



16, January 2013

To

Thiru V. K. Jeyakodi IAS.,  
Principal Secretary/State Commissioner for Differently Abled  
Welfare of Differently Abled Persons  
Government of Tamilnadu

Dear Sir,

Sub: Views and Recommendations on the Right of Persons with Disabilities Bill, 2012

Nethrodaya is a social service organization dedicated to the welfare of the visually impaired community in Tamil Nadu, which is been recognized by Government of TamilNadu award for the "Best Institution 2012" in recognition of its outstanding services towards the differently abled persons. Our interventions are designed to elevate the standard of living of the visually challenged in all walks of life and to assist them with the latest technology and assistive devices to enable them to lead a trouble free life.

As desired by the State Commissioner for welfare of the differently abled, we have discussed in detail with stake holders, the various aspects of the Bill to safe guard the interests of persons with disabilities and submit herewith our views and recommendations for your kind perusal

Thanking you,

For Nethrodaya

C. Govindakrishnan

Founder

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DONATIONS ARE EXEMPTED FROM INCOME TAX UNDER SECTION 80G OF THE I.T. ACT, 1961



At the outset, I on behalf of Nethrodaya would like to express our gratitude for the opportunity given to look at the draft and comment. I felt humbled studying the well drawn out compilation addressing all aspects affecting the disabled lot. Being a member in State Planning commission , Government of Tamilnadu and as a stake holder of the disabled community I am privileged to put forth my recommendations under relevant sections in the format of a) as proposed in the draft bill ,b) our reasoning for revision and the revised version of the section which are given below

**1) Part II chapter 3 (Education) section 21**

As proposed in the draft bill

The bill details various measures to be taken by educational institutions funded and recognized by the Government to provide inclusive education to students with disabilities.

Our view and suggestion

These rules should apply to all educational institutions in the country as envisaged in the Right to Education Act, including minority institutions (This is in accordance with the spirit of the act as brought out in the initial sections)

**2) Part II chapter 3 Education, section 22(viii)**

As proposed in the draft bill

The state government and local authorities will take measures to provide to students with benchmark disabilities books, other learning material and appropriate assistive devices, free of cost, up to the age 18

Our suggestion

We suggest that the age criterion may be removed. The section may be modified as “provide to students with benchmark disabilities, books, other learning materials and appropriate assistive devices free of cost.

**3) Part II chapter 3 Education, Section 20(x) (facility of providing scribes/amanuensis)**

As proposed in the draft bill

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The State government and local bodies will take measures to make suitable modifications in examination system by providing scribes/amanuensis. There is no mention regarding the suitability and training of the scribes.

Our suggestion

We suggest that this may be revised as “Scribe/amanuensis adequately, suitably qualified and trained”

#### **4) Part II Chapter 4: Skill Development & Employment Section 24 (1) Vocational Training and Self-Employment**

As proposed in the draft bill

The appropriate government shall formulate schemes and programmes to facilitate and support employment of persons with disabilities especially for their vocational training and self-employment.

There is no mention about periodic review and upgrading of vocational schemes

Our suggestion

We may add the following provision in the section as “review of vocational schemes will be made every three years for upgrading / updating of training modules.”

#### **5) Part II Chapter 4: Skill Development & Employment Section 24 (2) Vocational Training and Self-Employment**

As proposed in the draft bill

Appropriate governments shall institute mechanisms for provision of loans at concessional rates to persons with disabilities for self-employment ventures and for marketing of their products”

There is no mention about giving concessions in the matter of providing bank loans without insisting on sureties.

Our suggestion

We may modify the section as under

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“The appropriate governments shall institute mechanisms for provision of interest-free loans upto Rs 10 lakhs and for loans above Rs 10 lakhs at concessional rates to persons with disabilities for self-employment ventures and for marketing of their products, duly setting aside surety

**6) Part II Chapter 4: Skill Development & Employment Section 25 Non Discrimination in Employment**

As proposed in the draft bill

There is no mention about providing latest modes and means of communication to employees with disability

Our suggestion

The following para may be added as section 25(5)

“Every Establishment shall provide Modes and means of communication for the individual, in tune with the most recent international standards”

**7) Part II Chapter 5: Social Security, Health, Rehabilitation & Recreation Section 29(2) (f) Social Security**

As proposed in the draft bill

“Provision of aids and appliances, medicine and diagnostic services and corrective surgery without cost to persons with disabilities subject to such income ceiling as may be notified”

Our suggestion

Since Government of Tamilnadu have totally removed income ceiling for the disabled community under all welfare schemes, the section may be revised as under:

“Provision of aids and appliances, medicine and diagnostic services and corrective surgery without cost to persons with disabilities and without any income ceiling”

**8) Part II Chapter 5: Social Security, Health, Rehabilitation & Recreation Section 29(2)(h) Social Security**

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As proposed in the draft bill

“Unemployment allowance to unemployed persons with disabilities registered with special employment exchange for more than two years and who could not be placed in any gainful occupation”

Our suggestion

Instead of two years, we suggest that the period may be reduced to one year and the provision may be modified as under

“Unemployment allowance to unemployed persons with disabilities registered with special employment exchange for more than one year and who could not be placed in any gainful occupation”

#### **9) Chapter 5: Social Security, Health, Rehabilitation & Recreation .Section 30(1) (b) Health**

As proposed in the draft bill

“Barrier-free access in all parts of the hospitals and other healthcare institutions and centers run or aided by them”

Our suggestion

We suggest that private hospitals may also be included for the purpose and the section may be revised as under.

“Barrier-free access in all Government, Government aided bodies and Government recognized private hospitals, healthcare institutions and other centers.

#### **10) Part II Chapter 5: Social Security, Health, Rehabilitation & Recreation section 35 (3) Participation in Sporting Activities**

We suggest that a new sub section (g) may be added to provide equal opportunities to employees with disabilities on par with normal employees as under

(g) Provide employment benefit similar to normal individuals in Govt. sector/undertakings to promote such sports.

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**11) Part II Chapter 6: Special Provisions for Persons with Benchmark Disabilities Section 38 (a)  
Identification of Posts which can be reserved for Persons with Benchmark Disabilities**

As proposed in the draft bill

“Identify posts in establishments under them which can be reserved for persons with benchmark disability as mentioned in section 39”

Our suggestion

It will be more beneficial to include private institutions also for identification of posts for persons with benchmark disability. The section may be revised as under;

“Identify posts in establishments under them as well as private institutions which can be reserved for persons with benchmark disability as mentioned in section 39”

**12) Part II Chapter 6: Special Provisions for Persons with Benchmark Disabilities Section 40(1)  
Incentive/disincentive to Employers in the Private Sector**

As proposed in the draft bill

“Appropriate governments shall, within a period of one year from the commencement of this Act, provide incentives to employers in the private sector to ensure that at least 5% of their work force is composed of persons with benchmark disabilities within a period of five years from the commencement of this Act.”

Our suggestion

We feel that governments should provide this incentive to the employers in private sector on a regular basis. The government should insist that the employer to comply with the recruitment policies of Government of India. Persons with disabilities shall not be employed as daily wager or contract labour. The section may therefore be modified as under;

“Appropriate governments shall, within a period of one year from the commencement of this Act, provide incentives and tax benefits to employers in the private sector who comply with the recruitment policies of appropriate Government to ensure that at least 5% of their work force is composed of persons with

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benchmark disabilities *on a regular basis not as as a daily wager or contract labour within a period of three years from the commencement of this Act*”

**13) Part II Chapter 6: Special Provisions for Persons with Benchmark Disabilities Section 42(a)  
Affirmative Action**

As proposed in the bill

“5% reservation in allotment of agricultural land and housing to persons with disabilities in all relevant schemes and development programmes, with appropriate priority to women with disabilities”

Our suggestion

We suggest that instead of 5 % reservation in allotment of agricultural land etc, it will be ideal to raise it to 7% as already provided by Government Tamilnadu. Accordingly the section may be revised as under.

“7% reservation in allotment of agricultural land and housing to persons with disabilities in all relevant schemes and development programmes, with appropriate priority to women with disabilities”

**14) Part II Chapter 6: Special Provisions for Persons with Benchmark Disabilities Section 42(c)  
Affirmative Action**

As proposed in the draft bill

“5% reservation in allotment of land on concessional rate, where such land is to be used for the purpose of promoting housing, shelter, setting up of occupation, business, enterprise, recreation centers, production centers exclusively for persons with disabilities whether or not such facilities are owned and managed by persons with disabilities”

Our suggestion

The reservation percentage may be increased to 7 % for allotment of land for the purpose of promoting housing etc for persons with disability. The section may accordingly be revised as under;

“ 7% reservation in allotment of land on concessional rate, where such land is to be used for the purpose of promoting housing, shelter, educational establishments, setting up of occupation, business, enterprise, recreation centers, production centers, exclusively for persons with disabilities whether or not such facilities are owned and managed by persons with disabilities”

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**15) PART III: DUTIES AND RESPONSIBILITIES OF APPROPRIATE GOVTS., ETC. Chapter 1:  
Duties and Responsibilities, Section 55(2) Time Limit for Making Existing Infrastructure and  
Premises Accessible and Action Plan for that Purpose**

As proposed in the draft bill

“Appropriate Governments and Local Authorities shall formulate and publish an action plan based on prioritization, for providing accessibility in all their buildings and spaces providing essential services such as all Primary Health Centers, Civil/District hospitals, Primary schools/ secondary schools, railway stations”

Our suggestion

We feel that colleges, universities and bus stations may also be included for providing accessibility in buildings and spaces for the benefit of persons with disability .The section may be revised as under

“Appropriate Governments and Local Authorities shall formulate and publish an action plan based on prioritization, for providing accessibility in all their buildings and spaces providing services such as all Primary Health Centers, Civil/District hospitals, Primary schools/ secondary schools, *Colleges and Universities*, railway stations and bus stands.”

**16) PART III: DUTIES AND RESPONSIBILITIES OF APPROPRIATE GOVTS., ETC. Chapter 1:  
Duties and Responsibilities, 58. Disability Audit**

As proposed in the draft bill

“Appropriate governments shall undertake an audit of all general schemes and programs in order to ensure that they do not have an adverse impact upon persons with disabilities and meet the requirements and concerns of persons with disabilities”

Our suggestion

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In order to make it more objective, we feel that the audit team may include nominees to represent the interest of persons with disability. We suggest that the section may be modified as under;

“Appropriate governments shall undertake an audit of all general schemes and programs in order to ensure that they do not have an adverse impact upon persons with disabilities and meet the requirements and concerns of persons with disabilities, *associating such persons with suitable nominations of persons with disabilities*”

**17) PART III: DUTIES AND RESPONSIBILITIES OF APPROPRIATE GOVTS., ETC. Chapter 2:  
Registration of Institutions for PwDs, and Grants to such Institutions, Section 65 Financial  
Assistance to Registered Institutions**

As proposed in the draft bill

“Appropriate governments shall grant financial assistance to registered institutions to provide services and to implement the schemes and programmes in pursuance of the provisions of this Act”

Our suggestion

As per the current norms, the institutions must have completed 3 years after registration to be eligible to apply for grant. We feel that the institutions headed by persons with disability may be exempt from this norm of 3 years. The section may be revised as under;

“Appropriate governments shall grant financial assistance to registered institutions which are run by persons with disabilities to provide services and to implement the schemes and programmes in pursuance of the provisions of this Act. *Such grant shall be given to Institutions headed by persons with disability without insistence on norms regarding minimum number of years of completion after registration.*”

**18) PART III: DUTIES AND RESPONSIBILITIES OF APPROPRIATE GOVTS., ETC. Chapter 3:  
Certification of Specified Disabilities, Section 68 Procedure for Certification of Specified  
Disabilities**

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As speedy and efficient issue of certificate is essential for the welfare of persons with disability, we suggest that it is better to stipulate appointment of eminent private practitioners and to add this stipulation in the section separately as under

Our suggestion

“Eminent private registered practitioners should be included to ensure speedy and hassle free preparation of such certificates to the disabled persons”

### **19) PART VI: DISABILITY RIGHTS COURTS. Section 105 Special Disability Rights Courts**

As proposed in the draft bill

“For the purpose of speedy disposal of suits of a civil nature which may be filed by or on behalf of persons with disabilities regarding infringement of their rights as a person with disability, under this or any other law for the time being in force, and speedy trial of offences under this Act, the State Govt. may, with the concurrence of the Chief Justice of the High Court, by notification in the official gazette, specify for each sub-division, a court to be a Special Disability Court for the hearing and disposal of such suits and criminal cases”

Our suggestion

We may stipulate that these special courts may be made mobile in respect of rural areas for the benefit of persons with disability from rural areas. We may add the following stipulation in this section as under;

“For the purpose of speedy disposal of suits of a civil nature which may be filed by or on behalf of persons with disabilities regarding infringement of their rights as a person with disability, under this or any other law for the time being in force, and speedy trial of offences under this Act, the State Govt. may, with the concurrence of the Chief Justice of the High Court, by notification in the official gazette, specify for each sub-division, a court to be a Special Disability Court for the hearing and disposal of such suits and criminal cases.. For The benefit of the disabled persons in rural and outlying areas, such courts shall available as mobile courts.”

### **20) Recognising persons with disabilities as minorities**

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Article 29 (1) & (2) of the Constitution of India, speaks about protection of the interests of minorities. In common parlance the “Minority” means a group comprising less than half of the population and differing from others, especially the predominant section, in race, religion, traditions, and culture, language etc., Based on the above criteria for minority status ,persons with disability richly deserve to be classified as minority on par with linguistic, religious and caste minorities as persons with disability are socially educationally and economically weaker section of the society Population of persons with disability in India forms a negligible or small percentage of the total population in .We therefore appeal to you include persons with disability as minorities based on disability, this shall be included in the draft bill.

I hope these points will be kindly considered for inclusion.

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