

Rights of Persons with Disability in India: With Special Reference of Reservation in Education

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Abstract: Justice is the basic need for the peace and development of human civilization, but social justice most important for an individual rather than justice, because nature creates inequality among people. India is the biggest country among the South Asian's countries. It has approximately 1.38 billion populations. It has the second largest population after China. But population of India cannot become her capital until our education system will not produce well skilled and knowledgeable human beings. But there is another issue is regarding the rights of disabled. The origin of state was an outcome of the Darwinism. Because Darwinism believed in the concept of the survival of the fittest. In Darwinism, there were no place for the cooperation and no place for equality, liberty and fraternity. But the foundation of welfare state was based on humanism and for humanism; every and each individual must be secured with his/her disability. In this article, researcher described about the constitutional provision regarding reservation, which have become the source of inclusive policies towards disabled. Especially, how state is providing education to disabled with reservation?.

Keywords: Education, Disabled, Provision, Constitution.

INTRODUCTION

As Professor Stephen Hawking an Astros physicist, he was with acute motor neuron disease which crippled his life. But his example shows that the people with disabilities are vulnerable because of the many barriers such as physical, emotional and financial. These barriers are responsible for the miserable conditions of the disabled. These barriers have become the challenge for the every nation in the era of global world. These barriers will unlock the potential of so many people with so much to contribute to the world. State is the hope for the hundreds of millions of people with disabilities, they have hope that state would be help them for the access of the means of health, rehabilitation, support, education, and employment. They will get the chance to shine.

Indian constitution makers were very aware about the security of individuals with disability; Education is the most important factor for the development of an individual. So they mentioned a number of provisions in the constitution. Over the last 70 years, right to education has evolved in India, inspired by a host of factors including judicial interpretations, enactment of special laws and amendment to the Constitution. The Constitution of India applies uniformly to every legal citizen of India, whether they are healthy or disabled in any way (physically or mentally). Every Child with disability shall have the rights to free education till the age of 18 years in integrated schools or special schools. The Constitution secures to the citizens including the disabled, a right of justice, liberty of thought, expression, belief, faith and worship, equality of status and of opportunity and for the promotion of fraternity.

Even Indian constitution article 51-A, which indulged fundamental rights for the citizens. Who is a parent or guardian to provide opportunities for education to his child or, as the case may be, ward between the age of six and fourteen years.

A rights based society gives individuals or groups their due within society as a whole. If a state can't provide this type of society then there nobody can hope for the justice and social justice is far from that type of society. Reservation is a means to create an equal society with the inequality and differences. Reservation also refers to the system of social justice. Within this doctrine there are two types of justice, firstly distributive justice and second procedural justice. Distributive justice concerns what is just or right with respect to the allocation of goods (or services) in a society. Procedural justice concerns the fairness of the processes by which decisions are made, and may be contrasted with the distributive justice (fairness in the distribution of rights or resources).

So, disability is an important public health problem especially in developing countries like India. The problem will increase in future because of increase in trend of non-communicable diseases and change in age structure with an increase in life expectancy. The issues are different in developed and developing countries, and rehabilitation measures should be targeted according the needs of the disabled with community participation. In India, a majority of the disabled resides in rural areas where accessibility, availability, and utilization of rehabilitation services and its cost-effectiveness are the major issues to be considered.

As per the report of the World Health Organization in 2011 estimated that 15.3% of the world's population deals with disability of one kind or the other. The 2011 census puts India's disabled at 2.21% of the population, which shows the health of India. Therefore, India is so lucky that the share of disable population is very low comparatively other nations. Our constitution provides all citizens equal rights for the development of their personality.

The effective step was taken by the UNO in 2006, when it did a convention on the rights of the disabled persons. In this convention UNO focused on the rights of disabled-dignity, non-discrimination, equality and participate in the society, equality of genders. Later on Indian Government made the Rights of Persons with Disabilities Act, 2016. This provides reservation to disabled with other safeguards:

- State has become Responsible to ensure that the persons with disabilities enjoy their rights equally with others, even state has been providing funding some NGOs for the upliftment of the disabled.
- State would be ensuring about the right of reservation for the disabled in every field and sector. It must not be less than 4 % in jobs and not less than 5% in education.
- Every child with benchmark disability between the age group of 6 and 18 years will have the right to free education.
- Government funded educational institutions as well as the government recognized institutions will have to provide inclusive education to the children with disabilities and others sources for their development.

The change in understanding of disability from an individual pathology to a social construct is best reflected in the way UN standard rules on the equalization of opportunities for persons with disabilities, 1993 define disability. According to these rules 'people may be disabled by physical, intellectual or sensory impairment, medical conditions or mental illness'. Such impairments, conditions or illnesses may be permanent or transitory in nature. A distinction has been made between disability and handicap. A handicap is considered a loss or limitation of opportunities to take part in community life on an equal level with others. The purpose of this distinction is to emphasize the focus on the shortcomings in the environment and in many organized activities in society that handicap a disabled person.

In the conclusion we can say that reservation is the acceptable means for social justice, it is an affirmative action, which is a debatable issue for the Indian because as some time so-called upper caste's people criticize the reservation of Dalits. While Indian Government made the Rights of Persons with Disabilities Act, 2016. This provides reservation for disabled class, as per this act government has a duty to ensure the rights of disabled.

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