

NATIONAL AND INTERNATIONAL FRAMEWORK FOR PERSONS WITH DISABLED: A LOOK

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Introduction

The PWD Act 1995 provides for constitution of the central co-ordination committee by the central government, which consists of various nominated persons to represent the state governments and union territories as well as several Ex-officio members, who are senior officers in inter-disciplinary Ministers and Departments, to serve as the national focal point on disability matters and facilitate the continuous evolution of a comprehensive policy toward solving problems faced by persons with disabilities.¹

The Act has provided for the formation of a “central executive committee”² to be constituted by the central government that is required to act as the executive body of the central co-ordination committee and is responsible for carrying out decisions of the later. It consists of various nominated members to represent the state governments and union territories as well as several Ex-officio members who are senior officers in interdisciplinary ministries and departments.

Further, the Act provides for the constitution of a state co-ordination committee³ and an Executive Committee at the state level⁴ by the state government to aid and implement the aims and objectives of the Act.

The ministry of social justice and empowerment is the nodal ministry for co-coordinating the Act. Under this act the government of India provides the benefit of scholarships, books, note books, uniforms, hostel facility, free pass in public transport, pension etc as welfare measures along with providing reservation in education and in employment to uplift their lives.

The central government and most of the state governments provide support and different facilities to the persons with disabilities in the form of promoting income generation activities and also provide physical support of artificial limbs, hearing machines, three wheeler cycle, along with vocational training relief through concessions in public transport, brailers, tape records, arrangement for surgical intervention, distribution of housing sites, building houses, etc to make them self sufficient and to promote their lives.

In consonance with the policy of providing a complete package of welfare services to disabled persons, the government of India has set up a number of institutions⁵ like.

1. The national institute for visually handicapped (Dehradun – Uttaranchal)
2. Dr shyam Prasad Mukherjee National institute for the orthopaedically handicapped (Kolkata – West Bengal).

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¹ S 3. PWD Act 1995 3(1) involves persons with disabilities.

² S 9. PWD Act 1995 s 9(j) involves PWD inclusive of one woman and one from SC/ST.

³ S 13 PWD Act 1995 s 13(f) involves PWD inclusive of one woman and one from SC/ST.

⁴ S 19. PWD Act 1995

⁵ S 3(j) PWD Act.

3. The Aliyavar Jung National Institute for Hearing Handicapped (Mumbai – Maharashtra).
4. The National institute for mentally handicapped (Secchandrabad – Andhra Pradesh).
5. National institute for Rehabilitation Training and research (Cuttack, Orrissa).
6. The pandit deen dayal upadhyaya institute for the physically handicapped (New Delhi).
7. National Institute for mental health and Neuro Services (NIMHANS) – (Bangaluru – Karnataka).

The government of India has assigned certain roles to each concerned department to sort out all the problems of disabled persons and these departments work according to guidelines provided by government.

In **Indian federal set up**, the division of power between central government and state governments as depicted in the VII Schedule of the constitution India i.e. **“Relief of the disabled”** is subject clearly falls with in the ambit of state list.⁶ Though the union ministry for social justice and empowerment formulates schemes and programmes for the welfare of the disabled, it is the state government which is the implementing agency. At district level, the district administration plays a significant role in promoting the rights and opportunities of persons having different types of disabilities. The district administration creates awareness and implements various welfare programmes meant for disabled persons. Various rural development programmes consider their participation in development.

Beside this there are some voluntary organizations which run programmes for the welfare of the persons with disabilities like community rehabilitation, early intervention programmes, educational and vocational training programmes, distribution of aid and applications etc.

Mechanism for welfare of persons with multiple disabilities:

‘Relief of the disabled’ is a subject matter falls within the ambit of state list of the VII Schedule to the constitution of India. As the PWED Act 1995 defines “Person with disability” as a person suffers from not less than forty percent of any disability as certified by a medical authority⁷, Disability⁸ means:

- i. Blindness; s. 2(b)
- ii. Low vision: 2 (n)
- iii. Leprosy cured person: 2 (n)
- iv. Hearing impairment; 2(l)
- v. Locomotors disability; 2(o)
- vi. Mental retardation; 2(r)
- vii. Mental illness; 2(q)

It is the state government which is the implementing agency for different benefit and opportunities provided under the Act.

⁶ Entry 9, State list, VII Schedule.

⁷ S 2(t) PWD Act.

⁸ S 2(i) PWD Act.

The PWD Act provides for homeruns benefits under the following captions.

1. Prevention and early detection of disabilities –(Chapter IV)
2. Education –(Chapter V)
3. Employment – (Chapter VI)
4. Affirmative action (Chapter VII)
5. Non-discrimination (Chapter VII)
6. Research and manpower development and Recognition of institutions for persons with disabilities (Chapter IX and X) and
7. Social Security (Chapter XIII)

As for the first benefit, the appropriate government and other authorities⁹ should undertake or facilitate surveys and research about the cause of occurrence of such disabilities.

According to a **World Bank report**¹⁰ published in the latest issue of the World Bank in India, disabled people in India are among the most excluded. Low literacy, low employment rates and widespread social stigma make the disabled one of the poorest in the country. The worst affected are disabled children who are four to five times less likely to be in the school than children from scheduled caste and scheduled tribe families. The situation is no better even in better performing states like Kerala and Tamilnadu.

Estimated number of disabled persons by type of disability on all India basis in thousands.

Type of disability:

Locomotor	- 8939
Visual	- 4005
Hearing	- 3242
Speech-	1966

- Source : Sarvekshana, 61 (XVIII – 2) Oct-Dec. 1994.¹¹

The Rehabilitation council of India Act 1992 led to establishment of the Rehabilitation council of India (RCI). The RCI is responsible for standardizing and monitoring training courses for rehabilitations professionals, granting recognition to institutions running courses, and maintaining a central rehabilitation Register of Rehabilitation professional. RCI has the responsibility of promoting research in rehabilitations and special education.¹²

The National Trust for welfare of persons with Autism, Cerebral palsy, mental retardation and multiple disabilities Act 1999 provides for the constitution of a national body for the Welfare of people with autism, Cerebral palsy, etc., The Act mandates promotion of measures for the care and protection of persons with these disabilities in the event of death of their parents, procedure for appointment of their parents, procedure for appointment of guardians and trustees for persons in need of such protection, and support to registered organizations to provide need based services in times of crisis to the families of the disabled.

⁹ Sec.25 PWD Act, 1995

¹⁰ Deccan Herald 05.02.08.

¹¹ Extracted, D.Das, physical disability – is there a gender discrimination? E & P Weekly Dec. 26, 1998, P.3333

¹² The Rehabilitation Council of India (Amendment) Act, 2000

Role of Governmental Offices:

The government of India has assigned certain roles to each concerned department to sort out all the problems of disabled persons and these departments work according to guidelines provided by Government. At district level, the district administration plays a significant role in promoting the rights and opportunities for persons having different types of disabilities. The District administration creates awareness and implements various welfare programmes meant for persons with disabilities.

Deputy Commissioner (DC) : The Deputy Commissioner ensures coverage and synergy among various development schemes for persons with disabilities. This official can arrange to survey the persons with disabilities living in his district. This helps the other departments and sort out the problems of persons with disabilities according to age and type of disabilities through effective services. He can ensure that all the persons with disabilities have been issued a certificate of disability in the standard format prescribed by the ministry of social justice and empowerment and adopted by the state governments.¹³

The Deputy Commissioner ensures that 3% reservation in education and employment sector shall be filled up according to the norms of government. He acts as the Chairman of a district management team which provides all services to persons with disabilities. All public places like hospitals, bus stations, schools, parks, banks, post offices, etc., can be made barrier free by the instructions of the Deputy Commissioner of the District.¹⁴ That officer motivates the District Rural development Agency (DRDA), District Red Cross Society, Local bodies and non-governmental organizations to work for the Welfare of persons with disabilities.

Social Welfare Officer: The social welfare officer has to ensure the supply of appropriate aids and applicators for persons with disabilities so that they can increase their mobility with the assistance of the social welfare officer the non-governmental organizations can set up special schools, vocational training centres for education and economic empowerment of persons with disabilities. He ensures implementation of all the programmes for rehabilitation centres. He also promotes Balwadis (Crèche) in his jurisdiction so that the maximum number of children with disabilities can utilize the facilities available at the Balwadi centres¹⁵

Block Development Officer:

The Block development Officer looks into matters relating to 3 percent of benefits to persons with disabilities under the “Swarna Jyothi Gram Swaraj gar Yojana” and Indira Awas Yojana (Programmes of Govt. of India) or other similar schemes of the state government to sort out problems of employment and allotment of housing facilities. The officer can sensitize the local leaders of Panchayats (local bodies) about the rights of the disabled persons under the persons with disabilities Act.

Revenue Officer: The Revenue Officer helps persons with disabilities by allocating free houses and agriculture pattas (piece of land) to those who qualify under the category of below poverty line (BPL). These facilities enhance the self esteem and economic strength of the handicapped. The Officer also covers persons

¹³ P.C.Sikligar, Op Cit. P 70

¹⁴ Ibid P 71

¹⁵ Ibid

with disabilities under various programmes for pension.¹⁶ The persons with disabilities get a income certificate, nativity certificate etc., from the Revenue Officer which should be helpful in various ways.

Project Director : District Rural development Agency (DRDA):

The project director of DRDA promotes training for the persons with disabilities and organize them into self help groups (SHGs). He can provide financial assistance to them under the DRDA's scheme raw material, resolving problems of marketing etc.,

State govt. of Karnataka has enhanced monthly pension of the disabled from Rs.200 to 400 in the recent past. 4.1.2008

He can issue guidelines for making all rural schools, community buildings, bus stations, etc. barrier free when constructed by DRDA's funds.

Educational Officers: These officers help to enroll disabled children in school because generally, parents do not send such children to school as they labour under the impression that their children may not be able to study with other children. These officials can make the parents aware about the provisions of the PWD Act.¹⁷ These officers make arrangements for ramps, suitable toilets and provisions for drinking water etc., and seek to inculcate a positive attitude between teachers and students with disabilities.

Medical staff : The Medical staff issue cards to persons with disabilities giving full details like name, age, sex and type of disability, so that the card can be helpful to them in utilizing the facilities of governments programmes. The Medical staff also spread awareness about the courses of disabilities in order to prevent many conditions resulting in disability. They emphasize a cleanliness, balanced dietary habits, correct birth practices, immunization and sanitation for preventing disabilities. Such staff informs parents about various risks and refers them for appropriate services in the form of aids or appliances which allow disabled persons to become independent.

Municipal Commissioner : The Municipal Commissioner ensures that all the shops, commercial establishments, cinema theatres, bus stations, etc should be facilitated with ramps, hand railings, special toilets etc., The commissioner can insist on engineers constructing buildings according to the 1998 guidelines¹⁸ of the central public works department (CPWD) so that the persons with disabilities can have easy access to public buildings.

Similarly, scheduled castes / scheduled tribes developments officers, the General Manager, District Industries & Commerce, District Sports Officer, District employment officer, Block Extension Officer Etc., work for the benefit of persons with disabilities.

¹⁶ State Govt. of Karnataka has enhanced monthly pension of the disabled from Rs.200/- to 400/- in the recent past – D.H. 04.01.08

¹⁷ The Act emphasizes that up to 18 years of the age, their children can get free education including free facilities of books, note books, uniforms and scholarships.

¹⁸ National Guidelines and Space Standards for barrier free built environment, 1998.

INCOME TAX DEDUCTION:

Section 80U of the Income Tax Act, 1961 allows a deduction to an individual who is resident and who at any time during previous year is certified by a medical authority to be person with disability.

The deduction under this section is a sum of Rs.50,000/- and if the person is suffering from a severe disability,¹⁹ a sum of Rs.75,000/- is allowed.

The Certificate of a medical authority is to be enclosed along with a return and the deduction under this section will be allowed for the period covered by the certificate.

Judiciary enabling the disabled:

Since the enactment of the constitution of India and legislations for enabling the persons with disability the courts have been construing the law in a beneficial manner and several land mark judgments on the issues of disability have been rendered.

In **Chandan Kumar Banik V State of West Bengal (1995)**²⁰ supreme court rescued the mentally challenged inmates of a hospital in Hoogli District who are kept in chains by the hospital authorities. **In re v u o I (2002)**,²¹ on being informed of the death of 25 chained inmates due to the fire in the mental asylum, the supreme court took suo moto action and directed the Cabinet Secretary to frame a national policy to redress the problems faced by the PWDs under section 8(2)(b) of the Act.

In **Javed Abidi v UOI (1999)**²² the Supreme Court has held that the true spirit and object of the Act is to create a barrier free environment for person with disabilities (PWD) and to make special provisions for the integration of persons with disabilities into the social main stream.

The Govt. of NCT of Delhi V Bharat Lal Meena (2002),²³ the Delhi High Court held that PWDs can be appointed as physical education teachers provided they have passed the qualifying examination and undergone the requisite training.

In **LIC v Chief Commissioner of Disabilities (2002)**,²⁴ the Delhi High Court in an appeal from the decision of the Chief Commissioner for disabilities stating that a person with 45% disability was incapable of performing his duties as a peon, found no merit in the said decision and directed the LiC to employ the PWSM with disability.

Thus judiciary is highly sensitive to the needs of the PWD and the HC of Karnataka has organized orientation programme for the judges on disability.

Besides the governmental institutions, the non-profit sector /non-governmental institutions are also involved voluntarily to uplift the cause of persons with disabilities.

¹⁹ Severe disability means a person with 80 percent or more of one or more disabilities referred to in Sec. 56 (4) of the PWD Act, 1995.

²⁰ (1995) Supp. (4) Sec. 505.

²¹ (2002) 3 Sec. 31.

²² The National Policy for persons with disability, 2006 was framed in consequence of the direction. D.H. 24.12.2007.

²³ (2002) 100 DLT 157

²⁴ (2002) 101 DLT 434

Conclusion

Thus, the legal regime and institutional support for enabling the persons with disabilities is being explored, the success of schemes and programmes for the disabled depends largely on the efforts and the efficacy of the state machinery, while dealing with disability as an issue of socio-economic concern an independent department²⁵ to plan and implement wide range of policies and programmes has to be established. Further, Budgetary provisions for people with disabilities have to be made.



²⁵ State Govt. of Karnataka has established the Dept. of Welfare of Disabled and Senior Citizens.