

## **PROBLEM AREAS IN THE NORMATIVE REGIME WITH SPECIAL REFERENCE TO RESERVATIONS FOR THE PERSONS WITH DISABILITIES**

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The family solidarity, which at one time served as a citadel for under privileged and disabled steadily slackened as the result of industrialisation, urbanisation and globalisation of our economy. Voluntary services and mutual aid systems, though useful, find it increasingly difficult to cope-up with the present day scenario. A glimpse of which can be had through the following statistics.

On a conservative estimate, there are some 60 million people in the world who are visually handicapped, around 70 million are deaf or hard in hearing, some 40 to 50 million are intellectually challenged to such an extent that they need assistance even for routine activities of daily life. About 50 million are severally disabled throughout their life by severe mental illness. Besides these, there are other major orthopaedic afflictions of poliomyelitis and victims of severe malnutrition. It would be no exaggeration to say that as many as 10% of the population of the world fall in the category of disabled due to one reason or the other.

Though there has not been any sincere efforts to find out the number of persons with disabilities in India but the surveys and reports of WHO suggest that persons with disability constitute between 6% to 10% population of the country. To cope up with this alarming growth, state has to take appropriate measure to curb such a high incidence of disability in the community. Experience has, however, shown that through rehabilitation services, the persons with disabilities can become self supporting and self respecting citizens with their rightful place in society. It would not only fulfill for their common need but would make a useful contribution to the community. The term rehabilitation connotes a positive and constructive approach to the problems of handicapped persons because the stress is placed on their abilities and capacities rather than disabilities.

The changing attitudes towards the disabled, coupled with their own aspirations to secure rightful place in the society necessitate continuous re-thinking. The disabled are a part of the general population entitled to the same rights and privileges. Like others they have the same duties and responsibilities. In a way nobody is without disability of one kind or

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other, but it is only when such disability constitutes a real handicapped to present or subsequent employment, that problems arrives. Specially when wanton sense of prejudices and discriminations creeps in with regard to their employment. The subject of the employment of persons with disabilities when viewed in the real context is not limited to mere pursuit of gainful occupation but a fundamental question of human rights of social justice and economic independence.

In this broad spectrum, the state has a very important role to play through its legislations, policies and rules. Especially in a developing country like ours where common life is beset with severe constraints of scarcity, poverty, illiteracy and superstitions, government has to assume more positive and assertive role so as to indicate a direction and to set a pattern.

The employment of the persons with disabilities in its true perspective in a vocational rehabilitation with all its ramifications needs coordination of various agencies, departments and a teamwork of the professionals. It is understandable that there cannot be a blue print for vocational rehabilitation which would be applicable to all the societies. The ILO recommendation No. 99 aptly states that 'Vocational Rehabilitation Services' should be adapted to the particular needs and circumstances of each country and should be developed progressively in the light of these needs and circumstances. Of course, a lot would depend on the level of social and economic development reached by a particular country effecting the incidence of disability in general and specified disability groups. It depends on the state of local knowledge, stage and pattern of rural and industrial development, level of general unemployment and under employment, financial, administrative, technical and personal resources available to the country. These factors govern the entire gamut of scope and objective of a vocational rehabilitation programme and it is for the government primarily to determine how it should be planned and organised. Therefore, a realistic national policy supported by a viable programme is necessary precursor to any legislation.

Our country after its independence and in the earliest stage of planning undertook an exercise to define not only the meaning of Vocational Rehabilitation but also the categories of disabilities covered by its scope. The first major decision of the Government of India regarding mainstreaming the disabled in the society in the field of employment dates back to 1956, when an office Memorandum was issued by the department of Personnel & Training granting exemption from typing work to the employees having disability in the upper limbs.<sup>1</sup>

In 1959 the scheme of establishing Special Employment Exchanges

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1. These orders were further reinforced vide O.M. No. 15/8FA-Estt. Dated 23.12.1961.

for physically handicapped was launched. Today there are over 50 such exchanges for the Persons with Disabilities and almost an equal number of Employment cells in general Employment Exchanges. The endeavour was supplemented by establishing Vocational Rehabilitation Centres for Handicapped under Directorate General of Employment and Training (DGE&T), Ministry of Labour in 1968. Today there are 17 such Centres covering 16 states of the country. Soon each state and Union Territory will have atleast one such Centre. These centres provide vocational training, self-employment, home bound employment and jobs in the organised sectors based on the residual capabilities of the persons with disabilities.

During the decades of 60 and 70 of the twentieth century, the groups of disabled individuals, NGOs in the field of disability and social activities started mounting pressure on the central government to reserve a certain percentage of vacancies for disabled persons in all government offices and public sector establishments. These efforts culminated in the promulgation of executive orders for 3 major physical disability categories.<sup>2</sup> An age relaxation of 10 years was also granted to this group.<sup>3</sup> In subsequent orders the further relaxation of 5 years for the disabled SC/ST candidates and 3 years to the OBC disabled candidates was granted.

A reservation of 3% in the Apprenticeship Training Programme has also been provided by the D.G.E. & T.<sup>4</sup> On 29<sup>th</sup> May, 1989 erstwhile Ministry of Social Welfare issued orders that all the Ministries and Departments will convert atleast one Group 'D' post into the post of Chair Racer and will fill this post from amongst the visually handicapped persons exclusively. These instructions were circulated to all the departments for compliance.<sup>5</sup>

Soon it was felt that most of the employers were reluctant in employing the disabled even after reservation orders D.O.P.T. and the D.G.E. & T. It therefore issued strict instructions separately to reiterate that disabled persons can be rejected by the employers on flimsy grounds.<sup>6</sup>

Carry forward of vacancies for the period of recruitment. Years and *inter alia* change of vacancies in the 3 groups of disabled has also been enshrined in the D.O.P.T. orders<sup>7</sup> but all these orders and provisions did not yield the desired results and fell below the need and expectations of the Persons with Disabilities Act as a result the Persons with Disabilities

2. vide O.M. No. 39016/F/77-ESTT.(C ) dated 4.11.1977.

3. vide D.O.P.T. O.M. No. 15012/5/77-Estt. (D) dated 28.01.78

4. vide their letter No. DGET.46(24)/18-AP dated 12.03.1981

5. vide letter No. 3-8/88/HW.3.

6. vide letter No. DGET./46/8/89-Estt. (SCT) dated 20.11.1989.

7. O.M. No. 36035/4/84-Estt(SCT) dated 1.9.84

Act was enacted in 1995 which under Chapter VI describes in details the provisions of employment for persons with disabilities, reservation in some identified post in group 'A' & 'B' has also been made. But these order are yet to make an impact.

With the rising expectations of common man of a welfare state, the field of operations of legislations is ever increasing. Supported by a community will, a thoughtful legislation carefully structured, properly interpreted and committedly administered can certainly serve as one of the veritable national strategies for development and mobilisation of human resources holding the promise and message of hope for future.