



Rights of Persons with Disabilities (RPWD) Act 2016: Children with High Support Needs

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Abstract: *The Rights of Persons with Disabilities (RPWD) Act of 2016 aims to ensure equal opportunities, protection, and rights for persons with disabilities, including children with high support needs. This segment of the act focuses on addressing the specific requirements and challenges faced by children with disabilities who require significant assistance and support in their daily lives. The RPWD Act emphasizes the provision of inclusive education, healthcare, rehabilitation, and social services tailored to meet the individual needs of children with high support needs. It advocates for the creation of an enabling environment that promotes their full participation and integration into society, ensuring their rights to dignity, autonomy, and equal opportunities are upheld. Additionally, the act mandates measures to prevent discrimination, abuse, and exploitation of children with disabilities, while promoting their holistic development and well-being.*

Key Words: *High support needs, PWDs, RPWD Act 2016.*

1. INTRODUCTION :

RPWD Act 2016

The RPWD Act requires the government to ensure that people with disabilities have the same right to equality, dignity, and respect for their personal integrity as others. The RPWD Act of 2016 guarantees a rights-based model of disability for twenty-one conditions: specific learning disabilities, multiple sclerosis, speech and language disability, thalassemia, haemophilia, sickle cell disease, hearing impairment, locomotor disability, dwarfism, intellectual disability, mental illness, autism spectrum disorder, cerebral palsy, muscular dystrophy, chronic neurological conditions, blindness, low-vision and leprosy cured persons, multiple disabilities including deaf-blindness, acid attack victims and Parkinson's disease. Special provisions are made for people with benchmark disabilities or persons with high support needs.

High support needs

Children with disabilities are like any other children. Early attention and support to their developmental needs will help them develop and become more independent. One of the main considerations when dealing with children with disabilities is that "the more inclusive and eco-friendly the environment is, the better the child's progress and quality of life." Any person with High Support Needs in a broader sense refers to persons who are severely disabled/ those requiring some extent level of support for their day to day functioning. As we know that each child with special needs is unique so also is their level of high support needs and assistance requirement will be more. Furthermore, as we also know that building on the child ecosystem and providing opportunities, children with high support needs can be effectively assisted to cope with their individual needs.

The RPWD 2016 incorporates new provisions that apply to people in the "high support needs category". People with a high support need require custodial care and help on a daily basis and rely on others for support.



According to the Rights of Persons with Disabilities Act of 2016, "High Support" refers to intensive physical, psychological, and other support that a person with a benchmark disability may require for daily activities, such as making independent and informed decisions to access facilities and participate in all aspects of life, including education, employment, family and community life, and treatment and therapy.

2. Needs of children with High Support Needs :

Children with High Support Needs (C-HSN) require a variety of inter-reinforcing support and assistance to function and live in the community. As the child grows, the help support/needs may increase and become more dynamic, requiring the parents/caregivers to expand their support and assistance. As we know, every C-HSN has abilities, and recognizing the need and its paradigm can assist both the special educator and parents/caregivers in fostering and supporting C-HSN's independence by teaching them to see life as a positive experience. The needs of C-HSN can be broadly classified as follows:

Medical needs: In general, children with high special needs may require on-going medical support such as epilepsy medication, psychiatric medications, hospitalization and disability accommodations, among other things. It is important to establish a strong support system to deal with uncertainties and medical emergencies. The child may require additional medical support during the growth process as they are more vulnerable to diseases as a result of their less engagement in tasks. A special educator/parent must understand how personal and environmental factors influence C-HSN participation and develop an inclusive program.

Physical Need: Children with high special needs will require extensive assistance in their activities, communication, tasks of daily living etc. Furthermore, these needs will be pre-requisite skills that the child will need support for optimal performance in his or her everyday tasks. Combinations of treatments like physiotherapy, occupational therapy, neurodevelopmental and sensory integration therapy, speech language therapy, etc. are beneficial. Furthermore, a trans-disciplinary approach to service delivery would need to be planned to provide multi-disciplinary team expertise support to special teachers/parents in comprehensively supporting the needs of CHSN, or in other words, special teachers or Care providers will. Be the focal point or nodal person to aggregate and leverage collaboration services with multidisciplinary team members.

Psychological, Social, emotional and community living: Children with High Support Needs will display a lack of social and emotional development due to their debilitating conditions, such as expressing themselves, sustaining connections, being aware of and anticipating hazards, and responding properly. Independent community living skills combined with family-cantered approaches/ecology-based interventions will benefit the child's psychosocial and emotional development and help them cope with their developmental demands.

3. Schemes and Benefits for People with High Support Needs :

The term 'Person with Disability with High Support Needs' refers to a person with Benchmark Disability who requires intensive support, whether physical, psychological, or otherwise, to carry out everyday activities, access facilities/services, and make decisions. The rights and entitlements for people with disabilities and HSN are as follows:

Equality and Non-Discrimination:

The concerned Government shall guarantee that persons with disabilities, including persons with HSN, have the right to equal life opportunities with dignity and respect.

It is the responsibility of the government to take action to maximize the potential of people with disabilities by providing suitable environments. No disabled person should face discrimination on the basis of disability. No person shall be deprived of his personal liberty merely by reason of infirmity. The competent government should take necessary steps to provide suitable accommodation to the disabled people.

Women and children with disabilities:

Competent governments and local authorities should take steps to guarantee that women and children with disabilities enjoy the same rights as others. Appropriate government and local authorities should also ensure that all children with



disabilities have an equal right to express their views freely on all issues affecting them, and receive adequate support depending on their age and disability.

Home and family:

It is a legal requirement that no child with a handicap be separated from his or her parents on the basis of impairment, unless a competent court orders it in the child's best interests. When parents are unable to care for a disabled child, the competent court shall place the child with his or her close relatives, or if that is not possible, in a family setting or, in a shelter house run by the proper government or non-governmental organization, as needed.

Reproductive right:

The competent government must guarantee that people with disabilities have access to accurate information about reproductive and family planning. No person with a disability will be subjected to any medical procedure that results in infertility without his or her free and informed consent.

Community life

Persons with disabilities must have the right to live in the community. The appropriate government shall make every effort to ensure that people with disabilities are not forced to live in a fixed living arrangement and have access to a variety of in-house, residential, and other community support services, including the personal assistance required to support living, taking into account age and gender.

Protection from cruelty and inhuman treatment:

The competent government must take action to safeguard people with disabilities from torture, cruel, inhumane, or humiliating treatment. No person with a disability may be the subject of any research unless he or she provides free and informed consent via accessible modes, means, and forms of communication, as well as the previous permission of a Committee for Research on Disability.

Protection from abuse, violence and exploitation:

The competent government shall take efforts to safeguard and prevent persons with disabilities from all sorts of abuse, violence, and exploitation.

- Recognize abuse, assault, and exploitation and give legal remedies;
- Implement prevention measures and reporting procedures for such instances.
- Respond to victims of such tragedies by rescuing, protecting, and rehabilitating them.
- Increase public awareness and information sharing.

Furthermore, any person or registered organisation who has reason to believe that an act of abuse, violence, or exploitation has been, is being, or is likely to be committed against a person with a disability may report such incidents to the Executive Magistrate within the local limits of whose jurisdiction they occur.

On receipt of such information, the Executive Magistrate shall take prompt steps to prohibit or prevent its occurrence, as the case may be, or pass such order as he deems appropriate for the protection of such person with disability, including an order:

- Authorize police or organizations working for people with disabilities to rescue and rehabilitate the victim;
- Provide protective custody if the person with disability requests it.
- Providing maintenance to individuals with disabilities.

It is further advised that any police officer who gets a complaint or otherwise comes to know of abuse, aggression, or exploitation against any person with disability must tell the aggrieved person of

- The applicant's entitlement to seek protection under sub-section (2), as well as the contact information for the Executive Magistrate who can assist them.
- Contact information for the nearest organization or institution that specializes in rehabilitation for individuals with impairments.



- The right to free legal aid.
- The right to submit a complaint under this Act or other applicable laws about the offense.

However, nothing in this provision shall be construed to relieve the police officer of his duty to act in accordance with the law upon receiving information about the commission of a cognizable offence.

If the Executive Magistrate judges that the claimed act or behaviour constitutes an offense under the Indian Penal Code (45 of 1860), or under any other legislation now in force, he may forward the complaint to the Judicial or Metropolitan Magistrate having jurisdiction in the case.

Protection and safety:

- People with disabilities are entitled to equal protection and safety throughout risky situations such as armed conflict, humanitarian emergencies, and natural disasters.
- The National and State Disaster Management Authorities must include people with disabilities in disaster management activities, as outlined in clause (e) of section 2 of the Disaster Management Act, 2005 (53 of 2005), to ensure their safety and protection.
- The District Disaster Management Authority, established under section 25 of the Disaster Management Act, 2005 (53 of 2005), is responsible for keeping a record of people with disabilities in the district and informing them of potential risks to disaster preparedness.
- The authorities participating in reconstruction works following any situation of risk, armed conflict, or natural disasters shall perform such activities, in coordination with the competent State Commissioner, in line with the accessibility requirements of people with disabilities.

Accessibility in voting:

The Election Commission of India and the State Election Commissions must guarantee that all voting locations are accessible to people with disabilities, and that all materials pertaining to the electoral process are clearly comprehensible and available to them.

Access to justice:

- The government must ensure that individuals with disabilities have equal access to all judicial, quasi-judicial, and investigative bodies, without discrimination based on disability.
- The government should provide support measures for individuals with disabilities, particularly those living outside of their families or who require significant assistance to exercise their legal rights.
- The Legal Services Authorities Act, 1987 (39 of 1987) requires the National Legal Services Authority and State Legal Services Authorities to make reasonable accommodations to ensure equal access to schemes, programs, facilities, and services for individuals with disabilities.
- The appropriate government will take efforts to—
 - Ensure all public papers are in accessible formats.
 - Provide essential equipment for filing, storing, and referring to documents and evidence in accessible formats.
 - Provide essential facilities and technology for recording testimony, arguments, or opinions made by people with disabilities in their preferred language and mode of communication.

Legal capacity:

- The government must ensure that individuals with disabilities have the same rights as others to own or inherit property, manage their finances, and access financial credit, including bank loans and mortgages.
- The government must ensure that people with disabilities have equal legal competence and equal respect under the law, just like everyone else.
- If there is a conflict of interest between a person giving assistance and a person with a disability in a financial, property, or economic transaction, the supporting person must refrain from providing support to the person with the disability.



However, there will be no assumption of conflict of interest solely because the supporting person is connected to the person with disability by blood, affinity, or adoption.

- Person with a disability can modify or dismantle a support arrangement and seek support from another person. However, this must be done prospectively and will not affect any third-party transactions with the support arrangement.
- Supporters of individuals with disabilities must respect their autonomy, dignity, and privacy and avoid exerting excessive influence.

4. Specific measures to promote and facilitate inclusive education:

For the purposes of section 16, the relevant government and local authorities must take the following actions:

- Survey school-age children every five years to identify children with disabilities, determine their special needs, and assess the degree to which those needs are being met; provided that the first survey must be completed within two years of the Act's enactment;
- Establish a sufficient number of teacher training institutions;
- Train and employ teachers with disabilities, including those trained in sign language and Braille, as well as those who teach children with intellectual disabilities.
- Train professionals and staff to support inclusive education at all levels of education.
- Establish sufficient resource centres to support educational institutions at all levels of school education.
- Encourage the use of alternative methods of communication, such as Braille and sign language, to meet the daily communication needs of individuals with speech, communication or language disabilities. This gives them the opportunity to participate in their community and society.
- Provide free books, learning materials and assistive gadgets to students with qualifying disabilities up to the age of 18 years.
- Offer scholarships to eligible students with qualifying disabilities.
- Modify the curriculum and examination system to accommodate students with disabilities, including providing extra time for exam completion, scribe or amanuensis services, and exemption from second and third language courses.
- Encourage research to improve learning outcomes.
- Take any additional measures necessary.

Adult education:

The competent government and local authorities must take measures to promote, protect, and ensure that people with disabilities have equal access to adult education and continuing education programs as others.

5. Duty of educational institutions:

The competent government and local authorities shall endeavour to ensure that all educational institutions sponsored or recognized by them provide inclusive education to children with disabilities, and to that end—

- Ensure equal access to education, sports, and recreation activities for all individuals.
- Make buildings, campuses, and facilities accessible.
- Make reasonable accommodations for each individual's needs. 4) Provide individualized support in surroundings that promote academic and social growth and align with the objective of full inclusion.
- Ensure blind and deaf individuals receive education in appropriate languages and modalities of communication.
- Identify and address specific learning disabilities in children as soon as possible.
- Monitor participation, progress, and completion of education for all students with disabilities.
- Provide transportation for children with disabilities and their caregivers who require additional support.

Persons with benchmark disabilities and those with high support requirements have received additional privileges such as reservation in higher education (not less than 5%), government positions (not less than 4%), land reservation, poverty alleviation schemes (5% allotment).



Employment:

Section 34 (1) of the Act gives 4% reserve to people with baseline disabilities—one percent for each group, namely:

- Blindness and low vision.
- Deaf and hard of hearing;
- Locomotor disabilities such as cerebral palsy, leprosy cured dwarfism, acid attack victims, and muscular dystrophy.
- Autism, intellectual disability, learning disability, mental disease, and multiple disabilities.

6. CONCLUSION:

The Rights of Persons with Disabilities Act of 2016 is a piece of law that has shown to be beneficial to people with disabilities. This Act addresses concerns related to the rights of people with disabilities. It also requires the government to do its obligations diligently and to develop initiatives and programmes for the benefit of the society. In the event of a difficulty in implementing the RPWD Act, the Central Government has been given the authority to issue directives or establish provisions in accordance with the Act or compatible with the Act that are required to resolve the challenges.

REFERENCES:

1. Handbook on Rights of Persons with Disabilities Act 2016.
2. The Rights of Persons with Disability Act; 2016. Available from: <http://www.disabilityaffairs.gov.in/upload/uploadfiles/files/RPWD%20ACT%202016.pdf>. [Last accessed on 2018 Dec 28]
3. The Rights of Persons with Disability Act; 2016. Available from: <http://www.disabilityaffairs.gov.in/upload/uploadfiles/files/RPWD%20ACT%202016.pdf>
4. Guidelines for Assessment of Disabilities under RPWD Act. 2016 Notified; 2018. Available from: <http://www.egazette.nic.in/WriteReadData/2018/181788.pdf>.
5. Rao GP, Ramya VS, Bada MS. The rights of persons with disability bill, 2014: How “enabling” is it for persons with mental illness? *Indian J Psychiatry* 2016; 58:121-8.8