

Disability versus Different Abilities

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The country is finally giving thought and space to persons with disability. Two decades after the People with Disabilities Act, 1995 was implemented, policies are finally getting in place. They aim at providing a conducive environment for persons with disability to reach their full potential and to participate fully and equally with others in the society

Amidst the rhapsody of the multifarious endeavors towards the Inclusion of Persons of Disability, India launched the 'Accessible India Campaign' this year, at Vigyan Bhawan – one of the most coveted locations of the capital. The singular and the starkest irony of it all was that, the launch venue itself was not accessible. What a paradox! But look at it differently; this itself gives an insight of the volume and the magnitude of the task in hand.

The list of such situations is endless. According to the United Nations, more than one billion people – 15 per cent of the world's population – live with some form of disability. India's 2011 Census Data revealed that there are 26 million people with disabilities in the country – which is more than the total population of Australia.

India is a fast developing economy, with a lot of favorable progression, which have happened and are still happening at a fast pace. Despite the advancement we are making, there are still some square pegs in round holes. In the face of it, is the challenge of ascertaining the disabled as a 'Person with Disability' (PwD). As if it was not enough that people in society, more often than not, are staring at a PwD because of his/her awkward physical appearance, in India one also needs a legal document, which states that he/

she is a PwD. One has to obtain it from a prescribed issuing authority.

Who is a Person with Disability?

In India, a board of medical professionals constituted by the government, upon examination, decides whether you are a person with disability or not. They also determine if your disability is 40 percent and above so that you can be issued a 'Disability Certificate' (DC). Further, such disabilities are only taken into account which are defined by law as disabilities. One gets entitled to the benefits that the State provides for people with disabilities only if he/she has this certificate. The process of obtaining it may be time consuming and not smooth but is designed so as to prevent any possible misuse. In the wake of the 21st century, where we speak of 'Digital India' and technology being the new buzz words around – the method of obtaining DC may undergo a welcome change.

The Journey of the 'Disability Certificate'

The first step is the application for issuance of a Disability Certificate. According to the 'Amended Rules for Persons with Disabilities' notification published in 2009 – A person with disability, desirous of getting a certificate in his/her favor, needs to submit an application in a prescribed form, (available on

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the website of Ministry of Social Justice and Empowerment) and the application shall be accompanied by - proof of residence, and two recent passport size photographs. Thereafter, the application shall be submitted to a medical authority competent to issue such a certificate in the district of the applicant's residence as appearing on the proof of residence submitted by him/her with the application, or the concerned medical authority in a government hospital where he/she may be undergoing or may have undergone treatment in connection with his/her disability; provided that, where a person with disability is a minor or suffering from intellectual disability or any other disability which renders him/her unfit or unable to make such an application himself/herself, the application on his/her behalf may be made by his/her legal guardian.

The second step is the Issuance of a Disability Certificate. On receipt of an application, the medical authority concerned, after satisfying himself/herself that the applicant was a person with disability as defined in the 'Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995' issues a certificate, as far as possible, within a week from the date of receipt of the application by the medical authority, but in any case, not later than one month from such date.

The medical authority, after due examination, gives a permanent disability certificate in cases where there are no chances of variation in the degree of disability over a period of time. He may also indicate a validity period in the certificate where, in his opinion, there is any chance of variation in the degree of disability over a period of time.

If an applicant is found ineligible for issuance of a disability certificate, the medical authority is obliged to explain to him/her the reasons for rejection of his/her application, and has to convey the reasons to him/her in writing.

In cases where an application has been rejected – the third step, a Review of the decision regarding the issuance of or refusal to issue a disability certificate comes into play. In such cases, any applicant for a Disability Certificate, who is aggrieved by the nature of a certificate issued to him/her, or by refusal to issue such a certificate in his/her favor, as the case may be, may represent against such a decision to the medical authority. The process of doing so has been laid down with an additional provision that, where a person with disability is a minor or suffering from Intellectual Disability or any other disability which renders him/her unfit

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or unable to make such an application himself/herself, the application on his/her behalf could be made by his/her legal guardian.

Who decides if I am a 'Person with Disability'?

The respective Medical Boards constituted at a state or district level are the certifying authority to issue a disability certificate. The board consists of a Chief Medical Officer/ Sub-divisional Medical Officer in the district and another expert in the specified field. Examples of these are: an ophthalmic surgeon in case of visual impairment, either an ENT surgeon or an audiologist in case of speech and hearing impairments, an orthopedic surgeon or a specialist in physical medicine and rehabilitation in case of physical disabilities and a psychiatrist or a clinical psychologist or a teacher in special education in case of mental disabilities.

Challenges

Every society must attempt to address the disabilities of its members in a way that respects the autonomy and human rights of a person with disability and allows him/her to pursue a satisfying quality of life. Each country too must address the disabilities of its residents according to its strengths or capacity. Indeed, conditions that are disabling in one society may not be so in another or may not be to the same degree because of cultural and local variables (e.g. physical disabilities in an urban setting may not be so restrictive due to resources as in a rural setting). Moreover, different societies may have different levels of resources available to help individuals compensate for or accommodate disability.²

Regarding the disability certificate, however, what is distinctive and largely avoidable, is the invasion of privacy subsequent to obtaining the DC. Currently, the disability certificate needs to be presented in government and private offices to receive a variety of concession certificates or benefits. The concession certificate, in turn, needs to be presented to a variety of non-health professionals in order to obtain benefits. The ticket clerk at any Indian railway station, for example, needs to be presented the concession certificate in order to obtain a discounted ticket or a monthly pass. Nature of disability of the person gets documented at each stage and may be viewed by people who are not bound by any regulation or code of ethics to keep the person's health information confidential. It could be of anguish for a person with disability.

Amongst the long list of obstacles, a few have been enlisted below:

- Impact on Health Privacy
- Subjective Diagnosis
- Ambiguity of the 40 per cent mark
- Long Drawn Process
- No Standardization

- Attitudinal Barriers
- Labeling
- Violation of rights of equal opportunity

Benefits

There are two sides to every coin. Both sides have value. While the 'Disability Certificate' syndrome may be disliked by a few, there are many who are thriving because of its existence. A DC is not just a document for a person with disability but a proof of his/her disability and an important tool for availing the benefits / facilities / rights that they are entitled to, from the Central as well as State Government under various appropriate enabling legislations.

- Special provisions in public and private sector
- Upto 75 per cent concession on railways
- Upto 50 per cent Air travel concessions


- Upto 5 per cent Conveyance allowance
- Income tax concession upto INR 40,000
- Economic assistance by public sector banks
- Financial assistance for people over 60
- Financial assistance for low-income families
- Family benefits for families in which the main breadwinner is deceased
- Financial assistance for leprosy patients
- Financial assistance for people living in Delhi
- Avail of Govt Schemes

In the wake of CHANGE

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was implemented, policies are finally getting in place. They aim at providing a conducive environment for persons with disability to reach their full potential and to participate fully and equally with others in the society. The fact that this article is being published in a magazine under the aegis of the Ministry of Information and Broadcasting is testimony itself to the change that has now been ignited. Numerous motivating narratives have proved time and again that 'Disability' is nothing but a state of mind. It is the stumbling blocks that are created by the 'non-disabled' community which causes the disability in a PwD, rather than his/her disability.

Endnotes

- 1 <http://www.socialjustice.nic.in/disabrules.php?format>
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