and other situations of risk, essential medical facilities for life saving emergency treatment and procedures.
- ✓ Issue a certificate of disability to persons as per prescribed guideline of Central Government.

District/State Sport Officer:

- ✓ To ensure that the effective participation in sport activities of the persons with disabilities.
- ✓ Sport officer shall accord due recognition to the right of persons with disabilities to participate in sport in their schemes and programmes for the promotion and development of sporting talents.
- ✓ Sport institutions may restructure courses and programmes to ensure access, inclusion and participation of persons with disabilities in all sporting activities.
- ✓ Redesign and support infrastructure facilities of all sporting activities for persons with disabilities.
- ✓ Develop technology to enhance potential, talent, capacity and ability in sporting activities of all persons with disabilities.
- ✓ To provide multi-sensory essentials and features in all sporting activities to ensure effective participation of all persons with disabilities.
- ✓ To allocate funds for development of state of art sport facilities for training of persons with disabilities.
- ✓ Promote and organise disability specific sporting events for persons with disabilities and also facilitate awards to the winners.

Central Advisory Board on disability:

- ✓ Advise the Central Government and State Government on policies, programme, legislation and projects with respect to disability.
- ✓ To develop a national policies to address issues concerning persons with disability.
- ✓ Review and coordinate the activities of all Department of Government and NGOs which are dealing with matter relating to persons with disabilities.

- ✓ Monitor and evaluate the impact of laws, policies, and programmes to achieve full participation of persons with disability.

State Advisory Board:

- ✓ Advise the state government on policies, programmes, legislation and project with respect to disability.
- ✓ To develop a State policies to address issues concerning persons with disabilities.
- ✓ Review and coordinate the activities of all Departments of the State Government and NGOs in the State which are dealing with matter relating to persons with disabilities.
- ✓ Monitor and evaluate the impact of laws, policies, and programmes to achieve full participation of persons with disability.

Chief Commissioner:

- ✓ To formulate rules for persons with disabilities laying down the standards of accessibilities for the physical environment, transportation, information and communication, including appropriate technologies and system and other facilities and services provided to the public in rural/urban area.
- ✓ Promote awareness of the rights of persons with disabilities and the safeguards available for their protection.
- ✓ Monitor implementations of this Act and schemes, programmes, monitor utilization of funds disbursed by the Central Government for the benefits of persons with disabilities.

Central/State/District Employment Officer:

- ✓ Government shall formulate schemes and programming including provision of loans at concessional rates to facilitate and support employment of persons with

disability especially for their vocational training and self employment.

- ✓ To ensure that a person with disability has adequate support and facilities to advantage specific training and marketing.
- ✓ To maintain records of persons with disabilities seeking employment.

Department of State Commissioner/ District Social Welfare Department:

- ✓ To issue certification of registration to institutions working for persons with disabilities and may be renewed from time to time.
- ✓ To make rules.
- ✓ Promote values of inclusion, tolerance, empathy and respect for diversity.
- ✓ Provide orientation and sensitization at the school, college, University, and professional training level on the human conditions and rights of persons with disabilities.
- ✓ Provide orientation and sensitization on disabling conditions and rights of persons with disabilities to employers, administrators and co-workers.
- ✓ To ensure that the rights of persons with disabilities are included in the curriculum in University, College and school.
- ✓ District level committee on disability shall constitute.

Others importance role of Central Government Dept./State Government Dept:

- ✓ The election commission of India and State Commission of India shall ensure that all polling stations are accessible to persons with disabilities and all materials related to the electoral process are easily understandable by the accessible to them.
- ✓ National Legal Service Authority to ensure that all their public documents are in accessible formats, Make

available all necessary facilities and equipment to facilitate regarding of testimonies, arguments or opinion given by the persons with disabilities in their preferred language. To ensure that the persons with disabilities have rights, equally with others, inherit property.

- ✓ Formulate schemes and programmes including provision of loans at concessional rates to facilitate and support employment of persons with disabilities especially for their vocational training and self employments.
- ✓ All universities shall promote teaching and research in disability studies including establishment of study centre.

Role of Non- Governmental organization in implementation of RPwD Act:

- ✓ To provide rehabilitation service to persons with disabilities.
- ✓ To conduct awareness programme about cause of disabilities, prevention of disabilities, government policies, right of persons with disabilities.
- ✓ To conduct livelihood programme for persons with disabilities like vocational rehabilitation training.
- ✓ Human resource development programme.

CONCLUSION

In light of the Rights of Persons with Disabilities Act 2016, role of Central & State Government play a important role in implementation of RPWD for betterment of persons with disabilities to protect their rights, and effective participation and inclusion in society.

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Conflict of Interest:

The authors colorfully declare this paper to bear not conflict of interests

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