

**THE JAMMU AND KASHMIR RIGHTS OF PERSONS WITH
DISABILITIES BILL, 2018**

(Governor Act No _____ 2018)

Enacted by the Governor in the Sixty- ninth Year of the Republic of India.

A Bill to provide for the Rights of Persons with Disabilities and for matters connected therewith or incidental thereto.

In exercise of the powers vested under Proclamation No.P-1/18 of 2018 dated 20th June, 2018, the Governor is pleased to enact as follows:-

CHAPTER-I

PRELIMINARY

1. Short title and commencement. — (1) This Act may be called the Jammu and Kashmir Rights of Persons with Disabilities Act, 2018.

(2) It shall come into force from the date of its publication in the Government Gazette.

2. Definitions. —In this Act, unless the context otherwise requires,—

- (a) “Act” means the Jammu and Kashmir Right of Persons with Disabilities Act, 2018
- (b) “appellate authority” means an authority notified under sub-section (3) of section 14 or sub-section (1) of section 53 or designated under sub-section (1) of section 59, as the case may be;
- (c) “barrier” means any factor including communicational, cultural, economic, environmental, institutional, political, social, attitudinal or structural factors which hampers the full and effective participation of persons with disabilities in society;
- (d) “care-giver” means any person including parents and other family members who with or without payment provides care, support or assistance to a person with disability;
- (e) “certifying authority” means an authority designated under sub-section (1) of section 57;

- (f) “communication” includes means and formats of communication, languages, display of text, Braille, tactile communication, signs, large print, accessible multimedia, written, audio, video, visual displays, sign language, plain-language, human-reader, augmentative and alternative modes and accessible information and communication technology;
- (g) “competent authority” means an authority appointed under section 49;
- (h) “discrimination” in relation to disability, means any distinction, exclusion, restriction on the basis of disability which is the purpose or effect of impairing or nullifying the recognition, enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field and includes all forms of discrimination and denial of reasonable accommodation;
- (i) “establishment” includes a Government establishment and private establishment;
- (j) “Fund” means the State Fund constituted under section 75;
- (k) “Government” means the Government of Jammu and Kashmir;
- (l) “Government establishment” means a corporation established by or under an Act of State Legislature or an authority or a body owned or controlled or aided by the Government or a local authority or a Government company as defined in section 2 of the Companies Act, 2013 and includes a Department of the Government;
- (m) “high support” means an intensive support, physical, psychological and otherwise, which may be required by a person with benchmark disability for daily activities, to take independent and informed decision to access facilities and participating in all areas of life including

education, employment, family and community life and treatment and therapy;

- (n) “inclusive education” means a system of education wherein students with and without disability learn together and the system of teaching and learning is suitably adapted to meet the learning needs of different types of students with disabilities;
- (o) “information and communication technology” includes all services and innovations relating to information and communication, including telecom services, web based services, electronic and print services, digital and virtual services;
- (p) “institution” means an institution for the reception, care, protection, education, training, rehabilitation and any other activities for persons with disabilities;
- (q) “local authority” means a Municipality as defined under the Jammu and Kashmir Municipal Act, 2000 or a Panchayat, as defined in the Jammu and Kashmir Panchayati Raj Act, 1989; a Cantonment Board constituted under the Cantonments Act, 2006; and any other authority established under an Act of State Legislature to administer the civic affairs;
- (r) “notification” means a notification published in the Government Gazette and the expression “notify” or “notified” shall be construed accordingly;
- (s) “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;
- (t) “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;

- (u) “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;
- (v) “prescribed” means prescribed by rules made under this Act;
- (w) “private establishment” means a company, firm, cooperative or other society, associations, trust, agency, institution, organisation, union, factory or such other establishment as the Government may, by notification, specify;
- (x) “public building” means a Government or private building, used or accessed by the public at large, including a building used for educational or vocational purposes, workplace, commercial activities, public utilities, religious, cultural, leisure or recreational activities, medical or health services, law enforcement agencies, reformatories or judicial foras, railway stations or platforms, roadways, bus stands or terminus, airports or waterways;
- (y) “public facilities and services” includes all forms of delivery of services to the public at large, including housing, educational and vocational trainings, employment and career advancement, shopping or marketing, religious, cultural, leisure or recreational, medical, health and rehabilitation, banking, finance and insurance, communication, postal and information, access to justice, public utilities, transportation;
- (z) “reasonable accommodation” means 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;

- (za) “registered organisation” means an association of persons with disabilities or a disabled person organisation, association of parents of persons with disabilities, association of persons with disabilities and family members, or a voluntary or non-governmental or charitable organisation or trust, society, or non-profit company working for the welfare of the persons with disabilities, duly registered under any law for the time being in force;
- (zb) “rehabilitation” refers to a process aimed at enabling persons with disabilities to attain and maintain optimal, physical, sensory, intellectual, psychological environmental or social function levels;
- (zc) “Special Employment Exchange” means any office or place established and maintained by the Government for the collection and furnishing of information, either by keeping of registers or otherwise, regarding—
- (i) persons who seek to engage employees from amongst the persons with disabilities;
 - (ii) persons with benchmark disability who seek employment;
 - (iii) vacancies to which persons with benchmark disabilities seeking employment may be appointed;
- (zd) “State Commissioner” means the State Commissioner appointed under section 68 of this Act.
- (ze) “specified disability” means the disabilities as specified in the Schedule;
- (zf) “transportation systems” includes road transport, rail transport, air transport, water transport, para transit systems for the last mile connectivity, road and street infrastructure, etc.;
- (zg) “universal design” means the design of products,

environments, programmes and services to be usable by all people to the greatest extent possible, without the need for adaptation or specialised design and shall apply to assistive devices including advanced technologies for particular group of persons with disabilities.

CHAPTER II

RIGHTS AND ENTITLEMENTS

3. Equality and non-discrimination.—(1) The Government shall ensure that the persons with disabilities enjoy the right to equality, life with dignity and respect for his or her integrity equally with others.

(2) The Government shall take steps to utilise the capacity of persons with disabilities by providing appropriate environment.

(3) No person with disability shall be discriminated on the ground of disability, unless it is shown that the impugned act or omission is a proportionate means of achieving a legitimate aim.

(4) No person shall be deprived of his or her personal liberty only on the ground of disability.

(5) The Government shall take necessary steps to ensure reasonable accommodation for persons with disabilities.

4. Women and Children with disabilities.— (1) The Government and the local authorities shall take measures to ensure that the women and children with disabilities enjoy their rights equally with others.

(2) The Government and local authorities shall ensure that all children with disabilities shall have right on an equal basis to freely express their views on all matters affecting them and provide them appropriate support keeping in view their age and disability.

5. Community life.— (1) The persons with disabilities shall have the right to live in the community.

(2) The Government shall endeavour that the persons with disabilities are,—

- (a) not obliged to live in any particular living arrangement; and
- (b) given access to a range of in-house, residential and other community

support services, including personal assistance necessary to support living with due regard to age and gender.

6. Protection from cruelty and inhuman treatment.—(1)

The Government shall take measures to protect persons with disabilities from being subjected to torture, cruel, inhuman or degrading treatment.

- (2) No person with disability shall be a subject of any research without,—
- (i) his or her free and informed consent obtained through accessible modes, means and formats of communication; and
 - (ii) prior permission of a Committee for Research on Disability constituted in the prescribed manner for the purpose by the Government in which not less than half of the Members shall themselves be either persons with disabilities or Members of the registered organisation as defined under clause (za) of section 2.

7. Protection from abuse, violence and exploitation.—(1)

The Government shall take measures to protect persons with disabilities from all forms of abuse, violence and exploitation and to prevent the same, shall.—

- (a) take cognizance of incidents of abuse, violence and exploitation and provide legal remedies available against such incidents;
- (b) take steps for avoiding such incidents and prescribe the procedure for its reporting;
- (c) take steps to rescue, protect and rehabilitate victims of such incidents; and
- (d) create awareness and make available information among the public.

(2) Any person or registered organisation who or which has reason to believe that an act of abuse, violence or exploitation has been, or is being, or is likely to be committed against any person with disability, may give information about it to the Executive Magistrate within the local limits of whose jurisdiction such incidents occur.

(3) The Executive Magistrate on receipt of such information, shall take immediate steps to stop or prevent its occurrence, as the case may be, or pass such order as he deems fit for the protection of such person with disability including an order.—

- (a) to rescue the victim of such act, authorising the police or any

organisation working for persons with disabilities to provide for the safe custody or rehabilitation of such person, or both, as the case may be;

- (b) for providing protective custody to the person with disability, if such person so desires;
- (c) to provide maintenance to such person with disability.

(4) Any police officer who receives a complaint or otherwise comes to know of abuse, violence or exploitation towards any person with disability shall inform the aggrieved person of.—

- (a) his or her right to apply for protection under sub-section (2) and the particulars of the Executive Magistrate having jurisdiction to provide assistance;
- (b) the particulars of the nearest organisation or institution working for the rehabilitation of persons with disabilities;
- (c) the right to free legal aid; and
- (d) the right to file a complaint under the provisions of this Act or any other law dealing with such offence:

Provided that nothing in this section shall be construed in any manner as to relieve the police officer from his duty to proceed in accordance with law upon receipt of information as to the commission of a cognizable offence.

(5) If the Executive Magistrate finds that the alleged act or behaviour constitutes an offence under the State Ranbir Penal Code, Samvat, 1989 or under any other law for the time being in force, he may forward the complaint to that effect to the Judicial Magistrate having jurisdiction in the matter.

8. Protection and safety.—(1) The persons with disabilities shall have equal protection and safety in situations of risk, armed conflict, humanitarian emergencies and natural disasters.

(2) The State Disaster Management Authority shall take appropriate measures to ensure inclusion of persons with disabilities in its disaster management activities as defined under clause (e) of section 2 of the Disaster Management Act, 2005 (Central Act) for the safety and protection of persons with disabilities.

(3) The District Disaster Management Authority constituted under section 25 of the Disaster Management Act, 2005 shall maintain record of details of persons with disabilities in the district and take suitable measures to inform such persons of any situations of risk so as to enhance disaster preparedness.

(4) The authorities engaged in reconstruction activities subsequent to any situation of risk, armed conflict or natural disasters shall undertake such activities, in consultation with the State Commissioner, in accordance with the accessibility requirements of persons with disabilities.

9. Home and family.—(1) No child with disability shall be separated from his or her parents on the ground of disability except on an order of competent court, if required, in the best interest of the child.

(2) Where the parents are unable to take care of a child with disability, the competent court shall place such child with his or her near relations, and failing that within the community in a family setting or in exceptional cases in shelter home run by the appropriate Government or non-governmental organisation, as may be required.

10. Reproductive rights.—(1) The Government shall ensure that persons with disabilities have access to appropriate information regarding reproductive and family planning.

(2) No person with disability shall be subject to any medical procedure which leads to infertility without his or her free and informed consent.

11. Accessibility in voting.—The State Election Commission shall ensure that all polling stations are accessible to persons with disabilities and all materials related to the electoral process are easily understandable by and accessible to them.

12. Access to justice.—(1) The Government shall ensure that persons with disabilities are able to exercise the right to access any court, tribunal, authority, commission or any other body having judicial or quasi-judicial or investigative powers without discrimination on the basis of disability.

(2) The Government shall take steps to put in place suitable support measures for persons with disabilities specially those living outside family and those disabled requiring high support for exercising legal rights.

(3) The State Legal Services Authority constituted under the Jammu and

Kashmir Legal Services Authorities Act, 1997 shall make provisions including reasonable accommodation to ensure that persons with disabilities have access to any scheme, programme, facility or service offered by them equally with others.

(4) The Government shall take steps to,—

- (a) ensure that all their public documents are in accessible formats;
- (b) ensure that the filing departments, registry or any other office of records are supplied with necessary equipment to enable filing, storing and referring to the documents and evidence in accessible formats; and
- (c) make available all necessary facilities and equipment to facilitate recording of testimonies, arguments or opinion given by persons with disabilities in their preferred language and means of communication.

13. Legal capacity.—(1) The Government shall ensure that the persons with disabilities have right, equally with others, to own or inherit property, movable or immovable, control their financial affairs and have access to bank loans, mortgages and other forms of financial credit.

(2) The Government shall ensure that the persons with disabilities enjoy legal capacity on an equal basis with others in all aspects of life and have the right to equal recognition everywhere as any other person before the law.

(3) When a conflict of interest arises between a person providing support and a person with disability in a particular financial, property or other economic transaction, then such supporting person shall abstain from providing support to the person with disability in that transaction:

Provided that there shall not be a presumption of conflict of interest just on the basis that the supporting person is related to the person with disability by blood, affinity or otherwise.

(4) A person with disability may alter, modify or dismantle any support arrangement and seek the support of another:

Provided that such alteration, modification or dismantling shall be prospective in nature and shall not nullify any third party transaction entered into by the person with disability with the aforesaid support arrangement.

(5) Any person providing support to the person with disability shall not

exercise undue influence and shall respect his or her autonomy, dignity and privacy.

14. Provision for guardianship.—(1) Notwithstanding anything contained in any other law for the time being in force, on and from the date of commencement of this Act, where a district court or any designated authority, as notified by the Government, finds that a person with disability, who had been provided adequate and appropriate support but is unable to take legally binding decisions, may be provided further support of a limited guardian to take legally binding decisions on his behalf in consultation with such person, in such manner, as may be prescribed by the Government:

Provided that the District Court or the designated authority, as the case may be, may grant total support to the person with disability requiring such support or where the limited guardianship is to be granted repeatedly, in which case, the decision regarding the support to be provided shall be reviewed by the Court or the designated authority, as the case may be, to determine the nature and manner of support to be provided.

Explanation.— For the purposes of this sub-section, “limited guardianship” means a system of joint decision which operates on mutual understanding and trust between the guardian and the person with disability, which shall be limited to a specific period and for specific decision and situation and shall operate in accordance to the will of the person with disability.

(2) On and from the date of commencement of this Act, every guardian appointed under any provision of any other law for the time being in force, for a person with disability shall be deemed to function as a limited guardian.

(3) Any person with disability aggrieved by the decision of the designated authority appointing a legal guardian may prefer an appeal to such appellate authority, as may be notified by the Government for the purpose.

15. Designation of authorities to support.—(1) The Government shall designate one or more authorities to mobilise the community and create social awareness to support persons with disabilities in exercise of their legal capacity.

(2) The authority designated under sub-section (1) shall take measures for setting up suitable support arrangements to exercise legal capacity by persons with disabilities living in institutions and those with high support needs and any other

measures as may be required.

CHAPTER III EDUCATION

16. Duty of educational institutions.—The Government and the local authorities shall endeavour that all educational institutions funded or recognised by them provide inclusive education to the children with disabilities and towards that end shall,—

- (i) admit them without discrimination and provide education and opportunities for sports and recreation activities equally with others;
- (ii) make building, campus and various facilities accessible;
- (iii) provide reasonable accommodation according to the individual's requirements;
- (iv) provide necessary support individualised or otherwise in environments that maximise academic and social development consistent with the goal of full inclusion;
- (v) ensure that the education to persons who are blind or deaf or both is imparted in the most appropriate languages and modes and means of communication;
- (vi) detect specific learning disabilities in children at the earliest and take suitable pedagogical and other measures to overcome them;
- (vii) monitor participation, progress in terms of attainment levels and completion of education in respect of every student with disability;
- (viii) provide transportation facilities to the children with disabilities and also the attendant of the children with disabilities having high support needs.

17. Specific measures to promote and facilitate inclusive education.—The Government and the local authorities shall take the following measures for the purpose of section 15, namely:—

- (a) to conduct survey of school going children in every five years for identifying children with disabilities, ascertaining their special needs and the extent to which these are being met:

Provided that the first survey shall be conducted within a period

of five years from the date of commencement of this Act;

- (b) to establish adequate number of teacher training institutions;
- (c) to train and employ teachers, including teachers with disability who are qualified in sign language and Braille and also teachers who are trained in teaching children with intellectual disability;
- (d) to train professionals and staff to support inclusive education at all levels of school education;
- (e) to establish adequate number of resource centres to support educational institutions at all levels of school education;
- (f) to promote the use of appropriate augmentative and alternative modes including means and formats of communication, Braille and sign language to supplement the use of one's own speech to fulfil the daily communication needs of persons with speech, communication or language disabilities and enables them to participate and contribute to their community and society;
- (g) to provide books, other learning materials and appropriate assistive device to students with benchmark disabilities free of cost up to the age of eighteen years;
- (h) to provide scholarships in appropriate cases to students with benchmark disability;
- (i) to make suitable modifications in the curriculum and examination system to meet the needs of students with disabilities such as extra time for completion of examination paper, facility of scribe or amanuensis, exemption from second and third language courses;
- (j) to promote research to improve learning; and
- (k) any other measures, as may be required.

18. Adult education.—The Government and the local authorities shall take measures to promote, protect and ensure participation of persons with disabilities in adult education and continuing education programmes equally with others.

CHAPTER IV

SKILL DEVELOPMENT AND EMPLOYMENT

19. Vocational training and self-employment.—(1) The Government shall formulate schemes and programmes including provision of loans at concessional rates to facilitate and support employment of persons with disabilities especially for their vocational training and self-employment.

(2) The schemes and programmes referred to in sub-section (1) shall provide for.—

- (a) inclusion of person with disability in all mainstream formal and non-formal vocational and skill training schemes and programmes;
- (b) to ensure that a person with disability has adequate support and facilities to avail specific training;
- (c) exclusive skill training programmes for persons with disabilities with active links with the market, for those with developmental, intellectual, multiple disabilities and autism;
- (d) loans at concessional rates including that of microcredit;
- (e) marketing the products made by persons with disabilities; and
- (f) maintenance of disaggregated data on the progress made in the skill training and self-employment, including persons with disabilities.

20. Non-discrimination in employment.—(1) No Government establishment shall discriminate against any person with disability in any matter relating to employment:

Provided that the Government may, having regard to the type of work carried on in any establishment, by notification and subject to such conditions, if any, exempt any establishment from the provisions of this section.

(2) Every Government establishment shall provide reasonable accommodation and appropriate barrier free and conducive environment to employees with disability.

(3) No promotion shall be denied to a person merely on the ground of disability.

(4) No Government establishment shall dispense with or reduce in rank, an employee who acquires a disability during his or her service:

Provided that, if an employee after acquiring disability is not suitable for the post he was holding, shall be shifted to some other post with the same pay scale and service benefits:

Provided further that if it is not possible to adjust the employee against any post, he may be kept on a supernumerary post until a suitable post is available or he attains the age of superannuation, whichever is earlier.

(5) The Government may frame policies for posting and transfer of employees with disabilities.

21. Equal opportunity policy.—(1) Every establishment shall notify equal opportunity policy detailing measures proposed to be taken by it in pursuance of the provisions of this Chapter in the manner as may be prescribed by the Government.

(2) Every establishment shall register a copy of the said policy with the State Commissioner.

22. Maintenance of records.—(1) Every establishment shall maintain records of the persons with disabilities in relation to the matter of employment, facilities provided and other necessary information in compliance with the provisions of this Chapter in such form and manner as may be prescribed by the Government.

(2) Every employment exchange shall maintain records of persons with disabilities seeking employment.

(3) The records maintained under sub-section (1) shall be open to inspection at all reasonable hours by such persons as may be authorised in their behalf by the Government.

23. Appointment of Grievance Redressal Officer.—(1) Every Government establishment shall appoint a Grievance Redressal Officer for the purpose of section 20 and shall inform the State Commissioner about the appointment of such officer.

(2) Any person aggrieved with the non-compliance of the provisions of section 20, may file a complaint with the Grievance Redressal Officer, who shall investigate it and shall take up the matter with the establishment for corrective action.

(3) The Grievance Redressal Officer shall maintain a register of

complaints in the manner as may be prescribed by the Government; and every complaint shall be inquired within two weeks of its registration.

(4) If the aggrieved person is not satisfied with the action taken on his or her complaint, he or she may approach the District-Level Committee on disability.

CHAPTER V

SOCIAL SECURITY, HEALTH, REHABILITATION AND RECREATION

24. Social Security. —(1) The Government shall within the limit of its economic capacity and development formulate necessary schemes and programmes to safeguard and promote the right of persons with disabilities for adequate standard of living to enable them to live independently or in the community:

Provided that the quantum of assistance to the persons with disabilities under such schemes and programmes shall be at least twenty-five per cent higher than the similar schemes applicable to others.

(2) The Government while devising these schemes and programmes shall give due consideration to the diversity of disability, gender, age, and socio-economic status.

(3) The schemes under sub-section (1) shall provide for,—

- (a) community centres with good living conditions in terms of safety, sanitation, health care and counselling;
- (b) facilities for persons including children with disabilities who have no family or have been abandoned, or are without shelter or livelihood;
- (c) support during natural or man-made disasters and in areas of conflict;
- (d) support to women with disability for livelihood and for upbringing of their children;
- (e) access to safe drinking water and appropriate and accessible sanitation facilities especially in urban and rural areas;
- (f) provisions of aids and appliances, medicine and diagnostic services and corrective surgery free of cost to persons with disabilities with such income ceiling as may be notified;

- (g) disability pension to persons with disabilities subject to such income ceiling as may be notified;
- (h) unemployment allowance to persons with disabilities registered with Special Employment Exchange for more than two years and who could not be placed in any gainful occupation;
- (i) care-giver allowance to persons with disabilities with high support needs;
- (j) comprehensive insurance scheme for persons with disability, not covered under the Employees State Insurance Scheme, or any other statutory or Government- sponsored insurance schemes;
- (k) any other matter which the Government may think fit.

25. Healthcare.—(1) The Government and the local authorities shall take necessary measures for the persons with disabilities to provide.—

- (a) free healthcare in the vicinity specially in rural area subject to such family income as may be notified;
- (b) barrier-free access in all parts of Government and private hospitals and other healthcare institutions and centres;
- (c) priority in attendance and treatment.

(2) The Government and the local authorities shall take measures and make schemes or programmes to promote healthcare and prevent the occurrence of disabilities and for the said purpose shall,—

- (a) undertake or cause to be undertaken surveys, investigations and research concerning the cause of occurrence of disabilities;
- (b) promote various methods for preventing disabilities;
- (c) screen all the children at least once in a year for the purpose of identifying “at-risk” cases;
- (d) provide facilities for training to the staff at the primary health centres;
- (e) sponsor or cause to be sponsored awareness campaigns and disseminate or cause to be disseminated information for general hygiene, health and sanitation;
- (f) take measures for pre-natal, perinatal and post-natal care of mother and child;

- (g) educate the public through the pre-schools, schools, primary health centres, village level workers and *anganwadi* workers;
- (h) create awareness amongst the masses through television, radio and other mass media on the causes of disabilities and the preventive measures to be adopted;
- (i) healthcare during the time of natural disasters and other situations of risk;
- (j) essential medical facilities for life saving emergency treatment and procedures; and
- (k) sexual and reproductive healthcare especially for women with disability.

26. Insurance schemes.—The Government shall, by notification, make insurance schemes for their employees with disabilities.

27. Rehabilitation .— (1) The Government and the local authorities shall within their economic capacity and development, undertake or cause to be undertaken services and programmes of rehabilitation, particularly in the areas of health, education and employment for all persons with disabilities.

(2) For the purposes of sub-section (1), the Government and the local authorities may grant financial assistance to non-Governmental Organisations.

(3) The Government and the local authorities, while formulating rehabilitation policies shall consult the non-Governmental Organisations working for the cause of persons with disabilities.

28. Research and development. — The Government shall initiate or cause to be initiated research and development through individuals and institutions on issues which shall enhance habituation and rehabilitation and on such other issues which are necessary for the empowerment of persons with disabilities.

29. Culture and recreation.—The Government and the local authorities shall take measures to promote and protect the rights of all persons with disabilities to have a cultural life and to participate in recreational activities equally with others which include,—

- (a) facilities, support and sponsorships to artists and writers with

- disability to pursue their interests and talents;
- (b) establishment of a disability history museum which chronicles and interprets the historical experiences of persons with disabilities;
 - (c) making art accessible to persons with disabilities;
 - (d) promoting recreation centres, and other associational activities;
 - (e) facilitating participation in scouting, dancing, art classes, outdoor camps and adventure activities;
 - (f) redesigning courses in cultural and arts subjects to enable participation and access for persons with disabilities;
 - (g) developing technology, assistive devices and equipments to facilitate access and inclusion for persons with disabilities in recreational activities; and
 - (h) ensuring that persons with hearing impairment can have access to television programmes with sign language interpretation or subtitles.

30. Sporting activities.—(1) The Government shall take measures to ensure effective participation in sporting activities of the persons with disabilities.

(2) The sports authorities shall accord due recognition to the right of persons with disabilities to participate in sports and shall make due provisions for the inclusion of persons with disabilities in their schemes and programmes for the promotion and development of sporting talents.

(3) Without prejudice to the provisions contained in sub-sections (1) and (2), the Government and the sports authorities shall take measures to,—

- (a) restructure courses and programmes to ensure access, inclusion and participation of persons with disabilities in all sporting activities;
- (b) redesign and support infrastructure facilities of all sporting activities for persons with disabilities;
- (c) develop technology to enhance potential, talent, capacity and ability in sporting activities of all persons with disabilities;
- (d) provide multi-sensory essentials and features in all sporting activities to ensure effective participation of all persons with

- disabilities;
- (e) allocate funds for development of state of art sport facilities for training of persons with disabilities;
 - (f) promote and organise disability specific sporting events for persons with disabilities and also facilitate awards to the winners and other participants of such sporting events.

CHAPTER VI
SPECIAL PROVISIONS FOR PERSONS WITH BENCHMARK
DISABILITIES.

31. Free education for children with benchmark disabilities.—(1) Notwithstanding anything contained in any other law for the time being in force, every child with benchmark disability between the age of six to eighteen years shall have the right to free education in a neighbourhood school, or in a special school, of his choice.

(2) The Government and local authorities shall ensure that every child with benchmark disability has access to free education in an appropriate environment till he attains the age of eighteen years.

32. Reservation in higher educational institutions.—(1) All Government institutions of higher education and other higher education institutions receiving aid from the Government shall reserve not less than five per cent seats for persons with benchmark disabilities.

(2) The persons with benchmark disabilities shall be given an upper age relaxation of five years for admission in institutions of higher education.

33. Identification of posts for reservation.—The Government shall—

- (i) identify posts in the establishments which can be held by respective category of persons with benchmark disabilities in respect of the vacancies reserved in accordance with the provisions of section 34;
- (ii) constitute an expert committee with representation of persons with

- benchmark disabilities for identification of such posts; and
- (iii) undertake periodic review of the identified posts at an interval not exceeding seven years.

34. Reservation.—(1) The Government shall appoint in every Government establishment, not less than four per cent of the total number of vacancies in the cadre strength in each group of posts meant to be filled with persons with benchmark disabilities of which, one per cent. each shall be reserved for persons with benchmark disabilities under clauses (a), (b) and (c) and one per cent for persons with benchmark disabilities under clauses (d) and (e), namely:—

- (a) blindness and low vision;
- (b) deaf and hard of hearing;
- (c) locomotor disability including cerebral palsy, leprosy cured, dwarfism, acid attack victims and muscular dystrophy;
- (d) autism, intellectual disability, specific learning disability and mental illness;
- (e) multiple disabilities from amongst persons under clauses (a) to (d) including deaf-blindness in the posts identified for each disabilities:

Provided that the reservation in promotion shall be in accordance with such instructions as are issued by the Government from time to time:

Provided further that the Government, in consultation with the State Commissioner may, having regard to the type of work carried out in any Government establishment, by notification and subject to such conditions, if any, as may be specified in such notifications exempt any Government establishment from the provisions of this section.

(2) Where in any recruitment year any vacancy cannot be filled up due to non-availability of a suitable person with benchmark disability or for any other sufficient reasons, such vacancy shall be carried forward in the succeeding recruitment year and if in the succeeding recruitment year also suitable person with benchmark disability is not available, it may first be filled by interchange among the five categories and only when there is no person with disability available for the post in that year, the employer shall fill up the vacancy by appointment of a person, other than a person with disability:

Provided that if the nature of vacancies in an establishment is such that a given category of person cannot be employed, the vacancies may be interchanged among the five categories with the prior approval of the Government.

(3) The Government may, by notification, provide for such relaxation of upper age limit for employment of persons with benchmark disability, as it thinks fit.

35. Incentives to employers in private sector.—The Government and the local authorities shall, within the limit of their economic capacity and development, provide incentives to employer in private sector to ensure that at least five per cent of their work force is composed of persons with benchmark disability.

36. Special employment exchange.—The Government may, by notification, require that from such date, the employer in every establishment shall furnish such information or return as may be prescribed by the Government in relation to vacancies appointed for persons with benchmark disability that have occurred or are about to occur in that establishment to such special employment exchange as may be notified by the Government and the establishment shall thereupon comply with such requisition.

37. Special schemes and development programmes.—The Government and the local authorities shall, by notification, make schemes in favour of persons with benchmark disabilities, to provide,—

- (a) five per cent reservation in allotment of agricultural land and housing in all relevant schemes and development programmes, with appropriate priority to women with benchmark disabilities;
- (b) five per cent reservation in all poverty alleviation and various developmental schemes with priority to women with benchmark disabilities;
- (c) five per cent reservation in allotment of land on concessional rate, where such land is to be used for the purpose of promoting housing, shelter, setting up of occupation, business, enterprise, recreation centres and production centres.

CHAPTER VII
SPECIAL PROVISIONS FOR PERSONS WITH DISABILITIES WITH
HIGH SUPPORT NEEDS

38. Special provisions for persons with disabilities with high support.— (1) Any person with benchmark disability, who considers himself to be in need of high support, or any person or organisation on his or her behalf, may apply to an authority, to be notified by the Government, requesting to provide high support.

(2) On receipt of an application under sub-section (1), the authority shall refer it to an Assessment Board consisting of such Members as may be prescribed by the Government.

(3) The Assessment Board shall assess the case referred to it under sub-section (1) in such manner as may be prescribed by the Government, and shall send a report to the authority certifying the need of high support and its nature.

(4) On receipt of a report under sub-section (3), the authority shall take steps to provide support in accordance with the report and subject to relevant schemes and orders of the Government in this behalf.

CHAPTER VIII
DUTIES AND RESPONSIBILITIES OF GOVERNMENT

39. Awareness campaigns.—(1) The Government, in consultation with the State Commissioner, shall conduct, encourage, support or promote awareness campaigns and sensitisation programmes to ensure that the rights of the persons with disabilities provided under this Act are protected.

(2) The programmes and campaigns specified under sub-section (1) shall also,—

- (a) promote values of inclusion, tolerance, empathy and respect for diversity;
- (b) advance recognition of the skills, merits and abilities of persons with disabilities and of their contributions to the workforce, labour

- market and professional fee;
- (c) foster respect for the decisions made by persons with disabilities on all matters related to family life, relationships, bearing and raising children;
 - (d) provide orientation and sensitisation at the school, college, University and professional training level on the human condition of disability and the rights of persons with disabilities;
 - (e) provide orientation and sensitisation on disabling conditions and rights of persons with disabilities to employers, administrators and co-workers;
 - (f) ensure that the rights of persons with disabilities are included in the curriculum in Universities, colleges and schools.

40. Accessibility.—The Government shall, in consultation with the State Commissioner, formulate rules for persons with disabilities laying down the standards of accessibility for the physical environment, transportation, information and communications, including appropriate technologies and systems, and other facilities and services provided to the public in urban and rural areas.

41. Access to transport.—(1) The Government shall take suitable measures to provide,—

- (a) facilities for persons with disabilities at bus stops, railway stations and airports conforming to the accessibility standards relating to parking spaces, toilets, ticketing counters and ticketing machines;
- (b) access to all modes of transport that conform the design standards, including retrofitting old modes of transport, wherever technically feasible and safe for persons with disabilities, economically viable and without entailing major structural changes in design;
- (c) accessible roads to address mobility necessary for persons with disabilities.

(2) The Government shall develop schemes programmes to promote the personal mobility of persons with disabilities at affordable cost to provide for,—

- (a) incentives and concessions;
- (b) retrofitting of vehicles; and
- (c) personal mobility assistance.

42. Access to information and communication technology.—The Government shall take measures to ensure that,—

- (i) all contents available in audio, print and electronic media are in accessible format;
- (ii) persons with disabilities have access to electronic media by providing audio description, sign language interpretation and close captioning;
- (iii) electronic goods and equipment which are meant for everyday use are available in universal design.

43. Consumer goods.—The Government shall take measures to promote development, production and distribution of universally designed consumer products and accessories for general use for persons with disabilities.

44. Mandatory observance of accessibility norms.—(1) No establishment shall be granted permission to build any structure if the building plan does not adhere to the rules formulated by the Government under section 40.

(2) No establishment shall be issued a certificate of completion or allowed to take occupation of a building unless it has adhered to the rules formulated by the Government.

45. Time limit for making existing infrastructure and premises accessible and action for that purpose.—(1) All existing public buildings shall be made accessible in accordance with the rules formulated by the Government within a period not exceeding five years from the date of notification of such rules:

Provided that the Government may grant extension of time on a case to

case basis for adherence to this provision depending on financial resources and other related parameters.

(2) The Government and the local authorities shall formulate and publish an action plan based on prioritization, for providing accessibility in all their buildings and spaces providing essential services such as all primary health centres, civil hospitals, schools, railway stations and bus stops.

46. Time limit for accessibility by service providers.—The service providers whether Government or private shall provide services in accordance with the rules on accessibility formulated by the Government under section 40 within a period of five years from the date of notification of such rules:

Provided that the Government in consultation with the State Commissioner may grant extension of time for providing certain category of services in accordance with the said rules.

47. Human resource development.—(1) Without prejudice to any function and power of State Rehabilitation Council constituted under the Rehabilitation Council of India Act, 1992, the Government shall endeavour to develop human resource for the purposes of this Act and to that end shall.—

- (a) mandate training on disability rights in all courses for the training of Panches and Sarpanches, legislators, administrators, police officials, judges and lawyers;
- (b) induct disability as a component for all education courses for schools, colleges and University teachers, doctors, nurses, para-medical personnel, social welfare officers, rural development officers, asha workers, *anganwadi* workers, engineers, architects, other professionals and community workers;
- (c) initiate capacity building programmes including training in independent living and community relationships for families, members of community and other stakeholders and care providers on care giving and support;
- (d) ensure independence training for persons with disabilities to build community relationships on mutual contribution and respect;

(e) conduct training programmes for sports teachers with focus on sports, games, adventure activities;

(f) any other capacity development measures as may be required.

(2) All Universities shall promote teaching and research in disability studies including establishment of study centres for such studies.

(3) In order to fulfil the obligation stated in sub-section (1), the Government shall in every five years undertake a need based analysis and formulate plans for the recruitment, induction, sensitization, orientation and training of suitable personnel to undertake the various responsibilities under this Act.

48. Social audit.—The Government shall undertake social audit of all general schemes and programmes involving the persons with disabilities to ensure that the scheme and programmes do not have an adverse impact upon the persons with disabilities and need the requirements and concerns of persons with disabilities.

CHAPTER IX

REGISTRATION OF INSTITUTIONS FOR PERSONS WITH DISABILITIES AND GRANTS TO SUCH INSTITUTIONS

49. Competent authority.—The Government shall appoint an authority as it deems fit to be a competent authority for the purposes of this Chapter.

50. Registration.—Save as otherwise provided under this Act, no person shall establish or maintain any institution for persons with disabilities except in accordance with a certificate of registration issued in this behalf by the competent authority:

Provided that an institution for care of mentally ill persons, which holds a valid licence under section 65 of the Mental Health Care Act, 2017 or any other Act for the time being in force, shall not be required to be registered under this Act.

51. Application and grant of certificate of registration.—(1) Every application for a certificate of registration shall be made to the competent authority in such form and in such manner as may be prescribed by the Government.

(2) On receipt of an application under sub-section (1), the competent

authority shall make such enquiries as it may deem fit and on being satisfied that the applicant has complied with the requirements of this Act and the rules made thereunder, it shall grant a certificate of registration to the applicant within a period of ninety days of receipt of application and if not satisfied, the competent authority shall, by order, refuse to grant the certificate applied for:

Provided that before making any order refusing to grant a certificate, the competent authority shall give the applicant a reasonable opportunity of being heard and every order of refusal to grant a certificate shall be communicated to the applicant in writing.

(3) No certificate of registration shall be granted under sub-section (2) unless the institution with respect to which an application has been made is in a position to provide such facilities and meet such standards as may be prescribed by the Government.

(4) The certificate of registration granted under sub-section (2),—

- (a) shall, unless revoked under section 52 remain in force for such period as may be prescribed by the Government;
- (b) may be renewed from time to time for a like period; and
- (c) shall be in such form and shall be subject to such conditions as may be prescribed by the Government.

(5) An application for renewal of a certificate of registration shall be made not less than sixty days before the expiry of the period of validity.

(6) A copy of the certificate of registration shall be displayed by the institution in a conspicuous place.

(7) Every application made under sub-section (1) or sub-section (5) shall be disposed of by the competent authority within such period as may be prescribed by the Government.

52. Revocation of registration.—(1) The competent authority may, if it has reason to believe that the holder of a certificate of registration granted under sub-section (2) of section 51 has,—

- (a) made a statement in relation to any application for the issue or renewal of the certificate which is incorrect or false in material particulars; or

- (b) committed or has caused to be committed any breach of rules or any conditions subject to which the certificate was granted, it may, after making such inquiry, as it deems fit, by order, revoke the certificate:

Provided that no such order shall be made until an opportunity is given to the holder of the certificate to show cause as to why the certificate of registration shall not be revoked.

(2) Where a certificate of registration in respect of an institution has been revoked under sub-section (1), such institution shall cease to function from the date of such revocation:

Provided that where an appeal lies under section 53 against the order of revocation, such institution shall cease to function.—

- (a) where no appeal has been preferred immediately on the expiry of the period prescribed for the filing of such appeal; or
- (b) where such appeal has been preferred, but the order of revocation has been upheld, from the date of the order of appeal.

(3) On the revocation of a certificate of registration in respect of an institution, the competent authority may direct that any person with disability who is an inmate of such institution on the date of such revocation, shall be—

- (a) restored to the custody of his or her parent, spouse or lawful guardian, as the case may be; or
- (b) transferred to any other institution specified by the competent authority.

(4) Every institution which holds a certificate of registration which is revoked under this section shall, immediately after such revocation, surrender such certificate to the competent authority.

53. Appeal.—(1) Any person aggrieved by the order of the competent authority refusing to grant a certificate of registration or revoking a certificate of registration may, within such period as may be prescribed by the Government, prefer an appeal to such appellate authority, as may be notified by the Government against such refusal or revocation.

(2) The order of the appellate authority on such appeal shall be final.

54. Act not to apply to institutions established or maintained by

the Government.—Nothing contained in this Chapter shall apply to an institution for persons with disabilities established or maintained by the Government.

55. Assistance to registered institutions.—The Government may, within the limits of its economic capacity and development, grant financial assistance to registered institutions to provide services and to implement the schemes and programmes in pursuance of the provisions of this Act.

CHAPTER X

CERTIFICATION OF SPECIFIED DISABILITIES

56. Guidelines for assessment of specified disabilities.—The Government shall notify guidelines for the purpose of assessing the extent of specified disability in a person.

57. Designation of certifying authorities.—(1) The Government shall designate persons, having requisite qualifications and experience, as certifying authorities, who shall be competent to issue the certificate of disability.

(2) The Government shall also notify the jurisdiction within which and the terms and conditions subject to which, the certifying authority shall perform its certification functions.

58. Procedure for certification.—(1) Any person with specified disability, may apply, in such manner as may be prescribed by the Government, to a certifying authority having jurisdiction, for issuing of a certificate of disability.

(2) On receipt of an application under sub-section (1), the certifying authority shall assess the disability of the concerned person in accordance with relevant guidelines notified under section 56, and shall, after such assessment, as the case may be,—

- (a) issue a certificate of disability to such person, in such form as may be prescribed by the Government;
- (b) inform him in writing that he has no specified disability.

(3) The certificate of disability issued under this section shall be valid across the country.

59. Appeal against a decision of certifying authority.—(1) Any person aggrieved with decision of the certifying authority, may appeal against such decision, within such time and in such manner as may be prescribed by the Government, to such appellate authority as the Government may designate for the purpose.

(2) On receipt of an appeal, the appellate authority shall decide the appeal in such manner as may be prescribed by the Government.

CHAPTER XI

STATE ADVISORY BOARDS ON DISABILITY AND DISTRICT LEVEL COMMITTEE

60. State Advisory Board on disability.—(1) The Government shall, by notification, constitute a body to be known as the State Advisory Board on disability to exercise the powers conferred on, and to perform the function assigned to it, under this Act.

(2) The State Advisory Board shall consist of,—

- (a) the Minister in charge of the Department in the Government dealing with disability matters, Chairperson, *ex officio*;
- (b) the Minister of State or the Deputy Minister in charge of the Department in the Government dealing with disability matters, if any, Vice-Chairperson, *ex officio*;
- (c) Secretaries to the Government in charge of the Departments of School Education, Higher Education, Finance, ARI and Trainings, Health and Medical Education, Rural Development and Panchayat Raj, Industries and Commerce, Labour and Employment, Housing and Urban Development, Science and Technology,

Information Technology, Public Enterprises, Youth Services and Sports, Transport and any other Department, which the Government considers necessary, Members, *ex officio*;

(d) three Members of the State Legislature to be nominated by Government of whom two shall be from Legislative Assembly and one from Legislative Council, Members, *ex officio*;

(e) Members to be nominated by the Government:—

(i) five Members who are experts in the field of disability and rehabilitation;

(ii) five Members to be nominated by the Government by rotation to represent the districts in such manner as may be prescribed:

Provided that no nomination under this sub-clause shall

be made except on the recommendation of the district administration concerned;

(iii) ten persons as far as practicable, being persons with disabilities, to represent non-Governmental Organisations or associations which are concerned with disabilities:

Provided that out of the ten persons nominated under this clause, as far as possible, five shall be women and at least one person each shall be from the Scheduled Castes and the Scheduled Tribes;

(iv) not more than three representatives of the State Chamber of Commerce and Industry;

(f) officer not below the rank of Secretary in the Department dealing with disability matters in the Government, Member-Secretary, *ex officio*.

61. Terms and conditions of service of Members.—(1) Save as otherwise provided under this Act, a Member of the State Advisory Board nominated under clause (e) of sub-section (2) of section 60, shall hold office for a term of three years from the date of his nomination:

Provided that such a Member shall, notwithstanding the expiration of his term, continue to hold office until his successor enters upon his office.

(2) The Government may, if it thinks fit, remove any Member nominated under clause (e) of sub-section (2) of section 60, before the expiry of his term of office after giving him a reasonable opportunity of showing cause against the same.

(3) A Member nominated under clause (e) of sub-section (2) of section 60 may at any time resign his office by writing under his hand addressed to the Government and the seat of the said Member shall thereupon become vacant.

(4) A casual vacancy in the State Advisory Board shall be filled by a fresh nomination and the person nominated to fill the vacancy shall hold office only for the remainder of the term for which the Member in whose place he was so nominated.

(5) A Member nominated under sub-clause (i) or sub-clause (iii) of clause (e) of sub-section (2) of section 60, shall be eligible for renomination.

(6) The Members nominated under sub-clause (i) and sub-clause (ii) of clause (e) of sub-section (2) of section 60, shall receive such allowances as may be prescribed by the Government.

62. Disqualifications.—(1) No person shall be a Member of the State Advisory Board, who,—

- (a) is, or at any time has been, adjudged insolvent or has suspended payment of his debts or has compounded with his creditors, or
- (b) is of unsound mind and stands so declared by a competent court, or
- (c) is, or has been, convicted of an offence which, in the opinion of the State Government, involves moral turpitude, or
- (d) is, or at any time has been, convicted of an offence under this Act, or
- (e) has so abused in the opinion of the Government his position as a Member as to render his continuance in the State Advisory Board detrimental to the interests of the general public.

(2) No order of removal shall be made by the Government under this

section unless the Member concerned has been given a reasonable opportunity of showing cause against the same.

63. Vacation of seats.—If a Member of the State Advisory Board becomes subject to any of the disqualifications specified in section 62 his seat shall become vacant.

64. Meetings of State Advisory Board on disability.—The State Advisory Board shall meet at least once in every six months and shall observe such rules or procedure in regard to the transaction of business at its meetings as may be prescribed by the Government.

65. Functions of State Advisory Board on disability.—(1) Subject to the provisions of this Act, the State Advisory Board shall be the consultative and advisory body on disability matters, and shall facilitate the continuous evolution of a comprehensive policy for the empowerment of persons with disabilities and the full enjoyment of rights.

(2) In particular and without prejudice to the generality of the foregoing provisions, the State Advisory Board on disability shall perform the following functions, namely:—

- (a) advise the Government on policies, programmes, legislation and projects with respect to disability;
- (b) develop a policy to address issues concerning persons with disabilities;
- (c) review and coordinate the activities of all Departments of the Government and other Governmental and non-Governmental Organisations in the State which are dealing with matters relating to persons with disabilities;
- (d) take up the cause of persons with disabilities with the concerned authorities and the international organisations with a view to provide for schemes and projects for the persons with disabilities in the State plan;
- (e) recommend steps to ensure accessibility, reasonable

accommodation, non-discrimination for persons with disabilities, services and the built environment and their participation in social life on an equal basis with others;

- (f) monitor and evaluate the impact of laws, policies and programmes designed to achieve full participation of persons with disabilities; and
- (g) such other functions as may be assigned from time to time by the Government.

66. District-level Committee on disability.—The Government shall constitute District-level Committee on disability to perform such functions as may be prescribed by it.

67. Vacancies not to invalidate proceedings.—No act or proceeding of the State Advisory Board on disability, or a District-level Committee on disability shall be called in question on the ground merely of the existence of any vacancy in or any defect in the constitution of such Board or Committee, as the case may be.

CHAPTER XII

STATE COMMISSIONER FOR PERSONS WITH DISABILITIES

68. Appointment of State Commissioner.—(1) The Government may, by notification, appoint a State Commissioner for Persons with Disabilities (hereinafter referred to as the "State Commissioner") for the purposes of this Act.

(2) A person shall not be qualified for appointment as the State Commissioner unless he has special knowledge or practical experience in respect of matters relating to rehabilitation.

(3) The salary and allowances payable to and other terms and conditions of service (including pension, gratuity and other retirement benefits) of the State Commissioner shall be such as may be prescribed by the Government.

(4) The Government shall determine the nature and categories of officers and other employees required to assist the State Commissioner in the discharge of his functions and provide the State Commissioner with such officers and other employees as it thinks fit.

(5) The officers and employees provided to the State Commissioner shall discharge his functions under the general superintendence and control of the State Commissioner.

(6) The salaries and allowances and other conditions of service of officers and employees shall be such as may be prescribed by the Government.

(7) The State Commissioner shall be assisted by an advisory committee comprising of not more than five members drawn from the experts in the disability sector in such manner as may be prescribed by the Government.

69. Functions of State Commissioner.—The State Commissioner shall:—

- (a) identify, *suo motu* or otherwise, provision of any law or policy, programme and procedures, which are in consistent with this Act, and recommend necessary corrective steps;
- (b) inquire, *suo motu* or otherwise deprivation of rights of persons with disabilities and safeguards available to them in respect of matters and take up the matter with appropriate authorities for corrective action;
- (c) review the safeguards provided by or under this Act or any other law for the time being in force for the protection of rights of persons with disabilities and recommend measures for their effective implementation;
- (d) review the factors that inhibit the enjoyment of rights of persons with disabilities and recommend appropriate remedial measures;
- (e) undertake and promote research in the field of the rights of persons with disabilities;
- (f) promote awareness of the rights of persons with disabilities and the safeguards available for their protection;
- (g) monitor implementation of the provisions of this Act and schemes, programmes meant for persons with disabilities;
- (h) monitor utilisation of funds disbursed by the Government for the benefits of persons with disabilities; and
- (i) perform such other functions as the Government may assign.

70. Action by appropriate authorities on recommendation of State Commissioner.—Whenever the State Commissioner makes a recommendation to an authority in pursuance of clause (b) of section 69, that authority shall take necessary action on it, and inform the State Commissioner of the action taken within three months from the date of receipt of the recommendation:

Provided that where an authority does not accept a recommendation, it shall convey reasons for non-acceptance to the State Commissioner for Persons with Disabilities within the period of three months, and shall also inform the aggrieved person.

71. Powers of State Commissioner.—(1) The State Commissioner shall, for the purpose of discharging his functions under this Act, have the same powers of a civil court as are vested in a court under the Code of Civil Procedure, Samvat 1977 while trying a suit, in respect of the following matters, namely:—

- (a) summoning and enforcing the attendance of witnesses;
- (b) requiring the discovery and production of any documents;
- (c) requisitioning any public record or copy thereof from any court or office;
- (d) receiving evidence on affidavits; and
- (e) issuing commissions for the examination of witnesses or documents.

(2) Every proceeding before the State Commissioner shall be a judicial proceeding within the meaning of sections 193 and 228 of the State Ranbir Penal Code Samvat, 1998 and the State Commissioner shall be deemed to be a civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, Samvat 1989.

72. Annual and special reports by State Commissioner.—(1) The State Commissioner shall submit an annual report to the Government and may at any time submit special reports on any matter, which, in its opinion, is of such urgency or importance that it shall not be deferred till submission of the annual report.

(2) The Government shall cause the annual and the special reports of the

State Commissioner for persons with disabilities to be laid before each House of State Legislature along with a memorandum of action taken or proposed to be taken on the recommendation of the State Commissioner and the reasons for non-acceptance the recommendations, if any.

(3) The annual and special reports shall be prepared in such form, manner and contain such details as may be prescribed by the State Government.

CHAPTER XIII SPECIAL COURT

73. Special Court.—For the purpose of providing speedy trial, the Government shall, with the concurrence of the Chief Justice of the High Court, by notification, specify for each district, the Court of Session to be a Special Court to try the offences under this Act.

74. Special Public Prosecutor.— For every Special Court, the Government may, by notification, appoint a Public Prosecutor, as a Special Public Prosecutor for the purpose of conducting cases in that Court..

CHAPTER XIV

STATE FUND FOR PERSONS WITH DISABILITIES

75. State Fund for persons with disabilities.—(1) There shall be constituted a Fund to be called the State Fund for persons with disabilities by the Government in such manner as may be prescribed.

(2) The State Fund for persons with disabilities shall be utilised and managed in such manner as may be prescribed by the Government.

(3) The Government shall maintain proper accounts and other relevant records of the State Fund for persons with disabilities including the income and expenditure accounts in such form as may be prescribed by the Government in consultation with the Comptroller and Auditor General of India.

(4) The accounts of the State Fund for persons with disabilities shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure incurred by him in connection with such audit shall be payable from the State Fund to the Comptroller and Auditor-General of India.

(5) The Comptroller and Auditor-General of India and any person appointed by him in connection with the audit of the accounts of the State Fund for persons with disabilities shall have the same rights, privileges and authority in connection with such audit as the Comptroller and Auditor-General of India generally has in connection with the audit of the Government accounts and in particular, shall have right to demand production of books of accounts, connected vouchers and other documents and papers and to inspect any of the offices of the State Fund.

(6) The accounts of the State Fund for persons with disabilities as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon shall be laid before each house of the State Legislature.

CHAPTER XVI OFFENCES AND PENALTIES

76. Punishment for contravention of provisions of Act or rules or regulations made thereunder.—Any person who contravenes any of the provisions of this Act, or of any rule made thereunder shall for first contravention be punishable with fine which may extend to ten thousand rupees and for any subsequent contravention with fine which shall not be less than fifty thousand rupees but which may extend to five lakh rupees.

77. Offences by companies.—(1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be

guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section.—

- (a) “company” means anybody corporate and includes a firm or other association of individuals; and
- (b) “director”, in relation to a firm, means a partner in the firm.

78. Punishment for fraudulently availing any benefit meant for persons with benchmark disabilities.—Whoever, fraudulently avails or attempts to avail any benefit meant for persons with benchmark disabilities, shall be punishable with imprisonment for a term which may extend to two years or with fine which may extend to one lakh rupees or with both.

79. Punishment for offences of atrocities.—Whoever,—

- (a) intentionally insults or intimidates with intent to humiliate a person with disability in any place within public view;
- (b) assaults or uses force to any person with disability with intent to dishonour him or outrage the modesty of a woman with disability;
- (c) having the actual charge or control over a person with disability voluntarily or knowingly denies food or fluids to him or her;
- (d) being in a position to dominate the will of a child or woman with disability and uses that position to exploit her sexually;

- (e) voluntarily injures, damages or interferes with the use of any limb or sense or any supporting device of a person with disability;
- (f) performs, conducts or directs any medical procedure to be performed on a woman with disability which leads to or is likely to lead to termination of pregnancy without her express consent except in cases where medical procedure for termination of pregnancy is done in severe cases of disability and with the opinion of a registered medical practitioner and also with the consent of the guardian of the woman with disability,

shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to five years and with fine.

80. Punishment for failure to furnish information.—Whoever, fails to produce any book, account or other documents or to furnish any statement, information or particulars which, under this Act or any order, or direction made or given thereunder, is duty bound to produce or furnish or to answer any question put in pursuance of the provisions of this Act or of any order, or direction made or given thereunder, shall be punishable with fine which may extend to twenty-five thousand rupees in respect of each offence, and in case of continued failure or refusal, with further fine which may extend to one thousand rupees for each day, of continued failure or refusal after the date of original order imposing punishment of fine.

81. Previous sanction of Government. —No Court shall take cognizance of an offence alleged to have been committed by an employee of the Government under this Chapter, except with the previous sanction of the Government or on a complaint filed by an officer authorised by it in this behalf.

82. Alternative punishments.—Where an act or omission constitutes an offence punishable under this Act and also under any other law for the time being in force, then, notwithstanding anything contained in such law, the offender found guilty of such offence shall be liable to punishment only under such law as provides for punishment which is greater in degree.

MISCELLANEOUS

83. Application of other laws not barred.—The provisions of this Act shall be in addition to, and not in derogation of, the provisions of any other law for the time being in force.

84. Protection of action taken in good faith.—No suit, prosecution or other legal proceeding shall lie against the Government or any officer of the Government or any officer or employee of the State Commissioner for anything which is in good faith done or intended to be done under this Act or the rules made thereunder.

85. Power to make rules.—(1) The Government may, subject to the condition of previous publication, by notification, make rules for carrying out the provisions of this Act, not later than six months from the date of commencement of this Act.

(2) In particular, and without prejudice to the generality of foregoing powers, such rules may provide for all or any of the following matters, namely:—

- (a) the manner of constituting the Committee for Research on Disability under sub-section (2) of section 6;
- (b) the manner of providing support of a limited guardian under sub-section (1) of section 14;
- (c) the form and manner of making an application for certificate of registration under sub-section (1) of section 51;
- (d) the facilities to be provided and standards to be met by institutions for grant of certificate of registration under sub-section (3) of section 51;
- (e) the validity of certificate of registration, the form of, and conditions attached to, certificate of registration under sub-section (4) of section 51;
- (f) the period of disposal of application for certificate of registration under sub-section (7) of section 51;

- (g) the period within which an appeal to be made under sub-section (1) of section 53;
- (h) the time and manner of appealing against the order of certifying authority under sub-section (1) and manner of disposal of such appeal under sub-section (2) of section 59;
- (i) the allowances to be paid to nominated Members of the State Advisory Board under sub-section (6) of section 61;
- (j) the rules of procedure for transaction of business in the meetings of the State Advisory Board under section 64;
- (k) the composition and functions of District Level Committee under section 66;
- (l) salaries, allowances and other conditions of services of State Commissioner under sub-section (3) of section 68;
- (m) the salaries, allowances and conditions of services of officers and staff of the State Commissioner under sub-section (6) of section 68;
- (n) the form, manner and content of annual and special reports to be prepared and submitted by the State Commissioner under sub-section (3) of section 72;
- (o) the composition and manner of appointment of experts in the advisory committee under sub-section (7) of section 68;
- (p) the fee or remuneration to be paid to the Special Public Prosecutor under sub-section (2) of section 74;
- (q) the manner of constitution of State Fund for persons with disabilities under sub-section (1), and the manner of utilisation and management of State Fund under sub-section (2) of section 75;
- (r) the form for preparation of accounts of the State Fund for persons with disabilities under sub-section (3) of section 75.

(3) Every rule made by the Government under this Act shall be laid, as soon as may be after it is made, before each House of the State Legislature.

86. Repeal and savings.—(1) The Jammu and Kashmir Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act,

1998 is hereby repealed.

(2) Notwithstanding the repeal of the said Act, anything done or any action taken under the said Act, shall be deemed to have been done or taken under the corresponding provisions of this Act.

THE SCHEDULE

[See clause (ze) of section 2]

SPECIFIED DISABILITY

1. Physical disability.—

A. Locomotor disability (a person's inability to execute distinctive activities associated with movement of self and objects resulting from affliction of musculoskeletal or nervous system or both), including—

(a) "leprosy cured person" means a person who has been cured of leprosy but is suffering from—

(i) loss of sensation in hands or feet as well as loss of sensation and paresis in the eye and eye-lid but with no manifest deformity;

(ii) manifest deformity and paresis but having sufficient mobility in their hands and feet to enable them to engage in normal economic activity;

(iii) extreme physical deformity as well as advanced age which prevents him/her from undertaking any gainful occupation, and the expression "leprosy cured" shall construed accordingly;

(b) "cerebral palsy" means a Group of non-progressive neurological condition affecting body movements and muscle coordination, caused by damage to one or more specific areas of the brain, usually occurring before, during or shortly after birth;

(c) "dwarfism" means a medical or genetic condition resulting in an adult height of 4 feet 10 inches (147 centimetres) or less;

(d) "muscular dystrophy" means a group of hereditary genetic muscle disease that weakens the muscles that move the human body and

persons with multiple dystrophy have incorrect and missing information in their genes, which prevents them from making the proteins they need for healthy muscles. It is characterised by progressive skeletal muscle weakness, defects in muscle proteins, and the death of muscle cells and tissue;

(e) "acid attack victims" means a person disfigured due to violent assaults by throwing of acid or similar corrosive substance.

B. Visual impairment.—

(a) "blindness" means a condition where a person has any of the following conditions, after best correction—

(i) total absence of sight; or

(ii) visual acuity less than 3/60 or less than 10/200

(Snellen) in the better eye with best possible correction; or

(iii) limitation of the field of vision subtending an angle of less than 10 degree.

(b) "low-vision" means a condition where a person has any of the following conditions, namely:—

(i) visual acuity not exceeding 6/18 or less than 20/60 upto 3/60 or upto 10/200 (Snellen) in the better eye with best possible corrections; or

(ii) limitation of the field of vision subtending an angle of less than 40 degree up to 10 degree.

C. Hearing impairment.—

(a) "deaf" means persons having 70 DB hearing loss in speech frequencies in both ears;

(b) "hard of hearing" means person having 60DB to 70 DB hearing loss in speech frequencies in both ears;

D. "speech and language disability" means a permanent disability arising out of conditions such as laryngectomy or aphasia affecting one or more components of speech and language due to organic or neurological causes.

2. Intellectual disability, a condition characterised by significant limitation both in intellectual functioning (reasoning, learning, problem solving) and in adaptive behaviour which covers a range of every day, social and practical skills, including,—

(a) “specific learning disabilities” means a heterogeneous group of conditions wherein there is a deficit in processing language, spoken or written, that may manifest itself as a difficulty to comprehend, speak, read, write, spell, or to do mathematical calculations and includes such conditions as perceptual disabilities, dyslexia, dysgraphia, dyscalculia, dyspraxia and developmental aphasia;

(b) “autism spectrum disorder” means a neuro-developmental condition typically appearing in the first three years of life that significantly affects a person's ability to communicate, understand relationships and relate to others, and is frequently associated with unusual or stereotypical rituals or behaviours.

3. Mental behaviour—

“mental illness” means a substantial disorder of thinking, mood, perception, orientation or memory that grossly impairs judgment, behaviour, capacity to recognise reality or ability to meet the ordinary demands of life, but does not include retardation which is a condition of arrested or incomplete development of mind of a person, specially characterised by sub normality of intelligence.

4. Disability caused due to—

(a) chronic neurological conditions, such as—

(i) "multiple sclerosis" means an inflammatory, nervous system disease in which the myelin sheaths around the axons of nerve cells of the brain and spinal cord are damaged, leading to demyelination and affecting the ability of nerve cells in the brain and spinal cord to communicate with each other;

(ii) "Parkinson's disease" means a progressive disease of the nervous system marked by tremor, muscular rigidity, and slow, imprecise movement, chiefly affecting middle-aged and elderly

people associated with degeneration of the basal ganglia of the brain and a deficiency of the neurotransmitter dopamine.

(b) Blood disorder—

(i) “haemophilia” means an inheritable disease, usually affecting only male but transmitted by women to their male children, characterised by loss or impairment of the normal clotting ability of blood so that a minor wound may result in fatal bleeding;

(ii) “thalassemia” means a group of inherited disorders characterised by reduced or absent amounts of haemoglobin.

(iii) “sickle cell disease” means a haemolytic disorder characterised by chronic anaemia, painful events, and various complications due to associated tissue and organ damage; “haemolytic” refers to the destruction of the cell membrane of red blood cells resulting in the release of haemoglobin.

5. Multiple Disabilities (more than one of the above specified disabilities) including deaf blindness which means a condition in which a person may have combination of hearing and visual impairments causing severe communication, developmental, and educational problems.

6. Any other category as may be notified by the Government.

SATYA PAL MALIK
GOVERNOR
