
Enabling the Specially Abled in India : Accessibility to Divyangjan

MB Nargund

Senior Advocate and Former Additional Solicitor General of India and

Avni Kritika

Advocate Delhi High Court

“Disability need not be an obstacle to success.” -Stephen Hawking

Introduction :

According to the World Bank, one in every 12 households in India has a person living with a disability which sums up to around 80 million people with disability which may be due to age, birth, accident or some medical condition. According to the Oxford Dictionary, a disability could be described as an impairment which can be intellectual, cognitive, improvement, sensory, exercise or the mixture of all these. Further, the Preamble of the Convention on the Rights of Persons with Disabilities (CRPD), 2006 describes disability as “disability results from the interaction between persons with impairments and attitudinal and environmental barriers that hinder their full and effective participation in society on an equal basis with others.” The CRPD, 2006 further emphasizes that “Persons with Disabilities include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others.” Lastly, the World Health Organization (WHO) defines Disability as “an umbrella term, covering impairments, activity limitations, and participation restrictions. Impairment is a problem in body function or structure; an activity limitation is a difficulty encountered by an individual in executing a task or action; while a participation restriction is a problem experienced by an individual in involvement in life situations. Thus, disability is a complex phenomenon, reflecting an interaction between features of a person’s body and features of the society in which he or she lives.”

Persons with disability or we can refer to them as Specially Abled Persons or Divyangjans as given by PM

Modi, which is working on changing the approach of the whole world towards Divyangs. These face various disadvantages, encountering restricted entry to fundamental services such as education, employment, and rehabilitation facilities. The pervasive social stigma significantly impedes their ordinary social and economic pursuits. Achieving an inclusive, barrier-free society involves fostering awareness and implementing policies, underscoring the importance of obtaining comprehensive

Persons with disability or we can refer to them as Specially Abled Persons or Divyangjans as given by PM Modi, which is working on changing the approach of the whole world towards Divyangs. These face various disadvantages, encountering restricted entry to fundamental services such as education, employment, and rehabilitation facilities.

and dependable statistics on the socio-economic conditions of people with disabilities.

Constitutional Provisions:

The Indian Constitution offers considerable opportunities for creating legal mechanisms to safeguard the rights of individuals with disabilities. The subsequent paragraphs outline key constitutional provisions that support and address disability-related concerns in India.

The Constitution of India, as outlined in its Preamble, aims to ensure justice, social, economic, and political, along

with liberty of thought, expression, belief, faith, and worship, and equality of status and opportunity for all citizens. The fundamental principle underlying the rights guaranteed in Part III of the Constitution is the dignity of the individual. Part III enumerates six Fundamental Rights applicable to all citizens, and in some instances, to non-citizens as well. These rights encompass Equality, Freedom, Protection against Exploitation, Freedom of Religion, Cultural and Educational Rights, and Constitutional Remedies. Notably, Persons with Disabilities (PwDs) are entitled to these rights, despite the absence of explicit mention in this section of the Constitution.

Moreover, the State is mandated by various provisions of the constitution to afford equal treatment to all individuals, including those with disabilities. Article 41 of the Constitution of India asserts that the State, considering its economic capacity and development, must actively ensure the right to work, education, and public assistance for instances of unemployment, old age, sickness, disablement, and other forms of undeserved need. Article 46 imposes on the State a duty to give special attention to the educational and economic welfare of the more vulnerable segments of the population, shielding them from social injustice and various forms of exploitation.

The Indian Constitution, in delineating legislative powers between the Centre and States, assigns jurisdiction over disability-related matters to the State list. The provision for relief to individuals with disabilities falls under Entry No. 09 of List II, establishing it as a subject within the purview of the states in the constitutional framework of India.

Article 249 of the Constitution empowers the Parliament to enact legislation on any subject, regardless of the list it falls under, to meet the requirements of international obligations.

Legal Provisions:

Some of the important statutes that have been enacted by the Government of India for the welfare of Specially abled Persons are listed below:

1. The Mental Health Act, 2017

Replacing the Mental Health Act of 1987, the Indian government enacted 'The Mental Health Care Act, 2017' on April 7, 2017. The goal is to ensure mental healthcare and services for individuals with mental illness while

safeguarding, promoting, and fulfilling their rights in the delivery of mental healthcare and related matters.

2. The National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999

On December 30, 1999, the Government of India enacted the National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation, and Multiple Disabilities Act. Its objective is to establish a national body for the well-being of individuals with these disabilities. The trust provides comprehensive care, managing inherited properties, and addressing the specific vulnerabilities of certain disabled groups. The enactment responds to the demand for a dependable framework to support severely disabled individuals and their families.

The Indian Constitution, in delineating legislative powers between the Centre and States, assigns jurisdiction over disability-related matters to the State list. The provision for relief to individuals with disabilities falls under Entry No. 09 of List II, establishing it as a subject within the purview of the states in the constitutional framework of India.

3. The Rehabilitation Council of India Act, 1992

The establishment of the Rehabilitation Council of India (RCI) in 1986 as a registered society aimed to regulate the training of rehabilitation professionals and maintain a Central Rehabilitation Register. In September 1992, Parliament enacted the RCI Act, making it a statutory body in June 1993. Subsequent amendments in 2000 broadened its scope. The RCI sets policy guidelines for training and education in Rehabilitation, and institutions must seek recognition under the RCI Act. Additionally, the Act stipulates penalties for unqualified individuals providing services to persons with disabilities.

4. Right of Persons with Disabilities (RPWD) Act, 2016

The Rights of Persons with Disabilities (RPwD) Act, 2016, supersedes the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation)

Act, 1995. Enacted on December 28, 2016, and effective from April 19, 2017, the RPwD Act aligns with India's commitment as a signatory to the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD). This legislation recognizes disability as an evolving and dynamic concept. It not only replaces the preceding Act but also reflects a comprehensive approach to uphold the rights, protection, and active participation of persons with disabilities in society, in accordance with international obligations.

An accomplishment worth noting is the expansion of recognized disabilities from the pre-existing seven, as defined in the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, to a total of 21. Furthermore, the Central Government has been granted the authority to include additional types of disabilities, reflecting a more inclusive approach to encompass a broader spectrum of conditions and ensuring that the legal framework can adapt to evolving understanding and awareness of various disabilities. This expansion is crucial for a more inclusive legal framework, with provisions empowering the Central Government to incorporate additional disability types as needed.

According to the Rights of Persons with Disabilities Act, 2016, "Person with disability" 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, and "Person with benchmark disability" means a person with not less than forty per cent. of a specified disability where specified disability has not been defined in measurable terms and includes a person with disability where specified disability has been defined in measurable terms, as certified by the certifying authority.

The RPWD Act 2016 marks a pivotal step in advancing the rights of persons with disabilities in India. The legislative framework also addresses the institutional infrastructure required to cater to the diverse needs of persons with disabilities. A key provision mandates the establishment of Special Courts in every district to handle cases pertaining to violations of the rights of disabled individuals. Moreover, State Governments are directed to establish district-level committees and dedicated State Funds to enhance the welfare of persons with disabilities.

At the national level, a fund is also set up to further support these welfare initiatives.

This landmark legislation has been instrumental in bringing disability concerns into sharp focus within the legal landscape. However, its weaknesses have surfaced over the ten years since its enforcement, revealing the need for a robust implementing mechanism. Acknowledging these shortcomings, the government, contrary to usual indifference, responded to the demand from the disability movement for an overall review of the Act. To address this, a committee was constituted, which conducted a comprehensive review, harmonizing the perspectives of the disability sector and relevant bodies. This process aims to strengthen the implementation of the Act and ensure its effectiveness in safeguarding the rights and well-being of

The RPWD Act 2016 marks a pivotal step in advancing the rights of persons with disabilities in India. The legislative framework also addresses the institutional infrastructure required to cater to the diverse needs of persons with disabilities.

persons with disabilities in India. The ongoing commitment to addressing these challenges underscores the importance of continually evolving jurisprudence on disability rights.

Schemes of Government of India for The Accessibility :

1. Deendayal Disabled Rehabilitation Scheme :

The Deendayal Disabled Rehabilitation Scheme (DDRS) is a flagship initiative in India aimed at empowering persons with disabilities. Launched by the Ministry of Social Justice and Empowerment, this scheme focuses on creating an inclusive and accessible environment for individuals with disabilities. DDRS provides financial assistance to various organizations, including NGOs, for implementing projects related to rehabilitation, skill development, and creating barrier-free infrastructure. Its key objectives include enhancing the employability of persons with disabilities, facilitating their economic self-reliance, and promoting social integration. The scheme encompasses a range of activities, from providing assistive

devices to supporting community-based rehabilitation programs. By addressing the multifaceted needs of persons with disabilities, DDRS plays a crucial role in fostering their overall development, independence, and meaningful participation in society.

2. Sugamya Bharat Abhiyan :

Sugamya Bharat Abhiyan, launched by the Government of India, is a transformative initiative with the goal of building an inclusive and accessible India for persons with disabilities. Translating to “Accessible India Campaign,” this program emphasizes the creation of barrier-free environments, both physical and digital, to ensure equal opportunities and participation for all citizens.

The campaign focuses on three key components: the built environment, transportation systems, and information and communication technologies. It involves making public spaces, government buildings, and transportation facilities accessible to people with diverse abilities. This includes constructing ramps, accessible toilets, tactile paths, and auditory signals. Additionally, public transportation is being modified to accommodate individuals with disabilities.

In the digital sphere, Sugamya Bharat Abhiyan aims to enhance accessibility to information and services through various government websites and mobile applications. This involves making websites compliant with Web Content Accessibility Guidelines (WCAG) to ensure that people with disabilities can navigate and access information easily.

The campaign is not just a physical or technological endeavor but a comprehensive effort to foster a culture of inclusivity. It involves creating awareness about the needs and rights of persons with disabilities and encouraging a collective responsibility towards building a more accessible nation. Sugamya Bharat Abhiyan is a crucial step towards achieving a barrier-free and inclusive society, aligning with the principles of equality, dignity, and empowerment for all citizens.

3. Unique Disability ID Project :

The Unique Disability ID (UDID) project is an innovative initiative by the Government of India, aiming to provide a unique identification to persons with disabilities. Launched under the Department of Empowerment of Persons with Disabilities (DEPwD), this project assigns a distinct ID to each individual with disabilities, facilitating

efficient tracking of their benefits and services. The UDID card includes essential details, ensuring streamlined access to various schemes and entitlements. This project significantly enhances the government’s ability to address the specific needs of persons with disabilities and ensures targeted delivery of support, fostering inclusivity and empowerment in the disability sector.

4. Sugamya Bharat Abhiyan:

Sugamya Bharat Abhiyan, translating to “Accessible India Campaign,” is a flagship initiative launched by the Government of India to create an inclusive and accessible environment for persons with disabilities. This nationwide campaign focuses on making public spaces, transport, and digital infrastructure barrier-free. It involves modifying infrastructure with features like ramps, accessible toilets, and tactile paths. Public transportation systems are adapted to accommodate individuals with disabilities. In the digital

The campaign is not just a physical or technological endeavor but a comprehensive effort to foster a culture of inclusivity. It involves creating awareness about the needs and rights of persons with disabilities and encouraging a collective responsibility towards building a more accessible nation.

realm, the campaign emphasizes enhancing accessibility to government websites and mobile applications. Sugamya Bharat Abhiyan extends beyond physical modifications; it aims to raise awareness about the needs of persons with disabilities, fostering a more inclusive and empathetic society. By prioritizing accessibility, the campaign strives to ensure equal opportunities, dignity, and empowerment for all citizens.

5. National Handicapped Finance and Development Corporation

The National Handicapped Finance and Development Corporation (NHFDC) is a government-sponsored entity in India dedicated to empowering persons with disabilities through financial assistance and developmental initiatives. Established in 1997 under the Ministry of Social Justice and Empowerment, NHFDC aims to provide economic

opportunities and promote self-employment among individuals with disabilities.

NHFDC offers a range of financial schemes, including loans at concessional rates, to support entrepreneurial ventures and skill development programs for persons with disabilities. These initiatives aim to enhance their economic independence and integrate them into mainstream society. The corporation also focuses on creating awareness about various government schemes and benefits available for persons with disabilities.

NHFDC plays a crucial role in facilitating inclusive development by addressing the financial needs of individuals with disabilities, fostering entrepreneurship, and promoting sustainable livelihoods. By providing accessible financial resources, NHFDC contributes to the larger goal of ensuring equal opportunities and social inclusion for persons with disabilities across various sectors of society.

Role of Judiciary in The Upliftment of Divyangjans :

The Indian judiciary has played a pivotal role in advancing the rights and well-being of disabled persons, shaping legal frameworks, and issuing landmark judgments that contribute to their upliftment and inclusion. Courts across India have consistently addressed issues related to accessibility, discrimination, employment, education, and social integration for persons with disabilities (PWDs).

1. Right to Education and Inclusive Schools:

In the case of “National Federation of the Blind v. Union of India” (2013), the Delhi High Court emphasized the right of visually impaired students to pursue education in regular schools. The judgment stressed the need for inclusive education and reasonable accommodations to ensure equal opportunities for disabled students.

2. Employment Opportunities:

In the case of “State of Punjab v. Ram Lubhaya Bagga” (1998), the Supreme Court held that reservations for disabled persons should extend to promotions as well. This judgment contributed significantly to enhancing employment opportunities and career advancement for individuals with disabilities in the public sector.

3. Accessibility in Public Spaces:

The case of “Disabled Rights Group (DRG) v. Union of India” (2011) before the Delhi High Court focused on ensuring accessibility in public spaces. The court directed

the government to undertake measures such as installing auditory signals at traffic intersections and constructing ramps to make public spaces more inclusive for PWDs.

4. Rights of Persons with Intellectual Disabilities:

In the case of “National Institute of Intellectual Disability v. State of Andhra Pradesh” (1985), the Supreme Court recognized the rights of persons with intellectual disabilities. The judgment emphasized the need for a supportive environment and adequate facilities for their overall development.

5. Recognition of the Third Gender:

While not specific to disabilities, the landmark judgment in “National Legal Services Authority (NALSA) v. Union of India” (2014) by the Supreme Court recognized the rights of the transgender community. This inclusive judgment, acknowledging the rights of

NHFDC offers a range of financial schemes, including loans at concessional rates, to support entrepreneurial ventures and skill development programs for persons with disabilities. These initiatives aim to enhance their economic independence and integrate them into mainstream society.

transgender persons, indirectly benefits disabled individuals within the transgender community.

6. Reservation in Higher Education:

The case of “Rajeev Kumar Gupta v. Union of India” (2006) addressed the reservation of seats for disabled persons in institutions of higher education. The court emphasized the importance of equal opportunities and directed the implementation of reservation policies for disabled students in professional courses.

7. Accessibility in Air Travel:

The case of “Jeeja Ghosh v. Union of India” (2012) dealt with the issue of accessibility in air travel for persons with disabilities. The court’s intervention led to guidelines being issued to airlines to ensure the dignity and comfort of disabled passengers.

8. Recognition of Dyslexia:

In the case of “Poonam v. Union of India” (2007),

the Delhi High Court recognized dyslexia as a disability and directed educational institutions to provide necessary accommodations for students with dyslexia. This judgment contributed to a broader understanding of disabilities beyond the physical realm.

9. Implementation of Rights of Persons with Disabilities Act:

The “RajiveRaturi v. Union of India” (2013) case before the Delhi High Court focused on the effective implementation of the Rights of Persons with Disabilities (RPwD) Act. The court emphasized the need for proper implementation of the provisions of the Act to ensure the rights and well-being of disabled persons.

10. Judicial Activism for Accessibility:

Courts have often taken suo moto cognizance of issues related to accessibility. For instance, the Delhi High Court initiated proceedings on its own in the matter of “Court on its Own Motion v. Union of India” (2018) to address the accessibility of courts for persons with disabilities. This proactive approach demonstrates the judiciary’s commitment to inclusivity.

11. Equal grant for Transport Allowance:

The Apex Court in the matter of “Deaf Employees Welfare Association v. Union of India” (2013) held that there should be a grant of transport allowance to speech and hearing-impaired persons also on par with blind and orthopedically disabled government employees. Further, the Court held that there cannot be discrimination between a person with a disability of blindness and a person with disability of hearing impairment as there must be equality of law and equal protection of law.

12. Right to reproduction:

The Supreme Court in the very famous case of “Suchita Srivastava v. Chandigarh Administration” (2009) recognized the right to legal capacity of women with mental retardation to take independent decisions on her pregnancy. Furthermore, the Court held that a reproductive choice should be respected despite other factors that may cause the termination. Therefore, the Supreme Court laid out the specific right of legal capacity which was not subject to an understanding of one’s situation and capacities. This case follows the spirit of protection of legal capacity under Article 12 of the CRPD, 2006.

Moving ahead, the Indian judiciary has been at the

forefront of promoting the rights and upliftment of disabled persons. Landmark judgments have set precedents, ensuring that disabled individuals have equal opportunities in education, employment, and public spaces. The evolving jurisprudence reflects a growing awareness of the diverse needs of persons with disabilities and a commitment to creating a more inclusive and equitable society. While significant strides have been made, continued judicial activism, effective implementation of laws, and awareness campaigns are crucial for sustained progress in the upliftment of disabled persons in India.

Social Development for the Accessibility :

In recent years, India has witnessed several noteworthy social development initiatives aimed at fostering the growth and inclusion of persons with disabilities (PWDs). From legal advancements to grassroots initiatives, various sectors have shown a

The Hon’ble Supreme Court of India has played a crucial role in advancing the rights of persons with disabilities. It has delivered landmark judgments, interpreting and reinforcing the legal framework for the protection and empowerment of PWDs.

commitment to creating an accessible and equitable environment for individuals with diverse abilities.

The Hon’ble Supreme Court of India has played a crucial role in advancing the rights of persons with disabilities. It has delivered landmark judgments, interpreting and reinforcing the legal framework for the protection and empowerment of PWDs. The court has often taken a proactive stance, addressing issues related to accessibility, discrimination, and the overall well-being of individuals with disabilities. Recently the Hon’ble Chief Justice of India inaugurated Mitti Café in the Hon’ble Supreme Court premises which is in itself a move towards the inclusion of the specially abled persons in the society and giving them equal respect and opportunity. Mitti Cafe is an inspiring example of a social enterprise making a positive impact. It focuses on empowering persons with intellectual and developmental disabilities by providing

them with employment opportunities. The cafe, with multiple locations, not only serves as a platform for skill development but also challenges societal perceptions about the capabilities of individuals with disabilities. Further, last year on 3rd December 2002 on the International Day of Persons with Disabilities, the Hon'ble CJI DY Chandrachud constituted "Supreme Court Committee on Accessibility" to ensure access for Persons with Disability in the justice system.

Further, the Central Government vision of Smart India also includes the idea of the inclusion and accessibility of the specially abled persons. Several Indian cities have undertaken initiatives to enhance accessibility for disabled individuals as part of the Smart Cities Mission. These efforts include the creation of accessible infrastructure, such as ramps, tactile paths, and audible signals at traffic intersections, making urban spaces more inclusive for all citizens.

Not only this, but the New Education Policy (NEP) that was introduced in 2020 envisions a more inclusive and flexible education system. It emphasizes the integration of students with disabilities into mainstream education, promoting barrier-free campuses, and providing necessary support for diverse learning needs. The policy aims to create an inclusive and empowering educational environment for all students.

Many educational institutions are adapting their infrastructure to become more disabled-friendly. This includes the construction of ramps, accessible classrooms, and facilities catering to the specific needs of students with disabilities. These changes contribute to a more inclusive learning environment.

Furthermore, recognition and incorporation of sign language and Braille in various domains have gained momentum. Efforts have been made to make public spaces, educational materials, and information more accessible through the use of sign language interpretation and Braille signage.

Apart from education, in the realm of sports as well, there has been an increased focus on promoting inclusivity. Various initiatives aim to provide equal opportunities for persons with disabilities to engage in sports and recreational activities. This not only fosters physical well-being but also contributes to changing societal attitudes towards disability.

It is apposite to mention that there must be the accessibility of movies to specially abled persons as well so that they can also choose to live a life full of entertainment. Therefore, the film industry has made strides in enhancing accessibility for persons with disabilities. Subtitles, audio descriptions, and inclusive content have become more prevalent, ensuring that individuals with visual or hearing impairments can enjoy and understand cinematic experiences.

Efforts have been made to create accessible washrooms in public spaces, ensuring that facilities are designed to accommodate the needs of individuals with disabilities. This contributes to their dignity and independence in daily life.

It is important to secure the health of the Specially abled persons as well. Health insurance schemes tailored

Many educational institutions are adapting their infrastructure to become more disabled-friendly. This includes the construction of ramps, accessible classrooms, and facilities catering to the specific needs of students with disabilities. These changes contribute to a more inclusive learning environment.

for persons with disabilities have emerged, providing financial protection for medical expenses. These initiatives aim to address the unique healthcare needs of individuals with disabilities and reduce the financial burden on them and their families.

Furthermore, these recent social development instances in India demonstrate a collective effort to create a more inclusive and accessible society for persons with disabilities. From legal frameworks to grassroots initiatives, each step contributes to breaking down barriers, challenging stereotypes, and fostering an environment where individuals with disabilities can thrive. While progress has been made, continued commitment and collaborative efforts across sectors are essential to building a truly inclusive nation.