

Social Jurist vs. Union of India and others

C.W. 1342/2003 (Delhi H. C.)

The Issue

There has been a failure on the part of the government to prepare a comprehensive education scheme in terms of Section 30 of Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995.

Section 30 of the PWD Act of 1995

Without prejudice to the foregoing provisions, the appropriate Governments shall by notification prepare a comprehensive education scheme, which shall make provision for:

- transport facilities to the children with disabilities or in the alternative financial incentives to parents or guardians to enable their children with disabilities to attend schools;
- the removal of architectural barriers from schools, colleges or other institutions imparting vocational and professional training;
- the supply of books, uniforms and other materials to children with disabilities attending school;
- the grant of scholarship to students with disabilities;
- setting up of appropriate fora for the redressal of grievances of parents regarding the placement of their children with disabilities;
- suitable modification in the examination system to eliminate purely mathematical questions for the benefit of blind students and students with low vision;
- restructuring of curriculum for the benefit of children with disabilities;
- restructuring the curriculum for benefit of students with hearing impairment to facilitate them to take only one language as part of their curriculum.

The Facts

Despite the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 coming into force wef 07.02.1996, yet the Central Government as well as Government of Delhi have not been able to prepare a comprehensive scheme that addresses each of the provisions mention under section 30 of the Act.

This case also highlights that the centrally sponsored scheme of IEDC (1976-77) along with the privileges it offers have not yet been brought in conformity with the provisions of Section 30 of PWD Act, 1995.

The Figures

According to a WHO Report, one of every 10 persons has a disability and the maximum number of such persons is in India. Delhi, with a population of about 15 million, has a population of 1 million disabled people, of which about two hundred thousand are children in the age group 6 to 18 years. It is with the latter population that the present case is concerned.

Education statistics

According to Ministry of Human Resource Development, less than 1.8% of children with disabilities are in the school. As on 31.03.2002:

- the Government of Delhi manages 1011 schools with a strength of 8,75,122 students;
- the MCD manages about 1854 primary and 33 nursery schools where in more than 9,34,000 children study.
- there are 217 Government aided schools with a strength of 1,55,000 students.

The average number of children with disabilities in each school is about two, meaning thereby, that around 5,000 children with disabilities are receiving education in these Government and M.C.D. run schools. Add another 1,000 studying in private institution and the total figure comes to 6,000 out of 2,00,000 children. This scenario is because the schools are not accessible for education.

Sanctioned benefits

The 26 year-old centrally sponsored Integrated Education for Disabled Children Scheme (IEDC Scheme), which was introduced through Educational and Vocational guidance Bureau in year 1976-77 in the selected secondary schools of Delhi Government with the objective to children with Orthopedically impairment, Blind and visual impairment, Hearing impairment, Mentally retarded (educable) and Cerebral Palsy:

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- To provide educational opportunities for disabled children in common schools to facilitate their retention in the school system;
- To integrate the disabled children with the general community at all levels as equal partners; and
- To prepare them for normal growth and to face life with courage and confidence.
- The children under consideration are with:

The benefits extended to them are:

- Books and Stationery allowance of Rs.400/- per child per annum
- Uniform allowance of Rs.200/- per child per annum.

- Transport allowance of Rs.50/- per month per child for a maximum period of 10 months in one academic session.
- Escort allowance for severally orthopaedically handicapped with lower extremity @ Rs.75/- per month for maximum period of 10 months in one academic session.
- Actual cost of equipment subject to a maximum of Rs.2000/- per child for a period of five years.
- Reader allowance of Rs.50/- per month in case of blind children after class Vth.

Of the 1011 schools run by Government of Delhi only 141 schools are covered by the said IEDC Scheme, while children with disabilities studying in MCD run primary and nursery schools are not even covered by this scheme and hence do not avail of their rightful benefits.

Expenditure incurred

During the year 1995-96, 1996-97 and 1997-98 out of total admissible grant of Rs.16, 24,850 to the Government of Delhi under centrally sponsored scheme of Intergraded Education for Disabled children, only Rs.6,52,325/- was spent, Rs.9,52,325/- remained unspent. The sanction of the President was accorded to carry forward of the said unspent amount of Rs.9,52,325/- for utilization during 1997-98 (on approved items of expenditure vide Ministry of Human Resource Development letter dated 28.03.1998). This grant has not been utilized.

The Grievance

The grievance of petitioner is that firstly, the Delhi government has not till date by notification prepared a comprehensive educational scheme for the benefit of all disabled children studying in the various schools in Delhi including schools run and aided by Government of Delhi and M.C.D. as required under Section 30 of P.D. Act, 95.

Secondly, the centrally sponsored scheme of IEDC (1976-77) is not in conformity with the provisions of Section 30 of P.D. Act, 95 as the scheme has never been notified as per the provision of Section 30 of P.D.Act,95 and also that the scheme has not dealt with all kinds of benefits contemplated in Section 30 of P.D. Act.

Thirdly, the IEDC Scheme (1976-77) is obsolete and unworkable as the rate at which benefits have been prescribed are totally inadequate and are totally incomprehensive, as for example, Rs.50/- per month per child as transport allowance and Rs.200/- per child per annum as uniform allowance is totally inadequate and defeats the object underlying in the scheme.

Fourthly, the scheme is arbitrary and discriminatory as it covers children with disabilities in only 141 schools run by Government of Delhi and does not cover thousands of other children with disabilities studying in other 870 schools run by Government of Delhi, 1887 schools run by M.C.D., Government and MCD aided schools and also other schools of Delhi,

Fifthly, the grant given by Human Resource Development Ministry to Government of Delhi remained unutilized and unspent.

Sixthly, the benefits whatsoever provided in the IEDC scheme are denied to the children with disabilities studying in Government run schools who are in dire need of the same.

The Present situation

The High Court has directed the governments to file their response to the PIL. The matter is pending for decision.