

**RPwD ACT, 2016 AND SCHOOL EDUCATION: CONCERNS AND CHALLENGES****Dr. Sandeep Kumar\* & Prof. Sushil Kumar**

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**ABSTRACT**

*Rights of Persons with Disabilities (RPWD) Act, 2016 is enacted to operationalize human rights enshrined in United Nation Convention on Rights of Persons with Disabilities (UNCRPD), ratified by India in 2007. This act is more comprehensive than the Persons with Disability (PWD) Act, 1995. The number of disabilities increased from seven to twenty-one in this act along with a number of new provisions and institutional arrangements, therefore, it presents many challenges before school education. This paper includes specific provisions with their implications with reference to teachers, special teachers, and school administration. It also covers the concerns and challenges emerging from the act.*

**Key words:** Persons with Disability Act, Rights of Persons with Disabilities Act, UNCRPD.

**INTRODUCTION**

Rights of persons with disabilities (RPWD) Bill was passed by Rajya Sabha on 14th December 2016 and it came into force as RPWD Act, 2016 on 19th April 2017. It replaced Persons with Disabilities (PWD) Act, 1995. PWD Act, 1995 was based on the medical perspective of disability which considers disability as a consequence of impairment. Nowadays disability is viewed as an interaction between impairment, and attitudinal and environmental barriers. Therefore, disability now considered a social phenomenon. In order to ensure all the rights of persons with disabilities United Nations convened a convention on Rights of Persons with Disabilities (UNCRPD) in 2006. UNCRPD contains fifty articles covering different aspects of disabilities. It was ratified by 160 member states including India in the year 2007. UNCRPD is based on eight principles mentioned in the article -3 as under:

1. respect for inherent dignity, individual autonomy including the freedom to make one's own choices, and independence of persons;
2. non-discrimination;
3. full and effective participation and inclusion in society;
4. respect for difference and acceptance of persons with disabilities as part of human diversity and humanity
5. equality of opportunity;
6. accessibility;
7. equality between men and women;
8. respect for the evolving capacities of children with disabilities and respect for the right of children with disabilities to preserve their identities

It sets high standards to recognize and protect rights of persons with disabilities. Different stakeholders in disability sectors felt that provisions in PWD Act 1995 were inadequate to accommodate the promises made in UNCRPD. Therefore, they appealed for a more comprehensive act to meet the emerging aspirations of persons with disabilities and standards set by UNCRPD. Consequently, the draft of the new act was prepared in 2011 which recognized the same principles enshrined in UNCRPD, 2006. After a long waiting period of five years, finally, Rajya Sabha approved it on 14th December 2016 and subsequently by Lok Sabha on 16th December 2016. The Bill was further approved and signed by the Hon'ble President before the year-end and 'notified' by the Government in its official Gazette on 28th December 2016. Thus, RPWD Bill 2016 was 'enacted' and became a 'LAW', the Rights of Persons with Disabilities (RPWD) Act, 2016. As mentioned earlier it came into force on 19th April 2017. The act consists of seventeen chapters which contain 102 sections.

As the number of disabilities increased from seven to twenty-one in this act with some new provisions and institutional arrangements, therefore, the roles and responsibilities of regular classroom teachers, special teachers and administrators need to be reviewed to implement the RPWD Act, 2016. RPwD Act, 2016 put forth new challenges before school education. Regular classroom teachers and special teachers need to be equipped with more comprehensive knowledge and skills required to cater special educational needs of students with a wider spectrum of disability. Consequently, the curricula of Pre-service and in-service teacher training programmes need revision to accommodate the demands arising due to new provisions in RPwD Act, 2016.

## SPECIFIC PROVISIONS AND THEIR IMPLICATIONS

A number of provisions made in RPwD Act, 2016 for children with disabilities which need attention of regular classroom teachers, special teacher and other professionals engaged in education of such children.

- Section 3 of the act directs competent authority to ensure that persons with disabilities enjoy the right to equality, life with dignity and respect for his or her integrity equally with others. The provision is essentially applicable to school administration with reference to children with disabilities.
- Section 4(2) provides that competent Government and local authorities shall ensure that all children with disabilities shall have right on an equal basis to freely express their views on all matters affecting them and provide them appropriate support keeping in view their age and disability. It means that school administration is not only expected to include students with disabilities in the process of decision making affecting them such as decisions regarding their sitting arrangements, designing and implementation of Individualized Educational Programmes etc.
- There is a possibility of abuse, violence and exploitation of children with disabilities in special and inclusive school settings. Section 7(1) provides legal remedies available against such incidents.
- Chapter-III of the act is devoted to educational provisions for children with disabilities. Section 16 of the chapter provides that all the recognized educational institutions including private schools provide inclusive education to the children with disabilities. In order to meet this objective, the institution should:
  - a) Admit them without discrimination;
  - b) Provide facilities for sports and recreation;
  - c) make building, campus and various facilities accessible;
  - d) provide support services to optimize their social and academic development;
  - e) ensure most appropriate languages, modes, and means of communication for the blind, deaf and deaf-blind individuals;
  - f) early identification and intervention for children with specific learning disabilities;
  - g) monitor participation, progress and attainment levels of children with disabilities;
  - h) provide transportation facilities to the children with disabilities and also the attendant of the children with disabilities having high support needs.

It has already been seen that private schools resist in implementing RTE Act 2009 with reference to the admission of children of weaker sections in their schools, similarly, they may not show a positive attitude towards the inclusion of children with disabilities in private schools for various reasons.

- Section 17 prescribes the following measures to implement Section 16 of the act:
  - a) To conduct a survey of school going children in every five years to identify children with disabilities;
  - b) to establish an adequate number of teacher training institutions;
  - c) to train professionals and staff to support inclusive education;
  - d) to establish an adequate number of resource centres to support inclusive education;
  - e) to provide books, other learning materials and appropriate assistive devices to students with benchmark disabilities free of cost up to the age of eighteen years;
  - f) to provide scholarships to students with benchmark disability; and
  - g) to make suitable modifications in the curriculum and examination system;
  - h) Due to financial constraints, many states may find it difficult to implement the provisions made in section 16 and 17 regarding inclusive education.
- The provisions made in section 19 of chapter-iv of the act relate to the skill development and employment of persons with disabilities. The knowledge of these provisions is important for rehabilitation workers and special teachers engaged in vocational training and guidance & counselling of students with disabilities. It provides:
  - a. the inclusion of persons with disabilities in all mainstream formal and non-formal vocational and skill training schemes and programmes;
  - b. to ensure that a person with the disability has adequate support and facilities to avail specific training;
  - c. exclusive skill training programmes for persons with disabilities with active links with the market;
  - d. loans at concessional rates including that of microcredit; and
  - e. marketing the products made by persons with disabilities.

- Section 24 (3) provides social security to orphans, homeless and abandoned children with disabilities, enabling them to live their life with dignity.
- Section 27 of the act directs competent authority to provide rehabilitation services and facilities to persons with disabilities in the areas of health, education and employment.
- To ensure effective participation in sporting activities of the persons with disabilities Section 30 of the act directs competent authorities to take following measures:
  - 1) restructure courses and programmes to ensure access, inclusion and participation of persons with disabilities in all sporting activities;
  - 2) redesign and support infrastructure facilities of all sporting activities for persons with disabilities;
  - 3) develop technology to enhance potential, talent, capacity and ability in sporting activities of all persons with disabilities;
  - 4) provide multi-sensory essentials and features in all sporting activities to ensure effective participation of all persons with disabilities;
  - 5) allocate funds for development of state of art sports facilities for training of persons with disabilities;
  - 6) promote and organise disability-specific sporting events for persons with disabilities and also facilitate awards to the winners and other participants of such sporting events.
- According to Section 31 of the act, every child with benchmark disability between the age of six to eighteen years shall have the right and access to free education in a neighbourhood school, or in a special school, of his choice in an appropriate environment.
- Section 32 (1) provides five percent reservation to persons with benchmark disabilities in all the Government and Aided higher education institutions. They are also given a relaxation of five years in upper age limit for the purpose of admission in such institutions.
- Section 34 (1) provides four percent reservation in Government jobs to the persons with benchmark disabilities.

These provisions are extremely useful to empower persons with disability through education and employment.

- Section - 45(1) directs competent authority to make all public building including schools accessible within a period of not exceeding five years of notification of rules for such purpose. A large number of schools in different parts of the country even lack basic amenities; therefore, due to inadequate funds and other practical reasons, the states and local bodies may not find it possible to achieve the target within the stipulated time frame.
- In order to develop human resource for the purpose this act, Section 47 directs competent authority to induct disability as a component for all education courses for schools, colleges and University teachers and conduct training programmes for sports teachers with the focus on sports, games, adventure activities for the persons with disabilities. This provision will create awareness among professionals and thereby facilitate the acceptance and inclusion of persons with disabilities at different levels of education.
- The act has an inbuilt institutional arrangement to implement the provisions of the act. The teachers should be aware of all such arrangements to protect the rights of their students with disabilities.
  - The Act has a provision of Central Advisory Board (CAB) and the State Advisory Board (SAB) on disability to advise the central government and the state government respectively on policy formulation and other matters related to persons with disabilities.
  - The concerned ministers of the central government and the state government will chair these boards.
  - Chief Commissioner (CCPD) and state commissioners (SCPD) for persons with disabilities are also provided in the act to redress the grievance of persons with disabilities.
  - The CCPD and SCPD can take cognizance of cases of deprivation of rights suffered by persons with disabilities.
  - The Act also provides for District Level Committee to oversee implementation of the various provisions of the Act at the district level.
  - Section 84 directs the State Government to establish a Special Court at the district level for speedy trial of offences under this Act.
  - The Act includes chapter 16 which prescribes penal provisions for contravention of provisions of the Act, or of rules and regulations framed thereunder; and, also for fraudulently availing of benefit by any person under the Act etc.

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## CONCLUSION

The act is based on the assumption that disability is an integral part of human diversity; therefore the act is a powerful legal instrument to include PwD in socio-cultural, economic and political life of the community by removing physical and attitudinal barriers. It shows our resolve to serve the most un-served, unseen and marginalized section of the society.

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**God helps those who help themselves.**

**~ Benjamin Franklin**