



SC Upholds Disability Rights as Fundamental

For Prelims: [RPwD Act, 2016](#), [Mental Health Care Act, 2017](#), [PM-DAKSH \(Divyang Skill Development and Rehabilitation Scheme\)](#), [Accessible India Campaign](#), [DeenDayal Disabled Rehabilitation Scheme](#), [National Fellowship for Students with Disabilities](#)

For Mains: Disability Rights in India, Challenges, Measures to Empower Persons with Disabilities in India.

[Source: ET](#)

Why in News

The Supreme Court has ruled that **visually impaired candidates** can participate in judicial service exams, affirming that the **right against disability-based discrimination** under the [Rights of Persons with Disabilities \(RPwD\) Act, 2016](#), should be treated as a **fundamental right**.

What is the SC Ruling on Disability Rights in Judicial Services?

- **Striking Down Discriminatory Provisions:** The recent ruling came while deciding petitions concerning the *Madhya Pradesh Judicial Service Examination Rules, 1994*, and *Rajasthan Judicial Service Rules, 2010*, aligning them with the RPwD Act.
 - **Rule 6A** of the *MP Judicial Service Rules, 1994* was struck down as it excluded visually impaired candidates despite their educational qualifications.
- **Recognition of Disability Rights:** Any exclusion of visually impaired candidates from judicial services violates the [Constitutional right of equality \(Article 14\)](#) and [non-discrimination \(Article 15\)](#).
- **Affirmative Action:** The Court ruled that the State must adopt a **rights-based approach** rather than a **charity-based one**, ensuring equal access to employment.
 - The judgment reinforced that **reasonable accommodations** (bench cited the *Indra Sawhney judgment*, directing a separate cut-off for visually impaired candidates in the selection process), as mandated by [United Nations Convention on the Rights of Persons with Disabilities \(UNCRPD\)](#), and the RPwD Act, 2016, must be provided to **persons with disabilities (PwDs)**.
 - It allowed **relaxations in eligibility criteria**, similar to SC/ST candidates, when an adequate number of PwD candidates are not available.

Landmark Cases Related to PwDs

- ***Suchita Srivastava v. Chandigarh Administration, 2009*:** The Supreme Court upheld the reproductive rights of a **mentally retarded woman**.
- ***Govt. of India v. Ravi Prakash Gupta, 2010*:** The Supreme Court ruled that **predefined job criteria cannot be used to deny reservations** to visually impaired candidates, ensuring fair appointments.
- ***Union of India v. National Federation of the Blind, 2013*:** Clarified that 3% reservation

applies to vacancies in total cadre strength, not just identified posts.

- **Deaf Employees Welfare Association v. UoI, 2013:** Directed equal transport allowance for **hearing-impaired government employees**, ensuring non-discrimination among disabled as well.
- **Om Rathod vs Director General of Health Services Case, 2024:** SC ruled that the **functional assessment of a candidate's abilities** should take precedence over rigid eligibility criteria.

What is the Status of PwDs in India?

- **About:** As per the **2011 Census**, persons with disabilities make up **2.21% (2.68 crore)** of the total population.
 - As per **RPwD Act, 2016**, there are **21 recognized types of disabilities**, including Visual Impairment, Hearing Impairment, Speech & Language Disability, Intellectual Disability, Multiple Disabilities, Cerebral Palsy, and Dwarfism, among others.
- **Constitutional Provisions for PwDs:**
 - **Fundamental Rights:** [Article 14](#), [Article 19](#) and [Article 21](#).
 - **DPSP: Article 41** (Advocates for public assistance in cases of unemployment, old age, sickness, and disability).
 - **Responsibilities of Panchayats and Municipalities:**
 - **11th Schedule:** Focuses on social welfare, including that of persons with disabilities (Entry 26 of Article 243-G).
 - **12th Schedule:** Ensures the protection of weaker sections, including persons with disabilities (Entry 9 of Article 243-W).
- **Laws Related to Disability Rights:**
 - **RPwD Act, 2016:** It aims to ensure equal opportunities, protect rights, and enable the full participation of persons with disabilities.
 - **National Trust Act, 1999:** This Act established a national body to address the welfare of persons with Autism, Cerebral Palsy, Mental Retardation, and Multiple Disabilities, among other matters.
 - **Mental Health Care Act, 2017:** This Act protects the rights and dignity of persons with mental illness.

What are the Challenges Faced by PwDs in India?

- **Social Barriers:** PwDs often face challenges in securing **employment, education, and adequate income**, which hinders their ability to fully exercise their rights.
 - **Stereotypes, stigma, prejudice**, and discrimination limit social integration and create a **cycle of exclusion and isolation**.
- **Transportation Barriers:** According to the **World Report on Disability**, inaccessibility in transportation systems, **the built environment**, significantly limits the ability of PwDs to function independently in society.
- **Communication Barriers:** PwDs related to hearing, speaking, reading, or writing face difficulties in effective communication due to non-effective communication channels such as absence of non-verbal communication skill.
- **Policy and Programmatic Barriers:** Challenges such as **inconvenient scheduling and lack of accessible equipment** hinder the delivery of essential public healthcare programs.
- **Intersectional Marginalization:** Women with disabilities face **dual discrimination** based on gender and disability, limiting their access to education, employment, and healthcare.
 - **Among the total disabled population 44% are females (Census 2011)**, mostly live in rural areas and face greater exclusion.

What are India's Initiatives for the Empowerment of PwDs?

- [PM-DAKSH \(Divyang Skill Development and Rehabilitation Scheme\)](#)
- [Accessible India Campaign](#)

- [DeenDayal Disabled Rehabilitation Scheme](#)
- [Assistance to Disabled Persons for Purchase/fitting of Aids and Appliances](#)
- [National Fellowship for Students with Disabilities](#)

Way Forward

- **Effective Mainstream Policies and Services:** Stakeholders must ensure equal participation of PwDs in general public activities and services.
 - Increased investment is needed in rehabilitation, and support services. For example, assistive equipment like **wheelchairs, hearing aids, and white canes** enhance PwDs' independence.
- **Enhance Human Resource Capacity:** The **Rehabilitation Council of India (RCI)** should accelerate the training process to effectively regulate and enhance the competency of professionals engaged in disability-related services.
 - Japan's **Dawn Cafe** employs disabled staff to remotely control robot waiters, creating inclusive job opportunities. India should adopt similar practices to enhance employment accessibility for persons with disabilities.
- **Increase Public Awareness of Disability:** Raising public awareness can challenge negative perceptions and break down social and attitudinal barriers.
 - Educational institutions should **foster inclusivity and diversity** by ensuring that the language skills needed by individuals with disabilities are **also taught to able-bodied individuals**, facilitating inclusive communication.
- **Improve Disability Data Collection:** Better data collection, segmented by age, sex, and socio-economic status, will improve understanding of barriers faced by PwDs.

Drishti Mains Question:

The SC ruling on the right against disability-based discrimination marks a progressive step towards inclusivity in public services. Discuss the various challenges faced by PwDs and suggest measures for further reforms.

UPSC Civil Services Examination, Previous Year Question (PYQ)

Q. India is home to lakhs of persons with disabilities. What are the benefits available to them under the law? (2011)

1. Free schooling till the age of 18 years in government run schools.
2. Preferential allotment of land for setting up business.
3. Ramps in public buildings.

Which of the statements given above is/are correct?

- (a) 1 only
- (b) 2 and 3 only
- (c) 1 and 3 only
- (d) 1, 2 and 3

Ans: (d)

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