

# A review of rights of persons with disability act (rpwd act) 2016 with special focus to the provisions for capacity enhancement of children with disabilities

<sup>1</sup>Ms. Abeera C A, <sup>2</sup>Dr. Vanitha C

<sup>1</sup> Ph.D Scholar, <sup>2</sup> Assistant Professor

Department of Education, School of Education,  
Central University of Kerala, Kasaragod, India

Email - <sup>1</sup>abeera.eme071701@cukerala.ac.in , <sup>2</sup>vanileela.c@gmail.com

**Abstract:** In the present study the investigator reviewed the Rights of Persons with Disabilities Act (RPWD Act) 2016 by giving specific focus to the provisions regarding the capacity enhancement of persons with disabilities. The investigator made critical reflection on whole articles in the RPWD Act 2016, provided a synthesis of the Chapter III, Chapter IV, Section 29 of Chapter V, Section 31 and 32 of Chapter VI and Section 42 of Chapter VIII of the act and analyzed the provisions regarding the capacity enhancement of persons with Disabilities. The investigator divided the study in to three sections. In the first section, an overview of the concerned provisions of the act was described. In the second section, the investigator attempted to problematize the context by analyzing the particular sections in these policies. In the third section, the investigator included the findings of the study and drew in to conclusion. The findings of the study reveal that RPWD Act 2016 has a number of provisions for the capacity enhancement of the children with disabilities and the Act gives no due importance to satisfy the individual needs of the students. The investigator concluded the study with the steps to be taken by the authorities for further improvement in the lives of persons with Disabilities.

**Key Words:** Rights of Persons with Disabilities Act 2016, Capacity enhancement.

## 1. INTRODUCTION:

RPWD Act 2016 is an after effect of the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD). The UN general assembly adopted its convention on the Rights of Persons with Disabilities on September 13, 2006. The convention laid down certain principles for the empowerment of persons with disabilities. These principles include:

- respect for inherent dignity, individual autonomy and independence of persons,
- non-discrimination,
- full and effective participation and inclusion in the society and
- respect for difference and acceptance of persons with disabilities as part of human diversity and humanity (RPWD Act, 2016).

India is a signatory to the UNCRPD and ratified the convention on October 1, 2007. The implementation of the provisions in the UNCRPD in India became necessary and it was enacted by the Parliament of India in the sixty seventh year of republic as RPWD Act.

As per this act, disabilities were divided in to six categories.

- Physical disability: it is 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. It includes Locomotor disability, Visual impairment, Hearing impairment and Speech and Language disability. Leprosy cured person, individuals suffering from cerebral palsy, persons with dwarfism, persons suffering from muscular dystrophy and acid attack victims are coming under the category of locomotor disability. Blindness and low-vision are under the category of visual impairment. Deaf and hard of hearing included under hearing impairment category.
- Intellectual disability: It is a condition characterized 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 specific learning disabilities and autism spectrum disorders. As per this act, specific learning disorders include 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 and autism spectrum disorder is 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.

- Mental behaviour: in this category, mental illness, 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, is considered as a disability.
- Disability caused due to chronic neurological conditions and blood disorders. Multiple sclerosis and Parkinson's disease are coming under the category of chronic neurological conditions and haemophilia, thalassemia and sickle cell disease are included in the category of blood disorders.
- Multiple Disabilities (more than one of the disabilities) like deaf blindness. In such condition, a person may have combination of hearing and visual impairments and which causes severe problems related to communication, development, and education.
- Any other category as may be notified by the Central Government.

There are a number of provisions in this act considering the persons included in above mentioned categories.

## **2. NEED AND SIGNIFICANCE OF THE STUDY:**

RPWD Act 2016, an important step in the history of Indian Constitution, implemented for the upliftment of Persons with Disabilities. This act provides for the rights of persons with disabilities in all aspects of their life including social living, education and employment. In this study, the investigator reviewed the provisions regarding capacity enhancement of the persons with disabilities. As it is a new act, there are a smaller number of studies were conducted on it and no study was conducted with reference to the capacity enhancement provisions regarding the children with disabilities in this act is very few. This act is an important step by Government of India for the development of persons with disabilities and to reviewing such a new act with reference to capacity enhancement provisions for children with disabilities has great significance.

## **3. SYNTHESIS OF THE PROVISIONS REGARDING THE EDUCATION OF PERSONS WITH DISABILITIES:**

According to section 16 (Duty of Educational Institutions) of Chapter III (Education) of RPWD Act 2016, it is the duty of appropriate governments and local self-governments to ensure that every educational institutions funded or recognized by them are providing inclusive education to the children with disabilities and they are admitting them in their institution without any discrimination and providing them education and equal opportunities in sports and recreation activities like that of their typical peers. The appropriate governments and local self-governments should make sure that the building, campus and various facilities in these institutions are accessible for the children with disabilities, are providing reasonable accommodation as per the individual needs of such children and are providing necessary support in different ways to maximize academic and social development of them. They should ensure that the education to children with deafness or blindness or with both is imparting in these institutions in most suitable languages and modes and means of communication, they are making early diagnosis of specific learning disabilities in children and taking appropriate pedagogical or other measures to overcome these disabilities. As per this section, the appropriate governments and LSGs should ensure that these institutions are monitoring participation of the children with disabilities and their progress according to the level of their attainments and completion of their education and they are providing transportation facilities to these type of children and to the attendant of the children with disabilities who need intensive support.

Section 17 (Specific measures to promote and facilitate inclusive education) of the chapter III states that the appropriate governments and LSGs should conduct surveys in every five years on school going children to identify the children with disabilities, to ascertain their special needs and to find out of the extent to which these are being met. This section provides that the first survey should be conducted within two years from the date of commencement of the RPWD Act. As per this section of the act, they should establish adequate number of teacher training institutions and they have to train and employ teachers including teachers with disability having qualification in sign language and Braille and trained teachers in teaching children with Intellectual Disability. It is their duty to train professionals and staff to support inclusive education at all levels of school education and to establish adequate number of Resource Centres to support educational institutions at all levels of school education as per this section of the act. The appropriate governments and LSGs should promote the use of suitable augmentative and alternative modes including means and formats of communication, use of Braille and sign language to supplement the use of one's own speech to fulfill the daily communication needs of persons with speech, communication and or language disabilities and make them capable to participate in their community and society and to contribute something to it of their own. According to this section of the act, the students with benchmark disabilities should get books, other learning materials and suitable assistive devices free of cost up to the age of eighteen years from appropriate governments and LSGs and they have to provide

scholarships to the students with benchmark disability in suitable cases and they should modify the curriculum and examination system properly to meet the needs of the students with disabilities. It is also their duty as per this section of the act to promote research to improve the learning of students with disabilities and they should take any additional measures as per the requirement.

As per section 18 (Adult Education) of chapter III, the appropriate Government and the local authorities should take suitable measures to promote, protect and ensure participation of persons with disabilities in the programmes of adult education and continuing education like that of persons without disabilities.

Section 29(Culture and Recreation) of chapter V (Social Security, Health, Rehabilitation and Recreation) of the act states that the appropriate government and local authorities should facilitate participation in scouting, dancing, art classes, outdoor camps and adventure activities 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. They should redesign the courses in cultural and arts subjects to enable participation and access for persons with disabilities and they have to develop technology, assistive devices and equipments to facilitate access and inclusion for persons with disabilities in recreational activities. According to Section 31(Free education for children with benchmark disabilities) of the Chapter VI (Special Provisions for Persons With Benchmark Disabilities), every child with a 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. It is the duty of appropriate Government and local authorities to ensure that every child with benchmark disability has access to free education in an appropriate environment till he attains the age of eighteen years.

Section 32 (Reservation in higher educational institutions) of Chapter VI states that all Government higher education institutions and other institutions of higher education receiving aid from the Government shall reserve not less than five per cent seats for persons with benchmark disabilities and the individuals with benchmark disabilities should get an upper age relaxation of five years for admission in institutions of higher education.

As per the section 42 of Chapter VIII (Duties and Responsibilities of Appropriate Governments) of the act, the appropriate government should ensure the availability of whole contents in audio, print and electronic media are in accessible format to make it accessible to the persons with disabilities. Persons with disabilities should get access to electronic media by providing audio description, sign language interpretation and close captioning.

#### **4. SYNTHESIS OF THE PROVISIONS REGARDING THE EMPLOYMENT OF PERSONS WITH DISABILITIES :**

According to Section 19 (Vocational training and self-employment) of Chapter IV, Schemes and programmes including the provision of loans at concessional rates should be provided by the appropriate Governments to facilitate and support employment of persons with disabilities especially for their vocational training and self-employment. These schemes and programmes should facilitate inclusion of persons with disabilities in all mainstream formal and non-formal vocational and skill training schemes and programmes, adequate support and facilities for the persons with disabilities to avail specific training, exclusive skill training programmes for persons with disabilities with active links with the market, for those with developmental, intellectual, multiple disabilities and autism, loans at concessional rates including that of microcredit, marketing of the products made by persons with disabilities and maintenance of disaggregated data on the progress made in the skill training and self-employment, including persons with disabilities.

Sub-section 1 of Section 20 (Non-discrimination in employment) of Chapter IV states that a person with disability should not be discriminated by a Government establishment in any matter relating to employment. Sub-section 2 of this section provided that, the appropriate Government can exempt any establishment from the provisions of this section regarding the type of work carried out in the particular establishment by notification and subject to the conditions and it is the duty of every Government establishments to provide reasonable accommodation and suitable barrier free and conducive environment to employees with disability. As per section 20(3), any kind of promotion should not be denied for a person with disability on the basis of his disability and section 20(4) states that the Government establishments should not dispense with or reduce in the rank of an employee acquired disability during his service. As per sub section 4 of section 20, if an employee acquired a disability during his service in a Government establishment and is not suitable for the post he was holding, should be shifted to some other post with the same pay scale and service benefits and if it is not possible to adjust him against any post, he might be keep on a supernumerary post until the availability of a suitable post or he attains the age of superannuation, whichever is earlier. According to the section 20(5) of chapter IV, policies for posting and transfer of employees with disabilities might be framed by the appropriate Government.

As per Sub-section (1) of Section 21 (Equal Opportunity Policy) of Chapter IV, every establishments should notify equal opportunity policy detailing measures as per the provisions in chapter IV of the RPwD Act. And the sub-section (2) of section 21 states that a copy of the Act should be registered by every establishment with the Chief Commissioner or the State Commissioner.

Section 22 (Maintenance of Records) sub-section (1) of Chapter IV states that records of the persons with disabilities in relation to the matter of employment, facilities provided and other necessary information should be maintained by every establishment in compliance with the provisions of chapter IV of this act. As per section 22(2), records of persons with disabilities who seeking employment should be maintained by every employment exchange and sub-section 3 of this section states that the records of persons with disabilities, maintained by every establishment as per sub-section (1) of the chapter IV of this act should be open to inspection at all reasonable hours by the persons authorized by the appropriate Government.

## **5. ANALYSIS OF THE PROVISIONS REGARDING THE EDUCATION OF PERSONS WITH DISABILITIES :**

As per the sections in RPWD Act, the appropriate governments should ensure the rights of persons with disabilities. There should not be any inequity and deprivation on the grounds of disabilities and the governments should provide reasonable accommodation for persons with disabilities. The government should ensure that all children with disabilities are getting equal rights to convey their thoughts without any restrictions and they should get needed support suitable to their age and disability.

Educational institutions funded or recognized by appropriate government or local authorities should provide inclusive education without any bias in admission and should make education, sports, recreation activities, building, campus and other facilities accessible to children with disabilities. Accommodation according to individual needs of the students should be provided. They should provide facilities for early identification of particular learning disabilities and adopt suitable measures to overcome these disabilities. Participation and achievement of such students should be watched and transportation facilities should be provided. And it is the duty of appropriate Government and local authorities to take enough measures to promote, protect and ensure the participation of persons with disabilities in the adult education and continuing education programmes like that of persons without disabilities.

Appropriate governments and local self-governments should organize survey in every five years to identify disabled children and to understand their special needs. Teacher training institutions should be started and disabled teachers with competency in sign language and Braille and teachers who got training to teach the students with intellectual disabilities should be trained and employed. All levels of inclusive education should be supported by all the professionals and staff. Enough resource centres should be established. Various means of communication should be promoted to satisfy the communication requirements of children with different types of disabilities. Books, learning materials and suitable assistive devices should be provided for the students with benchmark disabilities free of cost. Curriculum and evaluation system should be modified to satisfy the needs of students with disabilities. Disabled persons should be included in all types of skill training schemes and programmes and the institutions should provide active links with markets especially for those with intellectual, multiple and developmental disabilities and autism.

Appropriate governments should provide facilities such as participation in scout, dancing etc. for Persons with Disabilities to get a cultural life and to participate in recreational activities like others. The courses in cultural and arts subjects should be redesigned to make that enable them to participate and make accessible for all.

The act also provides for free education in suitable environments in neighbourhood schools or in special schools for every child with benchmark disabilities till the age of eighteen. All government higher education institutes and institutions of higher education receiving aids from government should reserve not less than five percentage of seats for students with benchmark disabilities and they should get an upper age relaxation of five years for admission in higher education institutions. Availability of contents in audio, print and electronic media should be ensuring to make it accessible for persons with disabilities.

## **6. ANALYSIS OF THE PROVISIONS REGARDING THE EMPLOYMENT OF PERSONS WITH DISABILITIES :**

Appropriate governments should implement schemes and programmes including the provision of loans at concessional rates to facilitate and support employment of persons with disabilities with special regard to their vocational training and self-employment. Inclusion of persons with disabilities in all main stream formal and non-formal, vocational and skill training schemes and programmes should be ensured. Adequate support and facilities should be provided for the persons with developmental, intellectual and multiple disabilities and autism to avail specific training with active links with the market, loans at concessional rates including that of microcredit, marketing of products made by them and maintenance of disaggregated data on the progress made in the skill training and self-employment of persons with disabilities.

The Act states that a person with disability should not be discriminated by a Government establishment in any matter relating to employment. The appropriate Government can exempt any establishment (private or Government) from the provisions of this section regarding the type of work carried out in the particular establishment by notification and subject to the conditions. It is the duty of every Government establishments to provide reasonable accommodation

and suitable barrier free and conducive environment to employees with disability. Any kind of promotion should not be denied for a person with disability on the basis of his disability and the Government establishments should not dispense with or reduce in the rank of an employee acquired disability during his service. If an employee acquired a disability during his service in a Government establishment and is not suitable for the post he was holding, should be shifted to some other post with the same pay scale and service benefits and if it is not possible to adjust him against any post, he might be keep on a supernumerary post until the availability of a suitable post or he attains the age of superannuation, whichever is earlier. Policies for posting and transfer of employees with disabilities might be framed by the appropriate Government.

Every establishments should notify equal opportunity policy detailing measures as per the provisions in the RPWD Act and a copy of the act should be registered by every establishment with the Chief Commissioner or the State Commissioner. Records of the persons with disabilities in relation to the matter of employment, facilities provided and other necessary information should be maintained by every establishment in compliance with the provisions of this act and records of persons with disabilities who seeking employment should be maintained by every employment exchange. Records of persons with disabilities, maintained by every establishment should be open to inspection at all reasonable hours by the persons authorized by the appropriate Government.

## 7. DISCUSSION

RPWD Act has a great significance in ensuring the capacity enhancement of the children with disabilities. The investigator RPWD Act 2016 in the present study. This policy is providing a number of provisions for the educational development of students with disabilities. As per the provisions in RPWD Act 2016, there should not be any inequity and deprivation among the people on the basis of their capabilities and disabilities. The people with disabilities should get enough support needed for them according to their age and disability. Proper accommodation considering the individual needs of the students should be provided by the educational institutions funded or recognized by appropriate governments. Exclusive skill training programmes should be provided for persons with disabilities with active links with market especially for those with developmental, intellectual and multiple disabilities and autism.

Most of the capacity enhancement provisions in this policy is common for the children with disabilities. Provisions regarding the specific disabilities are a few. Some of the provisions are considering children with blindness and low vision. Needs of a child with a specific disability regarding education and employment will be different from that of children with other disabilities. To modify educational provisions by giving consideration to the nature of disabilities of the children with disabilities is the need of the day. Disability in a child may be profound, severe, moderate or mild. Making special provisions in the education system according to the severity of disabilities will be helpful for the special teachers, children with disabilities and their parents. All these provisions in this Act are important steps in the development of special and inclusive education. But the policies should be remake to satisfy the individual needs of the students with various disabilities.

## 8. CONCLUSION:

Quality education of is a constitutional right for all children in India. It is the basic right which must be given to all for the development of the nation. These policies open opportunities before the students, especially the students with disabilities, in to the ocean of knowledge. These are remarkable steps in the history of Indian Education. In this study the investigator analyzed Chapters III and IV, section 29 of Chapter V, sections 31 and 32 of Chapter VI and section 42 of the RPWD Act 2016 regarding the capacity enhancement of children with disabilities. In these policies, no particular provisions are there for the students on the basis of their individual needs and disability specification, but common provisions for all children with disabilities.

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