

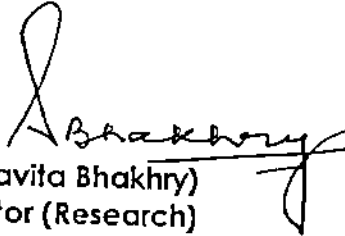
F. No. 11/16/2009-PRP&P  
National Human Rights Commission  
(JD(R) Unit, PRP&P Division)

Manav Adhikar Bhawan,  
C-Block, GPO Complex,  
INA, New Delhi -110023


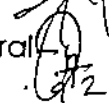
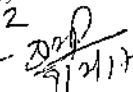
Dated: 9 February 2017

**Subject : Minutes of the Meeting of the NHRC Core Group on Disability.....**

A meeting of the Core Group on Disability was held in the NHRC on 23 December 2016 under the chairmanship of Shri S.C. Sinha, Member, NHRC. Enclosed please find a copy of the minutes of the meeting for information please.

  
(Dr. Savita Bhakhry)  
Joint Director (Research)

To,

1. Member (SCS) 
2. Secretary General 
3. Joint Secretary (T&R) -  9/2/17

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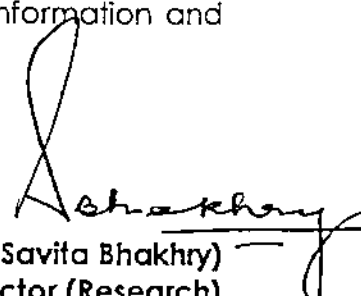
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(Dr. Savita Bhakhry)  
Joint Director (Research)

To,

1. Shri Prasanna Kumar Pincha, Special Rapporteur, NHRC,  
Flat no. 7 (Ground Floor), Narmada tower-I, Pocket D6,  
Vasant Kunj, New Delhi-110070
2. Dr. Uma Tuli, Founder and Managing-Secretary,  
Amar Jyoti Rehabilitation & Research Centre, Karkardooma,  
Vikas Marg, Delhi-110 092.
3. Dr. G.N. Karna, Honorary President, Society for Disability and  
Rehabilitation Studies, B-285, Vasant Kunj Enclave,  
New Delhi-110 070.
4. Dr. Kamlesh Kumar Pandey, Chairperson, Rehabilitation Council  
of India, B-22, Qutab Institutional Area, New Delhi - 110 016.
5. Shri S.K. Rungta, General Secretary, National Federation of Blind,  
Plot no. 21, Sector VI, MB Road, Pushp Vihar, New Delhi-110017

etc



**Minutes of the Meeting of Core Group on Disability Held on**  
**23 December 2016**

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1. The meeting of the Core Group on Disability was held on 23 December 2016 at 11 a.m in NHRC. The meeting was chaired by Shri S.C Sinha, Member, NHRC and was attended by Shri J.S Kochher, Joint Secretary (T & R), NHRC and Dr. Savita Bhakhry, Joint Director (Research), NHRC. The list of participants is annexed (Annex-I).

**Agenda Item No- I – Role of NHRC after enactment of Rights of Persons with Disabilities Bill, 2016**

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**Agenda Item No- II- Employment of Persons with Disabilities**

2. Shri S.C Sinha, Member, NHRC welcomed all the participants and requested them to suggest role of NHRC in monitoring the implementation of the Rights of Persons with Disabilities (RPD) Bill, 2016 which has been passed by the Parliament and awaiting Presidential assent.

3. Shri P.K Pincha, Special Rapporteur, NHRC initiated the discussion by suggesting three areas where NHRC could contribute significantly. He suggested NHRC to undertake orientation and sensitization of stakeholders on the RPD Bill, 2016. Secondly, NHRC should review the implementation of the RPD Bill, 2016 all over the country after the Bill gets assent of the President. Thirdly, NHRC could bring out small handout/leaflets for creating awareness on the Rights of Persons with Disabilities Bill, 2016 in simple language which are intangible to common man.

4. Shri P.K Pincha also highlighted the following areas of concern in the Rights of Persons with Disabilities Bill, 2016:

- The first area of concern was raised on the proviso of Section 3(3) of the Bill which mentions that no person with disability shall be discriminated on the ground of disability, unless it is shown that the impugned act or omission is a proportionate means of achieving the legitimate aim. He stated that since the Bill is silent on what constitutes the 'legitimate aim', it would give unfettered power to the executives to discriminate on the ground of disability. It was suggested during the discussion that this issue could be taken care of while framing Rules by the Government.

- Second concern was raised on Section 34 regarding reservation of 4 percent in total number of vacancies in the cadre strength in each group of posts which are meant to be filled with persons with benchmark disabilities. He has apprehensions regarding the fact that persons with disabilities selected on merit for a post are adjusted against the reserved posts.
- Thirdly, the Bill provides for grant of limited guardianship by District Court under which there will be joint decision – making between the guardian and the persons with disabilities. He stated that under the National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999, there is a provision for appointing guardians as such this issue needs to be harmonized. Shri P.K Pincha advocated that plenary guardianship has been totally abolished in the Bill. He suggested that instead of limited guardianship, there should be need based guardianship. The need for harmonization of other disability related legislations was also recognized after enactment of RPD Bill, 2016.

Shri S.C Sinha requested Shri P.K Pincha to provide a note on these concerns. )|

5. Shri Kochher stated that there is a special chapter included in the RPD Bill, 2016 that lists number of 'Rights and Entitlements' of Persons with Disabilities. He requested Shri P.K Pincha to give his views to ensure these rights are available to persons with disabilities. Shri P.K Pincha responded to the query by stating that at National level, Chief Commissioner for persons with disabilities has been assigned legal powers and at State level, State Commissioner for persons with disabilities has quasi judicial power to do so. He also mentioned that in the said Bill there are provisions of Special Courts, National Fund for Disability among others for the proper enforcement of the rights and entitlements listed in the Persons with Disabilities Bill 2016. Shri P.K Pincha stated that under the 'Article 33' of the United Nation Convention on the Rights of Persons with Disabilities NHRC can monitor the implementation of this Act. Shri S.C Sinha requested Shri P.K Pincha, to design a pamphlet having various rights as enunciated in the RPD Bill, 2016. Dr. Manjari Tripathi suggested that these pamphlets could also be distributed through e-mail on special day like International Day of Persons with Disabilities on monthly basis in all government hospitals. | |

6. Shri S.C Sinha, Member, NHRC suggested that there are three ways in which NHRC can monitor the implementation of the Act. He firstly stressed on the need of making people aware about the Bill, 2016. Secondly, creating an enabling infrastructure for the person with disability. Thirdly, by recommending harmonization of the other disability related legislations with the RPD Bill, 2016.

7. In order to accomplish the aforementioned tasks, Shri J.S Kochher suggested that publications for common people, organizing regional workshops, seminars would help in creating awareness among stakeholders regarding the Rights of Person with Disability. In addition to this, Member, NHRC suggested that Regional Workshops could be organized on similar lines to workshop being organized by NHRC on bonded labour and publications on varied subjects published by NHRC.

8. Dr. Manjari Tripathi stated that as the disability certificate is issued by the authorized Medical Boards, there is a lack of sensitization among the doctors when it comes to issuing the disability certificate to the person with disability. In the event of absence of one of the Members from the constituted Medical Board leads to non-issuing of disability certificate. Thus, the persons with disability run from pillar to post in order to get disability certificates. Dr. Manjari Tripathi suggested that only one doctor should be enough to identify the disability of the person and to be assigned responsibility to issue disability certificate.

9. Shri P.K Pincha responded to this by stating that under the Persons with Disabilities Amendment Rule, 2009 there is a provision that, in case of obvious disability, the person need not come to the District headquarters for disability certificate and could get it done from Primary Health Centre. He further added that under the RPD Bill, 2016 there is a provision that disability certificate shall be valid across the country.

10. Dr. Komal Kamra suggested that the certificate of disability should not only mention the percentage of disability but also mention about the abilities of the person, he/she is capable of doing. Shri J.S Kochher enquired from Dr. Manjari Tripathi regarding any international practices of issuing such type of disability certificates. Dr. Manjari Tripathi cited instance of the USA, wherein certificate of disability also mentioned that though the person is visually impaired but has mathematical skills. Shri S.C Sinha asked Dr. Manjari to submit such certificates of various countries to the NHRC.

11. Shri P.K Pincha and Shri S.K Srivastava found the aforementioned suggestions well intentional but stated that the certificate of disability should only talk about the nature of disability and could not contain abilities of the person with disability explicitly. Shri S.K Srivastava stated that there is an exhaustive circular of 26 pages of Ministry of Social Justice and Empowerment that contains how to determine disabilities and certify it.

12. Dr. Komal Kamra stated that not every doctor is aware of the exhaustive circular and thus there is a need for sensitization of doctors. She further stressed the fact that such system should be enunciated where

disability certificate could be issued quickly. To this Dr. Manjari Tripathi added that a timeframe should be set for issuing such certificates and it should not more than one month.

13. Dr. Manjari Tripathi opined that most of the disabilities listed in the RPD Bill, 2016 come under the purview of chronic neurological disorders. Dr. Komal pKamra advocated that the disabilities which are far less in number have been included in the list of disabilities as mentioned in RPD Bill, 2016 but disabilities like Muscular dystrophy and Spinal Cord injuries are not included in the list. Shri P.K Pincha stated that the Bill, 2016 passed by the Parliament has a provision that any other category of disability could be notified by the Central Government. Therefore, other disabilities could be added in the list. Sri S.C Sinha asked Dr. Manjari Tripathi to submit a note in this regard.

14. Dr. Komal Kamra stated that as per the D/o Revenue, M/o Finance, Circular, there is a provision of excise duty exemption on cars bought by persons with physical disabilities who could drive. While referring to the provision, she pointed to the fact that there are certain categories of persons with disabilities who could not drive but need a car. Therefore, she suggested that provision of exemption of excise duty should be should be extended to all persons with disability. She was asked to give a detailed note on the issue.

**15. Agenda Item No- III Requirement of changes in other disabilities legislations**

**Rehabilitation Council of India Act (RCI), 1992**

16. Shri S.K Srivastava stated that RCI has Certificates, Diplomas and Degree courses on disability as mentioned in the PWD Act, 1995. But now RCI has to come up with the PG level courses, Diplomas for disabilities, based on the disabilities as incorporated in the RPD, Bill 2016.

17. He advocated that RCI Act 1992 needs to be amended as it does not cover all the disabilities. Shri S.K Srivastava suggested that thorough examination and revision of the RCI Act 1992 in light of the Bill 2016 is required. He mentioned that the amendment is in the public domain since 2011 and once RPD, Act, 2016 is enacted, a committee could be set up to redraft the RCI Act 1992 keeping in view the UN Convention on Person with Disability and RPD Act 2016.

**National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999**

18. Shri S.K Shrivastava explained two broad functions played by National Trust. Firstly, it appoints guardians through local committees and secondly,

implements schemes belonging to four categories of disabilities. But now, the concept of guardianship has been modified in the RPD Bil, 2016, as it talks about the limited guardianship which has no mention in National Trust Act 1999. Thus, the Act needs to be amended in light of the RPD Bill 2016. Shri P.K Pincha agreed with the suggestions. B

### **The Mental Health Act, 1987**

19. Shri Srivastava stated that the Mental Health Care Bill 2016 has been passed in Rajya Sabha and hopefully would be through in the coming Budget Session.

20. After extensive discussions, the following was decided in the meeting:

1. There is a need for creating awareness among doctors regarding the procedures of issuing disability certificate to person with disability in order to ensure hassle free and expeditious procurement and obtaining of certificate by person with disability. In this regard, Shri P.K Pincha will prepare a leaflet/pamphlet which could also be distributed through e-mail on special days like International Day of Persons with Disabilities, Human Rights Day etc to all government hospitals.
2. RPD Bill, 2016 passed by the Parliament and notified by the government has a provision in para 6 of the schedule that other category of disabilities could be included by notification by the Central Government. In this regard, Dr. Manjari Tripathi will provide a note on other additional disabilities which could be recommended for inclusion in the list of disabilities as mentioned in the RPD Bill, 2016.
3. Dr. Komal Kamra will provide disability certificates of various countries which have incorporated the abilities of persons with disabilities in their disability certificates.
4. As per the D/o Revenue, M/o Finance circular, the government offers excise duty concessions for buying a car to a person with disability. The buyer should be a person with disability and must be able to drive the car. Dr. Komal Kamra will provide a note on the issue of inclusion of persons with other disabilities who cannot drive under the purview of provision of excise duty exemption on cars.

The meeting ended with the vote of thanks.

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## List of Invitees

### Members of Core Group on Disability

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1. Shri P.K Pincha  
Special Rapporteur, NHRC  
New Delhi
2. Shri S.K Srivastava  
Member Secretary  
Rehabilitation Council of India  
New Delhi

### Special Invitees

3. Dr. Manjari Tripathi  
Professor Neurology  
Department of Neurology  
AIIMS, New Delhi
4. Dr. Komal Kamra  
Professor,  
Department of Zoology  
SGTB Khalsa College  
University of Delhi, Delhi

### NHRC

5. Shri S.C Sinha  
Member, NHRC
6. Shri J.S Kochher  
Joint Secretary (T&R)  
NHRC
7. Dr. Savita Bhakhry  
Joint Director( Research)  
NHRC