

A Study of Rights of Parents and Senior Citizens under Law of Maintenance and Welfare in India

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Abstract: *Rising materialism in Indian society has rendered a significant portion of the elderly susceptible to neglect, abuse, and isolation. To counter this, the Government of India's Ageing Division introduced the National Policy on Older Persons in 1999. Subsequently, the 2007 Maintenance and Welfare of Parents and Senior Citizens Act (MWPSC Act) emerged as a pivotal initiative. This paper explores the MWP Act, underscoring its mandate for children to provide essential maintenance to their elderly parents. Beyond financial support, the Act ensures property protection, establishes old age homes for the indigent, and guarantees medical facilities. Provisions include penalties for neglect, property revocation, and the establishment of tribunals to address maintenance disputes. The Act offers legal avenues for senior citizens, empowering them to seek maintenance and penalizing abandonment. Conclusively, it highlights the Act's role in providing a legal framework for elderly welfare, offering a choice between the MWPSC Act and the Criminal Procedure Code of 1973 for seeking maintenance. Though more than a decade has passed since passing of the MWPSC Act, serious efforts have neither been made by the Central Government nor the State Governments so as to ensure that medical facilities for the elderly are made available. Even elderly are not aware of their rights guaranteed under the provisions MWP Act or become silence not taking steps for their rights though problems of parents and senior citizens are growing day by day, there are only a few reported cases of Supreme Court and High Courts. Further though the said Act 2007, Odisha Rules and Welfare Schemes and policies for elderly has given minute details and a good protection of the rights of parents and senior citizens so as to feel better and more secured, still society is witnessing a situation where in most of the parents are not being maintained by their children. Old parents are being neglected by their children and forced them to live a painful life either in their home or in old age home. For these problems of Senior Citizens the existing laws and social welfare measures and their implementation in the State of Odisha may not be adequate. Thus, the increasing problems of parents and Senior Citizens in India is matter of concern and there is an urgent need to study issues pertaining to Senior citizens, to find out and suggest for more stringent norms and better and modest procedural provisions for the proper implementation of the Act and rules in India particularly in the State of Odisha. The Researcher has studied and found that the increasing problems of Senior Citizens in India particularly is matter of concern and such problems should be dealt with firmly by providing, under the said Act, more stringent norms and legal obligation son children to look after their parents in their old age and to prevent growth of destitution in society, and also suggest under the said Rules, modest and effective procedures for the better implementation of them particularly in the State of Odisha.*

Key Words: *Elderly, Welfare, Maintenance, Senior Citizens, Old Age Homes.*

1. INTRODUCTION :

The society and its people have increasingly become materialistic. Most elderly suffer from abuse neglect and aloneness, and face it difficult to get resources for their basic needs as their children are either incapable or reluctant to maintain them. Widows and childless elderly are also not free from such problems even their problems are worse. In order to address these growing issues, the Ageing Division of Government of India develops and implements policies for the senior citizens in close association with State Governments, Non-Governmental Organisations and civil society. In pursuance of the understanding at international level, the National Policy on Older Persons was declared in January 1999 to reaffirm the commitment for the well-being of them.[1] Till 2007 there were no special or separate legislation exclusively for Senior Citizens. The Government of India enacted the Maintenance and Welfare of Parents and Senior Citizens Act 2007 (MWPC Act). In exercise of the powers conferred by section 32 of the Maintenance and Welfare of Senior Citizens Act, 2007, the Odisha State Government has made the Orissa Maintenance of Parents and Senior Citizens Rules, 2009. This Odisha Rules provides the detailed procedural provisions for proper implementation of the Act provisions of the Act and Rules [2].

2. STATEMENT OF RESEARCH PROBLEM

Elderly throughout their lives have served for the family and society as a whole, and their services are valuable beyond estimation, but they have not been taken care and treated with love and humanity in their old age.[3][4] So the Government of India has enacted the MWPC Act in 2007 and guaranteed rights and protection of parents and senior citizens under the said Act, and the Odisha Government has made the Rules thereunder in 2009 which provided the detailed provisions for proper implementation of the Act and Rules in this State. Further both the Governments have launched many Schemes/Yojanas and brought policies: to provide pension for elderly, to improve their living standard, to offer them with basic necessities, and so on. [5] In spite of such provisions, they are being neglected and forced them to live a painful life either in their home or in old age home. Though more than a decade has passed since passing of the MWPC Act, serious efforts have neither been made by the Central Government nor the State Governments so as to ensure that medical facilities for the elderly are made available. Even elderly are not aware of their rights guaranteed under the provisions MWPC Act or become silence not taking steps for their rights though problems of parents and senior citizens are growing day by day, as there are only a few reported cases of Supreme Court and High Courts.[6] Further though the said Act 2007, Odisha Rules and Welfare Schemes and policies for elderly has given minute details and a good protection of the rights of parents and senior citizens so as to feel better and more secured, still society is witnessing a situation where in most of the parents are not being maintained by their children.[7] Old parents are being neglected by their children and forced them to live a painful life either in their home or in old age home. For these problems of Senior Citizens the existing laws and social welfare measures and their implementation in the State of Odisha may not be adequate.

3. OBJECTIVES OF THE STUDY :

The problems of Senior Citizens are increasing in recent years, and increasing of such problems is now a matter of concern which are to be dealt with firmly. Thus, the study seeks to examine the various dimensions of the problems of Senior Citizens in historical and comparative perspectives; to evaluate maintenance and welfare of parents and senior citizens laws, Rules and social welfare measures in our country dealing with problems of Senior Citizens particularly in the State of Odisha; and to evaluate appropriate guidelines to amend, modify or change of various maintenance and welfare of parents and senior citizens laws and rules to improve their effectiveness for the benefit parents and senior citizens particularly in the State of Odisha.

4. METHODOLOGY :

The study has adopted doctrinal research method, and collected the data which comprised both primary and secondary sources, and the basic source of material was legislations, precedents, international treaties, Conventions, juristic opinions, national policies and statutory schemes of India and Odisha as well. The research has utilized the legal skills of historical, analytical and comparative methods of jurisprudence, as is appropriate to the scheme of persuasion.

5. FINDINGS :

The Government of India has enacted the Act 2007 and made exposure and abandonment of senior citizen an offence and made punishable with imprisonment of either description for a term which may extend to three months or fine which may extend to five thousand rupees or with both; The Government of India has made provisions for providing basic necessities, pension, economic and social security along with healthcare facilities to elderly, and also to improve

the living standard of elderly have been recognized under many Schemes/Policies of the Governments. The Odisha Rule 2009 has specified: various procedure for filing out an application for maintenance and it's registration including procedure in instances where the Tribunal taking cognizance *suo moto*. The Tribunal, in case of non-appearance of the opposite party, to continue *ex parte* by taking evidence of the applicant and making any inquiry it deems fit. The maximum maintenance allowance a Tribunal can order is rupees ten thousand per month including income from all sources of the opposite party. Further, the Odisha State Government has launched many Schemes/Yojanas: to provide pension for elderly, to improve the living standard for senior citizens, to offer them with basic necessities, to provide pensions for elderly weavers. But in many cases it is shown that old parents are being neglected by their children and forced them to live a painful life either in their home or in old age home. Further, more than a decade has passed since passing of the MWPC Act, but serious efforts have neither been made by the Central Government nor the State Governments so as to ensure that medical facilities for the elderly are made available. Even elderly are not aware of their rights guaranteed under the provisions MWPC Act[8] or become silence not taking steps for their rights because though problems of parents and senior citizens are growing day by day, there are only a few reported cases of Supreme Court and High Courts.[9] Further though the said Act 2007, Odisha Rules and Welfare Schemes and policies for elderly has given minute details and a good protection of the rights of parents and senior citizens so as to feel better and more secured, still society is witnessing a situation where in most of the parents are not being maintained by their children. Old parents are being forced to live a painful life either in their home or in old age home. Due to rampant illiteracy and lack of awareness elderly are not aware of their rights to press their claims. Serious efforts have not been made by the Government of India or by the State Governments to ensure that medical facilities for the elderly and geriatric care is made available. The MWPC Act does not make establishment of old age homes mandatory; does not define what consists of a 'normal life'; does not address regarding senior citizens who do not have either children or property. Maximum compensation or maintenance allowance of Rs. 10,000 which has been provided under the Act is not sufficient for people living in cities.

6. CONCLUSION AND SUGGESTIONS :

The problems of Senior Citizens are increasing day by day. Thus the existing laws and social welfare measures and their implementation in the State of Odisha are not adequate. The increasing problems of Senior Citizens in India particularly is matter of concern and such problems should be dealt with firmly by providing, under the said Act, more stringent norms and legal obligation son children to look after their parents in their old age and to prevent growth of destitution in society, and also by suggesting under the said Rules, modest and effective procedures for the better implementation of them particularly in the State of Odisha. In view of the conclusions drawn above, the following suggestions can be adapted into Legislations, Rules and regulations for the protections, realization and enforcement of the rights under the said Act:

- To hold legal awareness camp regularly, and publish booklets and advertise in television regarding the legal rights of the elderly.
- To make more stringent provisions under law of welfare and maintenance for the protection of the rights of elderly
- To set-up medical camps in every panchayat twice a month for providing free health check-ups to elderly and for supplying of medicines for their common illness.
- To make available of separate OP and Geriatric Ward in every hospital; or allow beds in the general ward exclusively to senior citizens; or give priority to elder people in the exiting OP where there is no separate OP.
- To ensure separate queue system for elder people at pharmacies and hospitals including at billing counters.
- To have a program for regular medical check-up in old age homes.
- To make Public Health Centres a tie up with the nearest old age homes where a doctor and a nurse visit every 2 weeks.
- To bring amendments for taking away ceiling of maintenance Rs.10000 and increasing the fine of Rs.5000 along with years of imprisonment for abandoning parents.
- To introduce day-care for elderly in every Districts.

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