CHAPTER – 6

PROTECTION OF PERSON WITH DISABILITIES IN WEST BENGAL:

Governmental strategy and adopted mechanism.

In previous chapter we have seen that legislative enactments and judicial action have provided the disable persons in India a more protective regime to safe guard and enforce their rights and interests. Case index of public interest litigation on this issue also reflects to some extent the consciousness of the civil society for the protection of the rights of the persons with disabilities in India. However, the fact remains that the issue of protection and enforcement of the rights of disabled person at per Constitutional scheme of things, have not been percolated down to the grass root level as yet. This may be due to false impression of greater participation of these persons in the judicial process through public interest litigation or writ jurisdiction of the Courts. However, this is true in relative sense not in absolute sense since justice through public interest litigation is expensive and time consuming. Also the development of the legal notion of subjective rights, through legislative enactments and judicial decisions is one thing and
grounding of these rights, in community is another thing. Moreover, for vindication of any right, excessive reliance on judiciary has also its negative aspect. It is not a sign of healthy growth of any rights regime of the persons with disabilities.

All these arguments suggest that mere legislative enactments and judicial activism can not adequately vindicate, protect, enforce and ensure the rights and interest of the persons with disabilities, if it is not supported and implemented by executive action through well drawn policy, plan and programme of action. Disability justice requires an sincere effort to be taken by all organs of state or institutions of state and administration as well. Protection of the disabled person means to bring them in some level playing field through some affirmative state action. Additionally for an all inclusive justice of disabled persons in India, it is the Civil Society which is suppose to bring pressure on the Government and participate for the implementation of the rights.

It is also to be noted that in India, there are number of theoretical research studies on disability issues but none has been done on its management and administration by the
executive for situational analysis. It is this role of the Government of West Bengal which is subject to detailed critical examination as per scope of the present research studies.

As already pointed out disability justice is an all inclusive justice which requires an all-out effort taken by all organs of the state. Therefore to improve the condition of persons with disabilities, the issue should be an integral part of general policy and planning in every strata of the Government and the society.

With these end in view, all the Plans starting from 1951 have made many provisions for welfare of the weaker sections of the society including the persons with disabilities.\(^1\) A brief review of the Plans may help us to understand the strategy adopted by the Government to uplift the condition of the persons with disabilities.

**First Five Year Plan: (1951 – 1956)**

The Constitution of India has guaranteed certain Fundamental Rights to the citizens of India and enunciated certain Directive Principles of State Policy in particular. It states that the State

shall strive to promote the welfare of the people by establishing a social order in which justice, social, economic and political, shall be ensured and shall direct its policy towards securing, among other things-

a. That the citizens, men and women equally, have the right to an adequate means of livelihood;

b. That the ownership and control of the material resources of the community are so distributed as best to subserve the common good; and

c. That the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment.\(^2\)

With this Constitutional mandate the First five year plan was launched in 1951 emphasizing to promote welfare of women, children and the disabled persons in the country. A Central Social Welfare Board, an autonomous body was set up in the year of 1953 by the government to provide financial assistance to the voluntary welfare agencies in the country. Accordingly State Social Welfare Board in each state was constituted. As an encouragement from the government a number of agencies

received financial grants and technical assistance to fulfill the plan objectives particularly for the welfare of the disabled person including women and children. Even to prepare the Plan documents, close co-operation from the concerned Ministries of the Central Government and the State Governments was sought for. Representatives of different fields in the country were invited for drawing up a plan of development and thus Plan document was concluded. Thus first five year plan to some extent indirectly gave its attention towards the problems of disabled persons.

Second Five Year Plan: (1956 – 1961)
The First Five Year Plan ended in March 1956. It laid the foundations for achieving the socialist pattern of society—a social and economic order based upon the values of freedom and democracy without any discrimination. In the second five year plan, Central and State Governments took initiative to start programmes for socially handicapped persons including physically and mentally disabled persons. The Ministry of Education formed a National Advisory Council for education of the handicapped in relation to the education,

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3 Supra, n.2
4 www.planningcommission.nic.in
training employment for the disabled persons and to formulate new schemes. In this plan period provision was made to start some model schools for blind, deaf, and dumb children and vocational training, centres for adult blind. Similarly, for those disabled suffering from incurable diseases, rehabilitation programmes were introduced by Ministry of Health. Provision of scholarship, education and some more welfare schemes were introduces for disabled person in the same plan.\textsuperscript{5} The initiatives taken by the Government under this plan for the persons with disabilities clearly indicates that the concern for this group of persons had begun, mainly due to the demand and pressure created by them the gradual increase in the number of the disabled persons residing India among the total population.

**Third Five Year Plan (1961 – 1966)**

The preceding two Five Year Plans greatly strengthened the foundations of economic and social life, industrial and economic growth, scientific and technological advancement. The Third Five Year Plan additionally wanted to give more importance to the social objectives of the Constitution.\textsuperscript{6}

\textsuperscript{5} *Supra*, n.2
\textsuperscript{6} The preparation of the Third Plan commenced at the end of 1958 and was carried out in three main stages. The first, leading to the publication of the Draft Outline early in July 1960, which comprised detailed studies by working groups set up at the Centre and in the States. Parliament gave its general approval to the Draft Outline in August 1960.
In this plan special attempt was made to set up specialized welfare facilities for rehabilitation of different categories of disabled persons like blind, deaf, and dumb, ortho-paedically handicapped and the mentally disabled persons in the country. Since a good number of disabled persons come from rural areas, emphasis was given to introduce rural training in the welfare/rehabilitation centre for different categories of disabled persons. Some Employment Exchanges provided information about vacancies to the physically challenged persons in the area of their training and experience. Apart from these Employment Exchanges, a number of voluntary welfare agencies came forward with the initiative to educate the persons with disabilities specially suffering from locomotor disability and also to provide them with aids and appliances and rehabilitate them into the mainstream of the society.  

Thus the mid-sixties marked the beginning of growth of such welfare agencies or non-governmental organisation who dedicated themselves to the cause of the persons with disabilities.

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7 www.disabilityworld.org.
Fourth Five Year Plan: (1969 – 1974)

Through the Five Year Plans Indian government had already taken various measures to uplift the conditions of the vulnerable groups like the women, children, backward classes or persons with disabilities. Thereafter the attacks on India in 1962 and again in 1965 made the Government to modify the pattern of national expenditure\(^8\), which therefore curtailed the amount of money allocated for the weaker sections of the society specially the disabled persons. Inspite of this we find that many national institution for the persons with disabilities was set up during this time.

Under this plan in order to improve and expand the services available to the blind, National Centre for Blind at Dehradun was suggested to add a school for partially sighted children along with its school for training Braille programmes. Similarly training programmes introduced for deaf in engineering and non engineering colleges got promoted and separate school for the partially deaf was proposed to start. To cover physically disabled persons under welfare and training programme, demonstration projects were introduced in different parts of the

\(^8\) Supra, n.7.
country. In this plan period special efforts were made to start school for cerebral palsied children and training in skills to the severely crippled children. Scholarship introduced before this plan suggested to continue for this plan period. Teachers training programme for disabled children and grant-in-aid to voluntary agencies were promoted under this plan period. The employment exchanges were authorized to create job prospects to the disabled in the skills they had their training.

Therefore, from the analysis of these facts it can be concluded that inspite of the two major attacks during this time the government of India allocated enough funds for the disability sector specially for their education and training programmes.

**Fifth Five Year Plan: (1974-1979)**

In this plan period importance was given to expand and improve the all four national institutes working for the blind, the deaf, mentally retarded and the orthopaedically handicapped persons. Research on technical aids and appliances available for the disabled, scholarships sheltered workshop, assistance to

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9 www.planningcommission.nic.in
10 The presentation of the draft Fifth Plan unfortunately coincided with a major upheaval on the international economic scene which profoundly affected developed and developing countries like India.
the voluntary agencies and creation of special employment exchanges/cells was given attention in the plan. It needs to be noted that the idea of having special employment exchanges was truly a welcome proposition as it to some extent ensures employment to the vulnerable group like persons with disabilities.

**Sixth Five Year Plan: (1980 – 1985)**

Under this plan in order to prevent children from communicable diseases, various health risks, injury, accident and impairment and to promote their health standard a comprehensive primary health care-programme distribution of supplementary nutrition and health and child care education was initiated because malnutrition is a primary cause of disability. Schools running for disabled children were suggested to revise to make it more effective and need based programme. The vocational rehabilitation centres were suggested to expand its scope as to provide job oriented experience with local industry to the disabled persons.\(^{11}\) Workshop and training centres were added and expanded. Physical rehabilitation programme of the

\(^{11}\) *Supra*, n.2.
disabled persons was further promoted in order to make available more artificial appliances at cheaper rate.

After perusing through this plan, it can be well understood that rehabilitation was given due importance from mid-eighties, because without proper rehabilitation of the persons with disabilities a large section of the society cannot be brought back into its mainstream leading to the wastage of human potentials.

**Seventh Five Year Plan: (1985 – 1990)**

This plan seeks to maintain the momentum of growth in the economy.\(^\text{12}\) In order to bring equality, non discrimination and justice and to strengthen employment of the disabled, the reservation of 1% vacancies each for blind, deaf and orthopaedically handicapped in group ‘C’ and ‘D’ post in central service and in corporate posts in public sector was undertaken. TRYSEM programme was extended to the needy disabled Voluntary agencies to organize more workshops for the disabled during this period. Role of mass-media under this plan was

\(^{12}\) Late Prime Minister Rajiv Gandhi in the Foreword to the 7\(^{th}\) Five Year Plan said that “It is now almost four decades since we first embarked on the path of planned economic development. Over these years the planning process has grown in depth and sophistication and today it is an integral part of our national polity. It has helped to evolve a national consensus on how to pursue our basic objectives of removing poverty, building a strong and self-reliant economy and creating a social system based on equity and justice”.
promoted to bring greater awareness about the needs and problems of disabled persons. In this respect it needs to be mentioned that reservation of post for the persons with disabilities as envisaged in the plans are not enough. There should be a job guarantee for every disabled persons.

**Eighth Five Year Plan: (1992 – 1997)**

The enactment of PWD Act 1995 was a significant achievement in the history of the welfare and development of the persons with disabilities. Finance and Development Corporation was set up in 1997. The Corporation is an apex organization to assist and coordinate the work of the state level corporations and other voluntary organizations working for the economic rehabilitation of the persons with disabilities. The 11 districts Rehabilitation Centre (DRCs), Karnataka, Madhya Pradesh, Maharashtra, Orissa, Tamil Nadu, Uttar Pradesh and West Bengal extended comprehensive rehabilitation services including early detection, medical intervention, fitment of aids and appliances etc. to the

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13 The Eighth Plan was launched at a time of number of changes in the world and in India. Human development is the ultimate goal of the Eighth Plan. It is towards fulfilling this goal that the Eighth Plan gave priority to adequate employment opportunities, building up of people's institutions, control of population growth, universalisation of elementary education, eradication of illiteracy, provision of safe drinking water and primary health facilities to all.
persons with disabilities\textsuperscript{14} especially in the rural and interior areas. The DRCs also carried out surveys of the persons with disabilities. The four Regional Rehabilitation Training centres (RRTC), located at Chennai, Cuttack, Lucknow and Mumbai gave technical support to these eleven DRCs and conducted full time training and management programmes. Financial assistance was provided to 346 implementing agencies located in different parts of the country and by the end of 1996, more than 2.53 lakh and persons with disabilities received benefit under this programme.\textsuperscript{15} Under the scheme of assistance to voluntary organizations for the persons with disabilities, financial support was given to 1628 voluntary organizations for extending services to 4.00 lakh persons with disabilities through vocational training centres, special schools and counseling centres for the personnel and placement services etc. All the states implemented programmes for providing scholarships to the persons with disabilities at the elementary and secondary stages in the schools. A few states provided free books and extended scholarship to the disabled students for music, vocational, technical and other professional courses. By the end of 20\textsuperscript{th} century 8288 blind, 103, 76 deaf and dumb, 67656

\textsuperscript{14}www.planningcommission.nic.in.
\textsuperscript{15}www.disabilityworld.org.
orthopaedically disabled and 1,690 persons with other disabilities were rehabilitated.\textsuperscript{16}

After perusing through the eighth five year plan it appeared to the researcher that the government alone with its sole initiatives cannot uplift the condition of the persons with disabilities; the NGO's also should assist and help for the same cause. Only proper nexus of governmental departments and the NGO's can materialize the demands of these persons.

**Ninth Five Year Plan: (1997 – 2002)**

The ninth plan launched in the 50\textsuperscript{th} year of India's independence reaffirms the earlier commitment of making as many disabled persons as possible as more active and self dependent.\textsuperscript{17} Accordingly, it gives special emphasis on adopting an integrating approach to empower the disabled. Systematic efforts was made under the welfare-related sectors of health, nutrition, education, science and technology, rural development, urban development, women and child development, information and broadcasting etc. In these efforts, the rural disabled persons


\textsuperscript{17} The Approach Paper to the Ninth Five Year Plan, adopted by the National Development Council, had accorded priority to the development of persons with disabilities together with agriculture and rural development.
who have been neglected all through received special attention. Special efforts was made to strengthen the preventives measures as disability can be prevented through early detection and timely intervention. Therefore, attention will be given to early detection and treatment by taking advantage of the latest technologies. To mainstream the persons with disabilities, the major strategy is to encourage more and more children with disabilities to join the integrated schools by extending special helps like free books, uniforms, transport and aids and appliances etc. so that the disabled children will be able to complete their school education.

The implementation of the policy of 3% reservation of vacancies for the blind, deaf and orthopaedically disabled in Group ‘A’, ‘B’, ‘C’ and ‘D’ posts in Central Services and public sector undertakings, was monitored on a contiguous basis and stock taking was done at regular intervals both at the central and state levels. The ninth plan recognizes the need for employment/placement services for the persons with disabilities.\(^{18}\)

\(^{18}\) A workshop of Public Sector Undertakings was organised in year 2000 for employment of people with disability in various Public Sector Undertakings in identified posts. Action plan to fill up backlog of vacancies in a time-bound manner and the need to provide training to employees with disability to enhance their capability to perform better was discussed. PSUs were requested to provide non-handicapping built environment and conducive work environment so that people with disabilities can become more productive.
To address the problems relating to both mental disability and mental health efforts was made to extend the available services of health, welfare and other related sectors including that of the voluntary sector to the persons with mental illness. Special thrust was on communication, vocational training, family and community, orientation etc.

The ninth plan envisaged the setting up of a National Trust to ensure total care and custodianship of those with mental retardation and cerebral palsy. For welfare and care of the spastics, special services centres was set up for the urban slums and backward rural areas.\textsuperscript{19}

To assess the status of women and girls with disabilities, assessment survey was conducted. The findings of these surveys was used in improving/developing educational, voluntary training and employment packages with necessary support services for women.

Voluntary organization, who have been playing an important role in the services for the persons with disabilities was

\textsuperscript{19} The budget provision in the Division has been raised substantially from Rs. 65.11 crore in 1996-97 to Rs. 292.85 crore during 2000-2001.
supported by the government to widen their operations so as to reach the unreached disabled viz the rural disabled persons.

In this plan the budget contains various schemes for the persons with disabilities. This plan clearly reflects that the Indian society had become sensitive towards the needs of the persons with disabilities especially the NGO’s or the voluntary organisations. Since this plan was launched just after the passing of the PWD Act, 1995, therefore, the schemes adopted thereafter was in consonance with the said Act.

**Tenth Five year Plan (2002 – 2007)**

The National Policy for Persons with Disability, announced in February 2006, attempts to clarify the framework under which the state, civil society and private sector must operate in order to ensure a dignified life for persons with disability and support for their caregivers.

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20 Given in Annexure I
21 The National policy for Persons with Disability includes:
- Extending rehabilitation services to rural areas
- Increasing trained personnel to meet needs of the persons with disabilities
- Emphasizing education and training
- Increasing employment opportunities
- Focusing on gender equality
- Improving access to public services
- Encouraging state governments to develop a comprehensive social security policy
- Ensuring equal opportunities in sports, recreation and cultural activities
- Increasing the role of civil society organizations as service-providers to persons with disability and their families.
The policy makes emphases on medical rehabilitation and on social rehabilitation. Like any policy statement, the 10th plan also outlines the direction that persons with disability must take to ensure equality and non-discrimination with the able persons in the society.

**Salient features of the policy**

1. Recognizing the rural needs

The policy recognizes that, at present, rehabilitation services are largely available in around urban areas, with no coverage of a large majority of persons with disability in rural areas. Hence, it states that services run by professionals will be extended to cover uncovered and unserved areas. Further, new District Disability Rehabilitation Centres (DDRCs) will be set up with support from state governments. The availability of devices (prostheses and orthoses, tricycles, wheelchairs, surgical footwear and devices for everyday activities, learning equipment like Braille writing machines, dictaphones, CD players/tape recorders, low-vision aids, special mobility aids like comes for

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22 www.planningcommission.nic.in.
the blind, hearing aids, educational kits) will be to cover uncovered and under-serviced areas.\textsuperscript{23}

2. Human resources
The policy address the lack of availability of trained manpower in rehabilitation, and states the importance of human resource requirements for the rehabilitation, and emphasis that rehabilitation of persons with disability will be assessed and development plans prepared so that rehabilitation strategies do not lack manpower.

3. Emphasis on education
With 51\% of persons with disability being illiterate, the policy rightly emphasizes inclusive education at the primary school level, and vocational training courses.\textsuperscript{24}

4. Importance on the service sector and self-employment
On reservation in government employment (3\% in government undertaking and PSUs in identified posts, the policy states that the list of identified posts, notified in 2001 will be reviewed and updated. It also recognized the growing importance of the service sector and the potential for employment of person with

\textsuperscript{24} Disability India’s website quotes ‘inclusion’ as an educational philosophy aimed at ‘normalising’ special services for which students qualify. Inclusion an attempt to provide more of these special services by providing additional aids and support inside the regular classroom.
disability, for which incentives like tax exemptions and awards to the private sector was considered.\textsuperscript{25}

The most important feature that was noted by the researcher was that self-employment was given emphasis since it is most often chosen by the persons with disability. The existing system of providing loans through the National Handicapped and Finance Development Corporation was improved to make it easily accessible, with transparent and efficient processing procedures. The government also encouraged self-employment by providing incentives, tax concessions, exemption from duties, preferential treatment for the procurement of goods and services by the government from the enterprises of persons with disability, etc. Priority in financial support was given to self-help groups formed by persons with disability.\textsuperscript{26}

5. Emphasis on employment training for women with disability

As has been discussed later (in Chapter VII) in this research work, a major drawback that catches the attention of the researcher was that in the PWD Act 1995, there is no separate chapter for women with disabilities. To cover up this

\textsuperscript{25} www.planningcommission.nic.in.
\textsuperscript{26} Supra, n.23.
shortcoming the policy states the programmes that was undertaken to rehabilitate abandoned women/girls with disability\textsuperscript{27} by encouraging their adoption in families, support for housing them and imparting training in gainful employment skills. The government encouraged projects where representation of women with disability was ensured at least to the extent of 25\% of total beneficiaries.

6. Barrier-free environment

The policy also addresses one of the biggest obstacles that persons with disability faces in carrying on a normal life\textsuperscript{28} – an environment that prevents or hinders access to public spaces. It emphasises that to the maximum extent possible, roads, highways, buildings/places transportation systems for public use should be made barrier-free and easily accessible.

\textsuperscript{27} Under this plan emphasis was given on employment training for women with disability with 93.01 lakh women with disability (42.46\% of the total population of persons with disability)

\textsuperscript{28} Regionally, the Agenda for Action for the Asian and Pacific Decade of Disabled Persons, 1993-2002 recommended measures to improve access for disabled persons' to facilities intended for the public. The “Promotion of Non-handicapping Environments for disabled and Elderly Persons in the Asia-Pacific Region” project had developed a set of guidelines on the promotion of non-handicapping physical environments for disabled persons. Financial support was provided to India, through the Ministry of Urban Affairs, to implement these guidelines within a period of three years, beginning May 1995.
7. Issue of disability certificates
This is the most important need for a physically challenged person as because without a proper certificate it is not possible to demand for any other right. The government notified guidelines for the evaluation of disability and certification procedures was simplified so that persons with disability are able to obtain disability certificates easily.

Promotion of non-governmental organizations
Another notable features that appears interesting is that the policy stresses the importance of the NGO sector, an institution to provide service to complement the efforts of the government and help the NGOs to play a significant role in services to the person with disability. The policy states that interaction with NGOs will be enhanced on various disability issues regarding planning, policy formulation and implementation. Networking, exchange of information and sharing of good practices amongst NGOs was encouraged and facilitated, to extend a helping hand to the persons with disabilities.
The policy lays down the following process of implementation:\textsuperscript{29}

A. The Ministry of Social Justice and Empowerment will be the nodal ministry coordinating all matters relating to policy implementation.

B. An inter-ministerial body will be set up to coordinate matters relating to implementation of the national policy. All stakeholders, including prominent NGOs, disabled peoples organizations, advocacy groups and family associations of parents/guardians, experts and professionals will also be represented on this body. Similar arrangements will be encouraged at the states and districts levels. Panchayati raj institutions and urban local bodies will be associated with the functioning of District Disability Rehabilitation Centres' district-level committees to coordinate matters relating to implementation of policy. Incidentally, the role of panchayati raj institution has been highlighted in implementing the policy, to address local-level issues and draw up suitable programmes.

C. The ministries of home affairs, health and family welfare, rural development, urban development, youth affairs and

\textsuperscript{29} \url{www.planningcommission.nic.in}. 
sports, railways, science and technology, statistic and programme implementation, labour, panchayati raj, and the departments of elementary education and literacy, secondary and higher education, road transport and highways, public enterprises, revenue, women and child development, information technology and personnel and training will set up necessary mechanisms to implement the policy.

D. The Chief Commissioner for disabilities at the central level, and State Commissioners at the state level, shall play a key role in implementing the national policy, apart from their statutory responsibilities.

E. Every five years, a comprehensive review will be carried out on implementation of the national policy. A document indicating status of implementation and a roadmap for five years will be prepared based on deliberations at a national convention. State governments and union territory administrations will be urged to take steps to draw up states policy and develop action plans.

In this respect it needs to be mentioned that the 10\textsuperscript{th} Five Years plan had detailed the objectives and implementation process that
was necessary to adopt for the protection of the rights of the persons with disabilities. Although all the objectives was not fulfilled under this plan period yet it was a sincere effort to uplift the condition of the disabled persons and to rehabilitate them in the mainstream of the society.

Eleventh Five Year plan: (2007 – 2012)

Keeping in the view the special issues/problems faced by the disabled, aged, street children, drug addicts and the like, special approach was initiated in the Ninth Plan for “Empowering the persons with Disability”, and “Caring other Disadvantaged” is proposed to be strengthened during the Eleventh Plan period. Against this backdrop, special focus is being proposed through following terms of references of the Steering Committee.

I. To review the existing approach, strategies and priorities; the ongoing policies and programmes in the area of social welfare during the Tenth Five Year Plan and suggest if necessary, alternate the empowering, reforming and caring process.

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30 The Cabinet Committee on Economic Affairs approved the scheme under which the Government will provide for employer’s contribution to the Employer’s Provident Fund and the Employer’s State Insurance towards a disabled person employed by them at a minimum salary of Rs. 25,000/- per month. The “historic decision” would involve Government outlay of Rs. 1,800/- crore during the 11-th Five Year Plan.

31 www.planningcommission.nic.in.
II. To review the effectiveness of the existing institutional arrangements for implementation of policies and programmes relating to social welfare, both at Central and State levels and suggest measures to make them more effective.

III. To review the effective implementation of the existing legislations in the field of social justice/welfare to disabled with equitable terms.

IV. To review the effective implementation of appropriate legislation on old age protection and to strengthen the effective implementation of the package of services meant for old persons including health, pension, shelter, financial security, welfare, protection and other needs of the older persons.

V. To review and suggest the strengthening, expansion, and consolidation of the outreach and extension programmes and of social defence services to address to the problems of social deviants.

VI. To review and suggest overall welfare/empowerment and development of the aged to special measures for their protection, socio-economic rehabilitation and social security.

In this way we find that the 5 year plans were successful to certain extent formulating various policies and strategies for the
security, protection and empowerment of the disabled persons. The Government in these plans has framed a number of schemes for the rehabilitation of the persons with disabilities.

Apart from formulating schemes through five years plan, for protecting of persons with disabilities in India, Government has setup various institutions of state and Government. For this purpose which directly and indirectly helps a lot for achieving executive justice by the persons with disabilities. The Ministry of Social Justice and Empowerment in one such institutions state which deals with all the vulnerable segments in the society such as the Scheduled Caste, the Schedules Tribes, the minorities, the backward classes, the delinquents, the destitute and orphan children, the handicapped and every segment which needs some specialized attention, treatment, and a response from the society.  

For the last one decade the awareness among the general masses with regard to the problems of the disabled has certainly increased. There is also a quicker response from various Ministries of the Union and the State governments, from organizations and even from individuals, in terms of the

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problems of the persons with disabilities. Previously it was perceived as a family problem and therefore, the family having disabled person would tackle it. The society and the Government on the whole was not under any obligation to provide protection to the disabled persons. Today, it is worthy to note that we are not only dealing the disability issue the world over but we are thinking in terms of creating an environment or providing facilities and services through which minimum basic rights can be ensured to the disabled persons. Legislation lays down the intent of the Government what it contemplates. The intention with which it is brought out have to be understood by people. It is important, therefore, that the basic issue that appears to be very crucial is information or lack of information because almost 60% of the causes of disability in our country is avoidable or preventable. It has been noticed that even the Ministry that deals with disability issues is unknown to many persons.

The Ministry of Social Justice deals with the problems of the persons with disabilities and is presently decentralizing the availability of its services. It has already approved a programme

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33 Das, Asha; the then Secretary, Ministry of Social Justice and Empowerment, Government of India 'Government’s policies and programmes for protection of persons with disabilities' The Indian Law Institute 2002, 1st ed., p.68.
for decentralized services through hundred and four districts in the country. The Ministry had chosen these hundred and four districts, and given information about them to the State Governments, and have requested them that each of these districts should become the nodal point for providing both awareness programmes, assistive devices etc., for the four or five districts that surround it.34

The said Ministry has been taking up the issues of disabilities with health and other Ministries for fruitfully addressing the same. For example, in case of reservations in employment, the Government is trying to fulfill the obligations or the commitments that it has made under the PWD Act 1995 or otherwise but even if it is able to reach out to 3%, 97% of the disabled would still remain outside the services that are there. The Ministry of Social Justice is also interacting with other ministries, and offered them the inputs if they require for giving training to their teachers to make them understand the various

limitations of the disabled and how they can train and teach them.\textsuperscript{35}

The objective of the Ministry of Social Justice & Empowerment is to empower the persons belonging to these groups who are in the danger of being marginalized due to various socio-economic factors. The Ministry has set up the following establishments to safeguard the rights and rehabilitations of the persons with disabilities.

i) Office of the Chief Commissioner for Persons with Disabilities:

In section 58 of PWD Act 1995 the functions of Chief Commissioner have been specified. For discharging the functions provided under the Act; the Chief Commissioner, Commissioners for Disabilities have been conferred powers under Section 63 of the Disabilities Act 1995 stating that "the Chief Commissioner and the Commissioner shall, for the purpose of discharging their functions under this Act, have the same power 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;

\textsuperscript{35} Supra, n.33
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 commission for the examination of witness or document.

Every proceeding before the Chief Commissioner and Commissioners is a judicial proceeding as under 193 and 228 of the Indian Penal Code and the Chief Commissioner, the Commissioner, the competent authority, is deemed to be a civil court for the purpose of section 195 and chapter XXVI of the Code of Criminal Procedure, 1973. At the intervention of Chief Commissioner of Disabilities, remedial measures are extended by the appropriate authorities. Sometimes cases reported on account of harassment are not being reported fully. Perhaps expeditious disposal of such cases would help to build trust of the aggrieved disabled persons in the institution of Chief Commissioner, Disabilities which in turn would encourage reporting of cases of harassment ranging from physical, financial to emotional abuse.\(^{36}\)

\(^{36}\) *Supra*, n. 34.
The following institutions come under the purview of this Ministry

ii) National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities.

iii) Rehabilitation Council of India

iv) Artificial Limbs Manufacturing Corporation India, Kanpur

v) National Handicapped Finance & Development Corporation

vi) National Institute for the Visually Handicapped Dehradun

vii) Ali Yavar Jung National Institute for the Hearing Handicapped, Mumbai

viii) National Institute for the Orthopaedically Handicapped. Kolkata

ix) National Institute for the Mentally Handicapped Secunderabad A.P.

x) National Institute for Empowerment of Persons with Multiple Disabilities, Chennai

xi) National Institute of Rehabilitation Training & Research, Cuttack
xii) Pt. Deen Dayal Upadhyay Institute for the Physically Handicapped Delhi.\(^{37}\)

In modern times law is a powerful instrument of social development. The objective of social welfare is intended to secure for each human being the economic necessities, a decent standard of health and living conditions, equal opportunities with his fellow citizens for education and employment and the highest possible degree of self respect to freedom of thought and action without interfering with the similar rights of others. One of the goals of our Constitutions is to secure socio-economic justice. It is the duty of the State to pursue the Constitutional directions and to promote the welfare of the people. In pursuance of the Directive Principal of the State Policy, the state is called upon to pass social legislation to fulfill the objective of attaining social and economic justice. In this context the role played by Ministry of Social Justice and Empowerment is truly praiseworthy.

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\(^{37}\) The Ministry of Social Justice and Empowerment also runs the following schemes to support the voluntary organizations for delivery of services to the persons with disabilities:

i) Deendayal Disabled Rehabilitation Scheme(Formerly known as Scheme to Promote Voluntary Action for Persons with Disabilities)

ii) Scheme of Assistance to Disabled Persons for Purchase/Fitting of Aids and Appliances (ADIP)

iii) Schemes for National Scholarship for Persons with Disabilities

But Ministry of Social Justice and Empowerment alone can not solve all the problems of disability. This Ministry handles certain areas of disability issues. There is always a justified demand of the persons with disabilities to have a single Ministry that with address their problems only. But the demand is a far dream. Therefore other Ministries, Departments of Government should come forward with policies and schemes for the benefit and the welfare of the persons with disabilities.

Since there is no singular Ministry that deals with disability issues, therefore, the protection mechanism provided by the different other Ministries are to be studied under their respective heads.

**Ministry of Railways**

For the physically challenged persons, movement become one of the biggest problem, especially they do have the right to travel freely with comfort and such other arrangement necessary for their movement. In this respect the Railway Ministry offers certain concessional benefit for traveling of the persons with disabilities.

Indian Railways grant concession to the following categories of disability for travel on railways:\(^38\)

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\(^38\) *Supra*, n.34.
## Element of Concessions

**Categories of Persons**

<table>
<thead>
<tr>
<th>Description</th>
<th>Concession Details</th>
<th>For Single Journey and Season Tickets</th>
</tr>
</thead>
<tbody>
<tr>
<td>Orthopaedically Handicapped/Paraplegic persons</td>
<td>75% in II, SL, I, AC CC &amp; AC-3-T and 50% in AC 2T and AC I (for both)</td>
<td>50% (for both)</td>
</tr>
<tr>
<td>along with an escort traveling for any purpose</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Blind persons traveling alone or with an escort</td>
<td>75% in II, SL, I, AC CC &amp; AC-3-T and 50% in AC 2T and AC I (for both)</td>
<td>50% (for both)</td>
</tr>
<tr>
<td>for any purpose</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mentally retarded persons traveling with an</td>
<td>75% in II, SL, I, AC CC &amp; AC-3-T and 50% in AC 2T and AC I (for both)</td>
<td>50% (for both)</td>
</tr>
<tr>
<td>escort for any purpose</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Deaf &amp; Dumb persons (both together) travelling</td>
<td>50% (for both)</td>
<td>50% (for both)</td>
</tr>
<tr>
<td>alone or with an escort for any purpose.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Concession is admissible in mail/express fares, and not in ordinary fares applicable on passenger trains. Season tickets are valid in first & second classes only and not in any other class. One escort with each disabled person is also granted the same element of concession.

Deaf & Dumb persons can purchase tickets for AC-2 tier also on payment of concessional fare of first class plus difference of actual fares of the two classes.

Accessible Coaches: Sufficient space is provided for disabled passengers in guard-cum-luggage coaches which enables the disabled persons to have barrier free environment like wide entry door and also space in the corridor to enable them to enter the coach while seated on wheel chair. Toilets have also been designed to suit the convenience of person on wheel chair. So far 415 such coaches cater to the need of disabled persons on Indian Railways. But here also it is worthy to mention that 415 coaches in respect to the member of disabled persons in the country seems to be a meager member. More such accessible coaches needs to be provided to cater the needs of these persons.

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Concession is granted at the station and not in the train. Concession is not admissible in Rajdhani/Shatabdi group of trains. It is admissible in basic fares and all other charges like reservation fee, super fast surcharge etc. are to be paid additionally in full.
Certain facilities like standard ramp for barrier free entry; earmarked parking lots; non-slippery walkways; signed; toilets, drinking water facility; etc. are provided to disabled persons at 'A' category stations. An Action Plan has also been drawn to provide facility of inter-platform transfer by providing ramps on subway or lifts and engraving edges of platforms. But none of these plans are properly implemented till date. They are very few 'A' category station where the disabled persons can avail such facilities. The researcher feels that their part of the duty to care by the Railway Ministry toward these persons have been thoroughly disappointing.

The plans implemented by the Railway Ministry in particular is well accepted by the disabled persons but the negative side of this is that the disability certificate issued by the medical board of the Government hospitals or Welfare Boards in case of rural areas is not enough. To avail this concessions, the department of Railway issues another identity card to the disabled persons, which allows them to get such benefits. This process puts the concern person into a lot of unnecessary harassment which should be immediately stopped by the respective department.
Ministry of Finance (Department of Revenue)

Income-Tax reliefs for Persons with Disabilities

As it has been discussed in Chapter 3 of this research, there are number exemptions in the payment of taxes for the persons with disability. For example Section 80DD of the Income Tax Act gives a tax relief of Rs. 50,000/- of a person with disabilities and for severely disabled person the relief is extended upto Rs. 75,000/-. Similarly section 80u of the Act provides that computing the total income of an individual being a resident who at any time during the previous year, is certified by the medical authority to be a person with disability, there shall be allowed a deduction of a sum of fifty thousand rupees.

For this purpose certificate should be obtained from the medical authority for deduction under section 80DD and section 80u. Where the condition of disability is temporary and requires reassessment after a specified period, the certificate is to be valid for the period starting from the assessment year relevant to the previous year during which the certificate was issued and ending with the assessment year relevant to the previous year during which the validity of the certificate expires. Where the condition of disability is temporary and requires reassessment
after a specified period, the certificate shall be valid for the period starting from the assessment year relevant to the previous year during which the certificate was issued and ending with the assessment year relevant to the previous year during which the validity of the certificate expires. It is needless to point out in this respect that income tax reliefs would become meaningless to the persons with disabilities if they are not given the adequate scope to be self employed or get suitable employment. 3% reservation in employment as guaranteed under section 33 of the PWD Act 1995 is not enough; moreover it is available only to persons having blindness or low vision, hearing impairment and locomotor disability or cerebral palsy. The persons having disabilities needs job guarantee; then only the reliefs available from the taxable income of these persons would become meaningful.

In this regard it needs to be mentioned that there is 5% concessions or exemption available in customs and excise duties on particular things.\(^{40}\)

\(^{40}\) Concessions and exemptions from custom and excise duties available on articles for person with disabilities is given in Annexure 2.
Ministry of Civil Aviation

This particular Ministry gives concessional fares for some categories of persons with disabilities like-

Blind Person: The Indian Airlines Corporation allows 50% concessional fare to blind persons on single journey or single fare for round trip journey on all domestic flights. To avail this facility, the blind persons have to produce a photocopy of the medical certificate, issued by the competent authority, stating that he/she has permanently lost total vision in both eyes. The original should also be kept with himself/herself for verification at the time of purchasing the concessional tickets. Medical Certificate must carry the registration number of the registered Medical Practitioner of the State to which he/she belongs.41

“Guide Dog” accompanying Blind Passengers

Indian Airlines allows “guide dogs” accompanying blind passengers to travel with the blind passengers in the cabin or domestic flights and such guide dogs will be provided free

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41 The 50% concession admissible to blind people cannot be combined with any other concessional fare allowed by Indian Airlines Corporation.

There is also provision for the Air Hostess or the Steward who will look after the blind passengers not accompanied by escorts in flights, the Public Relation Officer or the Traffic Officer-in-Charge at the airport. Advance notice of the travel must be sent by the station of embarkation.
transportation by Indian Airlines, subject to following conditions:

1. The guide dog is not allowed to occupy a passenger seat.
2. A moisture absorbent mat is to be placed under the guide dog.
3. Other passengers will not object to the presence of the guide dog in the said cabin.

Locomotor Disability: Locomotor disabled persons (80% and above) are allowed the following concession in Indian Airlines

a) 50% of Normal Economy Class INR Fare or Point-to-Point Fare. Full inland Air Travel Tax and Passenger Service Fee is applicable.

b) 50% of INR Fare applicable to foreign resident in India for travel on domestic sectors. Full Inland Air Travel Tax and Passenger service fee is applicable.

Ministry of Civil Aviation has given such concessional benefit to those categories of disabled persons who can avail such concession inspite of their physical inability. But apart from the concession, the Ministry also should cater to the other demands of the physically challenged persons. For example easy accessibility or a barrier free environment which will allow a persons with disability to move effortlessly and without facing any obstruction. The passages, staircases should be modified in
such a way that it becomes wheelchair friendly. Otherwise without such modifications the Ministry cannot provide any relief to the persons with disabilities.

Ministry of Communications & Information Technology
Department of Communications
This Ministry has introduced the scheme for allotment of PCO/STD to persons with disabilities.
The guidelines for allotment of PCO/STD are as under:\textsuperscript{42}
1. Eligibility
I. STD/ISD PCOs are allotted to the educated unemployed persons with disability.
II. The applicant needs to be of 18 years or above on the date of application. There is no upper age limit for such application.
III. The educational qualification requirement for allotment are as under:\textsuperscript{43}
   (i) At least matric or high school and above for urban areas.
   (ii) 8\textsuperscript{th} or middle pass and above for rural areas.
   (iii) 8\textsuperscript{th} or middle pass for DOT retirees in urban and rural areas.

\textsuperscript{42} Supra, n.34.
\textsuperscript{43} No educational qualifications is required in respect of handicapped including mentally handicapped persons and blind, Ex-servicemen; SC/ST and war widows in urban as well as rural areas.
Application has to be submitted in the prescribed format enclosing the unemployment certificate and agreeing to the terms and conditions prescribed by the Department of Telecom for the operation of STD PCOs. The unemployment certificate should be issued by local MPs/MLAs/Revenue authorities of the rank of Tehsildar and above.

Provision of concessional telephone connection on priority to blind persons

In this respect the Ministry has compassionately dealt with the blind persons. The telephone facility available to the blind persons is provided on priority basis on the following terms and conditions -

1. Registration fee is normal, as in the case of a private subscriber.
2. Installation is also normal, as in the case of a private subscriber.
3. Rental rebate can be upto 50% of the normal rent.

Blind persons already having the facility of a telephone connection may approach the telecom authority with requisite certificate and request rental rebate under the Scheme.\(^{44}\) He/She will be eligible for the concession from the date the conversion

\(^{44}\) www.disabilityworld.org.
has been effected. On the death of the blind hirer, the telephone is transferable to the legal heir on normal rent, in case the legal heir is not eligible to concession under the scheme. Since employment of the disabled persons are a vital issue of concern, therefore the Ministry aims at providing scope for engaging the disabled persons especially blind persons in different activities.

This particular Ministry has also contributed to the development of Braille literacy in Indian languages.\(^{45}\) Under the supervision of this Ministry a machine is under development which would consist of a hand held light weight portable scanner interfaces with Optical Character Reading (OCR) software and text to speech software for Hindi and English. The system would enable the visually handicapped persons to read normal printed books, etc, in Hindi and English language.

\(^{45}\) This project has been initiated under Jai Vigyan National S&T Mission program for development of software and hardware products for Braille literacy in Indian languages for the empowerment of blind people in the country. 30 blind schools in the country have already been provided with the IT infrastructure for Braille literacy under this project. A device for reading the information from the computer has been developed. This device displays 20 Braille characters at a time and enables a blind person to ready computer files at his own pace. These devices along with the necessary software have been distributed in the 30 blind schools covered under the project.
Screen reading software and various other software in four Indian languages are proposed to be developed to enable the blind persons to access internet and operate computer independently for various applications such as word processing in Indian languages, e-mailing and web browsing, etc.

Media Lab Asia in collaboration with Center for Development of Advanced Computing (CDAC), Pune and WEBEL, Media Electronics Ltd. (WMIL) has developed an integrated system of Text-to-Speech and Text-to Braille titled Shruti Drishsti, which enables the visually impaired conference attendees to browse the proceedings of the conference website through listening and reading from Braille. Similarly, Sanyong is a communication System for the People effected with Cerebral Palsy:

The project aims at developing a visual language technology and associated multimedia platform to provide new and more natural communication and educational tools for the under privileged segment of society. So that they can directly benefit from the proposed technology people with speech and neuromotor disorders (cerebral palsy). In conjunction with the text to Speech research (Shruti), the proposed technology has a very large impact in establishing a new and effective education and
communication medium for the people through its deployment.46

Ministry of Labour and Employment
As discussed in Chapter III, Workmen’s Compensation Act 1923 provides for payment of compensation to workmen and their dependants in case of injury and accident (including certain occupational disease) arising out of and in the course of employment and resulting in disablement or death. The Act applies to railway servants and persons employed in any such capacity as is specified in Schedule–II of the Act. Schedule-II includes persons employed in factories, mines, plantation, mechanically propelled vehicles, construction works and certain other hazardous occupations. Minimum rates of compensation for permanent total disablement and death have been fixed at Rs. 90,000/- and Rs. 80,000/- respectively. Maximum amount for death and permanent total disablement can go up to Rs. 4.56 lakh and Rs. 5.48 lakh respectively depending on age and wages of workmen.

46 A prototype system is undergoing field trials at Indian Institute of Cerebral Palsy Kolkata. The screen reading technology has revolutionized the lives of the persons with vision impairment. This technology provides independence in reading and writing to them. This has an extremely positive impact on the educational, vocational and recreational opportunities in their life.
Special employment exchanges for physically handicapped:
Although Employment Exchanges under the National Employment Service are generally responsible for the placement of physically handicapped, Special Employment Exchanges were also set up for their selective placement. These Special Employment Exchanges attempt at securing for the disabled the most satisfying form of employment suitable to their residual physical and mental potentialities. At present, 43 Special Exchange (as in August, 2008) are functioning in the country.

Employment exchanges for promoting employment of the handicapped persons:
Thirty eight special cells for the physically handicapped with a Special Placement Officer attached to the normal Employment Exchanges and funded by the Central Government have so far been set up by the Central Government Ministry of Social Justice & Empowerment. These are in addition to the Special Cell/Units opened for the handicapped applicants at the Employment Exchanges by various States Governments.\textsuperscript{47}

\textsuperscript{47}The performance of the Special Employment Exchanges during 2008 is given as under:
Registration-10937, Placement-988,
Vocational rehabilitation centres for the handicapped:

Twenty vocational rehabilitation centres for handicapped (VRCs) under Directorate General of Employment and Training (DGE&T) are functioning in the country, one each at Ahmedabad, Mumbai, Bhubaneswar, Bangalore, Kolkata, Delhi, Jaipur, Hyderabad, Jabalpur, Guwahati, Kanpur, Ludhiana, Chennai, Tiruvananthapuram, Vadodara, Agartala, Patna, Puna, Pondicherry and Jammu.\(^{48}\)

Assistance to disabled ex-servicemen and dependants:

In order to provide placement services to the disabled Ex-servicemen/Border Security Force personnel and the dependants of defence service personnel/Border Security Force Personnel killed or severely disabled in action, against the vacancies reserved for ex-servicemen and earmarked for priority categories, an Ex-servicemen Cell was set up in the Directorate General of Employment & Training since July 1972. Subsequently, the scope of the special services was also extended for the benefit of ex-servicemen disabled during peace time as well as dependants of the defence service personnel killed or severely disabled in peace time provided that the death or disability attributable to military service with effect from

\(^{48}\textit{Supra}, \text{n.34.}\)
February 1991. At the end of October, 2008, there were 223 disabled soldiers and 2329 dependants awaiting employment assistance through the Ex Servicemen Cell.49

Ministry of Health & Family Welfare

Health is an important aspect in the life of the persons with disabilities, because, most of the persons are not disabled since birth; but have acquired disability due to several other reasons like malnutrition or accidental cause.

In this regard the steps taken by the World Health Organization needs to be highlighted like:

- Study on refractive errors in schools dropouts.
- Survey on childhood blindness.
- Setting up National Surveillance Unit at R.P. Centre, AIIMS, New Delhi
- Publication of Newsletters and other prototype material.
- Publication of Training Modules for various categories.

A Global initiative has been taken to reduce avoidable (preventable and curable) blindness by the year 2000. India has

49 www.disabilityworld.org
also committed to this initiative. Plan of Action for the country has been developed with following main features:

a) Target Diseases: Cataract, Refractive Errors, Childhood Blindness, Corneal Blindness, Glaucoma, Diabetic Retinopathy.

b) Human Resource Development: Augmenting middle level ophthalmic personnel and increasing the capacity and skills of available human resources in various areas of ophthalmology. Development of professional Eye Care Managers etc.

c) Infrastructure Development: Proposed four tier structure as stated in the policy includes Centres of Excellence (20), Training Centres (200), Service Centres (2000) and Vision Centres (2008).  

Another step taken by this Ministry is Iodine Deficiency Disorders Control Programme- Iodine is an essential micronutrient with an average daily requirement of 100-150

50 In India there was a National Survey conducted on Blindness (2007-08) which shows that-
- Prevalence of blindness in 50+ population was 8.5% and estimated prevalence in general population was 1.1%.
- Cataract continued to be the main cause of blindness (62.6%).
- Uncorrected refractive errors were responsible for 19.7% of blindness.
- Other important causes of blindness include glaucoma, posterior segment pathology, and others.

In this connection a policy taken up by this Ministry is named Vision 2020: The Right to sight.
micrograms for normal human growth and development. There is an increasing evidence of distribution of environmental Iodine deficiency in various parts of the country. Therefore it is a positive step taken by the Ministry of Health in preventing Iodine deficiency. It is very true that one of the causes of disability is health related problems and in a welfare state like India the Government has to come forward to protect the public from health hazards. The Government hospital should extend percent support in this respect.

Ministry of Human Resource Development
Department of Elementary Education and Literacy

- Universal Access and Enrolment
- Universal Retention of Children up to 14 years of Age, and
- Substantial Improvement in the Quality of Education to Enable All Children to Achieve Essential Levels of Learning.

51 It is estimated that more than 71 million persons are suffering from goiter and other iodine deficiency disorders. These disorders include abortions, still birth, mental retardation, deaf-autism, squint, goiter and neuro-motor defects.
The priority areas are free and compulsory elementary education to all, covering children with special needs, eradication of illiteracy, education for women's equality and special focus on the education of SCs/STs and minorities.

In this respect it can be mentioned that the Indian Constitution has inserted Article 21B of part III (Fundamental Rights Chapter) to give the right of free and compulsory education to children upto 14 years of age. (Unni Krishnan vs. State of A.P. 1993 1 SCC 645)

This Ministry aims to ensure that every Child with Special Needs (CWSN), irrespective of the kind, category and degree of disability, is provided education in an appropriate environment and envisages adoption of zero rejection policy so that no child is left out of the education system. SSA envisages a specific grant @ Rs.1200/- per CWSN per year to meet “the special learning needs” of CWSN.\(^{52}\)

Inclusive Education of Children and Youth with Disabilities:
The Ministry of Human Resource Development have prepared a ‘Comprehensive Action Plan’ on the inclusion in education of children and youth with disabilities.

\(^{52}\) In 2007-08, 18.53 lakh Children with Special Needs have been identified in the age group 6-14 years and 14,62,364 were enrolled in schools.
The Action Plan covers the inclusion in education of children and young persons with disabilities covering:

1) Early Childhood Care and Education
2) Elementary Education
3) Secondary Education
4) Higher and Technical Education
5) Vocational Education

Under this plan roles and responsibilities for implementing agencies and their partners, the roles of NGOs, parents groups have been outlined. Monitoring guidelines, etc. have also been provided. The role of special schools, special educators and other support professionals has also been assessed within the changing scenario.53

Department of Secondary and Higher Education

Secondary Education:

The Integrated Education for Disabled Children (IEDC) Scheme started in 1974, provides 100% funding to State Governments/UTs and NGOs towards facilities extended to disabled children such as books and stationery, uniforms, transport allowance, escort allowance, reader allowance for blind children and equipments. The Scheme has also

53 Supra, n.34.
emphasized free school training for disabled children and counseling for their parents. Assistance is also provided for setting up of resource room, survey and assessment of disabled children, purchase and production of instructional material, training and orientation of general teachers to take care of the educational need of the disabled children, survey and assessment of disabled children, purchase and production of material needed for instruction, training and orientation of general teachers to take care of the educational need of the disabled children. The revision of the scheme is under consideration till date, so as to make schools more inclusive and make systematic reforms for bringing and retaining more and more children with disabilities in regular schools.

University and Higher Education:
The main thrust of activities in the higher education sector during the year 2007-08 related to the following areas:

- Growth of Higher Education System
- General Development of Universities and Colleges
- Enhancing Access and Equity
- Promotion of Quality and Excellence
- Programme for Differently-Able Persons
- Strengthening of Research
To ensure inclusiveness in the higher education system, the UGC has been operating two schemes namely Teachers Preparation in Special Education (TEPSE) and Higher Education for persons with Special Needs (HEPSN) for the differently able persons. The main objective of the Scheme is to develop courses for special teachers and councilors and also to provide facilities in various forms for differently able persons. Since education is an important area of concern therefore it becomes the responsibility of the Government to educate the disabled persons and to accommodate all of them; inclusive education has become extremely necessary in view of the increasing number of children with disability. The main thrust of the government should be to include as many as possible member of disabled children in the schools of able children, so that they can be rehabilitated in the mainstream of the society.

**Ministry of Urban Development**

Ministry of Urban Development is the Ministry for implementation of barrier free environment for the persons with disabilities as envisaged in “The Persons with Disabilities

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54 The University Grants Commission has so far identified and approved 10 Colleges and universities under TEPSE and 19 colleges under the Scheme of HEPSN for financial Support.
(Equal Opportunities Protection of Rights and Full Participation) Act 1995.”

Ministry of Urban Development prepared a model building bye-laws for providing accessibility to persons with disabilities to public building/places. These building bye-laws were sent to State Governments, Union Territories, Delhi Development Authority, Municipal Corporation of Delhi, New Delhi Municipal Committee etc. for adoption. So far, 13 States and 2 Union Territories have framed their own building bye-laws/adopted the bye-laws of Ministry of Urban Development. 55

In this context it needs to be mentioned that in USA and in some European countries barrier free environment is a mandatory provision while making a building plan. Even the public buildings are constructed to make it easily accessible to disabled persons. 56

55 Supra, n.34.
Ministry of Rural Development
To make the person with disabilities self dependent the plans and schemes taken up by this Ministry is a welcome proposition. All the District Rural Development Agencies were instructed to follow the guidelines for providing 3% reservation for persons with disabilities Alleviation Programmers, includes the Swarnjayanti Gram Swarozgar Yojana (SGSY), Sampoorna Grameen Rozgar Yojana (SGRY) and the Indira Awaas Yojana (IAY). The details of the schemes are as under:

Swarnjayanti Gram Swarozgar Yojana (SGSY):
The disability-specific (wherever possible) groups are formed under the programme in order to ensure that the persons with disabilities will account for at least 3% of the total Swarozgaris. In case, sufficient number of people for formation of disability-specific groups are not available, a group may comprise persons with diverse disabilities or combination of persons with disabilities and able-bodied persons below poverty line. During the year 2007-08, the total numbers of Swarozgaris were 915401. Out of which, Swarozgaris with disabilities were 5349 (0.58%).

57 Supra, n.34.
Sampoorna Grameen Rozgar Yojana (SGRY):
This scheme is applicable to all rural poor who are in need of wage employment. Preference is given to persons with disabilities. During 2007-08 (upto November 2005), a total number of work completed was 687526 and works completed for persons with disabilities were 3118 (0.45%) 

Indira Awaas Yojana (IAY):
The objective of the Scheme is to provide dwelling units to the people below poverty line. The guideline provide for allotting house in the name of female member for household or in the joint names of husband and wife. 3% of the funds are reserved for the benefit of persons with disabilities below the poverty line in rural areas. Total number of dwelling units completed during the year 2007-08 was 710338 out of which 8817 (1.24%) houses are allowed in the names of the persons with disabilities. Dwelling houses plays a vital role in the life of the persons with disabilities. In the 1st World Countries especially in America dwelling houses are so constructed as to make a barrier free accommodation to suit the needs of the persons with disabilities.  

Ministry of Shipping, Road Transport and Highways

Department of Road Transport & Highways has recently issued instructions to all the implementing agencies under its control for making provisions for the following facilities at vulnerable locations on national highways as per Section 45 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995:

i) Installation of auditory signals at red lights on the public roads for the benefit of visually handicapped persons.

ii) Causing curbs and slopes to be made in pavements for easy access of wheel chair users.

iii) Engraving on the surface of the zebra crossing for the blind persons with low vision.

iv) Warning signals at appropriate places.

v) Devising appropriate symbols for disability

Indian Road Congress has also been requested to devise appropriate symbols for persons with disabilities and further incorporation in IRC-67-2008.

As we have surveyed the various departments it can easily be understood that there is no particular department to deal with disability issues, every department offers some or other kind of relief to disabled persons. This has been the earnest demand of
the persons with disabilities and accordingly to them there should be a single Ministry exclusively set up to cater the needs of these persons. In this regard it is noteworthy to mention the other authorities having such disabled friendly schemes and plans.

**University Grants Commission**

University Grants Commission and instructed the Registrars of all Universities/Deemed University Central Universities to ensure implementation of provisions of Section 33 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act 1995 and to provide 3% reservation in the posts of Lecturer, Reader, Professor and equivalent designations for persons with disabilities as identified by the Ministry of Social Justice and Empowerment, Government of India. On the recommendation of the office of the Chief Commissioner for Persons with Disabilities, University Grants Commission has directed all the universities to allow use of computer by persons with disabilities for writing examinations.\(^59\)

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Apart from the Ministries there are other authorities also dealing with the issue of disability. They do offer some facilities and benefits to the disabled persons to overcome their difficulties, especially financial difficulty and lead a secure life like their able counter parts. In this regard the role of Life Insurance Corporation needs to be specially mentioned.

**Life Insurance Corporation**

Jeevan Aadhar

This plan is offered to a person who has handicapped dependent by satisfying conditions as specified in Section 80 of Income Tax Act 1961. The plan provides life insurance coverage throughout the lifetime of the purchaser. The benefits under the plan are for the handicapped dependants, which are partly given together and partly in the form of an annuity. The premiums paid under this plan are eligible for Income Tax relief under Section 80 of Income Tax Act 1961.\(^{60}\)

Death Benefit:

On the death of the Life Assured, Sum Assured together with the Guaranteed Additions and terminal additions, if any, become

\(^{60}\) 'Ready Recknor', Wings; Giri Nagar, Bangalore, 22\(^{nd}\) ed 2009.
payable. 20% of such benefit amount shall be paid in lump sum and the balance amount shall be paid later. It shall be utilized to provide an annuity of 15 years certain and for life thereafter on the life of the handicapped dependant. The annuity rates are guaranteed for this purpose and shall be at rates prevailing at the time of payment of claims.

If the handicapped dependent predeceases the Life Assured, during the premium paying term of the policy, the contract ceases and the Life Assured can receive the refund of premiums (excluding extra premium and accident benefit premium, if any). The reduced paid up Sum Assured, including any Guaranteed Addition will be paid as lump-sum to the legal heirs of the life assured.61

Jeevan Vishwas

This is an Endowment Assurance Plan designed for the benefit of handicapped dependants whose dependant does not satisfy the eligibility of permanent physical disability under Rule 11A of Income Tax Rules 1962. As such the proposer will not be

61 Supra, n.60.
entitled to the benefits available by way of deductions under section 80DD of Income Tax Act 1961.\textsuperscript{62}

Accident benefit is allowed only under premium policies, subject to usual underwriting rules. The accident and disability benefits are be paid as per LIC's usual practice.\textsuperscript{63}

A brief survey of the various Ministries highlights the fact that consciousness for this section of people is increasing day by day; though there is much to do in the year ahead, still it can be concluded that the government departments are successful in creating an awareness among the masses for these physically challenged persons having apart the Ministries under the Central Government, certain welfare, measures have been undertaken by the various State government of India. Each State government has taken up different welfare schemes and plans based on the necessities and the number of disabled persons residing in that State. In this respect the research work instead of covering all the States of India confines itself within the boundaries of the State of West Bengal. Implementation of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act 1995 and The National Trust for Welfare of

\textsuperscript{62} Supra, n.34.
\textsuperscript{63} Supra, n.60.
Persons with Autism Cerebral Palsy, Mental Rehabilitation and Multiple Disabilities Act 1999 in the state of West Bengal needs to be studied in detail.

**Protection mechanisms adopted by Government of West Bengal for the persons with disabilities**

After making a brief survey of the efforts made by the Central Government in India, it is well understood that despite various steps undertaken by the Central Government to uplift the status of persons with disabilities in India, all round development of this vulnerable group still remains a distant dream. However, at the same time another important aspect that should also be taken into account is that since by and large, India is a federal polity and ‘disability’ matter is under item 9 of the State List in the Seventh Schedule of the constitution of India, therefore, the plight of the ‘disabled persons’ and their overall development to a great extent also depends upon the efforts made by the State government.

As already pointed out protection mechanism broadly means and includes mechanisms created adopted and established under relevant Central and State Act and Statutes, the policy adopted
by the Central and State Government including their implementation mechanisms, budgeting provisions, judicial pronouncement by the judiciary and last but not the least, efforts made by various NGO’s.

In respect of protection mechanisms, when the State of West Bengal is a case in point, the facts which are prominently revealed in the research study may be analysed as under:

Like the Central Government there is no particular Ministry to deal with disability issues in West Bengal. At the Centre there is a Ministry of Social Justice and Empowerment which looks after the ‘disability’ matters. In West Bengal, there is the Social Welfare Ministry under which comes the Office of the Commissioner of Disabilities. It is mainly due to this reason that the demands of the persons with disabilities cannot be adequately materialized as their rights to health, education, employment, accessibility on roads and transport and such other needs falls under the jurisdiction of different Ministries.

The State of the West Bengal, lack of information or information dissemination is also a vital problem. In this state, almost 80% of the persons with disabilities are not aware of the fact that there is an Office of the Commissioner of Disabilities which exists for about last seven years. The office is located at

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45, Ganesh Chandra Avenue, Kolkata – 700 013, which is almost at the heart of the city; but there is no board or even a name-plate at its entrance to indicate its existence. The Government officials are indifferent in their dealing with the disability sector because the Commissioners appointed under the PWD Act, 1995, are themselves not from this sector. In United States or Europe it cannot be thought of that the institutions for the disabled person would be run by persons not from the disability sector. If in India men are not appointed as Chairperson of Women’s Commission or a non-schedule caste person as Chairperson of the Scheduled Caste Commission, then there is no logic not to follow the same example in disability sector also. Only persons having disabilities can better understand the plight and sorrow of their counterparts and should be appointed as Chairperson of the Commission Office to ensure justice for themselves.

The above findings, aptly proves that ‘disability’ is the most neglected field in the State of West Bengal. Apart from the government level, the non-governmental organisations working in this state are also not active which is generally expected. At present, there are more than 18 lacs of disabled persons in West
Bengal and therefore, to improve their condition the NGO’s working in this state should work hand in hand with state for the cause of persons with disabilities.

Budgetary allocation is also a testimony to the fact that the disability sector is the most neglected area in the State of West Bengal. The most striking factor that surfaced during research study is that no specific amount of money is allotted for the person with disabilities. The budget for the Social Welfare Ministry is disbursed to certain extent for the disability sector.

The various areas in which it has been disbursed in recent years are as follows:

<table>
<thead>
<tr>
<th>West Bengal Budget</th>
<th>Budget Estimate 2007-2008</th>
<th>Budget Estimate 2008-2009</th>
</tr>
</thead>
<tbody>
<tr>
<td>Establishment of a School for the Deaf in North Bengal</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Salaries</td>
<td>-</td>
<td>20,00,000</td>
</tr>
<tr>
<td>Expenditure</td>
<td>-</td>
<td>25,25,000</td>
</tr>
<tr>
<td>Establishment of a School for the Blind in North Bengal</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Salaries</td>
<td>-</td>
<td>26,15,000</td>
</tr>
<tr>
<td>Others</td>
<td>-</td>
<td>29,60,000</td>
</tr>
<tr>
<td>----------------------</td>
<td>-----------------------------</td>
<td>-----------------------------</td>
</tr>
<tr>
<td>Institutions for Physically Handicapped Grants-in-aid Other Grants Scholarship to the Handicapped Students studying below IXth Class in all Districts Scholarship and Stipends Assistance to Physically Handicapped in all District (Disability Pensions) Pension/ Gratuities</td>
<td>- 3,53,50,000</td>
<td>3,55,00,000</td>
</tr>
<tr>
<td>State Plan (Annual Plan &amp; Eleventh Plan) Prosthetic Aid to Handicapped Persons in all District</td>
<td>- 11,90,000</td>
<td>12,00,000</td>
</tr>
<tr>
<td>Scholarship and Stipends Award to Outstanding Students</td>
<td>- 42,00,000</td>
<td>42,00,000</td>
</tr>
<tr>
<td>Employers of Handicapped and Handicapped Employees</td>
<td>- 2,80,000</td>
<td>4,00,000</td>
</tr>
<tr>
<td>Printing and Identity Cards for Disabled</td>
<td>- 1,40,000</td>
<td>1,40,000</td>
</tr>
<tr>
<td>Assistance to Physically Handicapped in all District (Disability Pensions)</td>
<td>- 48,00,000</td>
<td>48,00,000</td>
</tr>
</tbody>
</table>
### West Bengal Budget:

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Prosthetic Aid to Handicapped Persons in all District</td>
<td>-</td>
<td>4,08,000</td>
</tr>
<tr>
<td>Economic Rehabilitation to Physically Handicapped and Mentally Retarded Person</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Prosthetic Aid to Handicapped Persons in all District</td>
<td>-</td>
<td>1,02,000</td>
</tr>
</tbody>
</table>

The budget allocation for 2007 and 2008 and 2008-2009 clearly shows that there is a slight increase in the amount allocated upon various areas of the disability sector especially awarding scholarship and stipend to outstanding students, giving assistance to physically handicap in the district. From the Office of the Commissioner (Disabilities), West Bengal it has been found that the amount allocated for this sector is almost the same for the past few years.\(^{64}\)

However, it will be incorrect to conclude from this that Government of West Bengal has not taken any measures or protective mechanism for the persons with disabilities in next one year. If we focus our attention on the functions performed by the Office of the Commissioner of Disabilities at Ganesh

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\(^{64}\) As informed by Asst Commissioner (Disabilities) West Bengal.
Chandra Avenue, we will find that its prime function is to issue 'identity cards' on the basis of the Disability Certificate issued by the Government hospitals. Persons with disabilities (not less than 40%) are eligible for disability certificate as ensured under the Persons with Disabilities (Equal Opportunities Protection of Rights & Full Participation) Act 1995 in the state of West Bengal. To avail certain facilities and benefits from the government sector and the most important factor in this respect is to get the disability certificate.

**Certification Process:** Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Rules 1996 has set the guidelines for evaluation and assessments of various disabilities. A disability certificate\(^65\) is to be issued by the Medical Board duly constituted by the Central and State Government consisting of at least 3 members out of which one should be specialist in the particular field for assessing locomotor and visual disability. The Board is supposed to give a permanent disability certificate after due examination only if there is no chance of variations in the degree of disability. But if there is any chance of variation in the degree of disability then the board shall indicate the period of validity in the certificate issued by them. This certificate makes a person eligible to apply

\(^{65}\) Given in Annexure 3.
for facilities, concessions benefits as admissible under the schemes of the Governments or Non-Governmental organization. Normally disability certificate is not refused unless an opportunity is given to the applicant of being heard.\textsuperscript{66}

### Details of Medical Boards for assessment of disabilities

<table>
<thead>
<tr>
<th>Nature of Disability</th>
<th>Medical Board attached</th>
<th>Ward No</th>
</tr>
</thead>
<tbody>
<tr>
<td>Physical disability</td>
<td>K. M. Corporation</td>
<td></td>
</tr>
<tr>
<td>&amp; Mental Disability</td>
<td>R. G. Kar Medical College &amp; Hospital (South Dum Dum Municipality recently included in the jurisdiction of R.G. Kar MCH)</td>
<td>135</td>
</tr>
<tr>
<td></td>
<td>N.R.S. Medical College &amp; Hospital</td>
<td>36-71</td>
</tr>
<tr>
<td></td>
<td>Calcutta National Medical College &amp; Hospital</td>
<td>72-100 &amp; 55</td>
</tr>
</tbody>
</table>

For Districts: All Districts
For all physical Sub divisional Hospitals
And mental disabilities and all District Hospitals\textsuperscript{67}

\textsuperscript{66} 'Spuran' 2008, Office of the Commissioner of Disabilities, West Bengal, 45 Ganesh Chandra Avenue, Kolkata – 700 013.

\textsuperscript{67} To avail the identity cards the following authorities are authorized to issue–

ii) For Kolkata Municipal Corporation Area-Assistant Commissioner (Persons with Disabilities), 45, Ganesh Chandra Avenue (3\textsuperscript{rd} floor), Kolkata–700 013

ii) For Districts – District Social Welfare Officer Concern & Child Development Project Officer.
In case of mentally ill person disability certificate would be issued by the Mental Board, which would issue the certificate after observation and treatment for one year. Since Disability Certificate issued by the competent Medical Boards are constituted under statutory provisions, it is a prerequisite for availing of benefits, concessions and relaxations offered by the governmental departments. Person with disabilities are entitled to prefer an appeal to the Appellate Medical Board situated in 45 Ganesh Chandra Avenue, Kolkata-700013, for redressal of their grievances relating to any dispute regarding recognizing any persons as persons' with disability under the Act or any dispute regarding percentage of disability as certified by competent Medical Boards.

Here it needs to be highlighted that the certification process is not duly done. If a person with disability approaches a government hospital or district hospital he or she has to face tremendous harassment in the following aspects.

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Psychometry would be accepted by the Medical Boards. Along with Ration Card all the items used for identification of a voter in a polling booth like Passport, Identity Card, Driving License, PAN Card and will be accepted by the Medical Boards as valid document for the purpose of identification. In case of minor, the documents of his/her parents would be sufficient.

68 www.disabilityworld.org
69 Supra, n.64
Firstly, there is no fixed time period when the Medical Board will sit for such necessary medical checkup needed to issue a certificate.

Secondly, even if such Medical Boards are formed, the medical checkup or detection is not properly done. It often happens that a person having 30% disability receives a certificate certifying him to have 50% disability. In this way disability certificate is frequently misused by persons who, under the eye of law does not have 40% disability as required to obtain such certificate.

Thirdly, in normal course it takes about 3 to 4 months to get a certificate from the Medical Board since its application; but practically it has come to the knowledge of the researcher that the persons with disabilities often fall prey to some pimps or such a illegal network which runs in these government hospitals or even in district hospitals whose sole function is to make the certificate available within seven to ten days in lieu of money. It is needless to mention here that most of the persons with disabilities comes from poor families and therefore its not possible for them to visit these hospitals regularly to obtain such certificates. Moreover certificates are obtained illegally by those persons who do not have 40% disability as per legal provision under PWD Act 1995.
Fourthly, the Office of the Commissioner of Disabilities do not take any initiative to quicken the process of certification; they only issue ‘identity cards’ to persons with disabilities after they obtain the said certificate and in this process which is most important in the life of the persons with disability, there is hardly any cooperation or coordination of work between the Commissioner’s Office or the government hospitals. Therefore, due to the above stated findings of the researcher it can be well concluded that certification process which is the most important protective mechanism for the persons with disabilities has become a farce in the State of West Bengal. The certification process needs to be simplified and powers should be given to the Commissioner’s office or to District Social Welfare Boards to supervise and to do justice to this harassing process of certification.

In the field of education, West Bengal Government has also taken following steps.

i) 3% seats are reserved for children with disabilities for admission in all Educational Institutes.
ii) Students with disability studying up to class VIII receive scholarships from Social Welfare Directorate at Kolkata and District Social Welfare Officers in districts.

iii) Students from class IX and above receive scholarships from Mass Education Extensions Department.

iv) Persons with locomotor disability in lower limb, having minimum 40% and not exceeding 60% disability, are permissible to be admitted into M.B.B.S. Course.

v) Visual handicap, physically handicapped and dyslexic students are allowed scribe during Examination.

vi) Students with disability in upper limb and students with visual handicap are allowed 20 minutes & 30 minutes extra time in case of papers with 2 hours & 3 hours duration respective in PSC Examination.

vii) Children with disabilities are provided with special and integrated school facilities, students of any age with disabilities are provided with book grant, uniforms and other assistance under Scheme of Sarba Siksha Abhijan.

The above stated findings are mere records of the measures taken by the government to implement the provisions of the PWD Act 1995. But the reality shows a grim picture in the field of education for the children with disabilities. As discussed in
Chapter I of this research work that in foreign countries ‘inclusive education’ is the most important protective measures adopted by the government for educating their disabled children. But in India especially in West Bengal the numbers of schools are not adequate for educating the disabled children. There may be a justified reasons that government funds are not enough to develop schools for different categories of children with disabilities.

Therefore, as a solution to this problem it appears to the researcher that in the existing government schools or even in private schools, the government can take mandatory steps to have a separate segment for educating the children with disabilities, which is also a legal right under the PWD Act 1995, where special trainers and teachers would be recruited for the same. In this process, within the existing infrastructure, a disabled child can also be educated instead of building special schools which would sever them from normal children in the society.

In case of employment as per the PWD Act 1995, the Government of West Bengal has taken some alternative steps which has been pointed out as under-
(i) Persons with physical disabilities outside Kolkata can register their names in Regional Employment Exchange or District Employment Exchange. Mobile registration facilities are being provided by Directorate of Employment to accommodate adult disabled persons receiving vocational training in various NGOs.

(ii) Vacancies not less than 3% are reserved for the persons with disabilities 1% each for persons suffering from:
(a) Low vision/blindness
(b) Hearing impairment
(c) Locomotor/ disability/cerebral palsy.\(^{70}\)

(iii) 12\(^{th}\), 42\(^{nd}\) & 72\(^{nd}\) posts in 100 point Roster have been kept reserved by the West Bengal State Government for facilitating employment to persons with disabilities.

(iv) Efficient handicapped employees, self employed, employer, placement officers are given National and State Awards by Government of India and Government of West Bengal respectively.\(^{71}\)

\(^{70}\) *Supra*, n.64

\(^{71}\) West Bengal Public Service Commission has exempted persons with disabilities from paying examination fees. 12 Departments of Government of West Bengal identified jobs for persons with disabilities.
However, regarding following points, it goes wrong.

Firstly, there are suppose to be special employment exchanges to monitor the vacancy for job reservation of the persons with disabilities. But in reality we find that special employment exchanges are clubbed with the general employment exchanges and they do not have proper information or records relating to the vacancy of posts for physically challenged persons.

Secondly, no proper job identification is being done in West Bengal for the 3% vacancy as reserved under the statutory provision of the PWD Act 1995.

Thirdly, as has been found in course of research, the demand of the physically challenged persons is not job reservation but job guarantee; if the persons with disabilities do not have job guarantee, the security and protection mechanism adopted by the government would become fake.

But apart from these drawbacks, the Government of West Bengal do provide certain concessions in employment and other facilities, which can be enumerated as follows-

1) Physically handicapped persons are entitled to age concession upto 45 years at the time of entry into the government services.
ii) Physically handicapped persons who applies Group “C” & “B” (non-gazetted) posts of Government of West Bengal advertised by SSC & PSC are entitled to exemption from the payment of examination and application fees.

iii) No establishment shall dispense with or reduce in rank, an employee who acquires disability during his service. If found unsuitable for the existing post he may be shifted to some other post with same pay scale and service benefits. In case no such post is available, he may be kept on supernumerary post until a suitable post is available or he attains the age of superannuation.

iv) No promotion shall be denied on the ground of his disability.

v) State government employees with locomotor/visual disabilities are entitled to conveyance allowance to the tune of 5% of the basic pay subject to a maximum of Rs. 200/- p.m.\textsuperscript{72}

\textsuperscript{72} www.disabilityworld.org
vi) Physically handicapped persons in Government employment (Group C & D) are entitled to get preference in the matter of their posting, which is to be near their native places, subject to administrative constraints.

vii) A Government employee with a mentally retarded child is sympathetically considered for his posting at a place of his/her choice.⁷³

In this respect what needs to be highlighted is that the judicial system in the State of West Bengal is not so active as is necessary to ensure justice in the field of employment. Till date there are only two cases adjudicated by the High Court of Calcutta namely

1. W.P. No. 683 (W) of 2001 Susanta Kumar Bhowmick & Ors. vs. The West Bengal Central School Service Commission & Ors.


⁷³ As has been studied in the previous chapter (Chapter V) the Apex Court of India has also given landmark judgments where the Hon’ble Court has ordered for not posting persons having a disabled son or daughter to a remote place (R. Govindarajan vs. Hindustan Petroleum Corporation Ltd. Rep. by its Deputy General Manager-Incharge and Director (Marketing), Hindustan Petroleum Corporation Ltd. (MANU/TN/1279/2003).
Where the Hon’ble Court has directed the Central School Service Commission and also the Public Service Commission to allow braille system or scribes for blind candidates appearing in any examinations conducted by them. But at the same time it has been observed by the researcher that many other causes or issues relating to disability have not been brought to the notice of the judiciary, either due to lack of awareness or sheer negligence on part of these social workers or non-governmental organisations as it is their moral duty to assist the persons with disabilities to achieve justice.

On the issue of assistance, the most important requirement of the persons with disabilities is economic or financial assistance. In this respect, the West Bengal Government has framed certain policies to ensure the security and protection of this disadvantaged class. They are entitled to get support for self-employment under Swarna Jayanti Gram Swarozgar Yojana (SGSY) through formation of self-help groups. In the case of disabled persons’ self-help group may consist of a minimum of 5 persons belonging to the families below poverty line. 3% quota is earmarked for the disabled persons under SGSY. Disabled
persons are entitled to financial assistance by the National Handicapped Finance & Development Corporation (NHFDC) at a concessional rate of interest.

Following economic assistance is also available on persons with disabilities-

i) 3% of funds for construction and upgradation of dwelling houses free of cost for the persons with disabilities in rural areas living below poverty line are kept reserved under Indira Awas Yojana (IAY)

ii) Children with disability of State and Central government employees who are not capable of earning their livelihood independently are entitled to benefit of Family Pensions for life.

iii) Persons with disability below poverty line are entitled to Disability Pension @ Rs. 500/- p.m.\(^\text{74}\)

After duly observing the economic assistance offered by the State Government, the following comments to be put forward. *Firstly*, the economic assistance provided by the government of West Bengal, is not known to all. *Secondly*, No initiatives are taken from the government department to publicize or to raise consciousness or awareness

\(^{74}\) Supra, n.64
among the persons with disabilities, so that they can avail such assistance.

*Thirdly,* it is almost next to impossible for persons with severe disabilities to physically approach the respective departments to apply for such policies. Therefore, the protective measures adopted by the Government is bound to become futile in the absence of proper knowledge that needs to be disseminated by the concerned government departments themselves.

Apart from the economic assistance, another most important requirement of the persons with disabilities is barrier free environment, especially for easy access to transport. The West Bengal government has taken the following steps in this respect as this is an essential privilege provided under the PWD Act and persons with disabilities are entitled to such barrier free environment—

**Transport:**

(1) On the road: In West Bengal, installation of auditory signals of red lights in the public roads and making curve cuts and slopes for the easy access of wheel-chair users, surface of the zebra-crossing has been engraved and warning signals at appropriate places has been installed.
Persons with disabilities are allowed free travel facilities in buses run by State Transport Corporation except Deluxe/Rocket and Inter State buses and buses and trams run by Kolkata Tramway Company. This facility is available with private buses also.  

Construction of ramps with hand-rails and adaptation of toilets for wheel-chair users has been made in many Government offices. Installation of Braille symbols and auditory signals in elevators or lifts also helps the disabled persons in West Bengal.  

(2) By Air:  

(i) 50% concessional fare can be availed of by blind person on a single one way journey or single fare for round trip journey on all domestic flights by the Indian Airlines. But no concession for escort is available.

<table>
<thead>
<tr>
<th>Eligible Category</th>
<th>First Class</th>
<th>Second Class</th>
<th>Sleeper Class 3 Tier</th>
<th>AC Chair Car &amp; AC First</th>
<th>AC 2 Tier &amp; AC First Class</th>
</tr>
</thead>
<tbody>
<tr>
<td>100% disability or a persons with disabilities who cannot travel without escort</td>
<td>75</td>
<td>75</td>
<td>75</td>
<td>75</td>
<td>50</td>
</tr>
<tr>
<td>100% Hearing Impaired</td>
<td>50</td>
<td>50</td>
<td>50</td>
<td>-</td>
<td>-</td>
</tr>
</tbody>
</table>
(ii) 50% concessional fare can also availed of by a person with 80% locomotor disability. Here also concession of escort is available.

Here the researcher would like to point out the truth that most of this steps adopted by the government remain in pen and paper. No crossings on roads has such auditory signals or no engravements are made on roads for persons with disabilities. Government officials working in this field should have the idea in mind to understand that only making ramps or reserving seats in buses does only provide easy access to the persons with disabilities. Special care needs to be taken to create a barrier free environment or easy accessibility in transport for persons with disabilities as it can ensure non-discrimination between able disabled persons as envisaged in the UNO Convention for Persons with Disabilities, 2006.

Apart from accessibility there are following demands of the persons with disabilities where the government has been bound to take some steps to implement the same, namely

1. Affirmative action i.e. supplying aids and appliances and secondly, allotment of lands
2. Exemption on tax
3. Redressal of this grievances
4. Providing legal guardianship

(1) Affirmative Action

According to the statutory provision under section 42 and 43 of the PWD Act 1995, the appropriate Governments shall by notification make schemes to provide aids and appliances to persons with disabilities and the appropriate Governments and local authorities shall by notification frame schemes in favour of persons with disabilities, for the preferential allotment of land at concessional rates.

Accordingly the West Bengal government has taken the two steps-
A) In respect of aids and appliances:
   i) Persons with disabilities are eligible for assistive devices under ADIP (Government of India) Schemes. Only those aids and appliances which do not cost less than Rs. 50/- or more than Rs. 6000/- are covered under the scheme. However, for visually, mentally, speech and hearing or multiple disabled persons the upper limit would be Rs. 8000/- during their study upto class XII-th standard.
ii) Persons with disabilities are also provided with different prosthetic aids free of cost by the State Government.  

B) Preferential allotment of lands: West Bengal land & land Revenue Department has issued orders to provide preferential allotment of land to the persons with disabilities and to organizations working with the persons with disabilities.

(2) Exemption on State Tax on Profession
West Bengal Government has exempted for persons with disability (visually handicapped, hearing handicapped & orthopaedically handicapped) from giving professional tax.

(3) Redressal of Grievances
As disability is the most neglected field in West Bengal, the persons with disabilities has the right to move the West Bengal Commissioner for Persons with Disabilities at 45 Ganesh Chandra Avenue Kolkata – 700 013 for redressal of their grievances relating to the rights provided by Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 and The National Trust for Welfare of Persons with Autism Cerebral Palsy, Mental Rehabilitation and Multiple Disabilities Act 1999.

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76 Supra, n.64.
77 Supra, n.64.
District Magistrates who have been designated as the Additional Commissioner for persons with disabilities may also be approached in case of any discrimination against arsons with disability or infringement of the rights provided under the said Acts. This is a statutory right of the persons with disabilities under section 60 of the said Act.

(4) Legal Guardianship

In terms of provision laid down in the National Trust Welfare of Person with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act 1999 and rules thereunder legal guardian are provided to persons with such disabilities requiring guardianships by the Local Level Committee.\textsuperscript{78} Parents and relatives of such persons may apply or contact Office of the Commissioner (Disabilities) West Bengal for Kolkata district and for other districts, District Social Welfare Officer of the concerned district may be approached in these issues also.

In course of research study, it has been also revealed that apart from these statutory obligations which the government is almost bound to follow, there are very few measures undertaken by the government on its own initiative. The present Commissioner of

\textsuperscript{78} Rule 16 of The National Trust for Welfare of Persons with Autism Cerebral Palsy, Mental Rehabilitation and Multiple Disabilities Rules 2000.
Disabilities in West Bengal made certain positive moves to raise awareness among the masses, so that both the urban and rural society of Bengal will become conscious of the rights of the persons with disabilities.

These awareness programmes are -

- 3 divisional workshops has been held till date to raise awareness among the masses.
- 19 programmes at the district level has been organised to observe International Day of the Disabled Person.
- 10 sub divisional workshops has been held in the sub divisions of South 24 pgs, North 24 pgs, Murshidabad, Bankura, Hooghly, Howrah, Darjeeling, Nadia, Purba Medinipur, Uttar Dinajpur in 2008.
- Training programme of Sarva Siksha Mission has also been held in 2008.
- 98221 numbers of Teachers has been trained on Inclusive Education and 964 numbers of Special Educators has been trained on Inclusive Education.

Certain miscellaneous measures taken by the West Bengal Government,\(^{79}\) which deserves credit are

\(^{79}\) As reported by the then Asst. Commissioner of Disabilities, West Bengal.
• District Magistrate of all the districts has been declared as the Additional Commissioner for Persons with Disabilities

• Meeting and workshops in collaboration with the Confederation of Indian Industries has been held to explore possibility of social security and employment of the persons with disabilities.

• State Awards are conferred to individuals and organizations including students with disabilities and organization, working for the persons with disabilities for their outstanding achievements in the field of self-employment and creation of barrier free environment.

• Disability Pension @ Rs. 500/- per month is given to more than 12000 persons with disabilities in the last year (2008).

• Meeting of State Executive Committee and State Co-ordination Committee are held regularly.

• Life long family pension has been given to disabled dependent son and daughter of government employee and school-teachers and non-teaching employees who cannot earn their livelihood.

Therefore, it can conclusively observed that the Government of West Bengal has taken many positive steps to implement most of the provisions of the Persons with Disabilities (Equal
Opportunities, Protection of Rights and Full Participation) Act 1995 and The National Trust for Welfare of Persons with Autism Cerebral Palsy, Mental Rehabilitation and Multiple Disabilities Act 1999. But how far such implementation measures has become successful can only be judged in the years to come. But as far as the data provided by the Office of the Commissioner (Disabilities), West Bengal is concerned, it seems that much more is needed to be done in future.

One of the fundamental problems in India at the moment is a lack of social commitment or vision by the society for the realization of Human Rights including the rights of the persons with disabilities. Any amount of action by NGOs can help a lot for bringing changes for the benefit of persons with disabilities. In case of West Bengal, similarly there are many areas that have been overlooked by the government and to fulfill such gaps, a number of NGOs have been established and they have performed a laudable job. Theoretically, as well, which has been observed in the course of this research work that it is not always possible for the West Bengal Government to provide protection mechanism to each and every person with disability residing in Bengal. The whole society needs to come forward for the assistance of these persons. Because of this reasons, the role of
NGOs and civil society in state of West Bengal covers within the framework or analysis of the roles of government for the protection of persons with disabilities.

It is also quite evident that in spite of sincere efforts it is not possible to reach out to every disabled persons and help them to rehabilitate themselves in the mainstream society. The responsibility of extending protection to these persons, therefore does not fall on the Government alone; the public must also be made aware of their responsibilities regarding extending a helping hand to the persons with disabilities. In this respect in the context of West Bengal, how far the public has become aware and conscious towards the persons with disabilities is a question which is very much difficult to assess. In West Bengal, the total numbers of disabled persons are more than 18 lakh among which more than 13 lacs are from the rural areas and more than 4 lakh are from the urban side of Bengal. Undoubtedly it can be said that most of the individual residing in this state are aware and sensitive towards the persons with disabilities and in this respect from the contributions of non-governmental organizations working for the person with disabilities in the state of West Bengal cannot be ignored. All

\[^{80} Supra, n.64.\]
the NGOs working for these people do not necessarily deal with a particular issue. Some NGOs work for educational purpose of the persons with disabilities. Whereas, the others deal with their employment or rehabilitation programmes. With respect to the legislations made, the NGOs work within the limit set by the laws and according to the needs and requirements of the disabled persons.

As there are hundreds of NGOs working in the state of West Bengal, an empirical study has conducted in some of the organisations in the city of Kolkata. Total 350 Non Governmental Organizations registered under the PWD Act 1995, are working for the persons with disabilities in the state of West Bengal. The registration certificates are issued by the Commissioner (Disabilities) West Bengal that has to be renewed after every 3 years. This registration is extremely necessary for proper functioning of the NGOs. The NGOs has the potentials to play a pioneering role in the empowerment of the persons with disabilities. But they should be financially assisted to carry forward the welfare activities for the disabled persons. In the study structured questions were
asked to know the concerned areas of their activities and the problems faced by them.

As pointed out earlier in the study, five NGOs namely Alakendu Bodh Niketan Residential, The Society For Comprehensive Rehabilitation Service, Manovikas Kendra Rehabilitation & Research Institute For The Handicapped (MRIH), Indian Institute Of Cerebral Palsy (IICP), Sruti Disability Rights Centre were being selected as objects of study and structured question had been asked to them.

Alakendu Bodh Niketan Residential:
It is an organisation which was set up for all round development of mentally retarded, speech defectives and spastics. It is recognized by the Government of India and registered under West Bengal Societies Registration Act 1961. It is situated at Kankurgachi, Kolkata–700054. The activities of the organisation, covers a large section of both urban and rural people by offering them scientific and vocational training and preparing them for placement in different institutes.

81 Dr. Bimalendu Narayan Roy founded this institution in 1977 for the physically handicapped and mentally retarded children. From a humble beginning it has become a pioneering institution in India.
The various activities taken up by the organisations are

- To undertake the task of giving education and training in different areas for the mentally-retarded and physically handicapped children, boys and girls.

- To conduct training cum production centres in different crafts, weaving, doll making of wooden furniture, cane furniture etc, embroidery and pictography.

- To hold seminar, symposium, art exhibition for the over-all development of the mentally retarded children both boys & girls.

- To encourage the physically handicapped children to behave almost like normal children by frequent exercises, yoga, dancing etc. and boostering their mental set-up.

- To hold workshop and exhibition with a view to develop the inner qualities and working skill of the disabled children, boys and girls and inculcating self confidence.

- To help and assist the marginalized and poverty-hit children, boys and girls living in slums and unhealthy abodes by offering better living conditions and education, vocational training and if possible cases, placements in a benefiting manner.

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82 As narrated to the researcher from Alakendu Bodh Niketan, Kankurgachi, Kolkata–700054.
• To organize blood donation camps, eye camps, blood grouping camps in below poverty level areas and involve the physically handicapped and mentally-retarded children in such social service activities.\textsuperscript{83}

Being recognised under the Rehabilitation Council of India Act, 1992, Alakendu Bodh Niketan is conducting one year professional D.S.E. (MR) course for the aspirant teachers who would teach mentally-retarded children, both boys and girls with a reoriented syllabi in accordance with the set pattern and model of Rehabilitation Council of India.\textsuperscript{84}

Unfortunately after the death of its founder member Dr. B.C. Roy, the institute was closed for quite a long time. But with sincere efforts and willingness by its members it has reopened again with the aim & vision to provide service for the physically handicapped and the mentally retarded persons. This Institute is one of the eldest NGO’s working in Calcutta and has inspired many others to follow their footsteps.

\textsuperscript{83} One of the prime function of this institute is to observe National Handicapped Day on December 8 every year.
\textsuperscript{84} 'Media Style Guide' 2008, Rehabilitation Council of India, New Delhi.
The Society for Comprehensive Rehabilitation Service:
This NGO works for the employment of the physically handicapped persons in Kolkata. The Society was founded when one of the major Welfare Programme envisaged during the Tri-Centenary Celebration of Calcutta. For the first time in the history of Calcutta with the initiative of Government of West Bengal and with the participation of the State & Central Government, the representatives of the concerned UN Agencies like UNICEF, WHO, ILO Geneva, the Society was established with its registered office at the CMC building, 36, Ballygunge Circular Road, Kolkata–700019 to undertake the major pilot projects for the disabled persons as well as to combat various multi discipline disability, cure and rehabilitation programmes.

S.C.R.S., as it is commonly known, is a NGO which has so far employed more than 230 people with disabilities like blind, deaf-mute, orthopaedically handicapped, mild mentally retarded in the existing 36 multidiscipline handicapped rehabilitation projects in different Medical Colleges & Hospitals like R.G. Kar M.C. & Hospital, SSKM Hospital etc. and also in other important public establishments like the High Court of Calcutta etc.

85 www.pcservcer.nic.in.
The various activities taken up by the SCRS\textsuperscript{86} are:--

1. Rendering services to Missionaries of Charity: The society is renders permanent in-house treatment facilities at the premises of Missionaries of Charity for the destitute & orphan children with the help of the renowned medical experts in the field. In addition, patients referred by the Missionaries of Charity, can avail free treatment in multifarious medical fields at SCRS, free of cost.

2. Free Distribution of Aids & Appliances: The Society freely distribute different aids & appliances to the deserving disabled persons in Calcutta as well as in the remote areas of West Bengal as an implementing agency of Government of India.

3. Ambitious Infotech Rehabilitation Project: The Society is going to launch internet facility network permitted by Hon’ble Calcutta High Court and Legal Aids Services, West Bengal, Human Rights Commission, West Bengal. Pollution Control Board, West Bengal, The Women Commission run by the handicapped persons. To start with Calcutta High Court and Barasat District Court, would come under this network and subsequently it will be extended to other

\textsuperscript{86} As narrated by the then Incharge of the Centre at Kolkata.
subordinate Courts of West Bengal where about 230 disable persons can be hopefully employed.

4. Rural Development Programme: SCRS also adopted two remote villages in Sunderban area of 24 pgs (South), namely Sagarmadhabpur and Barizpur, where rural hospital, clinic, shelter and home for aged persons are established and try all funding.

5. Rural Horticulture Project: Society is going to undertake a horticulture project in Sagar Island and Patharpratima of South 24-pgs, where financial assistance is provided by National Horticulture Board, Government of India and expert technical consultancy is provided by Bidhan Chandra Krishi Viswavidyalaya. This project will create prospect of employment and self employment for the disabled person. In doing all this the SCRS give utmost importance to self dependence and employment and all its projects aims at employment of the persons with disabilities.87

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<thead>
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<th>No. of Projects</th>
<th>Handicapped Employee</th>
<th>General</th>
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<td>40</td>
<td>129</td>
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In West Bengal SCRS has provided employment to the persons with disability in many places. One of such places is SSKM Hospital, Kolkata. There one may find a restaurant and a public telephone booth which are run by the disabled persons. The blind women, who runs the PCO clearly proves that the scope of getting a job in the Government sector is decreasing day by day inspite of the 3% reservation; then getting employed in such kind of job certainly adds to the confidence of the disabled persons themselves. Therefore SCRS is one of the right kinds of NGO’s working for the cause of the disabled persons in West Bengal.

**Manovikas Kendra Rehabilitation & Research Institute for the Handicapped (MRIH)**

This Centre situated on the side of Eastern Metropolitan Bypass in Kolkata, is created establishment for the educational advancement of children and young adults with learning disabilities and sensory impairments with an object to embrace the child and for young adults in an environment of professional guidance. Each and every child here receives undertakes educational programmes designed to meet their special needs, which the
Institute thinks will enable the children to progress towards economic independence and self reliance. MRIH maintains a quality assurance policy and monitor performance criteria on all its programmes to enable the children to be fully integrated and become useful members of the society.\textsuperscript{88}

The Institute has a Biomedical Research and Diagnostic Unit, where a team of dedicated scientists is working on the genetic aspect of mental retardation and associated problems, with a hope to bring a smile on million faces in the years to come. It has promised to give an identity and social acceptance to more than 20 lacs of people in Eastern India, who are differently able from the rest. The various programmes undertaken by the Kendra includes Educational Programmes, Occupational Therapy and Physiotherapy, Yoga Therapy, Music Dance and Drama Therapy, Toy Library and Manokriti, which is a creative club of MRIH and an outlet for the talents of the challenged children and young adults and engaged to enhance self-confidence, individuality of the children with special needs.

It is needless to mention here that the different experimental activities taken up by this NGO, cannot be disregarded. Manovikas Kendra also Acts as the Eastern Region's

\textsuperscript{88} Information provided to the researcher by the then Incharge of the Kendra.
Information Centre for the National Trust for the Welfare of Persons with Autism, Cerebral Palsy established under the Mental Retardation & Multiple Disabilities Act 1999. As trust is to enable and empower the persons with the aforesaid disabilities to live as independently as possible and close to the community; to strengthen facilities and provide support to persons with disability to live with their families; and to evolve procedures for the appointment of guardians and trustees for them.

However, due to the multifarious activities performed by this Institute, it sometimes fails in performing as an information centre for the Trust. Monetary and financial assistance sometimes not properly available to the families of the disabled persons.  

Indian Institute of Cerebral Palsy (IICP)

IICP is a non-governmental organization aided by Ministry of Social Justice and Empowerment. It is a national resource centre for cerebral palsy and its training has been a catalyst for the development of affiliated services in other states of India and

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89 This aspect has been made known to the researcher by Dr. Maitreyi Roy Bardhan, Principal, Basanti Devi College, Kolkata, who is also a mother of a disabled son suffering from Autism.
partner organizations in the districts of West Bengal. IICP was started by parents and a group of concerned friends and has continued to give priorities on families and their needs. It endeavors to work for inclusions of persons with disabilities in all aspects of life. Human rights and the involvement of parents and persons with disabilities in decision-making are foremost priorities of the organization’s philosophy, policies and practices.  

Indian Institute of Cerebral palsy seeks to bring about positive changes in the lives of all people with cerebral palsy through a range of policies and service provisions designed to enhance their individual skills and knowledge and give them opportunities to exercises their constitutional rights and fully participate and contribute to the community and country.

The services provided by the institute are -

School services which includes

- Centre for Special Education
- Afternoon Extension Service
- National Institute of Open Schooling (NIOS)
- Rabindra Mukta Vidyalaya (SOS)

Family Services which includes

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90 As reported by the Incharge of the Institute through email when enquired by the researcher (email: ssci@vsnl.com).
• Out patients Department
• Diagnostic Clinic
• Neurology Clinic
• Early intervention clinic
• Sishu Sathi, Outreach Clinic at Salt Lake

Adult Services which includes
• Vocational training & placement
• Adult Learning and Leisure Unit
• Socialization Group
• ‘Ankur’: Human Rights Advocacy Group

The most important among its services which is the Centre for Special Education (CSE) renders.

CSE is a multi-dimensional, co-educational school dedicated to providing education, therapy, counseling and a network of support services for children with cerebral palsy and their families. The school aims to provide a broad-based, holistic learning experience for children with special educational needs, giving them an opportunity to realise their highest potential. Run by experienced and qualified staff, it is a demonstration centre for trainees and professionals from all over the country and abroad.91

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91 www.disabilityworld.org.
Apart from these, the Institute pioneers in Family Services like Out Patients Department, Diagnostic Clinic and Neurology Clinic.

In simple words, this Institute has been able to gain the confidence of the families having spastic children. Such a disability by its natures, incurable but after making a thorough survey of the activities of the institute, it may be confidently is said that the institute has been able to create a better world for those unfortunate children’s.

Thus it is seen that the State government and non-governmental organizations in West Bengal have made a sincere effort to give protection and security to persons with disabilities. It is an impossible task for the State government alone to protect the person with disability; therefore, there is a need for sound infrastructure, proper administration, social awareness, and above all bonafied intention for the same. Perhaps, due to this awareness and concern that the non governmental organizations has come forward to extend a helping hand to them, because the role of the government can be supplemented only through the sincere efforts of the NGO’s working in the state.

But, despite the bright side it is also a fact that due to lack of proper knowledge or correct information, a number of persons
with disabilities cannot avail the various statutory benefits guaranteed to them. Therefore creating awareness or consciousness among the masses is one of the most important aspects which have been neglected for long. In this respect, ‘Sruti’ another renowned NGO in Kolkata, works only on information dissemination, which is extremely necessary to raise awareness among both able and disabled persons in the society.

Sruti dis ability Rights Centre:
The name itself reflects that this NGO does not want to highlight the term ‘disability’ and that is why, it writes the first three letters of the disability word with small letters and thus focuses by implication the intrinsic abilities of the persons with disabilities.\textsuperscript{92} It is a registered charitable trust working for persons with disabilities, having its registered office at 5A, R K Ghosal Road, Kolkata-700 042.

This centre is a Kolkata based organisation, committed to the cause of ending discrimination against persons with disabilities. Sruti was registered as a non profitable trust in 2005, even though the fight for rights of the persons with disability had started much earlier by its members individually. Sruti believes

\textsuperscript{92} As stated by Ms. Shampa Sengupta, the founder member of the centre.
in a just and equitable world where all persons irrespective of their gender, age, religion and abilities enjoy equal status.

Sruti was formed by a few persons with an experience of more than 15 years of working on disability issues. Experience in working both in the field level, as well as of action research, policy level intervention and sustained campaign have taught the organisation members that disability rights have remained a neglected area both by Government and NGO sector. As most of the disability organizations in Kolkata believe in giving services than enhancing the rights based work, the issue of establishing rights of persons with disabilities remain unaddressed.

The activities of this organisation can be broadly divided into following areas.

- Organizing awareness programmes.
- Bringing out information materials in accessible format.
- Running help-line services.
- Counseling persons with disabilities and their families.

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93 The researcher enquired about the details of the activities of the centre and got the information from the founder member of the centre Ms. S. Sengupta.

94 Laws relating to disability are so inadequate that it can not serve the purpose of protecting the disabled persons. It is due to these reasons that we find there are thousands of cases pending in the Courts where the disabled persons are demanding justice at par with the able persons.
• Research & Documentation.
• Networking.

Sruti gives importance to action research to make change in policy level. Media being an important factor in forming attitude of people, Sruti decided to do a research on media. The present activity of the centre focuses media coverage on disability issues and examines whether such angle addresses or media coverage contains right and these issue properly. Initially the centre took only print media in the first year and looked into several local newspapers in both Bengali and English and scanned all the news items which were coming out on disability issues. On an average there were 20-25 news items every month. Sruti did such thing with a plan to analyze them and to find out how popular media depicts disability.

As a pilot study this institute gathers news from every 6 months, collects and relates news with an intention to start a research and bring out a paper which is to be used to sensitize media people who are responsible for making general public awareness on this issue. Sruti collaborates with School of Media and Culture Studies of Jadavpur University for this project.
The analysis of the functions of the NGOs shows that each NGO has its own aims and objectives and accordingly they work in their own field. In this regard the functioning of Sruti disability centre stands apart from other NGOs as it performs the most efficient task i.e. sensitizing person and also the society at large. In this context the contributions of the following two NGO’s is worth mentioning.

While discussing the scope of NGOs in the state of West Bengal, we cannot overlook the two others NGOs namely, ‘Sabalambi’ and all associate as NGO working in Barasat North 24 parganas, West Bengal and the former NGO so far has helped the persons with disabilities in filing number of cases at Barasat Lok Adalat while the latter has moved two writ petitions at the High Court at Calcutta on behalf of the persons with disabilities. The background of filing such cases on the sole initiative of these two NGO’s and the judgments given thereof, specially that of the High Court needs to be perused to understand the role of judiciary in protecting the nights of persons with disabilities in the State of West Bengal.

In the light of this statutory provisions it can be concluded that a person with disability has a right to file or defend a case and shall be entitled to legal services under this Act. Under this
backdrop Sabalambi, the ngo working in Barasat has been successful in arranging three successive Lok Adalats at Barasat District Court held on 3rd February 2008, 27th July 2008, and 22nd March 2009. The number of cases filed were 418 cases in the first Lok Adalat, 267 cases in the second Lok Adalat and 226 cases in the 3rd Lok Adalat. After studying these cases the researcher has found that the said cases mainly has the allegation of denial of certain basic rights of the persons with disabilities. The cases in general were filed against the following Authorities –

1. Chief Medical Officer Health
2. District Social Welfare Officers or District Controller
3. District Medical Officer, Health
4. Sub-divisional Officer
5. Employment Exchanges and others

The said issues in these cases mainly relates to disability certificate, which is one of the most essential requirement of the persons with disabilities; apart from it the other issues are pension matters, accessibility to transport, vocational training and others. Among these diverse range of litigation 318 matters were disposed off in the first Lok Adalat, 168 matters in the second Lok Adalat and 172 matter is in the third Lok Adalat.
The orders awarded in these cases are directions to the respective Authorities to perform their duties mandatory so that the basic demands of the persons with disabilities could be fulfilled. For instance, as has been discussed earlier in this chapter, the Government hospitals make inordinate delay in arranging Medical Boards for examining the persons with disabilities and granting them the Medical Certificate after mentioning the degree of disability. Thereafter these persons are entitled to get identity cards from the Commissioner (Disability) Office to get the facilities available to them; and if in this process the hospital makes unreasonable delay to constitute such Board and therefore a number of cases are filed against CMOH. Similarly in the matter of pension according to the Apex Court Judgment in *Bhagwanti Mamtani vs. Union of India and Others*, 1995 Supp (1) SCC 145, it was held that disable son or daughter of the a Government employee should get family pension even if applied after a long time; this judgment also should be implemented in the state or else cases would pile up in the Courts for want of justice.

It is worth mentioning that apart from the above discussed Lok Adalats held at Barasat District Court (24 Parganas North) the said NGO that is “Sabalambi” has also taken sincere initiative to
organize Lok Adalats for persons with disabilities at Alipore Court (24 Parganas South) by the end of 2009. This picture undoubtedly proves that the NGO has been successful to a considerable extent in sensitizing persons with disabilities and others in the society. As the persons with disabilities in this part of West Bengal mostly comes from poor families, the Lok Adalats become an effective and cheap mediator for them to get justice.

In this context the role of High Court at Calcutta also needs to be studied to understand the judicial activism in the state of West Bengal. Under Article 226 of the Constitution of India, the writ jurisdiction of the High Court has been invoked by All Blind Persons Association, an NGO working for the blind at Kolkata. The two cases held were-


In the first case that is *Susanta Kumar Bhowmick* the writ petition is filed by nine petitioners. All the petitioners are visually handicapped (blind). Being blind (visually handicapped) the petitioners studied on Braille system upto Class–VIII. In all subsequent Examinations the petitioners were allowed to take the help of scribe/ writer.

On 15th October, 1999 the West Bengal Central School Service Commission published an advertisement for recruitment to the post of Assistant Teacher in recognised non-government aided schools including Madrasa in the State of West Bengal. In that advertisement it was mentioned that no candidate will be allowed to take help of the scribe in the examination to be conducted for selection. In W.P. No. 4965 (W) of 2000 the said decision not to allow the help of scribe in the examination, was challenged. In the said writ petition an interim order was passed. In terms whereof the petitioners were permitted to take the help of scribes. In terms of the said order of this Court the petitioners were permitted to offer themselves as the candidates for the posts in question. The petitioners, however, did not succeed. The said writ petition was ultimately disposed of whereby the decision not to permit assistance of scribes to the visually
handicapped candidates was set aside. This decision was rendered on 29th September 2000.

In pursuance to Section 33 of the PWD Act 1995, the Government reserved 3% vacancies in every establishment under the Government in the School Education Department for handicapped person mentioned in the said Act. The Government did not exempt any establishment under the Government in the School Education Department from the provisions of the said section of the Act.

The State Government has introduced a 100 point roster. In that the 33rd post has been reserved for a visually handicapped person. 66th post has been reserved for a person having hearing impairment and 99th post has been reserved for a person having locomotor disability or cerebral palsy.

The question that arises for consideration is whether (i) the Government’s decision to reserve posts for handicapped persons, as was done by the notification dated 11th November 1998, applies to Government aided educational institutions (ii) can a handicapped person particularly a visually handicapped person have the assistance of scribe and (iii) how the 100 point roster should be applied in an institution which employs less than 33 employees.
The first question that has cropped up for consideration has been answered by Section 39 of the Act itself, which is as follows: 

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

The second question has not been dealt with by the Act. The matter, therefore, must be decided on the basis of conscious law. That is a blind person having no capacity to see is never taught to write.

Having regard to the fact that a blind candidate will not be able to complete the answer within the time given to a person, who has no visual deficiency, in all public examinations, a blind person is permitted to have a scribe.

Even in the case of public services the Supreme Court has held in National Federation of Blind vs. U.P.S.C., reported in J.T. 1993 (2) SC 541, that a blind person shall be permitted to write the examination in Braille script or with the help of a scribe.

In the event it is decided that a blind person can only take the assistance of Braille script and not the help of a scribe, it must be ensured that appropriate time has been given to such a person so that his competition with others is meaningful and he is not prevented from competing with others by reason of shortage of
time, having regard to the fact that writing through calligraphy take much less time than writing through Braille script.
For example, if a 100 mark question is to be answered by others within 60 minutes, at least 85 minutes time should be given to a blind person having assistance of a scribe and at least 90 minutes time should be given to him in case he is asked to give his answer by Braille script.

In this respect its to be noted that the problem, however, is with those schools, which are government-aided institutions. By reason of the applicable Rules the appointing authority of such schools are the individual institutions. In such institutions much less than 33 employees work. According to the laws now applicable when a vacancy arises in any such an institution, it is required to inform the School Service Commission either directly or through the District Inspector of Schools in relation thereto. The School Service Commission is required to select the candidate for the said vacancy and to recommend such selected person to the institution concerned. The institution concerned then gives the appointment. Therefore, if all institutions have vacancies at the point below the 33-point, despite the School Service Commission having published an advertisement inviting
application to fill up more than 100 vacancies, it may be possible that none of the said posts is reserved for blind candidates.

The petition directed upon the State Government to issue circular to each Educational Institution in the State as well as to the School Service Commission, the District Primary School Councils and to the Authority controlling the appointment of the teaching and non-teaching staff of Government Schools to implement the directions as above. It shall be open to the Government to prescribe the qualification of the scribe in such Circular.

In the second case i.e. *Blind Persons’ Association & Another vs. Public Service Commission, West Bengal & Others W.P.No.3509 (W) of 2005*, the purpose of filing this application is to transmit the benefits given to the visually handicapped in the Persons with Disabilities (Equal Opportunities, Protection of Rights, and Full Participation) Act, 1995 into reality.

The Public Service Commission, West Bengal, issued an advertisement being No. 13/2004 in various newspapers inviting applications in the prescribed form for the competitive examination for recruitment to various posts. It was mentioned that some of the vacancies may be reserved for Scheduled Caste,
Scheduled Tribe and Other Backward Class candidates of West Bengal as well as for Physically Handicapped Persons. The examination was required to be held on two successive stages – (a) Preliminary Examination, (b) Final Examination and Personality Test.

In the advertisement it was mentioned that none will be allowed the help of a scribe. If a blind person is not allowed to take help of scribe or is not provide with Braille, it amounts to denial of an opportunity to a blind person to compete in the examination. In this case also the petitioners cited the Apex Court judgment in *National Federation of Blind vs. Union Public Service Commission and Ors.* (1993) 2 SCC 411, which was delivered on 23rd March, 1993. Thereafter, the Central Government enacted the Persons with Disabilities (Equal Opportunities, Protection of Rights, and Full Participation) Act, 1995, which came into force with effect from 7th February, 1996. Section 33 of the said Act not only provides opportunities to the blind persons in different employments, but also reserves 1% vacancy for the persons suffering from blindness or low vision. The mandate of the said Act is also being followed by the different authorities, as a result of which presently the blind persons are
allowed to compete in the examinations under different civil service posts, different bank employments, school and college services and other Central Government employment.

It was rightly observed by the Hon’ble Justice Talukdar that having regard to Section 33 of the said Act of 1995, it is for every Government to appoint in every establishment such percentage of vacancies not less than 3% for persons or class of persons with disabilities, of which 1% each shall be reserved for persons suffering from blindness or low vision in the posts identified for such disability. The Hon’ble Justice also observed that it is unfortunate and quite shocking that such a clear mandate of law could not be effectively transmitted into reality in the State of West Bengal—perhaps due to lack of communication, if not lack of vision.

Therefore in this case the respondent authorities here directed to allow all the eligible blind persons to appear in the different competitive examinations conducted by the Public Service Commission, West Bengal with scribe and also to take steps for reservation to the extent of 1% for blind persons in compliance with Section 33 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act,
1955 within a period of three months from the date of communication of this order. The respondent authorities were further directed to consider the claim of the writ petitioners for providing the blind persons with relaxation in respect of payment of fees as well as duration of different examinations conducted by the Public Service Commission.

After perusing the two cases it can be said that the Hon’ble Judges should not keep their eyes and ears closed which, otherwise will lead to indifference in attitude towards these unfortunate class of persons. The judiciary needs to take care of all members of the society specially those who are somehow physically challenged. The liberal pronouncements of the judges proves beyond doubt that the abilities of the disabled persons should not be underestimated and the sighted persons should not channelise them into specific jobs which the sighted persons think are suitable for them.

In this respect it is worthy to state that how far judicial activism can provide effective protection mechanism can be well understood from the recent judgment of the Supreme Court in the case of Disabled Rights Group vs. Chief Election
Commissioner & Anr. Write Petition (Civil) NQ 187 of 2004, where for the first time the Apex Court has ensured barrier free and easy accessible environment for the disabled voters in the elections. As a result the major political parties in the 15th Loksabha Elections 2009 has ensured in their ‘Political Manifesto’ to give equal rights and justice to persons with disabilities.

Therefore, protection and enforcement strategy adopted by government of West Bengal for the persons with disabilities shows that the budgetary allocation is not adequate and plan perspective is eclectic in nature. Paucity of funds is the main reason for inaction of the Authorities in implementing the provisions of the Act. Apart from these, government here in West Bengal has allotted a lump sum budget, engaged a battalion of officials, staff and other persons and created also different bodies, departments and centers for this purpose. But what it lacks is real coordination. Voluntary organisations and proactive social workers through NGO’s have also created an atmosphere of social sensitivity to a great extent. But NGO’s itself are not enough empowered economically to provide for
social integration of disable person with the mainstream society. Despite such limitation like the government, the NGO’s have come forward and they are trying to locate the universalism of rights of persons with disabilities in local circumstances. Even the role of National Human Rights Commission is also not satisfactory. Still it has not prepared any comprehensive report with reliable data on persons with disabilities in West Bengal.