

Minutes of the Meeting of the Core Group on Rights of Persons with Disabilities held on 13th April, 2022 To Examine Compliance by the Government Institutions/ Organizations in providing access to the Persons with Disabilities as per the provisions of the Rights of Persons with Disabilities Act, 2016.

Dr. D.M. Mulay, Hon'ble Member, National Human Rights Commission chaired the meeting. The list of participants is placed at **Annexure-1**.

Shri H.C. Chaudhary, Joint Secretary, NHRC initiated the meeting by extending a welcome to the expert members of the core group and representatives of the Department of Empowerment of Persons with Disabilities, Ministry of Social Justice and Empowerment, Chief Commissioner for Persons with Disabilities, and NHRC officials. He explained, in brief, the provisions of the Section 40 and 41 of the Rights of Persons with Disabilities Act, 2016 (RPD Act, 2016) providing for 'Accessibility and Access to transport, information, communication and technology'. He informed that earlier there was a single core group to deal with matters relating to persons with disabilities and older persons which has now been bifurcated and a separate core group on disabilities has been constituted to exclusively deal with the human rights issues faced by persons with disabilities. This is the first meeting of the core group on disabilities since its constitution.

Dr. D.M. Mulay, Hon'ble Member, NHRC in his opening remarks explained the rationale behind constitution of the core group and criteria for selection of its members which include balance of expertise, domain knowledge, sharing of ideas, inclusion of multiple stakeholders, gender balance as well as regional balance etc. as much as possible. He further expressed his idea of an outcome-based approach. He stated that this core group should not become merely a discussion group. Visits may be conducted in various government complexes in various states including Delhi. During these visits accessibility and implementation of barrier-free access provided for the PwDs may be inspected /assessed. Best practices that have been implemented by various organizations at the national or international level may also be discussed. He suggested that the core group meetings should be more suggestion-oriented rather than presentation-based. He assured that the Commission always welcomes new ideas and suggestions for improvements from the core group members.

Justice Shri Mahesh Mittal Kumar, Hon'ble Member NHRC shared his experience of interaction with the UN Special Rapporteur on Disability, during his participation in the UN meeting where he stressed upon the use of Artificial Intelligence (AI). He explained how recent advancements in the field of Artificial Intelligence and assistive devices can be utilised for creating a disable - friendly environment in the society. He further emphasized that vision, mission, approach and practical solutions are key to achieve the desired outcomes in the sector. He recalled the cases dealt by Justice Shri Kuldeep Singh and other judges of the

Supreme Court wherein directions were given to permit visually impaired students to appear in the UPSC examinations.

Shri Mritunjay Jha, Deputy Secretary, Department of Empowerment of Persons with Disabilities, deliberated upon the legal provisions available for the Persons with Disabilities. He mentioned that RPD Act, 2016, which is in conformity with the United Nation Convention on Rights of Persons with Disabilities (UNCRPD), recognizes 21 conditions of disabilities including cerebral palsy, dwarfism, muscular dystrophy, acid attack victims, hard of hearing, speech and language disability, specific learning disabilities, autism spectrum disorders, chronic neurological disorders, etc. He stated that the Union Government has initiated several measures for welfare of the persons with disabilities. Notable among them includes National Policy for Persons with Disabilities launched in February 2006 which deals with the Physical, Educational & Economic Rehabilitation of persons with disabilities with an objective of ensuring equal participation and creating inclusive society. He also mentioned that the Ministry has notified a list of around 3,000 government posts where PwDs can be employed. He further stated that, the Department of Empowerment of Persons with Disabilities also provides financial support under the centrally sponsored scheme to construct accessible buildings for public offices.

Shri Subhash Chandra Vashishth, Advocate and Joint Secretary at National Association for Blind and Member at the Standing Committee on Accessible Transportation and Mobility, TRB, USA, spoke about the following issues :

- i. **Harmonisation within the harmonised accessibility guidelines of different ministries:** Under section 40 of RPD Act, different ministries and departments are coming out with their Sectoral Harmonised Guidelines. However, many times different ministries have different understanding of the accessibility mandate thus, a primary review indicates that these guidelines also need harmonization with each other.
- ii. **Formulate and publish an Accessibility Action Plan based on prioritization.** While there is a lot of discussion about section 45 (1) of RPD Act and the 5 year time period to achieve accessibility which expires in June 2022, we have not laid sufficient stress on Section 45 (2) which requires every department/establishment to formulate and publish an Action Plan based on prioritization. This should have been done in 2017 itself so that the access to intended beneficiaries could have been provided within 5 years. Unfortunately, not even a single agency has prepared this Action Plan.
- iii. **Extension of Time to implement Accessibility.** The Department of Empowerment of Persons with Disabilities has written to the States to either implement accessibility by June 2022 or seek extension of time under the Act. He suggested that not more than 2 year extension should be given for meeting the mandate and all the states/establishments be directed to formulate and publish their Access Action Plan within 3 months with strict timelines for implementing access within the next two years in all the sectors - Built, Transport, Services & ICT.
- iv. **Creating Focal Points for Accessibility in all Urban Local Bodies to Implement Section 44 of the RPD Act:** -Section 44 of the The RPD Act provides for checkpoints to ensure that no new inaccessible building/project is constructed.

However, even today new buildings are being constructed in all parts of the country with no accountability of urban local bodies/ panchayats/municipalities/development authorities. Many States have not aligned their Development Control Rules and General Building Requirements with the National Building Code 2016 and Harmonised Guidelines for Accessibility that needs to be done immediately. All ULBs needs to be directed to appoint Responsible & Trained Officers and create a mechanism for Self Check/Self declaration countersigned by a registered Architect who will testify that the building plan adheres to access requirements, both at the drawing stage and at the completion stage; and that no occupation certificate or certificate of completion is given to any building project, unless it meets the access mandate to be vetted by an independent committee consisting of Access Officers/ External Accessibility Experts/ Users with disabilities or their NGO/DPO. The Officers and Project agencies need to be fined and structures demolished if they don't meet the access mandate.

- v. **Quality of access interventions/ features-** While most access interventions look like tick marks on a checklist for compliance; they are of very poor quality and do not stand the standard requirements, such as weight bearing of handrails / grab bars in bathrooms, on ramps/staircases. Most will come off with less than 100 kg weight. Similarly, the opening force needs to operate controls, open doors remain unchecked. Requirement of the Width of a single leaf as minimum 900 mm is often disregarded in favour of two leaves of 450mm which fail to serve the access needs. Ramp gradients, their surfaces and lack of right landings are the most significant safety challenges for users with disabilities even in new built environments.
- vi. **Financial / in-kind incentives** for private stakeholders to ensure accessibility, if they implement it in the first 5 years. While accessibility mandate is applicable to all establishments, incentives from the Govt. may work as a great encouragement to private players to meet this mandate of this law for larger inclusion.
- vii. **Mobility and transportation accessibility** - States need to be directed to ensure Public Buses are accessible to the PwD as per Rule 15 of RPD Rules. All urban transport buses must be low floor and have accessibility features. The states must use their purchasing power to ensure that market players provide accessible transport solutions at lower cost. High floor buses should be banned from public operation, except on dedicated BRT routes where corresponding boarding platforms exist and access to such platforms is ensured. All concerned Ministries must ensure that no inaccessible buses are allowed to be purchased from any Govt. Scheme (such as JNNURM, AMRUT, FAME etc.). Accessible Taxis or last mile connectivity is non-existent. Even a city like Delhi doesn't have Accessible Taxies. States need to be directed to make provisions for the same and give licenses to taxis that are based on universal design and can accommodate needs of the PwDs.
- viii. **Accessibility of ICT/ Websites** - The time limit has already ended in 2019 to make websites accessible for PwDs, however, still large number of government and private websites offering public services are not accessible to visually impaired and persons suffering from other disabilities. A Special Cell needs to be created in NIC on an urgent basis and to make all websites accessible complying with WCAG within the next 6 months in mission mode. Similarly private establishments also need to be directed and

- their licenses to operate may be linked to their compliance to the access mandate. NIC could also offer this service on paid basis at affordable costs to private players to hasten up the process.
- ix. District Disability Committees with trained and sensitised officers for persons with disabilities have not been activated in most districts which are important focal points to check compliance of the law.
 - x. Most offices of the State Commissioner for Persons with Disabilities (SCPD) and even Chief Commissioner for Persons with Disabilities (CCPD) do not have full time independent Commissioners. All these posts, being important focal point for implementation of the Act, need to be filled on priority.
 - xi. **Special Courts/ Public Prosecutors:** In most of the states special courts and special prosecutors to deal with matters relating to RPD Act have not notified a not appointed. Even in the States where they have already been established or appointed, they are not trained for their role. Therefore, there are hardly any cases going to them and leading to conviction/ punishment or strict action against the delinquent persons/authorities. All States need to be directed to submit the details of these courts/public prosecutors and the cases resolved by such courts. Needless to say that these courts need to be physically accessible and should provide hybrid forms of filing cases/ hearings etc.
 - xii. **Social Security/ Pensions -** To sustain their lives, persons with disabilities are offered pensions as low as 300-400 rupees per month by some States. Such low amounts are insufficient to cater to the needs of poor condition of persons with disabilities. The States need to be directed to at least provide 50% of what an unskilled labour gets in the state or at least an amount of Rs. 3,000 per month (whichever is more) as disability pension to those who are not gainfully employed.

Ms. Vaishanvi Jayakumar, Member, Disability Rights Alliance (DRA) in her address highlighted the transport related problems faced by the persons with disabilities. She highlighted the hostile conditions of the external environment concerning transportation for differently abled persons and repercussions of unfriendly transport facilities on right to education for differently abled children as the existing infrastructure and transport facilities are not suitable for their use. She talked about a landmark judgment delivered by Justice A.P Shah in 2006 which mandated the Government to take adequate steps. The new infrastructure built after the enforcement of the law was supposed to be accessible. However, hardly any steps were taken in this regard. She shared that in the year 2012, a circular was issued by the Ministry of Housing Affairs where it was specifically directed to purchase the low floor buses and create leveled platforms at the bus stop to enable persons with disabilities to easily access the buses which has not been implemented so far. However, Bangalore and Delhi are procuring low level buses which are accessible to persons with disabilities. She also stated that some of the railway infrastructure including the recently introduced Vande Bharat trains does not conform to the accessibility requirements. She made the following recommendations:

1. All new infrastructures should be accessible to the persons with disabilities.
2. Procurement by Government agencies should be made considering the need of differently abled persons.

3. 365x24x7 Translation Services Hub using video call and text shall be made available. Dedicated toll free mobile number providing for diverse communication needs of persons with disabilities may be provided in police stations and hospitals.
4. Accessibility and reasonable accommodation in custodial centres like prisons, beggars homes, mental hospitals etc. may be provided. Prison rules to be updated to make them compatible to the RPD Act.
5. Services and websites shall be suspended till the time they become compliant to accessibility standards as the deadline for compliance under disability law is already over.
6. Number of disable friendly seats and wheelchairs in each compartment of the trains may be increased so as to enable more no. of the PwDs to access the railway transport services.

Ms. Meenakshi Balasubramanian, Co-Founder, Centre for Promotion of Social Justice, Chennai, gave following suggestions:

- i. Ministries and Departments may be directed to allocate specific resources for retrofitting their works, services (buildings, spaces, services including transport, information and communication) for universal design.
- ii. Public procurement guidelines and policies may be amended to ensure universal design by mandating universal design at the procurement levels).
- iii. The NHRC may hold a discussion on linking the harmonized guidelines with the procurement guidelines. We need to look at retrofitting within the domain of the respective ministries and departments and direct those ministries to earmark resources for retrofitting of buildings and services to ensure accessibility at both the union and state level.

Dr. Sanjay Jain, Officiating Principal, ILS, Law College, Pune expressed his views on implementation of the provision of the RPD Act and mentioned that Post of Commissioner at Office of the Chief Commissioner for Persons with Disabilities is vacant since long time. Vacancy in such a crucial post is hampering effective implementation of the RPD Act and the rules made there under implementation of the law, and enactment of the rules in several states. It is the responsibility of the Union Government to ensure the implementation of provisions of the RPD Act all across the nation. PwDs shall be equally treated and their right to freedom of movement shall also be guaranteed by making concerted efforts. He further added that focal point under article 33 of the provisions of the UNCRPD should be appointed for catering to the rights of persons with disabilities.

Shri Santosh Mehra, Director General (Investigation), NHRC stated that every government has limited resources and therefore, all NGOs and other organizations may suggest low cost alternatives that can be provided to maximum number of persons with disabilities. We need to focus upon the research based solutions and innovative technologies to mitigate the hardships faced by the persons with disabilities.

Shri Akhil S. Paul, Director, Sense International (India), Ahmedabad recommended that the Government must play an active role in implementation of the RPD Act and the rules

framed there under. He noted with concern that website of the Accessible India Campaign launched in 2015 has not been updated since November, 2016. He also pointed out that the NHRC Toll-free complaint number is also not accessible for PwDs. He further stated that accessibility audit of the buildings has not been completed so far. He also suggested that toll-free numbers with video calling facility need to be enabled for easy access of persons with disabilities.

Shri Yajurvendra Mahajan, Founder, Deepstambh Foundation, Jalgaon, gave a brief overview of his initiative on creating first ever residential accessible program for persons with all types of disabilities aspiring for competitive exams/ higher education. He stated that his organization is in process of building national model accessible project for 320 students with disabilities in Maharashtra wherein all the norms for PwDs will be implemented.

Dr. Satendra Singh, Professor of Physiology at University College of Medical Sciences and Guru Tegh Bahadur Hospital, stressed that accessibility is a human right that must be vigilantly protected. Citing the article 9 of the CRPD, its general comment No. 2 (2014), and section 40–46 of the RPD Act 2016 on accessibility, he highlighted the lack of a cross-sectoral approach among ministries and statutory bodies. The Chief Commissioner for Persons with Disabilities (CCPD), for example, who is also a member of NHRC Core Group on Disabilities disposed of his own petition on the inaccessibility of Lady Hardinge Medical College without even hearing him. Moreover, CCPD has also not exercised its power of suo moto cognizance on violation of accessibility provisions mandated under the law [u/s 75(1)(b) of RPDA]. He further highlighted that he has been showcased as the ‘Individual Stars of Accessible India Campaign’ on the government website yet none of his requests has been addressed to make the places accessible since 2015.

Mr. Akhil Paul from Sense India confirmed that website of the Accessible India Campaign launched in 2015 was last updated on 26.11.2016. The other participants also highlighted that the post of CCPD has been vacant for a long time and advisory committee comprising of not more than eleven members drawn from the experts from different disabilities as mandated under section 74(8) of the RPDA does not exist.

Dr. D. M. Mulay, Hon’ble Member NHRC, in his concluding remarks stated that we have a long way to go to ensure the accessibility to all persons with disabilities which is their legal right. In fact, we need a wholehearted commitment for implementation of the vision envisaged in the RPD Act to ensure that all PwDs realise their basic rights, i.e, liberty, dignity and equality. It is essentially required that the RPD Act is fully complied with in letter and spirit for which the government is duty bound. He further motivated everyone to move ahead in the collective journey for making a positive impact in the lives of the persons with disabilities.

With the thought of setting an example, a general accessibility inspection was conducted in the building of NHRC (Manav Adhikar Bhawan) by a team headed by Dr. D.M. Mulay, Hon’ble Member accompanied by the Core Group Members & NHRC Officers to check accessibility conditions for the persons with disabilities. After the inspection, several observations were made. Same are listed at **Annexure-II**.

Recommendations of the Core Group:

1. All government departments to formulate and publish an Action Plan in compliance of the Section 45 (2) of the RPD Act specifying the steps (short term, mid-term, long term) to be taken to ensure compliance to RPD Act.
2. All Ministries/ departments to set up Access Coordination Committee headed by a senior officer to follow up the Action Plan, conduct training and sensitization programmes within the organisation and get the Access Audits of their buildings, websites, services and infrastructure conducted, as required.
3. States need to align their Development Control Rules and General Building Requirements with the National Building Code 2016 / Harmonised Guidelines for Accessibility immediately. All ULBs be directed to appoint Responsible & Trained Officers/ or create mechanism for Self Check and Self declaration countersigned by a registered Architect who will testify that the building plan adheres to access requirement both at the drawing stage and at the completion stage.
4. All buses deployed for urban transport services must be low floor and have accessibility features. The states must use their purchasing power to ensure that market players provide accessible transport solutions at lower cost. Except on dedicated BRT routes where corresponding boarding platforms exist and access to such platforms is ensured, high floor buses should be phased out from public operations in urban local transport.
5. The agencies/establishments need to be facilitated by a Special Cell created in NIC on an urgent basis to make all websites accessible to persons with disabilities and make all websites accessible complying with WCAG within the next 6 months in a mission mode. Similarly, private establishments also need to be directed and their licenses to operate be linked to their following the access mandate. NIC could also offer this service on paid basis, at affordable costs, to private players to hasten the process.
6. District Disability Committees may be created with trained and sensitised officers and persons with disabilities.
7. All states need to be directed to submit the details of special courts and special prosecutors in all the states/districts and the details of the cases resolved by these courts. These courts need to be physically accessible and should have facility of filing cases and conduct hearings, etc. in a hybrid mode.
8. Accessibility and reasonable accommodation to be provided in custodial centres like prisons, beggar's homes, mental hospitals, etc. and Prison Manuals need to be updated to incorporate provisions of the RPD Act therein.
9. The NHRC Toll-free number for making complaints should also be made accessible for better outreach of the PwDs.

The meeting ended with a Vote of Thanks by Dr. M.D.S. Tyagi, Consultant (Research), NHRC.

List of Participants:

I- NHRC Officials:

1. Dr. D.M. Mulay, Hon'ble Member, NHRC- Chair
2. Justice Shri Mahesh Mittal Kumar, Hon'ble Member, NHRC
3. Shri Santosh Mehra, DG(I)
4. Shri H.C. Chaudhary, Joint Secretary, NHRC
5. Dr. M.D.S. Tyagi, Consultant (Research), NHRC
6. Shri Sanjay Kumar, Under Secretary, NHRC
7. Ms. Smriti Pandey, JRC, NHRC
8. Mr. Maninder Singh, JRC, NHRC
9. Mr. Masroof Anwer, JRC, NHRC
10. Ms. Lakshmi Kumari, JRC, NHRC

II- Representatives of Ministries:

1. Shri Mritunjay Jha, Deputy Secretary, Department of Empowerment of Persons with Disabilities, Ministry of Social Justice and Empowerment, New Delhi

III- Expert Members of the Core Group:

1. Prof. (Dr.) Amita Dhanda, Professor, NALSAR, Hyderabad
2. Ms. Nidhi Goyal, Founder & Executive Director, Rising Flame, Mumbai
3. Ms. Meenakshi Balasubramanian, Co-Founder, Centre for Promotion of Social Justice, Chennai
4. Shri. Akhil S. Paul Director, Sense International (India), Ahmedabad
5. Shri. Yajurvendra Mahajan, Founder, Deepstambh Foundation, Jalgaon
6. Dr. Satendra Singh, Medical Doctor, University College of Medical Sciences and Guru Tegh Bahadur Hospital, (Delhi)

IV- Special Invitees:

1. Shri Subhash Chandra Vashishth, Advocate, Specialist- Accessibility, Universal Design & Diversity Inclusion , Joint Secretary at National Association for Blind (Delhi), Member at Standing Committee on Accessible Transportation and Mobility, TRB, USA
2. Ms. Vaishnavi Jayakumar, Member, Disability Rights Alliance
3. Dr. Sanjay Jain, Professor, ILS Law College, Pune
4. Dr. Kiran Kumari, Assistant professor , Punjabi University, Patiala, Punjab
5. Shri Yashpal Gupta Superintendent Engineer, DC-IV, Central Public works Department (CPWD), East Block-1, Level-6, R.K. Puram, New Delhi-110066

Inspection Report on Accessibility Conditions in Manav Adhikar Bhawan

1. Accessible Entrance:

- i. The entrance gate of NHRC (where metal detector gateway is placed) needs to be widened as the width of the entrance is too narrow for letting a wheel chair pass through it.
- ii. The entrance gate is close to the lifts and stairs so as to provide barrier free access to lifts and stairs.

2. Parking: Car parking spot shall be created and allocated specifically for persons with disabilities in the parking area as per the norms.

3. Lifts: The lift is disabled-friendly as it has audio and video alarm. Further, the signage is also placed in braille language outside the lift.

4. Stairs:

- i. Two sided double handrails to be installed at the stairs on every floor.
- ii. There should not be any plates close to the handrails of the stairs.
- iii. Color contrasting strip at all floors at each step inside and at entrance of the NHRC building need to be created to enable persons with low vision or any other visual impairment to identify the depth of the stairs easily.

5. Ramps:

- i. The building is equipped with ramps along with the railings at the entrance.
- ii. Tactile Flooring need to be installed at the entrance of the entrance ramp.

6. Reception:

- i. The height of the plank outside the reception may be reduced for making the reception area accessible.
- ii. The details regarding directions to places such as meeting rooms, floor, and directions may be placed in braille on a board at the reception area.

7. Wheelchair: Wheelchairs should be purchased by the Commission and placed near the entrance area/ waiting area to assist any older person or PwD.

8. Toilets:

- i. Unisex accessible toilets are available at each floor of the NHRC building. However, the locks of the doors need to be changed from top to the lower side so that it can be easily opened and closed by any person with disability or any older person.
- ii. The sign board on top of the disabled friendly toilet needs to be changed from "Handicap Toilet" to "Toilets for PwDs" and the alphabet "T" may be added there so that the toilet can also be used by any Transgender person.
- iii. Horizontal grab bar, low height sink are available in the toilets.

9. Corridors and Lobby:

- i. Waiting area on the ground floor is well equipped with chairs and tables and it has sufficient space where wheelchairs can be parked.
- ii. Tactile flooring to be provided on each floor to enable the persons with visual impairment or low vision to provide better pathway access.
