



THE PROBLEMS OF DIFFERENTLY-ABLED PERSONS IN INDIA AND REMEDIES FOR THE EMPOWERMENT OF THEIR RIGHTS

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Abstract

Disability is one of the major and serious concerns not only in India but also in other countries in the world. This paper aims at highlighting real picture of differently abled persons in Indian society whose lives are stricken with innumerable problems. Their rights are safeguarded by the law but there are deprived of those due to the lack of effective implementation of laws. An attempt has been made to bring out the problems of differently abled persons as well as the nature of disability acts for the protection of their rights and progress. There are a large proportion of the disabilities in India which have become burning issues nowadays. The condition of the differently abled persons seems to be very miserable and pitiable. The disability occurs either by the birth or accident. The people who are the victim of disabilities, they have to strive for their survival. Due to the disability, such persons lose their mental strength and confidence. They are forced to live a miserable and sympathetic life. The following lines will ascertain the nature of their condition.

Who am I and?

What's my identity?

Whether it should be known by my name

Or the physical disability?

The above-mentioned lines show the poor condition of the disable persons which makes us think to do something for changing their life and uplifting them for better future.

Keywords: Disability, PWD, Discrimination and Inequality, Empowerment, PWD Act, 1995 and RPWD Act, 2016.

Introduction

The present research paper throws light upon the problems of differently able persons in India. Their problems seem to be real and serious which should be taken into consideration. Though there are fundamental rights conferred by the Indian Constitution and the Persons with Disabilities Act, 1995 which provide them equal opportunity, protection of the rights and full participation yet they have been kept away from all that. Then the Indian government passed Rights of Persons with Disabilities Act in 2016 and guaranteed the rights of disable people in this act. Yet their rights are not safeguarded properly. The act is not implemented by the administration strictly. Even after the independence, their condition has remained the same. They are deprived from their rights. They have to face many problems and strive for every moment. They have already lost the many things due to their disability now they are also losing their mental strength and will to survive in the world. Along with the problems, the researcher has also suggested some effective remedies for the empowerment of the rights of the disable persons which can be carried out to make their miserable life very happy. They consider disability as a curse so we can make them feel that their disability is a boon not a curse. It could be possible only then when their rights will be empowered and safeguarded, when there will be equal opportunity, protection of the rights and full participation of the disable persons in all the fields.

What is PWD?

The word PWD refers to the Persons with Disabilities which means the persons who are affected by some kind of disability decided by the PWD Act, 1995 and Government Medical Authority. Here it is very essential to know about the nature of disability which can be caused due to any unfortunate incident in any anybody's life. The disability refers the seven diseases like blindness, low vision, leprosy-cured, hearing impairment, locomotors disability, mental retardation, and mental illness as per the PWD Act of 1995. Now such disabilities are extended from seven to twenty-one as per Rights of PWD Act, 2016. In India, the PWD are found on large scale. The laws and the schemes which are enacted for them are not implemented unanimously in all the government administrations. The PWD is defined as "persons suffering from not less than forty per cent of any disability as certified by a medical authority" (Sec.2 (u), PWD Act 1995). The PWD is also defined as per the new act, Rights of PWD Act 2016 as means "a person with long term physical, mental, intellectual or sensory impairment which, in interaction with barriers, hinders his full and effective participation in society equally with others". (Sec.2(s) RPWD, 2016).



The Problems of Differently Abled Persons in India

India is one of the developing countries in the world which is known now for high population. India is a democratic country where there are many religions and different languages spoken at different geographical regions. Though it is true, but it has brought nothing in the lives of disable persons. In spite of the special act for disable persons, yet they are deprived of many things. If one has to understand the disable persons then one should know their problems first. Due to the physical disability they have to face many obstacles. They have to suffer not only physically but also mentally. In India, there is extreme diversity in all respects so the disable persons belonging to the poor family have to be deprived from education, job and government schemes. Due to the poverty, they remain away from the good job. Sometimes they have to live a helpless life and depend on family for everything. It leads to their meaningless and sorrowful life. Their problems are very serious and real so there is need to do something for them to make them stand up for better life.

"It is to be noted that the disabled person is as much a citizen as any other and that he stands equal before law and entitled to receive equal protection under Art.14 of the Indian Constitution. Under Art.39-A of the Constitution, equal opportunities for securing justice are not to be denied to any person by reason of economic or other disabilities. However, mentally challenged people are being treated worse than animals. Such persons are prone to many onslaughts. Circumstances force them to commit petty thefts and slowly they become menace to fellow men. It is so pathetic that several mentally ill persons are chained to trees. "Man is born free and everywhere he is in chains", exclaimed Rousseau. It is submitted that chaining of the mentally ill in mental hospitals is unconstitutional. Similarly jailing non-criminal mentally ill persons is illegal and unconstitutional. The Supreme Court of India maintained that reservation provisions are also applicable to persons with disability". (Gowda, Dr. N.D.)

Apart from this, many problems are still being faced by the disable persons in India which as follow:

• Discrimination and Inequality

Though the disable persons being the citizen of India are also conferred the fundamental rights of constitution yet they are discriminated at various places. They are not equally treated and deprived from their rights. Such discrimination and inequality at different places such as government offices, job opportunities, and government schemes and so on make their lives more problematic and sorrowful. They are not discriminated they may avail the benefit of things made for them. If they are given equal opportunity, they may make their lives better. But in India the disable persons are kept away from the all sections due to the discrimination and inequality.

• Illiteracy

Illiteracy is also a serious problem faced by the disable persons in India. The people who are disable and belong to very poor family, find problems due to the lack of education. Though Indian government has made many facilities for the disable persons for education yet such facilities are not provided to them. Because of poverty and disability, they cannot take education and remain illiterate. Being illiterate, they can not avail the good jobs that can be suitable to their physical disability so they have to face problems for getting bread and butter. Very few disable persons who are well educated can avail the opportunity and get jobs. But there is large proportion of illiteracy in India regarding disable persons. According to Census 2011, 45% of India's disabled population is illiterate, compared to 26% of all Indians. (www.google.com)

• Loss of social status

It is said that man is a social animal. He cannot live without the society. The society is the only place where he is recognized and facilitated with many things. India is a multilingual and multi-religious country in which there are different cultures of different religions. In such respect the disable persons belonging to the different religions and cultures are losing their social status. Everybody craves for the social status in the world. If one has social status, then he/she gets all the respects and facilities under which he/she can live happily. But it is also very important that nobody gets such social status without education, job and money. The disable persons are so backward in all these aspects of getting social status. The society where they live whether it considers them as its part or not that is also a question mark. In fact, due to the disability, they have already suffered a lot and if they are also away from education, job and money then how they will get the social status. In India, many disable persons are craving for such social status which they may not get ever due to the lack of education, job and money. No one can live without social status but the disable persons live because their disability seems to be curse for them which does not let them to do anything. There are many schemes for uplifting them towards empowerment but not implemented successfully. Therefore, they have to be deprived from the sources of uplifting. They don't get the opportunity for getting education, job and money due to their disability, poverty and the failure of the implementations of the government schemes for them. Unless they are brought into the stream of education and job, their condition will be the same and away from the social status. Thus, loss of social status is also one of the serious problems of Disable persons in India.



• Inhuman Treatment

How the people think the difference between normal human being and the disable persons. What are the things that make them different from one another? The physical inadequacies of disable persons make them different from the normal persons. Here it can be noted that despite of their disability, there are sometimes given inhuman treatment at various places. In fact, the people show only the sympathy for the disable persons for some time, but nobody does anything for improving their condition. But they are inhumanly treated at the government offices such Talhsil office, Social Welfare Department, Govt Banks, Post Offices, and so on. When they go to the government offices for availing the benefits of the schemes enacted for them. The administration of government does not cooperate them and speak so rudely. This is a true fact which can be noticed at any government office. The disable persons are not guided properly so they have to come many times to the same office. It makes them believe that their lives are so meaningless and how the people can treat them inhumanly. Even they have to face many problems while applying and getting the medical certificate from the medical authority. They are not treated well there. They are told to come back again and again which is not possible for them due to their disability. It becomes so outrageous and tiresome. They are demanded money too for getting their works done in government offices. Such inhuman treatment makes them lose their confidence and leads them towards helplessness. So, disable persons are also the human beings who should be treated well like others. Those disable persons who are well educated and apply for job they are also deprived from the opportunity of getting job. Though the government has made the special reservation for the disable persons yet they are not given opportunity. So they have to lose the chances to empower themselves. They are already in tension due to their disability and they also have to face to the inhuman treatment of the society and the government. If it is going on for some days, they will no lives of disable persons. They will have to commit suicide instead of living because the society, the country where they are born and struggle to live, do not give them humanly treatment, they will never change their lives.

• Loss of Identity

Everyone is known by other due the identity in the world. The identity gives the man respect and sense of pride to move in the society. But the disable persons have to struggle for creating their identity. Their identity is only their disability which seems to be so miserable. In today's world of globalization and technology, they have to suffer from a lot at every moment. When they become disable either by birth or accident, their attempt for life seems to be very pitiable. Their sufferings and sorrows can never be felt and understood by the normal people. They crave for identity. There are very few disable persons who are well educated struggling against the circumstances yet they don't get the desired employment according to their disability. They are neglected and shown only sympathy for them. The disable persons are ignorant about the government laws and schemes. They are misguided so they can not avail of that. So, loss of identity has been a very serious phenomenon today.

• Unemployment

Unemployment is one of the most serious problems of the disable persons in India.

There are many disable persons in India who are well educated but fail to secure their future due to the lack of employment. Employment is the only way to make their lives very happy and bright. There is a reference of the special reservation for the disable persons mentioned in the PWD Act, 1995.

"Reservation of Posts- Every appropriate Government shall appoint in every establishment such percentage of vacancies not less than three per cent for the persons or class of persons with disability of which one per cent. Each shall be reserved for persons suffering from-

- (i) Blindness or low vision
- (ii) Hearing impairment
- (iii) Locomotor's disability or cerebral palsy. (Sec.33, PWD Act,1995)

Though there is three percent reservation for the disable persons yet such reservation is not filled. Nowadays in most of the educational institutions, even on the reserved post of the handicap candidates, people of other cast are given jobs. The honorable high court and Supreme Court has proclaimed the order for filling the gap of the disable persons at various government and non-government sections. But they are not given employment despite of their eligibility and reservation. Employment is the only which can facilitate their life and they can go ahead. They can improve their condition and acquire the social status. They can seek the relief from their disability after having good job. Therefore, employment is very important for them. Unfortunately, they are deliberately deprived from the employment so their condition never changes. The government has launched many schemes of loan for the disable persons but they never get the benefits of those schemes because nobody gives them proper information about that and if few disable persons try to apply for getting loan, they are rudely treated by the concerned officers and the offices. They are misguided. It takes too much time but they don't get the loan. In fact the loans are given to disable persons to start a business to improve their economic status. But they have to get frustrated.



Apart from the above-mentioned problems of disable persons, there are also many problems which have made their lives miserable and more sympathetic. They cannot live a happy life like others due to their disability and negligence of the society and the government.

Remedies for the Empowerment of Their Rights

In order to empower the disable persons, there is extreme need of remedies for the empowerment of their rights. If their rights are empowered, their problems will end at some extent. Prof. Stephen Hawking stated,

'Disability need not be an obstacle to success. We have a moral duty to remove the barriers to participation, and to invest sufficient funding and expertise to unlock the vast potential of people with disabilities. Governments throughout the world can no longer overlook the hundreds of millions of people with disabilities who are denied access to health, rehabilitation, support, education and employment, and never get the chance to shine'. (<https://thewire.in/health/persons-with-disabilities-challenges-india>)

It will be very essential to consider the nature of two acts of PWD enacted by India as the effective remedies for the empowerment of their rights as follow-

1) PWD Act, 1995

It is specially enacted for the disable persons in India after studying the other laws of Asian countries. Disable persons are given much respect and facilities in other countries as compared to India. There are fourteen chapters and seventy four sections in PWD Act, 1995. Chapter five and six deal with education and employment for PWD. Sections of 26 and 27 are of education and sections 32 to 41 are of employment in which there are good provisions for the disable persons but this act is not known by many disable persons who are illiterate. This act is also not implemented strictly by the government administration. It is the only act in India which helped the disable persons to know their rights. Implementation of such act can be one of the best remedies. The problems discussed at above will be solved due to the implementation of this act. If it is strictly implemented then the disable persons will have the opportunities to do anything. They can improve their lives and live happily.

The government should make the compulsory to implement PWD Act 1995 at all level so that the disables will get the equal opportunity and full participation in all sections. It will help to get the social status and live a successful life. They can overcome on their disability. The act is effective but it is the tragedy of the disable persons that they are always deprived from the benefit of many things as mentioned in this act. So, in order to raise their status in the society, there is need of implementation of such act.

2) The Rights of PWD Act, 2016

This act is enacted in 2016 by the government of India on the grounds of PWD Act, 1995. This act seems to be the result of the failure of PWD Act 1995 which is not strictly implemented by the government offices and people as well. So, there was extreme need to enact a law which can be very strict and have the effective provisions for the protection of the rights of disable persons. This act is enacted due to the limitation of PWD Act, 1995 and the unsolved problems of disable persons. This act involves 17 chapters and 102 sections. It seems to be more effective than PWD Act, 1995. The sections are very important for the empowerment of the disable persons. In chapter II of this act, rights and entitlements are given from the section 03 to 15 which are very effective to safeguard their rights. In chapter III, the provision for education is from section 16 to 18. In chapter 14 and 15, there is provision for National and state fund for the persons with disabilities. The most effective chapter is 16 which are entitled as offences and penalties. In this chapter, section 92 is very prominent because the provision of punishment for offences of atrocities is given which is follow-

- intentionally insults or intimidates with intent to humiliate a person with disability in any place within public view;
- assaults or uses force to any person with disability with intent to dishonor him or outrage the modesty of a woman with disability;
- having the actual charge or control over a person with disability voluntarily or knowingly denies food or fluids to him or her;
- being in a position to dominate the will of a child or woman with disability and uses that position to exploit her sexually;
- voluntarily injures, damages or interferes with the use of any limb or sense or any supporting device of a person with disability;
- performs, conducts or directs any medical procedure to be performed on a woman with disability which leads to or is likely to lead to termination of pregnancy without her express consent except in cases where medical procedure for termination of pregnancy is done in severe cases of disability and with the opinion of a registered medical practitioner and also with the consent of the guardian of the woman with disability, shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to five years and with fine. (Sec.92, Rights of PWD Act 2016)



This act is really enacted with effective chapters. The government enacted this act for safeguarding the different rights of disable persons. This act has the potentiality to fulfill the needs of disable persons. If this act is known and implemented properly at all levels, the disables will have the equality and opportunity to do anything. No one can dare to exploit them and deprive their rights. In this act, the disables are given extreme protection from family, society and government. There is a need of two things – **firstly**, the awareness of PWD Act 1995 and the Rights of PWD Act, 2016 amongst disable persons. **Secondly**, the proper and strict implementation of both acts by the government and society.

The mindset of people towards disables will be changed only through the implementation of the above two acts. Those people should be punished as per the section 92 of Rights of PWD Act 2016 who will breach of the rights of person with disabilities and exploit them.

Conclusion

In this way, the above-mentioned explanation of the various problems of differently abled persons is discussed with ample references. The problems of disable persons have always been serious concerns and hurdles in the ways of their career, progress and happy life. The researcher has highlighted the very serious problems of the disable persons such as discrimination and inequality, illiteracy, inhuman treatment, loss of identity, unemployment and so on which are only the hurdles in their lives. They cannot succeed in life and make it happy. The researcher has also provided some significant remedies in the form of introducing the two acts of disable such as PWD Act, 1995 and Rights of PWD Act, 2016 which can be the best remedies for empowerment of the rights of disable persons. The provisions of both acts seem to be very effective that will surely entitle and empower the rights of disable persons, if they are implemented strictly. The problems of disable persons in India will be solved due to the implementation of both acts only and they can live as free and happy as their non-disable brothers are.

References

- The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995. Delhi: Professional Book Publishers, 2015. Print
- The Rights of Persons with Disabilities Act, 2016.
- Janardhana, N & Murlidhar, D. ‘Discrimination against differently abled children among rural communities in India: Need for action’. Journal of Natural Science, Biology and Medicine, 2015.
- Gowda, Dr. N.D. “A critical Study on Persons with Disability and Human Rights Issues under International and National Level”. International Journal of Legal Research and Studies. Vol.-2, Issue-4, Oct-December 2017. ISSN: 2456-608X.
- <http://www.ccdisabilities.nic.in/page.php?s=reg&t=def&p=RPwDAc>.
- www.disabilityaffairs.gov.in
- www.google.com