

# **Key Provisions of The Rights of Persons With Disabilities Act, 2016**

19<sup>th</sup> May 2017

**By: Nilesh Kumar Tiwari**  
**Consultant, State Panning Commission**  
**Chhattisgarh, India**

# Key Provisions of The Rights of Persons With Disabilities Act, 2016

- Act to give effect to UN Convention on Rights of PWDs & matters
- **Convention lays down following principles for empowerment of PWDs,**
  - *(a) respect for inherent dignity, individual autonomy including freedom to make one's own choices, & independence of persons;*
  - *(b) non-discrimination;*
  - *(c) full & effective participation & inclusion in society;*
  - *(d) respect for difference & acceptance of PWDs as part of human diversity & humanity;*
  - *(e) equality of opportunity;*
  - *(f) accessibility;*
  - *(g) equality between men and women;*
  - *(h) respect for evolving capacities of children with disabilities (CWDs) & respect for right of CWDs to preserve their identities*

# Specified Disabilities [ Clause(zc) of Sect. 2] of RPWD Act, 2016

## 1. Physical Disability

### 1 A. Locomotor Disability

(a) Leprosy cured person

(b) Cerebral palsy

(c) Dwarfism

(d) Muscular dystrophy

(e) Acid attack victims

1 B. Visual impairment  
(a) Blindness  
(b) Low-vision

1 C. Hearing impairment  
(a) Deaf  
(b) Hard of hearing

D. Speech & language disability

## 2. Intellectual disability

(a) Specific learning disabilities

(b) Autism spectrum disorder

## 3. Mental behavior

Mental illness

## 4. Disability caused due to

(a) Mental illness

(a) chronic neurological conditions

(i) Multiple sclerosis  
(ii) Parkinson's disease

4 (b) Blood disorder

(i) Haemophilia  
(ii) Thalassemia  
(iii) sickle cell disease

## 5. Multiple Disabilities

more than one of above specified disabilities

## 6. Any other category

As may be notified by Central Govt

21 types & Central Govt. will have power to add more types of disabilities

# Categorization of Person with Disabilities –RPWDA 2016

- **2. (r) “person with benchmark disability”** means a *person with not less than 40% of a specified disability where specified disability has not been defined in measurable terms & includes a PWD where specified disability has been defined in measurable terms, as certified by certifying authority;*
- **(s) “person with disability”** means a person with long term physical, mental, intellectual or sensory impairment which, in interaction with barriers, hinders his full & effective participation in society equally with others;
- **(t) “person with disability having high support needs”** means a person with benchmark disability certified under clause (a) of sub-section (2) of section 58 who needs high support;
- **(l) “high support”** means *an intensive support, physical, psychological & otherwise, which may be required by a person with benchmark disability for daily activities, to take independent and informed decision to access facilities & participating in all areas of life including education, employment, family & community life and treatment & therapy.*

# Key Provisions of the Rights of Persons With Disabilities Act, 2016

- PWDs shall have equal protection & safety in situations of risk, armed conflict, humanitarian emergencies & natural disasters. [Sec 8]
- No child with disability shall be separated from his or her parents on ground of disability except on order of competent court, if required, in best interest of child [Sec 9 (1)]
- *If Parents unable to take care of a child with disability, competent court shall place such child with his or her near relations, failing that within community in a family setting or in exceptional cases in shelter home run by appropriate Govt or NGOs* [Sec 9 (2)]
- No PWD shall be subject to any medical procedure leading to infertility without his or her free & informed consent [Sec 10 (2)]
- Election Commission of India & State Election Commissions shall ensure accessibility of polling stations & materials related to electoral process easily understandable to PWDs [Sec 11]
- Appropriate Govt shall ensure PWDs able to exercise right to access any court, tribunal, authority, commission or any other body having judicial or quasi-judicial or investigative powers without discrimination on basis of disability [Sec 12 (1)]

# Key Provisions of the Rights of Persons With Disabilities Act, 2016

- Appropriate Govt shall
  - ensure PWDs have right, equally with others, to own or inherit property, movable or immovable, control their financial affairs & have access to bank loans, mortgages and other forms of financial credit [Sec 13(1)]
  - designate one or more authorities to mobilize community & create social awareness to support persons with disabilities in exercise of their legal capacity. [Sec 15 (1)]
  - *conduct survey of school going children in every 5 years for identifying children with disabilities, ascertaining their special needs & extent to which these are met:*
    - 1<sup>st</sup> survey shall be conducted within a period of 2 years from date of commencement of Act;
  - formulate schemes & programmes including provision of loans at concessional rates to facilitate & support employment of PWDs especially for vocational training and self-employment [Sec 19. (1)]

# Key Provisions of the Rights of Persons With Disabilities Act, 2016

- Appropriate Govt may frame policies for posting & transfer of employees with disabilities. [Sec 20(5)]
- Every Govt establishment shall appoint a Grievance Redressal Officer for purpose of section 19 & shall inform Chief Commissioner or State Commissioner, as case may be, about appointment of such officer. [Sec 23(1)]
- Formulation of **Social Security Schemes** for adequate standard of living to PWDs with quantum of assistance at least 25% higher than similar schemes applicable to others [Sec 24(1)]
- Care-giver allowance to PWDs with high support needs [Sec 24(3i)]
- *Comprehensive insurance scheme for PWD, not covered under Employees State Insurance Schemes, or any other statutory or Govt sponsored insurance schemes* [Sec 24(3j)]
- Appropriate Govt shall, by notification, make insurance schemes for their employees with disabilities [Sec 26]

# Key Provisions of the Rights of Persons With Disabilities Act, 2016

- Appropriate Govt shall take measures to
  - initiate research & development for empowerment of PWDs [Sec 28]
  - promote & protect rights of PWDs to have cultural life, to participate in recreational activities [Sec 29]
  - ensure effective participation in Sporting activities [Sec 30]
  - identify posts in establishments for persons with benchmark disabilities [Sec 33(i)]
  - Constitute expert committee with representation of persons with benchmark disabilities for identification of such posts [Sec 33(ii)]
  - undertake periodic review of identified posts at interval not exceeding 3 years [Sec 33(ii)]
  - Develop schemes programmes to promote personal mobility of PWDs at affordable cost to provide for; [Sec 42 (2)]
    - (a) incentives and concessions; (b) retrofitting of vehicles; (c) personal mobility assistance.*



# Key Provisions of the Rights of Persons With Disabilities Act, 2016

- Under Rehabilitation Council of India Act, 1992, appropriate Govt shall endeavor to develop human resource [Sec 47 (1)] for that
  - *Need based analysis & formulate plans for recruitment, induction, sensitization, orientation & training of suitable personnel* [Sec 47(3)]
- Appropriate Govt shall undertake
  - Social audit of all general schemes & programmes involving PWDs to ensure need requirements & concerns of persons with disabilities [Sec 48]
  - Designate persons, having requisite qualifications & experience, as certifying authorities, who shall be competent to issue certificate of disability [Sec 57(1)]
  - Constitution of **State Advisory Board** on disability [Sec 66(1)]
  - Constitution of district-level committee on disability [Sec 72]
  - Appointment of State Commissioner for PWDs [Sec 79(1)]
  - Forming advisory committee (not more than 5 expert members) to assist State Commissioner [Sec 79(7)]

# Key Provisions of the Rights of Persons With Disabilities Act, 2016

## Special Court

- For purpose of providing speedy trial, State Govt shall, with concurrence of Chief Justice of High Court, by notification, **specify for each district, a Court of Session to be a Special Court** to try the offences under this Act. [Sec 84]
- For every Special Court, the State Government may, by notification, specify a Public Prosecutor or appoint an advocate, who has been in practice as an advocate for not less than 7 years, as a Special Public Prosecutor for purpose of conducting cases in that Court. [Sec 85 (1)]
- *Constitution of State fund for PWDs by State Govt. [Sec 88 (1)]*

Thanks !