

## **THE INSTITUTION OF CHIEF COMMISSIONER, DISABILITIES: AN OVERVIEW**

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The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act was enacted by the Parliament on 31<sup>st</sup> December, 1995 and received the assent of the President of India on 1<sup>st</sup> January, 1996. It was notified by the Government on 7<sup>th</sup> February, 1996.

The Act has been a landmark step to make people with disabilities an integral part of the Indian main stream. The Act guarantees full equality, independence and accessibility to all people with disabilities. Therefore, persons with disability in India see this as a dawn of a new era in their lives. The Act enlists the rights and facilities that a person with disabilities would be entitled to and the responsibilities and obligations which are placed on the Government of India, State Governments, local bodies, NGO's and citizens at large. It focuses on issues which are fundamental to the cause of the disabled. The Act is an embodiment of good intentions of a welfare state but one of the weaknesses many of the legislations has been that the enforcement of their provisions has been left to the courts of law without specifying summary procedures to be followed in the event of proceedings under the respective legislations. This makes it difficult for persons with disabilities who usually have limited resources and legal knowledge to participate in complicated, lengthy and expensive legal process. The Indian law envisages appointment of Chief Commissioner for persons with disabilities to act as a watchdog on the rights of the disabled people. He has the powers of a Civil Court. A simple application by an aggrieved person with disability will set the law in motion and the Commissioner has the power to investigate it and take necessary steps to safeguard the rights. He has the power to monitor the utilisation of funds disbursed by the central government. He is required to submit reports to the central government on the implementation of the Act. The report has to be laid before the Parliament, which is the highest law making body. At the state level also similar provisions have been made.

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### **The Functions of Chief Commissioner, Disabilities**

In Section 58, the following functions of the Chief Commissioner have been specified, "The Chief Commissioner shall :

- (a) Coordinate the work of the Commissioners;
- (b) Monitor the utilisation of funds disbursed by the Central Government;
- (c) Take steps to safeguard the rights and facilities made available to persons with disabilities;
- (d) Submit reports to the Central Government on the implementation of the Act at such intervals as that Government may prescribe."

Further, in Section 59, the functions of Chief Commissioner, Disabilities are elaborated as " Without prejudice to the provisions of section 58 the Chief Commissioner may on his own motion or on the application of any aggrieved person or otherwise look into complaints with respect to matters relating to:

- (a) deprivation of rights of persons with Disabilities.
- (b) Non-implementation of laws, rules, bye-laws, regulations, executive order, guidelines or instructions made or issued by the appropriate Governments and the local authorities for the welfare and protection of rights of persons with disabilities and take up the matter with the appropriate authorities."

### **Powers of Chief Commissioner, and Commissioner, Disabilities**

Section 59 of the Act confers on the chief Commissioner the following powers:

Without prejudice to the provisions of section 58 the Chief Commissioner may of his own motion or on the application of any aggrieved person or otherwise look into complaints with respect to matters relating to—

- (a) deprivation of rights of persons with Disabilities
- (b) non-implementation of laws, rules, bye-law, regulaitons, executive orders, guidelines or instructions made or issued by the appropriate Government and the local authorities for the welfare and protection of rights of persons with disabilities.

and take up the matter with the appropriate authorities.

For discharging the functions provided under the Act, the Chief Commissioner, Commissioners and Disabilities have been conferred

powers under Section 63 of the Disabilities Act, 1995.

“The Chief Commissioner and the Commissioner shall, for the purpose of discharging their functions under this Act, have the same powers as are vested in a Court under the Code of Civil Procedure, 1908, while trying a suit, in respect of the following matters, namely :

- (a) summoning and enforcing the attendance of witnesses;
- (b) requiring the discovery and production of any documents;
- (c) requisitioning any public record or copy thereof from any court or office;
- (d) receiving evidence on affidavits; and
- (e) issuing commission for the examination of witness or documents.

Every proceeding before the Chief Commissioner and Commissioners shall be judicial proceeding with the meaning directions 193 and 228 of the Indian Penal Code and the Chief Commissioner, the Commissioner, the competent authority, shall be deemed to be a civil court for the purpose of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

Interpretation and clarifications were offered by the Chief Commissioner, Disabilities to remedy the problem. Yet, there are educational institutions which have not complied with the statutory provisions.

Among others, a few cases of harassment were reported and taken up. At the intervention of Chief Commissioner, Disabilities, remedial measures were extended by the appropriate authorities. It appears that cases reported on account of harassment are not being reported fully. Perhaps the swift and expeditious disposal of such cases would help build trust of the aggrieved disabled persons in the institution of Chief Commissioner, Disabilities which in turn would encourage reporting of cases of harassment ranging from physical, financial to emotional abuse.