

Bihar Persons with Disabilities Equal Opportunities, Protection of Rights and Full Participation Rules, 2004

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India

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Rule

BIHAR-PERSONS-WITH-DISABILITIES-EQUAL-OPPORTUNITIES-PRO of 2004

- Published on 20 April 2005
- Commenced on 20 April 2005
- [This is the version of this document from 20 April 2005.]
- [Note: The original publication document is not available and this content could not be verified.]

Bihar Persons with Disabilities Equal Opportunities, Protection of Rights and Full Participation Rules, 2004 Last Updated 17th February, 2020 Published in Bihar Gazette (Ex. ord.) No. 170, dated 20th April, 2005. Notification. - In exercise of the powers conferred by sub-sections {1} and {2} of Section 73 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 [1 of 1996], the Governor is pleased hereby to make the following Rules:
-CHAPTER-I

1. Short Title Extent and Commencement.

- These Rules may be called the Bihar Persons with Disabilities [Equal Opportunities, Protection of Rights and Full Participation] Rules, 2004. (2) It shall extend to the whole of the State of Bihar. (3) It shall come into force on the date of their publication in the Official Gazette.

2. Definitions.

- In these Rules, unless the context otherwise requires - (a) "Act" means the Persons with Disabilities Equal Opportunities, Protection of Rights and Full Participation Act, 1995 [1 of 1996]. (b) "State Government" means the Government of Bihar. (c) "Chairperson" means a Chairperson appointed under the Act. (d) "Member" means a Member appointed under the Act. (e) "Member-Secretary" means a Member-Secretary appointed under the Act. (f) "State Co-ordination Committee" means a

State Co-ordination Committee constituted under the Act.(g)"State Executive Committee" means a State Executive Committee constituted under the Act.(h)"Notification" means a notification published in the Official Gazette.(i)"Commissioner" means a Commissioner appointed under the Act.(j)"Competent Authority" means a Competent Authority appointed under the Act.(k)"Year" means the financial year commencing on the first day of April.(l)"Legislative Assembly" means the Bihar Legislative Assembly.(m)"Non-Official Member" means a Member not in employment under Government or Government Undertaking Establishment.CHAPTER-II

3. Guidelines for evaluation and assessment of various Disabilities.

- The general guidance for evaluation and assessment of various disabilities issued by the Government of India in the Ministry of Welfare vide their No.4-2/83 HW dated the 6th August, 1986 and as may be amended from time to time, shall be followed for evaluation of various disabilities specified in Section 2(b), (e), (I) (n), (o), (q), (r), (t) and (u) of the Act.

4. Authorities to give disability certificate.

(1)A Disability certificate shall be issued by a Medical Board which shall consist of not less than two members out of which one shall act as the Chairperson and another shall be a specialist for assessment on the particular kind of disability, as the case may be.(2)However, for grant of a disability certificate in favour of a person suffering from Multiple Disability such certificate shall not be granted unless the same is signed by a specialist in each field of disability the applicant is suffering from.(3)The Superintendents of all Govt. Medical Colleges and Hospitals or all District Hospitals and the Block Medical Officer of Health or his equivalent at the Block level shall act as the Chairperson of such Medical Boards and shall include as another member of the Boards and such specialist Govt. Doctor as may be required. In case of non-availability of such a specialist Doctor at any level, the CMOH of the District concerned shall arrange to depute a specialist (s) as may be required to the place where such non-availability has occurred.(4)Each Medical Board as referred to in sub-rule (3) shall sit at least twice a week so as to ensure that the persons with Disability may get the maximum possible benefit and advantage.

5. Medical Board.

(1)The Medical Board Shall, after the examination, give a permanent disability certificate in cases of such permanent disabilities where there are no chances of variation in the degree of disability.(2)The Medical Board shall indicate the period of validity in the certificate in cases where there is any chance of variation in the degree of disability.(3)No refusal of disability certificate shall be made unless an opportunity is given to the applicant of being heard.(4)On representation by the applicant the Medical Board may review its decision having regard to all the facts and circumstances of the case and pass such order in the matter as it thinks fit.

6. Identity Card.

(1) Each person with disability shall be entitled to receive an Identity Card to be issued by appropriate authority and in the districts such competent authority shall be the District Social Welfare Officer or the District Programme Officer. (2) The Identity Card shall be issued to a person with disability on the basis of the Disability Certificate issued by a Medical Board. (3) A person with disability the holder of such Identity Card/Disability Certificate referred to in sub-Rule (2) shall be entitled to receive facilities, concessions and benefits admissible under the schemes of the Government or Non-Government Organization. (4) Production of the Identity Card duly issued in favour of a person with disability shall alone entitle him/her to claim railway concessions/facilities, and similar concessions in the case of Tram, Bus or other modes of transport owned by Government/Government undertaking or Corporation/Private Organizations without having to furnish any other certificate obtained from any other authority. (5) An Identity Card once issued shall remain valid for a period of ten years with the effect from the date of issue and shall have to be renewed within six months after expiry of this period.

CHAPTER-III The State Co-ordination Committee

7. Membership Roll.

- The Member-Secretary shall keep a record of names of members and their addresses.

8. Change of Address.

- If a member changes his address he shall notify his new address to the Member-Secretary, who shall thereupon enter his new address in the official records, (If he fails to notify his new address the address in the official records shall for all purpose be treated as his correct address).

9. Daily and Travelling Allowance.

(1) Non-official members of the State Co-ordination Committee, resident in Patna, shall be paid a meeting allowance at the rate of Rupees seventy-five per day for each day of the actual meetings of the State Co-ordination Committee. (2) Non-official members of the State Co-ordination committee shall be paid daily allowance and travelling allowances for each day of the meeting at the rate admissible to an officer of the State Government drawing Pay of rupees Rs. 16,400-20,000: Provided that non-official member will not be allowed to draw both daily allowance and sitting fee for the same day and also may not be allowed to perform journey by air without prior approval of the Government in the Finance Department: Provided further that in case of a. Member of State Legislative Assembly who is also a member of the State Co-ordination Committee, the said daily and travelling allowance shall be paid at the rates admissible to him as a Member of Legislative Assembly when the Legislature is not in session and on production of a certificate by the member that he has not drawn any such allowance for the journey and halts from any other Government source. (3) An Official member of the State Co-ordination Committee shall be paid daily allowance and travelling allowances at the rates admissible under the relevant Rules of the respective

Government under whom he is serving on production of a certificate by him that he has not drawn any such allowance for the journey and halts from any other Government source.

10. Notice of Meeting.

(1)The meeting of the State Co-ordination Committee shall ordinarily be held in Patna on such dates as may be fixed by the Chairperson:Provided that it shall met at least once in every six months.(2)The Chairperson shall, upon the written request of not less than ten members of the State Co-ordination Committee call a special meeting of the Committee.(3)Fifteen clear days notice of an ordinary meeting and five clear days notice of a special meeting specifying the time and the place at which such meeting is to be held and the business to be transacted there at, shall be given by Member-Secretary to the members.(4)Notice of a meeting may be given to the members by delivering the same by messenger or sending it by registered post to his last known place of residence or business or in such other manner as the chairperson may, in the circumstance of the case, thinks fit.(5)No member shall be entitled to bring forward for the consideration of the meeting any matter of which he has not given ten clear days notice to the Member Secretary or unless the Chairperson, in his discretion permits him to do so.(6)(a)The State Co-ordination Committee may adjourn its meetings for next day on to any particular day.(b)Where a meeting of the State Co-Ordination Committee is adjourned for another day, notice of such adjourned meeting shall be given to the members available at the place where the meeting is adjourned or held and it shall not be necessary to give notice of the adjourned meeting to other members.

11. Presiding Officer.

- The Chairperson shall preside at every meeting of the Board at which he is present, and in his absence, the members present shall select one member to preside the meeting from among themselves.

12. Quorum.

(1)Quorum at the meeting shall be present with one third of the total members.(2)If at any time fixed for any meeting or during the course of any meeting less than one-third of the total members are present, the Chairperson may adjourn the meeting for such time or the following day or any other future date as he may fix.(3)No quorum shall be necessary for the adjourned meeting.(4)No matter which had not been on the agenda of the ordinary or the special meeting, as the case may be, shall be considered at adjourned meeting.(5)(a)Where a meeting of the State Co-ordination committee is adjourned under sub-rule (2) for want of quorum for the following day, notice shall be given to the members available at the place at the meeting and it shall not be necessary to give notice of the adjourned meeting to other members.(b)Where a meeting of the State Co-ordination Committee is adjourned under sub-rule (2) above for want of quorum, for with sufficient gap, notice of such adjourned meeting shall be given to all the members as provided in sub-rule (4) of Rule 11.

13. Minutes of State Co-ordination Committee.

(1)The names of members, who attend the meeting, and the proceeding of the meeting shall be entered into the proceeding-book maintained for that purpose by the Member-Secretary.(2)The minutes of the previous meeting shall be read at the beginning of the every succeeding meeting and shall be confirmed and signed by the Presiding Officer at such meeting.(3)The proceeding-book shall be open to inspection by any member at the office of the Member-Secretary during office hours.

14. Maintaining order at meeting.

- The Presiding Officer shall maintain order at the meeting.

15. Business to be transacted at meeting.

- Without the permission of the Presiding Officer, no business, which is not entered in the agenda or of which notice has not been given by a member under sub-rule (5) of Rule 11, shall be transacted at any meeting.

16.

(1)At any meeting any business shall be transacted only in the order which is entered in the agenda, unless otherwise it may be determined in the meeting with the permission of the Presiding Officer.(2)Either at the beginning of the meeting or after the conclusion of the debate on a motion during the meetings, the Presiding Officer or a Member may suggest a change in the order of business as entered in the agenda and if the Chairperson agrees such a change shall take place.

17. Decision by majority.

- All question considered at a meeting of the Committee shall be decide by a majority of votes of the members present and voting and in case of equal vote the question shall be decided by casting vote of the Chairperson or in the absence of the Chairperson the member Presiding at the meeting.

18. No Proceedings to be invalid due to vacancy or any defect.

- No proceeding of the State Co-ordination Committee shall be invalid by reasons of existence of any vacancy or any defect in the constitution of the Committee.
CHAPTER-IV The State Executive Committee

19. Daily Allowances and Travelling Allowance.

(1)Non-Official Members of the State Executive Committee resident at State Headquarter, shall be paid a sitting fee of rupees seventy five per day for each day of the actual meetings of the State

Executive Committee.(2)Non-official members of the State Executive Committee not a resident of State Headquarters shall be paid daily allowance and travelling allowance for each day of journey at the rate admissible to an officer of the State Government drawing pay of rupees 16,400-20,000 and above:Provided that a non-official member will not be allowed to draw both daily allowance and sitting fee for the same day and also may be allowed to perform journey by air without prior approval of the Government in the Finance Department.(3)Official Members of the State Executive Committee shall be paid daily allowance and travelling allowance at the rates admissible under the relevant Rules of the Government under whom he is serving on production of a certificate by him that he has not drawn any such allowance for the same journey and halts from any other government source.

20. Notice of Meeting.

(1)The meetings of the State Executive Committee shall ordinarily be held at the State Headquarters on such dates as may be fixed by the Chairperson:Provided that it must be held at least once within every three months.(2)The Chairperson shall, upon the written request of not less than ten members of the State Executive Committee, call a special meeting of the State Executive Committee.(3)Fifteen clear day's notice of an ordinary meeting and five clear days notice of a special meeting specifying the time and the place at which such meeting is to be held and a statement of business to be transacted thereat, shall be given by the Member Secretary to the members.(4)Notice of a meeting may be given to the members by delivering the same by messenger or sending it by registered post to his last known place of residence or business or in such other manner as the Chairperson may, in the circumstances of the case, thinks fit.(5)No member shall be entitled to bring forward for the consideration of the meeting any matter of which he has not given ten clear days notice to the Member-Secretary or unless the Chairperson in his discretion permits him to do so.(6)(a)The State Executive Committee may adjourn its meetings for next day or to any particular day.(b)Where a meeting of the State Executive Committee is adjourned not for next day, notice of such adjourned meeting shall be essential to given to other members.(c)Where a meeting of the State Executive Committee is adjourned not for next but for the day on which the meeting is to be held, another date, notice of such meeting shall be given to all the members as provided in sub-rule (4) of this Rule.

21. Presiding Officer.

- The Chairperson shall preside at every meeting of the Board he is present and in his absence, the Members present shall elect one of the Member to preside at the meeting.

22. Quorum.

(1)Quorum of any meeting shall be present with one-third of the total members.(2)If at any time fixed for any meeting or during the course of any meeting less than one third of the total members are present the Chairperson may adjourn the meeting for sometime or for the following day or for any other future date as may be fixed.(3)No quorum shall be necessary for the adjourned meeting.(4)No matter which had been on the agenda of the ordinary or the special meeting as the

case may be, shall be considered at such adjourned meeting.(5)(a)Where a meeting of the State Executive Committee is adjourned under sub-rule (2) above for want of quorum for the following day, notice of such adjourned meeting shall be given to the members available at the place of meeting, and it shall not be necessary to give notice of the adjourned meeting to other members.(b)Where a meeting of the State Executive Committee is adjourned under sub-rule (2) for want of quorum for another date with sufficient gap, notice of such adjourned meeting shall be given to all the members as provided in sub-rule (4) of Rule 21.

23. Minutes of the State Executive Committee.

(1)Records shall be kept of the names of members who attend the meeting and of the proceedings of the meeting, shall be maintained in a proceeding-book by the Member Secretary for this purpose.(2)The minutes of the previous meeting shall be read at the beginning of the every succeeding meeting and shall be confirmed and signed by the Presiding Officer in the meeting.(3)The proceedings shall be open to inspection by any member at the office of the Member Secretary during office hours.

24. Maintaining order at the meeting.

- The Presiding Officer shall maintain order at the meeting.

25. Business to be transacted at meeting.

- Except with the permission of the Presiding Officer, no business which is not entered in the agenda or of which notice has not been given by a member under sub-rule (5) of the Rule 21 shall be transacted at any meeting.

26.

(1)At any meeting, any business shall be transacted only in the order which is entered in the agenda.(2)Either at the beginning of the meeting or after the conclusion of the debate on the motion during the meeting, the Presiding Officer or a member may suggest a change in order of business as entered in the agenda and if the Chairperson agrees, such a change shall take place.

27. Decision in majority.

- All questions to be considered at a meeting of the committee shall be decided by a majority of votes of the Members present and voting, and in the case of equal votes, the question shall be decided by the casting vote of the Chairperson or in the absence of Chairperson, the member Presiding at the meeting as the case may be.

28. No proceeding to be invalid due to vacancy or any defect.

- No proceeding of the State Executive Committee shall be invalid merely by reasons of existence of any vacancy or any defect in the constitution of the Committee.

29. Manner and purpose of Association of persons with State Executive Committee.

- The State Executive Committee may invite any person to participate in the deliberations of its meetings whose assistance or advice is considered useful in performing any of its function under the Act: Provided that the State Executive Committee shall not associate any person without the prior approval of the State Government if the period of association exceeds four months.

30. Fee for the Associated person.

(1) If the person associated with the State Executive Committee under Rule 30 happens to be a non-official member either resident or not resident at the State Headquarter, he shall be entitled to get sitting fee, Travelling Allowance and Daily Allowance at the same rate and in the same manner as in the case of non-official member of the State Executive Committee in which he is so associated. (2) If such person is a Government servant or an employee of a Government undertaking, he shall be entitled to travelling and daily allowance at the rates admissible under the relevant rules applicable to him on production of a certificate by him that he has not drawn any such allowance for the same journey and halts from any other Government source.

31. Tours by associated person.

- The associated person may, with the prior approval of the Chairperson undertake tours within the country for the performance of the duties entrusted to him by the State Executive Committee and for tours, he shall be entitled to travelling allowance and daily allowance at the rates admissible to an officer of the State Government drawing pay of rupees 16,400-20,000 and above: Provided that the associated person may not be allowed to perform journey by air.

32. Associated person not to disclose any information.

- The associated person shall not disclose any information either given by the State Executive Committee or otherwise to any person other than the State Executive Committee without the written permission of the Chairperson of the Committee.

33. Duties and functions of the associated person.

- The associated person shall discharge such duties and perform such functions as are assigned to him, by the State Executive Committee. CHAPTER-V

34. Computation of vacancies.

- For the purpose of computation of vacancies for person with disabilities in Group A, B, C and D Post 3% reservation for persons with disabilities has been provided within the categorized reservation roster. Vide Resolution No. 251 dated the 18th October 2000 of Department at Personnel and Administrative Reforms.

35. Notification of the Special Employment Exchanges.

(1)The State Government shall prescribe the special Employment Exchanges under sub-section (1) of Section 34 of the Act.(2)(a)Vacancies of the posts of a technical and scientific nature occurring in establishments in respect of which the State Government under the Act is the appropriate Government, shall be notified to such Special Employment Exchange as may be specified by the State Government by notification in the Official Gazette in this behalf.(b)Vacancies which as employer may desire to be circulated to the special Employment Exchanges outside the State or Union Territory in which the establishment is situated, shall be notified to such special Employment Exchange as may be specified by the State Government by notification in the Official Gazette, in this behalf. A copy of the notification of vacancies shall be sent to the concerned vocational Rehabilitation Centre for Handicapped.(3)Vacancies other than those specified in sub-rule (2) shall be notified to the local Special Employment Exchange concerned. A copy of the notification of Vacancies shall also be sent to the concerned vocational Rehabilitation Centre for Handicapped.

36. Form of Notice of vacancies and manner to notify.

- The vacancies shall be notified in writing in the following form to the appropriate special Employment Exchange and the following particulars, as the case may be shall be furnished, in respect of each type of vacancy namely: -

1. Name and address of the employer

2. Telephone number of the employer if any

3. Nature of vacancy-

(a)Type of workers required (Designation)(b)Description of duties-(c)Physical requirements (i.e. Job involves visual accuracy frequent movement, walking continuous long hours sitting etc.):
-(d)Qualification required -(i)Essential(ii)Desirable(e)Age limits if any;(f)Whether women are eligible?

4. Number of vacancies-Reserved for physically handicapped person/ visually handicapped including blind and myopic persons/deaf and dumb/mentally retarded persons: -

5. Pay and allowance;

6. Place of work (name of town/village and district in which it is situated);

7. Probable date by which the vacancy will be filled.

8. Particulars regarding interview/test of applicants.

(a)Date of interview/test(b)Time of interview/test(c)Place of interview/test(d)Designation and address of the person to whom the applicants have to report.

9. Any other relevant information. - The vacancies shall be re-notified in writing to the concerned Special Employment Exchange if there is any change in the particulars already furnished to the Special Employment Exchange and Vocational Rehabilitation Centre for Handicapped under Sub-rule (2) of Rule 36.

37. Time limit to notify the vacancies.

(1)Vacancies required to be notified to the local special Employment Exchange shall be notified at least thirty days before the date on which applicants will be interviewed or tested where interviews or tests are held or the date on which vacancies are intended to be filled, if no interviews or tests are held.(2)Vacancies required to be notified to the Special Employment Exchange notified under the sub-rule (2) of Rule 36 shall be notified at least three weeks before the date on which applicants will be interviewed or tested where interviews or tests are held or the date on which vacancies are intended to be filled if no interviews/ tests are held.(3)An employer shall furnish to the concerned Special Employment Exchange the result of selection within fifteen days from the date of selection.

38. Submission of Returns.

(1)An employer shall furnish to the local Special Employment Exchange quarterly returns in Form-I and biennial returns in Form-II as may be amended from time to time.(2)Quarterly returns shall be furnished within thirty days of the due dates namely 31 st March, 30th June, 30th September and 31st December.(3)Biennial returns shall be furnished within thirty days of the due date as notified in the Official Gazette.

39. Form in which record to be kept by an employer.

- An employer shall maintain the record of employees with disabilities in Form-III as may be amended from time to time.CHAPTER-VI Recognition of Institutions for Person with Disabilities or Severe Disabilities

40. The Form of Application.

- Every application for a certificate of registration shall be made in Form-IV.

41. Order refusing to Grant Certificate.

- The Competent Authority may, after giving the applicant reasonable opportunity of being heard, make an order refusing to grant such a certificate. Such order will contain specific reasons for refusal to grant such a certificate and shall be communicated to the applicant through registered post.

42. Validity of Certificate of Registration.

- A certificate of registration granted under Section 52 shall, unless revoked under Section 53, remain in force for a period of three years.

43. Appeal.

- A person aggrieved by the order of the Competent Authority refusing to grant a certificate or revoking a certificate may, within a period of thirty days, prefer an appeal to the Government against such refusal or revocation: Provided that the said Government may entertain an appeal after the expiry of the said period of thirty days. If it is satisfied that there was sufficient cause for not filing it within that period.
- CHAPTER-VII Commissioner for persons with disabilities

44. Procedure to be followed by Commissioner.

(1)(A) complaint containing the following particulars shall be presented by the complainant in person or by his agent to the Commissioner of persons with disabilities or be sent by registered post addressed to the Commissioner: -(a) The name, description and the address of the complaint. (b) The name, description and the address of the opposite party or parties as the case may be, so far as they can be ascertained. (c) The facts relating to complaint and when and where it arose. (d) Documents in support of the allegations contained in the complaint. (e) The relief which the complainant claims. (2) The Commissioner on receipt of a complaint shall refer a copy of the complaint to the opposite party/parties mentioned in the complaint directing to defend the case within a period of thirty days or such extended period not exceeding fifteen days as may be granted by the Commissioner. (3) On the date of hearing or any other date to which hearing could be adjourned, it shall be obligatory on the parties or their agents to appear before the commissioner. (4) Where the complainant or his agent fails to appear before the commissioner on such days, the commissioner may in his discretion either dismiss the complaint on default or decide on merits. (5) Where the opposite party or his agent fails to appear on the date of hearing the Commissioner may take such necessary action under the Section 63 of the Act as he deems fit for summoning and enforcing the attendance of the opposite party. (6) The Commissioner may dispose of the complaint ex parte, if necessary. (7) The Commissioner may on such terms as he deems fit and at any stage of the

proceeding adjourn the hearing the complaint.(8)The Complaint shall be decided, as far as possible, within a period of the three months from the date of notice received by the opposite party.

45. Salary and Allowance of the Commissioner.

(1)The Commissioner for persons with disabilities Bihar Shall be entitled to salary allowance and the other requisites as are available to the Secretary to the State Government.(2)Appointment of other officers and employees of Commissioner's Office. - Other officers and employees of the Commissioner for Disabilities Bihar shall be appointed as per Recruitment Rules to be framed separately for this purpose.

46. Submission of Report to the State Government.

- The Commissioner shall submit report to the State Government in respect of the provision the implementation of the the Act under Section 61 (d) of the Act at the interval of six months in such a manner that at least two reports may be sent in one financial year.

47. Submission of Annual Report.

- The Commissioner shall as soon as possible after the end of the financial year but not later than 30th day of September in the next year prepare and submit before the State Government an annual report giving true and faithful account of his activities during the said financial year.In particular, the annual report referred to in sub-rule (1) shall contain information in respect to each of the following matters, namely: -(a)Name of officers/ staff of his office and chart showing the Organisational set up.(b)The functions for which the Commissioner has been, empowered under Sections 61 and 62 of the Act and the highlight of the performance of the functions in this regard.(c)The main recommendations made by the Commissioner.(d)District wise progress made in implementation of the provisions of the Act.(e)Any other matter deemed appropriate for inclusion in the report by the Commissioner or prescribed by the State Government from time to time.

48. Interpretation.

- If any question arises relating to the interpretation of these Rules, the same shall be referred to the State Government for decision.