**Medical Council of India’s new Guidelines on admission of person with specified disabilities- Unfair, Discriminatory & Unlawful**

Satendra Singh

Associate Professor of Physiology

University College of Medical Sciences, Delhi

Medical Humanities Group, UCMS, Delhi

Abstract

Medical Council of India (MCI)’s recent guidelines on admission of person with specified disabilities into medical course under the disability quota has embroiled into controversy. There have been multiple litigations against MCI by successful National Eligibility cum Entrance Test candidates with disabilities across the country. In light of our new Rights of Persons with Disabilities Act 2016 and United Nations Convention on the Rights of Persons with Disabilities, I argue in this essay how these guidelines are unfair, discriminatory & unlawful. I quote Supreme Court judgements on reasonable accommodation, equality and discrimination and highlight the exclusion of doctors with disabilities in policy making.

Keywords: Disabilities, UNCRPD, Dyslexia, Specific Learning Disability

**Introduction**

India ratified the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) in 2007 which made it mandatory to harmonise all its existing legislations in line with it [1]. The result was the Rights of Persons with Disabilities (RPwD) Act, passed by the Parliament in 2016 and implemented on 19 April 2017 [2]. The legislation moves from a charity approach to a rights-based approach and safeguards human rights of people with disabilities. The number of disabilities were increased from seven to 21. The provisions of the said Act require that any person with benchmark disability (who has a minimum of 40% of a specified disability) is entitled, as a matter of right, to avail all the benefits and accommodations enshrined in the Act including 5% reservation in higher education[2].

Armed with a progressive legislation, candidates with disabilities appeared in the National Eligibility cum Entrance Test (NEET) to seek admission to the medical course under the disability quota. Out of the 110 students selected under the disability quota this year, the Directorate of Medical Education, Mumbai declared eight student’s ineligible, all of whom has learning disabilities [3]. Similar incidents of candidates with dyslexia, hearing impairment, low vision, dwarfism, upper limb disability, hemophilia being denied admission were reported across the country. These decisions were based on the recent ‘Guidelines for admission of person with specified disabilities’ prepared by an Expanded Committee on Disability constituted under Medical Council of India (MCI) [4]. Candidate with low vision and dyslexia has already challenged it in the Supreme Court.

**What are the new MCI Guidelines?**

Last year, a candidate with thalassemia knocked the doors of Supreme Court and successfully got admission into medical course under the disability quota. MCI, earlier this year, communicated to all Counselling Authorities that all candidates with these 21 benchmark disabilities are eligible to take benefit of disability quota in the medical course. Later, in pursuance of the communication from Ministry of Health and Family Welfare (MoHFW), MCI submitted their new guidelineson 5th June 2018 which are yet to be ratified.

As per the guidelines, despite having benchmark disabilities, candidates with Specific Learning Disabilities (SpLD), visual impairment, hearing impairment, and autism are considered ineligible for medical course in disability quota. There is an upper cap of 60% for non-dominant upper limb disability and spine involvement; and 80% for disabilities arising from hematological and chronic neurological disorders; and lower limb disabilities (Table 1).

|  |  |  |  |
| --- | --- | --- | --- |
| S.No | Specified disabilities | Benchmark disabilities(40% and above) | Not eligible for medical course in disability quota |
| 1. | Locomotor disabilities | Polio, Cerebral palsy, leprosy cured, dwarfism, muscular dystrophy, acid attack victims | More than 80% of lower limb  More than 60% for non-dominant upper limb  More than 60% for spine |
| 2. | Specific Learning Disabilities | Dyslexia, dyscalculia | Currently not recommended |
| 3. | Blood disorders | Hemophilia, Thalassemia, Sickle cell disease | More than 80% |
| 4. | Chronic Neurological | Multiple Sclerosis, Parkinsonism | More than 80% |
| 5. | Visual impairment | Low vision and Blindness | Equal to or more than 40% disability |
| 6. | Hearing impairment | Deaf and Hard of hearing | Equal to or more than 40% disability |
| 7. | Speech/language |  | Equal to or more than 40% disability |
| 8. | Autism | ASD | Currently not recommended |
| 9. | Mental illness |  | Equal to or more than 40% disability |

Table 1- Adapted table from MCI guidelines to simplify things. Complete table can be seen at reference [4]

**Why MCI Guidelines are unfair?**

Five experts were chosen by MCI to frame pan-India guidelines for 21 disabilities. All experts were from Delhi and four of them from a single institute. Maharashtra, which was the first state to start providing accommodation to children with dyslexia, and many other states (Karnataka, Tamil Nadu, Kerala, Goa and Gujarat) who recognize and have experience with accommodating for learning disability, were not represented.

The lone member of the MCI committee responsible for setting guidelines for people with SpLD was a psychiatrist who did not recommended medical admission to applicants with dyslexia stating “lack of objective method/quantification of disability to establish presence and extent of mental illness.” The expert further raised the concern that there will be foul play by parents to get fake disability certificates and stated that ‘demand for SLD and ASD certificate has grown out of proportion’ - however, he gave no reference for this claim.

SpLD refers to a group of conditions, which encompass dyslexia, dyspraxia, dyscalculia, dysgraphia, and Attention Deﬁcit Hyperactivity Disorder (ADHD) [5]. The Consensus statement of the Indian Academy of Pediatrics on SpLD in its definition part does not consider it as an intellectual disability [6]. The commonest one, dyslexia, may be deﬁned as a “learning difficulty that speciﬁcally impairs a person’s ability to read … despite having normal intelligence” [7]. Dyslexia interferes with processing – but it does not diminish intelligence [8] so it is unfair to compare it with mental illness. Yet, the MCI committee member who looked into this issue was a psychiatrist. There was no paediatrician or psychologist in this committee. The Department of Paediatrics, AIIMS, New Delhi which worked extensively with the National Trust of the Government of India and organised training programs for doctors on the new Autism scale last year were not involved. Neither there was any involvement of paediatricians from Mumbai. Thus, the MCI did not adopt an inter-disciplinary approach by involving the specialities that are usually entrusted with the diagnosis and care of individuals with SpLD.

The claim by the MCI expert that dyslexia is overdiagnosed has no merit as only a few state governments (Maharashtra, Karnataka, Tamil Nadu, Kerala, Goa and Gujarat) have formally granted accommodations to people with SpLD. Last year, in class XII (CBSE board) only 840/10,19,360 students across the country were diagnosed as having dyslexia. This year the number was 901/11,06,771 [9]. A minuscule 0.08 %, in two successive years, cannot justify using the term ‘overdiagnosis’; nor should it be the basis of the suggestion that this figure represents a ‘rise in fake disability certificates’. Considering quantification is not possible currently for SpLD, so disability present or absent should be used as the criteria to tackle the problem of quantification.

The upper limit of 80% in case of locomotor disability does not assess individual functional capability. The guidelines should have provision for ability assessment. Arunima Sinha from India is the first woman amputee in the world to climb Mount Everest on a prosthetic limb and Major DP Singh, another amputee, is India’s first blade runner who run marathons. Ted Rummel, an orthopedic surgeon in Missouri, acquired disability when a blood-filled cyst burst in his spine. Undeterred, he now operates from his modified wheelchair in the Operation Theatre.

Y.G. Parameshwarahe is considered as the second blind doctor in the world after Dr. David Heartman from USA. He went on to do his MD in Pharmacology and was appointed as faculty at the Bangalore Medical College [10]. Both he and Dr Suresh Advani, hematoncologist and a wheelchair user (80% disability), were awarded by the President of India. The notification from the Ministry of Social Justice & Empowerment on ‘Identification of Posts suitable for persons with disabilities’ states that if a post is already held by a person with disability, it shall be deemed to have been identified**.**There are doctors with hearing impairment currently doing specialization in clinical branches yet candidates with visual and hearing impairment has to file cases in the court this year.

**Why MCI Guidelines are discriminatory?**

The Department of Empowerment of Persons with Disabilities (DEPwD) framed guidelines for evaluation and the procedure for certification of various specified disabilities - the guidelines were finalised by the MoHFW and were notified by the Central Government in the Gazette on 4 Jan 2018 [11]. DEPwD constituted an expert committee which further created eight sub-committees. It is important to note here that there were separate sub-committees on ‘developmental disorders’ and on ‘mental illness’ in this nodal body. On the contrary, MCI relied on a psychiatrist alone to make sweeping comments on developmental disabilities suggesting that they discriminated against people with learning disability.

The DEPwD committee had experts from different hospitals, from the Indian Council of Medical Research, and it included Directors of National Institutes working for people with disabilities under the Central Government, and the Director General of Health Services (DGHS). The DGHS is the final authority to decide upon cases where any controversy or doubt arises in the interpretation of the definitions or classifications or evaluation procedures regarding the said guidelines. The DGHS was never involved by the MCI.

The DEPwD Assessment Guidelines clearly state that for SpLD, the diagnosis will require a team approach involving a pediatrician and clinical or rehabilitation psychologist. They identified NIMHANS battery as a diagnostic tool. For disability certification, they identified that the medical authority will comprise of [11; page 94-95]:

*(a) The Medical Superintendent/Chief Medical Officer/Civil Surgeon (b) Pediatrician or Pediatric Neurologist (where available) (c) Clinical or Rehabilitation Psychologist (d) Occupational therapist or Special Educator or Teacher trained for assessment of SpLD.*

Recognizing that SpLD is not a mental disorder, the recommended team does not include a psychiatrist. Yet, the MCI included a psychiatrist and excluded experts who are mandated by Central Government to do this job. The Assessment Guidelines also clearly mention that no reassessment is required after 18 years of age and that this certificate will be valid lifelong. The basis for this decision is that the coping strategy of dyslexics and their learning patterns are usually established by the time they go to higher education, making reassessment at that stage a wasteful exercise. The MCI’s insistence on reevaluation smacks of discrimination.

**Why MCI Guidelines are unlawful?**

The Delhi High Court on 31st July 2018 granted relief to a hearing-impaired candidate [12] who cleared the NEET examination but was denied admission as the MCI guidelines state that candidates with auditory disability are not eligible for medical course in disability quota. The Court, however granted her permission upholding the principles of non-discrimination and equal opportunity enshrined in UNCRPD. The Court observed that the MCI recommendation has not yet attained finality and is pending consideration before the MoHFW and the amendment, in this behalf, has so far not been carried out in the relevant regulations [12]. The MCI guidelines disentitling persons with specified benchmark disabilities are “abhorrent to the principles enshrined in the Constitution of India and to the provisions of the RPwD Act.”

The Court stressed that the RPwD Act came into being to give effect to the UNCRPD, to which India was a signatory. “The Preamble to the said Act does not permit for any deviation from the stated objective” while directing the petitioner to participate in the counselling under the disability quota and to reserve a seat for her in MBBS course for the current academic session [12].

This is not a first off as much before the enactment of RPwD Act, the apex Court in India mentioned the doctrine of ‘reasonable accommodation’ for the first time in a judgment while pulling up the Jammu and Kashmir High Court [13] which denied a person with cerebral palsy a school teacher’s job as he could not hold a chalk. The ground prepared was that the process of teaching is incomplete without the use of the blackboard. The Apex Court agreed that while a person having cerebral palsy may not be able to write on a blackboard, an electronic external aid could be provided which could eliminate the need for drawing a diagram and the same could be substituted by a picture on a screen, which could be projected with minimum effort. The term “reasonable accommodation” has been officially defined under section 2(y) of the RPwD Act 2016 as [2]:

*‘necessary and appropriate modification and adjustments, without imposing a disproportionate or undue burden in a particular case, to ensure to persons with disabilities the enjoyment or exercise of rights equally with others’*

In National Legal Services Authority Versus Union of India and others Writ Petition (Civil) No.400 of 2012, Supreme Court said [14; page 93]:

*“In international human rights law, equality is found upon two complementary principles: non-discrimination and reasonable differentiation. The principle of non-discrimination seeks to ensure that all persons can equally enjoy and exercise all their rights and freedoms…. Discrimination occurs due to arbitrary denial of opportunities for equal participation. Equality not only implies preventing discrimination but goes beyond in remedying discrimination against groups suffering systematic discrimination in society. In concrete terms, it means embracing the notion of positive rights, affirmative action and reasonable accommodation…”*

**Doctors with disabilities do exist**

In the landmark Jeeja Ghosh & Anr vs Union of India & Ors on judgement, the apex court stated [15]:

“…the very first sentence of the book “NO PITY” authored by Joseph P.Shapiro reads:

*“Non disabled Americans do not understand disabled ones.”* The only error in the aforesaid sentence is that it is attributed to Americans only whereas the harsh reality is that this statement has universal application. The sentence should have read:

*“Non disabled people do not understand disabled ones.”*

One of the biggest flaws of both the MCI committee and the Committee framing Assessment Guidelines is the exclusion of doctors with disabilities on the committees. We, the disabled people, are real-life experts on matters pertaining to disabilities. As I wrote in the *Indian Express*, policymakers and doctors without the lived experience of having a disability must not assume they know of our abilities or doubt our competencies [16]. Where are the voices of doctors with disabilities? It was my four-year battle with MoHFW which finally unlocked 1,674 posts for doctors with disabilities in the Central Health Services [17]. These were not even reserved posts, nevertheless Nirman Bhawan bureaucrats were prejudiced that such posts could not be manned by people with disabilities and they even stated so on their affidavit to the Court. If the ceiling broke it was because of my lived experience as a doctor with disability. Unfortunately, history has repeated itself as candidates with disabilities have been denied medical admission this year by MCI.

The rights of people with disabilities are protected globally by legislations – Americans with Disabilities Act (US), Equality Act (UK) and RPwD Act (India). There is literature available to counter the MCI prejudice. The majority of students with disabilities in medical education in the United States have invisible disabilities - ADHD (33.7%), SpLD (21.5%) and psychological disability (20%) [18]. Similarly, in UK, 10% of medical students from a medical school have reported SpLD [19].

Willem Kolff (father of artificial organs & pioneer of hemodialysis) and Helen Taussig (founder of pediatric cardiology) both had dyslexia [16]. Eleanor Walker (a dyspraxic medical student) and Sebastian Shaw (a doctor with dyslexia) are flying the flag high by publishing the lived experiences of medical students with dyslexia in peer-reviewed journals [8, 19-20].

**Reasonable accommodations for medical students with dyslexia**

*“There is a need to foster a supportive environment, in which asking for help is not seen as weakness, and admittance of difficulty is not viewed as negativity*”

– A doctor with dyslexia [20]

I feel it is unethical to label candidates with disabilities under benchmark disability and offer no support. Majority of the medical institutions in the country are not accessible to people with disabilities. Based on my case in National Human Rights Commission, MCI amended the Standard Assessment Form, thereby fixing the accountability of barrier-free campus on to the institution by putting this in Dean's Declaration form [21]. ‘Diversity and Inclusion’ are unfortunately still not on the agenda of medical educators in India. One very important role of curriculum designers is to generate products to fulfil the needs of students with varying range of abilities, learning styles, and preferences. In this sense, the use of media in medical education should help teachers proactively plan for students with diverse characteristics, and institutions should include strategies for creating an inclusive curriculum and instructional methods. This can only be achieved through using universal design *for* learning.

Universally-designed presentations and handouts (replacing white backgrounds with pastel colors, using Sans-Serif fonts, avoiding underlining titles, using flowcharts & concept maps) are recommended by doctors with dyslexia as inclusive practices [8]. This will help colour blind students too. Three UK studies have analysed the impact of dyslexia on performance in different exam formats [19] and they found that 25% extra time allows students with dyslexia to perform as well as other students. Section 21(2) of the RPwD Act mandates every establishment to frame an Equal Opportunity Policy and this is where such accommodations must be mentioned and fulfilled in letter and in spirit. Section 21 of the RPwD Act 2016 and Section 10 of the RPwD Rules 2017 mandates appointment of a Grievance Redressal Officer in every establishment to circumvent deviations.

MCI may please note that denial of reasonable accommodation has been defined as ‘discrimination’ under section 2(h) of the RPwD Act 2016 and therefore any person or establishment contravening provisions of this Act can be subject to punishment under section 89 and 92.

One notable gap in the literature is the lack of studies on the emotional impact of studying medicine with disability. In granting them accommodations are we inadvertently doing harm by singling them out and leaving them vulnerable to discrimination? More work is needed in this area especially from medical students and doctors with disabilities, provided that they are not stopped from pursuing medicine.

Students with diverse learning needs must not be barred from entering the medical profession. They add diversity to our profession and we must be inclusive to their needs. The RPwD Act is a welfare legislation based on UNCRPD - the first human rights treaty in the 21st century with a record number of signatories. It is the duty of everyone to see that the principles of UNCRPD are respected and that the provisions of the RPwD Act are carried out.

REFERENCES

1. Convention on the Rights of Persons with Disabilities (CRPD). United Nations Department of Economic and Social Affairs. [website]. Available from: *https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities.html* Accessed 5 Aug, 2018.
2. The Rights of Persons with Disabilities Act, 2016, Gazette of India (Extra-Ordinary). Enabling Unit, UCMS. [website]. Available from:*http://enablingunit.yolasite.com/resources/RPWD%20ACT%202016.pdf* Accessed 5 Aug, 2018.
3. Gaikwad R. MCI rules bar learning disabled from MBBS. Mumbai Mirror [Internet]. Available from: *https://mumbaimirror.indiatimes.com/mumbai/civic/mci-rules-bar-learning-disabled-from-mbbs/articleshow/64953703.cms*Accessed 5 Aug, 2018.
4. Medical Counselling Committee. DGHS, MoHFW. Submission to President Medical Council of India of the comprehensive report regarding guidelines for admission of person with specified disabilities. Available from: *https://mcc.nic.in/UGCounselling/home/ShowPdf?Type=50C9E8D5FC98727B4BBC93CF5D64A68DB647F04F&ID=F6E1126CEDEBF23E1463AEE73F9DF08783640400*Accessed 5 Aug, 2018.
5. Gibbs J, Appleton J, Appleton R. Dyspraxia or developmental coordination disorder? Unravelling the enigma. Arch. Dis. Child. 2007;92(6):534–9.
6. National Consultation Meeting for developing Indian Academy of Pediatrics (IAP), Guidelines on Neuro-developmental Disorders under the aegis of IAP Childhood Disability Group and the Committee on Child Development and Neurodevelopmental Disorders, C Nair MK, Prasad C, Unni J, Bhattacharya A, Kamath SS, Dalwai S. Consensus Statement of the Indian Academy of Pediatrics on Evaluation and Management of Learning Disability. Indian Pediatr. 2017;54(7):574-580.
7. National Institute of Neurological Disorders and Stroke. NINDS dyslexia information page. Available from: *https://www.ninds.nih.gov/Disorders/All-Disorders/Dyslexia-Information-Page* Accessed 5 Aug, 2018.
8. Shaw SCK, Anderson JL. Twelve tips for teaching medical students with dyslexia. Med Teach. 2017;39(7):686-690.
9. Central Board of Secondary Education. Press Release-Senior School Certificate Examination (Class - XII) 2018. Appendix-V. Available from: *http://cbse.nic.in/prunit/Press%20Release.htm*
10. Mellegatti P. He never lost sight of his goal. The Hindu. Available from: *https://www.thehindu.com/2005/06/22/stories/2005062213030500.htm* Accessed on 6 Aug 2018.
11. Department of Empowerment of Persons with Disabilities. Guidelines for assessment of extent of disability and certification of specified disabilities. Gazette of India (Extra-Ordinary). Available from: *http://disabilityaffairs.gov.in/upload/uploadfiles/files/Guidelines%20notification\_04\_01\_2018.pdf* Accessed 5 Aug, 2018.
12. Delhi High Court. Minor (through her father Bhagwati Prasad Sharma vs Union of India and Ors.W.P.(C)--7820/2018 Available from: *https://indiankanoon.org/doc/96393060/* Accessed on 6 Aug 2018.
13. Supreme Court of India. Civil appeal 2281-2282 of 2010 (Arising out of SLP(C)Nos.10669-70 of 2008) Syed Bashir-ud-din Qadri vs Nazir Ahmed Shah & Ors.
14. Supreme Court of India. Writ Petition (Civil) No.400 of 2012 (National Legal Services Authority vs Union of India & Ors). Available from: *http://supremecourtofindia.nic.in/jonew/judis/41411.pdf* Accessed on 6 Aug 2018.
15. Supreme Court of India. Writ petition (C) No. 98 of 2012 (Jeeja Ghosh & Anr vs Union of India & Ors). Available from: *https://indiankanoon.org/doc/175579179/*

Accessed on 6 Aug 2018.

1. Singh S. Borders for doctors. Indian Express. Available from: *https://indianexpress.com/article/opinion/columns/rights-of-persons-with-disabilities-act-neet-exam-supreme-court-aiims-5282135/*Accessed 5 Aug, 2018.
2. Nagarajan R. One man’s crusade opens up CHS jobs for disabled doctors. Times of India dated 14 June 2015. Available at: *https://timesofindia.indiatimes.com/india/One-mans-crusade-opens-up-CHS-jobs-for-disabled-doctors/articleshow/47661044.cms* Accessed 5 Aug, 2018.
3. Meeks LM, Herzer KR. Prevalence of self-disclosed disability among medical students in U.S. allopathic medical schools. JAMA. 2016;316(21):2271-2.
4. Shaw SC, Malik M, Anderson JL. The exam performance of medical students with dyslexia: a review of the literature. MedEdPublish. 2017 Jul 3;6.
5. Shaw SCK. Learned helplessness in doctors with dyslexia: Time for a change in

discourse? Nurse EducPract. 2018 Feb 6. pii: S1471-5953(18)30057-X. [Epub ahead of print].

1. National Human Rights Commission. Satendra Singh vs MCI. Case No.-43768/24/0/2013. Available from: *http://infiniteability.yolasite.com/diversity.php* Accessed 6 Aug, 2018.

**Declaration of interest:** The author of this paper is a doctor with disability. The article is a follow up of a small editorial published in the Indian Express (quoted in reference)

**Funding:** No funding