

Disability Bulletin

Developments in Disability Law & Policy

Edition 6

Policy Developments

1) The Election Commission of India took Initiatives to Make the Elections Accessible and Inclusive for Persons with Disabilities; Implementation had its Challenges

In order to ensure fair democratic processes for persons with disabilities, the Election Commission of India (ECI) prioritized making the Elections 2024 accessible for persons with disabilities. These rights have been provided in Section 11 of the Rights of Persons with Disabilities Act of 2016, which states the following:

“Accessibility in voting - The Election Commission of India and the State Election Commissions shall ensure that all polling stations are accessible to persons with disabilities and all materials related to the electoral process are easily understandable by and accessible to them.”

- The ECI launched a detailed [“Training Module on Sensitization and Capacity Building of Field Level Officers on Accessibility Measures.”](#)
- The ECI notified [guidelines](#) to political parties on the use of appropriate and non-derogatory language towards persons with disabilities during the elections. These guidelines were meant particularly by members of political parties during their political campaigns and speeches.

How did Implementation of the Guidelines Fair?

Based on a [news report](#), implementation was ineffective.

- a) Few measures were taken to ensure the education of persons with disabilities before they cast their vote.
- b) There were no ramps to accommodate specialized three-wheeled vehicles, and ramps were not broad enough for regular wheelchairs.
- c) There were no special accommodations made for people with hearing and visual disabilities before and during the election processes.
- d) There were no provisions carved out to ensure that parties’ manifestos reached persons with disabilities effectively.
- e) Most people had no idea who they were voting for, what they were voting for, and how to vote.
- f) Only one singular party had a video of their manifesto in sign language.
- g) Due to a lack of data and counts on the number of persons with disabilities (since counts were still based on Census 2011, which is outdated and only accounts for seven types of disabilities), most of them were missing in political party outreach.

The [Politics and Disability Forum](#) recently released a report on their analysis of the total turn out of persons with disabilities during the elections. The research showed only 1% of persons with disabilities voters turn out, with most representation from male voters. Uttar Pradesh had the highest voter turn out. Tamil Nadu, Kerala, and West Bengal together contributed to 44% of persons with disabilities who voted from home. The report also highlights some of the accessibility concerns in the polling booths. Details of the insightful report can be found [here](#).

2) The Indian Railways have Earmarked Reservation Quotas for Persons with Disabilities by Assigning Special Seats in Different Trains

The Ministry of Railways on March 6, 2024 released a circular that approved reserved seats for persons with disabilities and their attendants in all mail and express trains irrespective of whether fare concessions are offered. Where concessions are offered the following seats/berths are reserved for persons with disabilities:

- a) Four berths in Sleeper class (two lower and two middle)
- b) Two berths in 3 AC (one lower and one middle)
- c) Two berths in 3E class (one lower and one middle)
- d) Four berths in the Specially Designed Second-Class Luggage cum Guard (SLRD) coach of Garib Rath Express trains on full fare. (two lower and two upper)
- e) Two seats in reserved Second Sitting (2S/air-conditioned Chair Car (CC) in those trains which have more than two coaches of these classes).

Other Mail and Express trains that include Rajdhani, Durgam, Vande Bharat, Humsafar, Gatimaan, and Special trains on special fare are to provide the following reservations irrespective of the provision of fare concession:

- a) Four berths in the Sleeper Class (two middle and 2 lower),
- b) 4 in the Three-tier AC (2 lower and 2 middle), Four berths in the Specially Designed Second-Class Luggage cum Guard (SLRD) coaches,
- c) Four seats in reserved second class sitting and
- d) AC chair car and four in Vande Bharat trains have been assigned.

The reservation quotas will be available online and at the booking counters to those who have [Unique Identity Cards](#) issued by the Railways. This is a separate card issued by the railways, where they do not take into consideration the State-issued disability cards or the centrally-issued UDID. Furthermore, for booking under concessional fares, the reservation will be available only after production of the concessional certificate issued in the [format](#) prescribed by the Railways at concessional booking counters. Media Release can be found [here](#).

3) Revisions in the Deendayal Divyangjan Rehabilitation Scheme (DDRS), 2023

The Deendayal Divyangjan Rehabilitation Scheme (DDRS) was [revised](#) on April 1, 2023 with the aim to provide better assistance to NGOs for program implementation for persons with disabilities. The objective of the scheme is to provide opportunities, social justice, empowerment and equity to persons with disabilities through creating and fostering an enabling environment, as well as ensuring the effective implementation of the RPWD, 2016. The objectives are said to be achieved through the the provision of financial assistance to organizations to provide rehabilitation facilities including early intervention, development of daily living, education, and training programs.

Eight model projects will be funded under the DDRS and are enlisted below:

- a) Cross Disability Pre-Schools and Early Intervention*
- b) Special School for the children with Hearing Disability*
- c) Special School for the children with Visual Disability (including Deaf blindness)*
- d) Special School for the children with other disabilities (ID/CP/ASD/Multiple Disabilities (such as deaf blindness/Muscular Dystrophy)*
- e) Rehabilitation of Leprosy Cured Persons*
- f) Half-Way Home for Psycho-Social Rehabilitation of Treated and Controlled individuals with Mental Illness*
- g) Preparatory/Remediation Centre for Children with Specific Learning Disabilities to continue Inclusive Education Project (Newly Introduced Model Project)

*provide options for Home-Based and Community-Based Rehabilitation Projects (additionally, for vision-related projects alone, the care will be extended to low-vision center projects)

Implementation requirements, including the project size, the infrastructure, and the beneficiary costs of the above projects, are detailed in the document. The policy stresses on improving the quality of services provided to persons with disabilities through provision of appropriate material and recruitment of qualified resources to create and enable environments for the learning and development of children with disabilities.

To avail grants and financial assistance under this scheme, organizations (non-profit making) must be at least 2 years in existence and registered under the PWD Act, 1995 or RPWD, 2016. The mandatory asks of the scheme for availing funds for an organization are as follows:

- a) the organization should have a managing body with its powers, duties, and responsibilities clearly defined and laid down in the Memorandum of Association.
- b) the organization should have resources, facilities, and experience for undertaking the program.
- c) the organization should not be run for profit to any individual or body of individual.

Applications are due every financial year and are an online only application. All applications must be submitted on the e-ANUDAAN portal. Details of the organizational requirements to be eligible and hold the financial grant of the DDRS grants-in-aid scheme are enlisted in the document. There is also an accountability and transparency clause that allows for the government officials to inspect and report on the utilization of the grants by the grantees to ensure effective implementation of the above projects.

Legal Developments

1) Supreme Court Launches Initiative for Public Input to Combat Stereotypes Against Persons with Disabilities in Legal Settings; Another Booklet on Attitudinal barriers and Usage of Disability Sensitive Language has been Launched

In December 2023, the Supreme Court (SC) called for a [public consultation](#) on developing a handbook to combat harmful stereotypes against persons with disabilities in the legal system. The call came after the success of the [handbook](#) to combat the usage of stereotypical language against women released by the Supreme Court in mid-2023.

For rights of the persons with disabilities to be realized and the RPWD Act to be effectively implemented, the SC felt the need to educate and sensitize court personnel/staff on the challenges faced by persons with disabilities in the access to justice space. The SC believed that only if courts forego these biases will courts be able to pass fair and just decisions. Stereotypes against people with disabilities undermine their capabilities, look at them differently and most importantly discredit their voices and testimonies. By breaking down these stereotypes, courts can ensure that their needs are understood and met. The ultimate aim is to ensure an inclusive judicial system for those with disabilities.

The SC invited commentaries on the following issues.

- a) Inclusive terminology appropriate for addressing persons with disabilities, their needs, and the issues that concern them;
- b) Inaccurate or harmful stereotypes concerning persons with disabilities leading to discrimination, distorted legal reasoning, or a denial of legal rights or benefits, and how such stereotypes may be combatted; and
- c) Leading legal materials and academic literature that may be relied upon in framing a Handbook on Combating Stereotypes concerning Persons with Disabilities.

In this light, organizations like Vidhi Center for Legal Policy has published a [commentary](#) to respond to the open call.

Additionally, the Politics and Disability Forum put out a report on Attitudinal Barriers and Usage of Disability Sensitive Language that was launched by the Department of Empowerment of Persons with Disabilities (DEPwD) at the Purple Fest earlier this year. The report can be accessed [here](#).

2) Supreme Court Directs Inclusive Digital KYC Guidelines for Acid Attack Victims and Those with Permanent Eye Damage

A petition was filed in the Supreme Court by nine acid-attack survivors to establish guidelines for the process of digital Know-Your-Customer (KYC) to be inclusive for acid-attack survivors and individuals with permanent eye damage. The petition was filed after individuals faced indignity and humiliation, and obstacles to access to basic financial (opening independent bank accounts) and telecommunication (getting SIM cards) services due to the inaccessible KYC processes. One of the petitioners could not complete the SIM process as it required her to blink to prove “liveness,” and was forced to get a SIM card under her spouse’s name.

The key issues raised in the PIL include:

- i. Inaccessibility of Digital KYC:** The current digital KYC process is not inclusive for acid attack survivors and others with similar disabilities, as it relies heavily on the ability to blink.
- ii. Need for Alternative Guidelines:** The petition calls for the formulation of alternative guidelines for conducting digital KYC processes that accommodate individuals with disabilities, ensuring they can exercise their rights equally.
- iii. Offline KYC Implementation:** The petition urges that offline KYC should be allowed when digital methods cannot be completed due to physical constraints.
- iv. Revising the ‘Liveness’ Criterion:** It seeks to expand the definition of ‘liveness’ in the KYC process to include alternative verification methods for those unable to meet the current criteria.

The following directives are sought out in the plea (as listed in the media article by India Today):

- a) The Central Government should devise fresh guidelines enabling alternative methods for digital KYC for acid attack survivors and similarly affected individuals.
- b) All entities conducting digital KYC processes must implement these guidelines effectively and formulate organizational policies to accommodate alternative methods.
- c) The Central Government should expand or clarify the interpretation of “live photograph” to encompass alternative criteria beyond eye blinking, such as facial movements or voice recognition.
- d) Reserve Bank of India (RBI) should amend or introduce alternatives for satisfying the “live photo” requirement.
- e) Government bodies like RBI, Securities and Exchange Board of India (SEBI), and Telecom Regulatory Authority of India (TRAI) should instruct regulated entities, including banks, financial institutions, and service providers, to establish account-based relationships or provide financial and telecommunication services using alternative KYC methods that do not necessitate eye blinking.
- f) RBI, SEBI, and TRAI should mandate organizations conducting KYC to adopt offline or physical procedures for survivors unable to blink for digital KYC.
- g) Sensitization programs should be conducted for entities conducting digital KYC to aid acid attack survivors and similarly affected individuals in accessing banking, telecommunication, and financial services.

Media release can be accessed [here](#).

The RBI has announced HaRBInger 2024 - a annual global hackathon for Innovation Transformations in the financial sector. This is the second time there has been focus on disability accessibility in fintech innovations. This year, the RBI invites technology solutions for disability-friendly and inclusive financial services. More details of the hackathon can be found in [this](#) media release.

3) Ensuring Fair Trials for Defendants with Hearing and Speech Disabilities: Supreme Court's Call for Guidelines

[Ramnarayan Manhar versus State of Chhatisgarh](#)

The case brought to light the lack of appropriate guidelines for fair trials for the Deaf Accused.

Facts of the case: The courts observed the absence of appropriate guidelines for conducting trials against accused/defendants with hearing and speech disabilities.

Ramnarayan Manhar, a person with hearing impairment, was accused of raping two minor girls (aged 7 and 8 years). The trial court and High Court found the perpetrator guilty of this crime. While the Supreme Court was in agreement with the judgment, they found that there are no appropriate guidelines to try those with hearing impairment but sound mind. Therefore, the SC has asked the respondent and state to appear on the next trial date scheduled on 26.07.2024 to determine the question of law on developing guidelines for trying those with hearing impairments.

4) Disability Humor or Disabling Humor: The SC Provides Guidelines for Portrayal of Disability in Mainstream Filmss

[Nipun Malhotra vs Sony Pictures Films India Pvt Ltd & Ors.](#)

After the petition filed by Nipun Malhotra on the insensitive portrayal of disability based on the film “Aankh Macholi” in mainstream cinema, the Supreme Court order guidelines to film makers on sensitive portrayal of disability in the future. The guidelines include the following:

- a) There must be more careful use of language in films as they contribute to the negative self-image and perpetuate discriminatory attitudes and practices in society;
- b) Language that individualizes the impairment and overlooks the disabling social barriers (e.g. terms such as “afflicted”, “suffering”, and “victim”) should be avoided or adequately flagged as contrary to the social model;
- c) Creators must check for accurate representation of a medical condition as much as possible;
- d) Visual media must reflect their lived experiences. Their portrayal must capture the multitudes of their lived realities, and should not be a uni-dimensional, ableist characterization;
- e) Visual media should strive to depict the diverse realities of persons with disabilities, showcasing not only their challenges but also their successes, talents, and contributions to society;
- f) They should neither be lampooned based on myths (such as, ‘blind people bump into objects in their path’) nor presented as ‘super cripples’ on the other extreme;
- g) Decision-making bodies must bear in mind the values of participation. The ‘nothing about us, without us’ principle is based on the promotion of participation of persons with disabilities and equalization of opportunities. It must be put to practice in constituting statutory committees and inviting expert opinions for assessing the overall message of films and their impact on dignity of individuals under the Cinematograph Act and Rules (1952);

- h) Collaboration with disability advocacy groups can provide invaluable insights and guidance on respectful and accurate portrayals, ensuring that content aligns with the lived experiences of persons with disabilities; and
- i) Training and sensitization programs should be implemented for individuals involved in creating visual media content, including writers, directors, producers, and actors.

Media release can be accessed [here](#).