APPENDIX 3

PWD ACT, 1995

THE PERSONS WITH DISABILITIES (EQUAL OPPORTUNITIES, PROTECTION OF RIGHTS AND FULL PARTICIPATION) ACT, 1995

(Only important Section are given)

In this Act, unless the context otherwise requires –

(a) “Appropriate Government” means, -

(i) In relation to the Central Government or any establishment wholly or substantially financial by that Government, or a Cantonment Board constituted under the Cantonment Act, 1924, the Central Government;

(ii) In relation to a State Government or any establishment wholly or substantially financed by that Government, or any local authority, other than a Cantonment Board, the State Government;

(iii) In respect of the State Co-ordination Committee and the State Executive Committee, the State Government;

(b) “Blindness” refers to a condition where a person suffers from any of the following conditions, namely:-

(i) Total absence of sight, or

(ii) Visual acuity not exceeding 6160 or 20/1200 (snellen) in the better eye with correcting lenses; or

(iii) Limitation of the field of vision subtending an angle of 20 degree or worse;

(c) “Central Co-ordination Committee” means the Central Co-ordination Committee constituted under sub-section (1) of section 3;

(d) “Central Executive Committee” means the Central Executive Committee constituted under sub-section (1) of section 9;

(e) “Cerebral palsy” means a group of non-progressive conditions of a person characterized by abnormal motor control posture resulting from brain insult or injuries occurring in the pre-natal, peri-natal or infant period of development;

(i) “Disability” means -

(i) Blindness;

(ii) Low vision;

(iii) Leprosy-cured;
(iv) Hearing impairment;
(v) Loco motor disability;
(vi) Mental retardation;
(vii) Mental illness;

(k) "Hearing impairment" means loss of sixty decibels or more in the better year in the conversational range of frequencies;

(l) "Institution for persons with disabilities" means an institution for the reception. Care, protection, education, training, rehabilitation or any other service of persons with disabilities;

(m) "Leprosy cured person" means any person who has been cured of leprosy but is suffering from –

(i) Loss of sensation in hands or feet as well as loss of sensation and paresis in the eye and eye-lid but with no manifest deformity;

(ii) Manifest deformity and paresis; but having sufficient mobility in their hands and feet to enable them to engage in normal economic activity;

(iii) Extreme physical deformity as well as advanced age which prevents him from undertaking

(n) "Loco motor disability" means disability of the bones, joints muscles leading to substantial restriction of the movement of the limbs or any form of cerebral palsy;

(o) "Medical authority" means any hospital or institution specified for the purposes of this Act by notification by the appropriate Government;

(p) "Mental illness" means any mental disorder other than mental retardation;

(q) "Mental retardation" means a condition of arrested or incomplete development of mind of a person which is specially characterized by sub normality of intelligence;

(r) "Notification" means a notification published in the, Official Gazettee;

(s) "Person with disability" means a person suffering from not less than forty per cent of any disability as certified by a medical authority;

(t) "Person with low vision" means a person with impairment of visual functioning even after treatment or standard refractive correction but who uses or is potentially capable of using vision for the planning or execution of a task with appropriate assistive device;

(u) "Rehabilitation" refers to a process aimed at enabling persons with disabilities to reach and maintain their optimal physical, sensory, intellectual, psychiatric or social functional levels.
(v) "Special Employment Exchange" means any office or place establishment and maintained by the Government for the collection and furnishing of information, either by keeping of registers or otherwise, respecting.

(i) Persons who seek to engage employees from amongst the persons suffering from disabilities;

(ii) Persons with disability who seek employment;

(iii) Vacancies to which person with disability seeking employment may be appointed;

(w) "State Co-ordination Committee" means the State Co-ordination Committee constituted under sub-section (1) of section 19;

(x) "State Executive Committee" means the State Executive Committee constituted under sub-section (1) of section 19.

9(1) The Central Government shall constitute a Committee to be known as the Central Executive Committee to perform the functions assigned to it under this Act.

CHAPTER III
THE STATE COORDINATION COMMITTEE

13(1) Every State Government shall, by notification, constitute a body to be known as the State Coordination Committee to exercise the powers conferred on, and to perform the function assigned to it, under this Act.

19(1) The State Government shall constitute a committee to be known as the State Executive Committee.

20.(1) The State Executive Committee shall be the executive body of the State Coordination Committee and shall be responsible for carrying out the decisions of the State Coordination Committee.

(2) Without prejudice to the provisions of sub-section (1), the State Executive Committee shall also perform such other functions as may be delegated to it by the State Coordination Committee.

25. Within the limits of their economic capacity and development, the appropriate Governments and the local authorities, with a view to preventing the occurrence of disabilities, shall-

(a) Undertake or cause to be undertaken surveys, investigations and research concerning the cause of occurrence of disabilities;

(b) Promote various methods of preventing disabilities;

(c) Screen all the children at least once in a year for the purpose of identifying "at risk" cases;

(d) Provide facilities for training to the staff at the primary health centers;

(e) Sponsor or cause to be sponsored awareness campaigns and is disseminated or cause to be disseminated information for general hygiene. Health and sanitation,
(f) Take measures for pre-natal, parental and post-natal care of mother and child;

(g) Educate the public through the pre-schools, schools, primary health Centers, village level workers and anganwadi workers;

(h) Create awareness amongst the masses through television, radio and other mass media on the causes of disabilities and the preventive measures to be adopted;

CHAPTER V : EDUCATION

26. The appropriate Governments and the local authorities shall-

(a) Ensure that every child with a disability has access to free education in an appropriate environment till he attains the age of eighteen years;

(b) Endeavor to promote the integration of students with disabilities in the normal schools;

(c) Promote setting up of special schools in Government and private sector for those in need of special education, in such a manner that children with disabilities living in any part of the country have access to such schools;

(d) Endeavor to equip the special schools for children with disabilities with vocational training facilities.

27. The appropriate Governments and the local authorities shall by notification make schemes for-

(a) Conducting part-time classes in respect of children with disabilities who having completed education up to class fifth and could not continue their studies on a whole-time basis;

(b) Conducting special part-time classes for providing functional literacy for children in the age group of sixteen and above;

(c) Imparting non-formal education by utilizing the available manpower in rural areas after giving them appropriate orientation;

(d) Imparting education through open schools or open universities;

(e) Conducting class and discussions through interactive electronic or other media;

(f) Providing every child with disability free of cost special books and equipments needed for his education.

28. The appropriate Governments shall initiate or cause to be initiated research by official and non-governmental agencies for the purpose of designing and developing new assistive devices, teaching aids, special teaching materials or such other items as are necessary to give a child with disability equal opportunities in education.

29. The appropriate Governments shall set up adequate number of teachers’ training institutions and assist the national institutes and other voluntary organizations to develop teachers’ training programmes specializing in disabilities so that requisite trained manpower is available for special schools and integrated schools for children with disabilities.
30. Without prejudice to the foregoing provisions, (be appropriate Governments shall by notification prepare a comprehensive education scheme which shall make Provision for-

(a) Transport facilities to the children with disabilities or in the alternative financial incentives to parents or guardians to enable their children with disabilities to attend schools.

(b) The removal of architectural barriers from schools, colleges or other institution, imparting vocational and professional training;

(c) The supply of books, uniforms and other materials to children with disabilities attending school.

(d) The grant of scholarship to students with disabilities.

(e) Setting up of appropriate for a for the redressal of grievances of parent, regarding the placement of their children with disabilities;

(f) Suitable modification in the examination system to eliminate purely mathematical questions for the benefit of blind students and students with low vision;

(g) Restructuring of curriculum for the benefit of children with disabilities;

(h) restructuring the curriculum for benefit of students with hearing impairment to facilitate them to take only one language as part of their curriculum.

31. All education institutions shall provide or cause to be provided amanuensis to blind students and students with low vision.

CHAPTER VI: EMPLOYMENT

32. Appropriate Governments shall—

(a) Identify posts, in the establishments, which can be reserved for the persons with disability;

(b) At periodical intervals not exceeding three years, review the list of posts identified and up-date the list taking into consideration the developments in technology.

33. Every appropriate Government shall appoint in every establishment such percentage of vacancies not less than three percent, for persons or class of persons with disability of which one percent, each shall be reserved for persons suffering from—

(i) Blindness or low vision;

(ii) Bearing impairments;

(iii) Loco motor disability or cerebral palsy, in the posts identified for each disability:

Provided that the appropriate Government may, having regard to the type of work carried on in any department or establishment, by notification subject to such conditions, if any, as may be specified in such notification, exempt any establishment from the provisions of this section.

36. Where in any recruitment year any vacancy under section 33, cannot be filled up due to non-availability of a suitable person with disability or, for any other
sufficient reason, such vacancy shall be carried forward in the succeeding recruitment year and if or the succeeding recruitment year also suitable person with disability is not available, it may first be filled by interchange among the three categories and only when there is no person with disability available for the post in that Year, the employer shall fill up the vacancy by appointment of a person, other than a person with disability:

37. (1) Every employer shall maintain such record in relation to the person. With disability employed in his establishment in such form and in such manner as may be prescribed by the appropriate Government.

(2) The records maintained under sub-section (1) shall be open to inspection at all reasonable hours by such persons as may be authorised in this behalf by general or special order by the appropriate Government.

38.(1) The appropriate Governments and local authorities shall by notification formulate schemes for ensuring employment of persons with disabilities, and such schemes may provide for-

(a) The training and welfare of persons with disabilities;
(b) The relaxation of upper age limit;
(c) Regulating the employment;
(d) Health and safety measures and creation of a non-handicapping environment in places where persons with disabilities are employed;
(e) The manner in which and the person by whom the cost of operating the schemes is to be defrayed; and
(f) Constituting the authority responsible for the administration of the scheme.

39. All Government educational institutions and other educational institutions receiving aid from the Government, shall reserve not less than three per cent seat for persons with disabilities.

40. The appropriate Governments and local authorities shall reserve not less than three per cent, in all poverty alleviation schemes for the benefit of persons with disabilities.

41. The appropriate Governments and the local authorities shall, within the limits of their economic capacity and development, provide incentives to employers both in public and private sectors to ensure that at least five per cent of their work force is composed of persons with disabilities.

42. The appropriate Governments shall be notification make schemes to provide aids and appliances no persons with disabilities.

43. The appropriate Governments and local authorities shall by notification frame schemes in favour of persons with disabilities, for the preferential allotment of land at concession rates for

(a) House;
(b) Setting up business;
(c) Setting up of special recreation centers;
(d) Establishment of special schools.
(e) Establishment of research centers.
(f) Establishment of factories by entrepreneurs with disabilities.

44. Establishments in the transport sector shall, within the limits of their economic capacity and development for the benefit of persons with disabilities, take special measures to-

(a) Adapt rail compartments, buses, vessels and aircrafts in such a way as to permit easy access to such persons;
(b) Adapt toilets in rail compartments, vessels, aircrafts and waiting rooms in such a way as to permit the wheel chair users to use them conveniently.

45. The appropriate Governments and the local authorities shall, within the limits of their economic capacity and development, provide for:

(a) Installation of auditory signals at red lights in the public roads for the benefit of persons with visually handicap.
(b) Causing curb cuts and slopes to be made in pavements for the easy access of wheel chair users;
(c) Engraving on the surface of the zebra crossing for the blind or for persons with low vision;
(d) Engraving on the edges of railway platforms for the blind or for persons with low vision;
(e) Devising appropriate symbols of disability;
(f) Warning signals at appropriate places.

46. The appropriate Governments and the local authorities shall, within the limits of their economic capacity and development, provide for:

(a) Ramps in public buildings;
(b) Braille symbols and auditory signals in elevators or lifts;
(c) Braille symbols and auditory signals in elevators or lifts;
(d) Ramps in hospitals, primary health centers and other medical care and rehabilitation institutions.

47. (1) No establishment shall dispense with or reduce in rank, an employee who acquires a disability during his service.
(2) No promotion shall be denied to a person merely on the ground of his disability:

Provided that the appropriate Government may, having regard to the type of work carried on in any establishment, by notification and subject to such conditions, if any, at may be specified in such notification, exempt any establishment from the provisions of this section.

CHAPTER IX: RESEARCH AND MANPOWER DEVELOPMENT

48. The appropriate Governments and local authorities shall promote and sponsor research, inter alia, in the following areas:

(a) Prevention of disability;
(b) Rehabilitation including community based rehabilitation;
Development of assistive devices including their psychosocial aspects;

Job identification:

On site modifications in offices and factories.

49. The appropriate Governments shall provide financial assistance to universities, other institutions of higher learning, professional bodies and non-governmental research. Units or institutions, for undertaking research for special education, rehabilitation and manpower development.

CHAPTER X: RECOGNITION OF INSTITUTIONS FOR PERSONS WITH DISABILITIES

52(1) Every application for a certificate of registration shall be made to the competent authority in such form and in such manner as may be prescribed by the State Government.

(2) On receipt of an application under sub-section (1), the competent authority shall make such enquiries as it may deem fit and where it is satisfied that the applicant has complied with the requirements of this Act and the rules made there under it shall grant a certificate of registration to the applicant and where it is not so satisfied the component authority shall, by order, refuse to grant the certificate applied for.

Provided that before making any order refusing to grant a certificate the component authority shall give to the applicant a reasonable opportunity of being heard and every order of refusal to grant a certificate shall be communicated to the applicant in such manner as may be prescribed by the State Government.

(3) No certificate of registration shall be granted under sub-section (2) unless the institution with respect to which an application has been made is in a position to provide such facilities and maintain such standards as may be prescribed by the State Government.

(4) A certificate of registration granted under this section,

CHAPTER XI: INSTITUTION FOR PERSONS WITH SEVERE DISABILITIES

56. The appropriate Government may establishment and maintain institutions for persons with severe disabilities at such places as it think fit.

(2) Where, the appropriate Government is of opinion that any institution other than an institution Established under sub-section (1), is fit for the rehabilitation of the persons with severe disabilities, the Government may recognize such institution as an institution for persons with severe disabilities for the purposes of this Act.

(3) Every institution established under sub-section (1) shall be maintained in such manner and satisfy such conditions as may be prescribed b), the appropriate Government.

(4) For the purpose of this section “person with severe disability” means a person with eighty per cent, or more of one or more disabilities.
CHAPTER XII: THE CHIEF COMMISSIONER AND COMMISSIONERS FOR PERSONS WITH DISABILITIES

Chief Commissioner for persons with disabilities for the purposes of this Act.

(1) The Central Government may, by notification appoint a Chief Commissioner for persons with disabilities for the purposes of this Act.

(2) A person shall not qualified for appointment as the Chief Commissioner unless he has special knowledge or practical experience in respect of matters relating to rehabilitation.

58. The Chief commissioner shall —

(a) Coordinate the work of the Commissioners;
(b) Monitor the utilization of funds disbursed by the Central Government;
(c) Take steps to safeguard the rights and facilities made available to Persons with disabilities;
(d) Submit reports to the Central Government on the implementation of the Act at such intervals as that Government may prescribe.

59. Without prejudice to the provisions of section 58 the Chief Commissioner may of his own motion or on the application of any aggrieved person or otherwise look into complaints with respect to matters relating to—

(a) Deprivation of rights of persons with Disabilities.
(b) Non-implementation of laws, rules, byelaws, regulations. Executive orders, guidelines or instruments made or issued by the appropriate Governments and the local authorities for the welfare and protection of rights or persons with disabilities. And take up the matter with the appropriate authorities.

60(1) Every State Government may, by notification appoint a Commissioner for persons with disabilities for the purpose of this Act.

(2) A person shall not be qualified for appointment as a Commissioner unless he has special knowledge or practical experience in respect of matters relating to rehabilitation.

61. The Commissioner within the State shall.

(a) Coordinate with the departments of the State Government for the programmes and schemes for the benefit of persons with disabilities;
(b) Monitor the utilization of funds disbursed by the State Government;
(c) Take steps to safeguard the rights and, facilities made available to persons with disabilities.
(d) Submit reports to the State Government on the implementation of the Act at such intervals as that Government may prescribe and forward a copy thereof to the Chief Commissioner.

62. Without prejudice to the provisions of section 61 the Commissioner may of his own motion or on the application of any aggrieved person or otherwise look into complaints with respect to matters relating to —

(a) Deprivation of rights of persons with disabilities;
(b) Non-implementation of laws, rules, by-laws, regulations, executive orders, guidelines or instructions made or issued by the appropriate Governments and the
local authorities for the welfare and protection of rights of persons with disabilities, And take up the matter with the appropriate authorities.

63. The Chief Commissioner and the Commissioners shall, for the purpose of discharging their functions under this Act, have the same powers as are vested in a court under the Code of Civil Procedure, 1908 while trying a suit, in respect of the following matters, namely:-

(a) Summoning and enforcing the attendance of witnesses;
(b) Requiring the discovery and production of any documents;
(c) Requisitioning any public record or copy thereof from any court or office;
(d) Receiving evidence on affidavits; and
(e) Issuing commissions for the examination of witnesses or documents.

(2) Every proceeding before the Chief Commissioner and Commissioners shall be a judicial proceeding within the meaning directions 193 and 228 of the Indian Penal Code and the Chief Commissioner, the Commissioner, the competent authority, shall be deemed to be a civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

(2) The Central Government shall cause the annual report to be laid before each House of Parliament along with the recommendations explaining the action taken or proposed to be taken on the recommendation made therein so far as they relate to the Central Government and the reasons for non-acceptance, if any, of any such recommendation or part.

65(1) The Commissioner shall prepare in such form and at such time for each financial year as may be prescribed by the State Government an annual report giving a full account of his activities during the previous financial year and forward a copy thereof to the State Government.

The State Government shall cause the annual report to be laid before each State Legislature along with the recommendations explaining the action taken or proposed to be taken on the recommendation made therein so far as they relate to the State Government and the reasons for non-acceptance, if any, of any such recommendation or part.

CHAPTER III: SOCIAL SECURITY

66(1) The appropriate Governments and the local authorities shall within the limits of their economic capacity and development undertake or cause to be undertaken rehabilitation of all persons with disabilities.

(3) The appropriate Governments and local authorities while formulating rehabilitation policies shall consult the non-governmental organizations working for the cause of persons with disabilities.

67. (1) The appropriate Government shall by notification frame an insurance scheme for the benefit of its employees with disabilities.

(2) Notwithstanding anything contained in this section, the appropriate Government may instead of framing an insurance scheme frame an alternative security scheme for its employees with disabilities.

68. The appropriate Governments shall within the limits of their economic capacity and development shall by notification frame a scheme for payment of an unemployment allowance to persons with disabilities registered with the Special
Employment Exchange for more than two years and who could not be placed in any gainful occupation.

CHAPTER XIV: MISCELLANEOUS

69. Whoever fraudulently avails or attempts to avail, any benefit meant for persons with disabilities, shall be punishable with imprisonment for a term which may extend to two years or with fine which may extend to twenty thousand rupees or with both.