

**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

D.B. Civil Writ Petition No. 1977 / 2011

Bhiyaram Meghwal

-----Petitioner

Versus

State & Ors.

-----Respondent

Connected With

D.B. Civil Writ Petition No. 14860 / 2015

For Petitioner(s) : Mr. Vinay Kothari

Mr. Kuldeep Vaishnav

For Respondent(s) : Mr. Rajesh Panwar, AAG assisted by

Mr. Shyam Paliwal

HON'BLE MR. JUSTICE GOVIND MATHUR

HON'BLE MR. JUSTICE VINIT KUMAR MATHUR

Order

01/11/2017

In the meeting to launch the Asian and Pacific Decade of Disabled Persons, 1993-2002, a proclamation was adopted on 05.12.1992 at Beijing (China) for full participation and equality of people with disability in the Asian and Pacific region. India being a signatory to the proclamation aforesaid considered it necessary to have an enactment for implementation of proclamation, accordingly, the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full participation) Act, 1995 was enacted. The Act aforesaid came into force on 01.01.1996.

As per provisions of the Act of 1995, the appropriate Government was supposed to take various initiatives to ensure full participation of the people with disabilities and further to ensure their equality with other members of Society.

Chapter V of the Act of 1995 pertains to Education and according to that appropriate Government as well as local authorities were supposed to provide children with disabilities free education and several other amenities. The appropriate Government and local authorities under the Act of 1995 were further supposed to have different schemes pertaining to effective and adequate formal as well as non-formal education and further to have assistive devices for teaching and other aids for the persons with disabilities.

The petitioner, a father of disabled child, as defined under the Act of 1995 preferred the instant petition for writ for the reliefs as follows:

- "a. Call for information, record, data of the Government to explain how the budget allocation to aforesaid purpose is being spent, and
- b. Direct State to maintain ratio of specially trained qualified teachers to disabled children in the ratio of 1:8, and
- c. Direct State to further train adequate number of such special teachers in order to meet the

requirements of law and to abide by the objects of the Act of 1995, and

- d. Direct for creation of separate department/ ministry in the State of Rajasthan, and
- e. Direct that advertisement of vacancies of such specially trained teachers be made with alongwith that of general teachers, and
- f. Direct State Government to make suitable further budget allocations to fully meet the objects and purpose of relevant legislations, and
- g. Any other appropriate writ, order or direction which the circumstances of the case may warrant be also passed in the favour of the petitioner; and
- h. The petitioner may be awarded the costs of this Writ Petition."

During pendency of the writ petition, this Court by different orders demanded several informations and also directed the State Government to have effective implementation of the provisions of the Act of 1995. It is brought to our notice that the Act of 1995 has now been repealed on introduction of the Rights of Persons with Disabilities Act, 2016. The Act aforesaid is enacted by the Parliament to give effect to the United Nations Convention of the Rights of Persons with Disabilities and for matters connected therewith or incidental thereto. This Act intends to execute the principles laid down under the United Nations Convention for empowerment of persons with disabilities and those are as follows:

"(a) respect for inherent dignity, individual autonomy

including the freedom to make one's own choices, and independence of persons;

(b) non-discrimination;

(c) full and effective participation and inclusion in society;

(d) respect for difference and acceptance of persons with disabilities as part of human diversity and humanity;

(e) equality of opportunity;

(f) accessibility;

(g) equality between men and women;

(h) respect for the evolving capacities of children with disabilities and respect for the right of children with disabilities to preserve their identities."

As per the Act aforesaid, the appropriate Government is required to have several initiatives to ensure all the principles laid down by the United Nations Convention to empower the persons with disabilities. Under this Act, the appropriate Government is required to provide high support, inclusive education, adequate knowledge of information and communication technology, school education to the persons to whom the Act applies. As per this Act, 'inclusive education' means a system of education wherein students with and without disability learn together and the system of teaching and learning suitably adopting to meet the learning of different types of students with disabilities.

The prime grievance of the petitioner in the instant matter is

that the State Government is not taking adequate steps to have a system of teaching and learning suitably to meet the needs of different types of students with disabilities. According to the petitioner, the Government as per the Act of 2016 and prior to that even under the Act of 1995 was supposed to appoint teachers with special training to teach the students with disabilities as defined under the Act of 1995 and also under the Act of 2016.

It is also brought to our notice that Chapter III of the Act of 2016 relates to Education and as per that several duties have been casted even upon educational institution in addition to the appropriate Government. This Chapter also directs to have specific measures to promote and facilitate inclusive education.

Chapter IV of 2016 pertains to Skill Development and Employment and for that appropriate Government is required to provide vocational training and further the opportunities for self-employment. The grievance of the petitioner is also relating to skill development and for having initiatives at the level of appropriate Government for self-employment.

On asking, learned Additional Advocate General submits that under the Act of 1995, State Level Committee was constituted in the year 1997 but he is not aware about appointment of any such Committee as required under Section 66 of the Act of 2016.

Be that as it may, looking to the seriousness of the matter we deem it appropriate to direct the State of Rajasthan i.e. the appropriate Government to acquaint the Court about all steps taken so far to implement the provisions of the Act of 2016, especially, in the field of education, skill development and for promotion of the avenues for self employment as well as employment in Government sector.

The court expects that before the next date of hearing the respondents shall fill up all the vacancies to satisfy the need of special teachers under Chapter III as well as Chapter IV of the Act of 2016. The respondents are also required to give details about availability of special teachers and the process of selection said to be initiated by the respondents to employ the special teachers.

The State Government shall also clarify as to why that is utilizing the services of special teachers in general schools though they are required to be posted in the institutions meant for the persons suffering from disabilities.

Put up on 02.01.2018.

(VINIT KUMAR MATHUR) J.

(GOVIND MATHUR) J.