

**December 3, 2016**

## **Press Release**

A delegation of representatives of disability rights organisations that held a meeting at Jantar Mantar today met the Union Minister for Social Justice & Empowerment, Shri Thawar Chand Gehlot and submitted the following memorandum, highlighting certain concerns that are yet to be addressed or have not been addressed properly by the official amendments proposed to be moved on the Rights of Persons with Disabilities Bill, 2014.

The Minister assured to look into the specific suggestions that had been made.

Those who went to meet the minister are Shri S K Rungta, Secretary of the National Federation of the Blind, Shri Kanti Ganguly, General Secretary of the National Platform for the Rights of the Disabled and Ms. Seema Baquer from The Leprosy Mission Trust of India.

## **Text of Memorandum**

**Shri Thawar Chand Gehlot**  
**Minister for Social Justice & Empowerment**  
**Government of India**

**Dear Shri Gehlot ji,**

At the outset we would like to express our thanks to you for ensuring that many of the concerns expressed by the disability sector with regard to the inadequacies in the Rights of Persons have been addressed in the official amendments proposed to be moved in the Rajya Sabha.

However, there are certain concerns which have not been addressed or have been addressed inadequately to which we would like to draw your attention.

1. One of the major concerns that disability rights organisations had was with regard to the Section 3(3) of the 2014 Bill which states that "No person with disability shall be discriminated on the ground of disability, unless it is shown that the impugned act or omission is appropriate to achieve a legitimate aim." This clause we had opined gives unfettered power to the implementing authorities to discriminate against persons with disabilities, on the pretext of serving a "legitimate aim". The amendment proposed to this section, which replaces "appropriate to achieve a legitimate aim" with "a proportionate means of achieving" does not alter the provision in any manner.

We would strongly recommend that the proviso to section 3(3) be deleted.

2. We would request you to restore the provision of 5 per cent reservation in higher educational institutions and employment as provided for in the Bill. With the ambit of the categories covered having increased, if atleast a percentage that looks proportionate is not provided for, the number of actual beneficiaries will get limited. Moreover, as you will appreciate, for the disabled the major avenue of employment is the government sector.

We would therefore recommend that the provision of 5 per cent reservation as given in the Bill be restored.

3. There is some ambiguity with regard to the amendment suggested to Section 33 (1). It is stated that "Every appropriate government shall appoint in every Government establishment, not less than four per cent of the *total number of vacancies in the cadre strength in each group of posts meant to be filled with persons with benchmark disabilities* of which, one percent each shall be reserved for persons with benchmark disabilities under ....."

You will appreciate that the provision in the 1995 Act of reservation against identified posts were misinterpreted to read as though reservations were applicable only to identified posts. We apprehend the same fate if the proviso that "*total number of vacancies in the cadre strength in each group of posts meant to be filled with persons with benchmark disabilities*" is kept.

4. We also find that an amendment proposes that in Section 33 (1) (b) instead of "hearing impairment and speech impairment", "deaf and hard of hearing" is being introduced.

We feel that the original proposal should be maintained.

5. We are also not in agreement with the proposed amendment to do away with the provision of a National Commission for Persons with Disabilities as well as State Commissions.

We recommend that these provisions should continue to be in the Bill.

6. Also with regard to reservation in promotions, the proposed amendment restricts reservations in promotions to "instructions issued by the appropriate government from time to time."

The amendment should be in tune with the Supreme Court judgement on the issue.

7. About grant of full legal capacity to persons with disabilities the amendments talk of granting total support and limited guardianship in the same breadth. This is in contravention of the provisions of UNCRPD. Schemes and policies for providing support should be ensured.

We therefore request you to seriously consider these concerns raised by us and move necessary official amendments to strengthen the Bill further.

With regards,

#### **Signatory Organisations:**

- 1. National Platform for the Rights of the Disabled**
- 2. National Federation of the Blind**
- 3. All India Federation of Deaf**
- 4. National Association of the Blind**
- 5. Rashtriya Viklang Manch**
- 6. Federation of Disability Rights**
- 7. Parivar- National Confederation of Parents Organisations of PwIDDs**
- 8. Human Rights Law Network**
- 9. Disabled Employees Association of Railways**
- 10. Northern Railway Physically Handicapped Employees Association**
- 11. Sense International**
- 12. CREA**
- 13. Families Alliance on Mental Illness, National Network**
- 14. The Leprosy Mission Trust of India**
- 15. Disabled Helpline**

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