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Inclusive Education for Differently Abled Child: A Step towards Equality

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ABSTRACT

India is a massive country of young generation with 65% population below 35 years and 2.1% of population are differently able persons. A country can only grow when people are treated equally before law and education is accessible to all. Equality means to prevent discrimination and providing remedies for the same. Inclusive education is a step in this direction and it provides a stride towards societal development. It provides a learning platform where differently able child study with normal child for academic, social, behavioural and professional development. UNESCO Agenda 2030, Sustainable Development aims to “ensure inclusive and equitable quality education and promote lifelong learning opportunities for all. Several reports have highlighted upon the steps required in this direction. Art. 21-A, Constitution of India is given a wider interpretation which resulted in Right to Education Act, 2010. In 2016, Right of Persons with Disability Act is enacted, which repealed 1995 Act, and follow principles of respect for the evolving capacities of children with disabilities and respect for the right of children with disabilities to preserve their identities. The paper looks into positive and negative implications of present legislation.

The total number of children with disabilities (in the age group of 0–19 year) is 7,864,636. In spite of having provisions laid down in various legislations to include differently able in the society, still large number of differently able children feel 'left-outs' and thus 'drop-out', as they are unable to cope pressure. The utmost need is the exposure of teachers, sensitisation of children and differently able friendly attitude with quality education. The author looks into challenges in implementation of statute, differences among other modes and judicial approach towards the existing scenario.

Keywords: Report, IEDC Scheme, sensitisation, schools, Conventions

I. INTRODUCTION

The contribution of an individual ushers towards societal development and so a contribution of each and every human being including differently abled leads us to the path of equality.

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Equality means to prevent discrimination and providing remedies for the same. A differently-abled person has physical, sensory, intellectual or mental impairment and so his prospects of securing, returning to, retaining and advancing in suitable employment, are substantially less.² For the development of society as a whole, education to all is required. Education is the gateway to full participation in society³ and Inclusive education is the next step towards this goal. Inclusive Education (IE) is a new approach towards educating the children with disability and learning difficulties with that of normal ones within the same roof.⁴ Inclusive Education denotes that all children irrespective of their strengths and weaknesses will be part of the mainstream education.⁵ Inclusive education provides a learning platform where differently abled child study with normal child for academic, social, behavioural and professional development. It is potentially both a process and an outcome for achieving social justice and equity in our society.⁶ According to 2011 census, India has 65% population below 35 years⁷ and 2.1% population of differently abled persons.⁸ The total number of people with disabilities in the country is about 26 million. The total number of children with disabilities (in the age group of 0–19 year) is 7,864,636.

Nearly 2.6 million disabled children either did not see the inside of a school or had to drop out and only 4 million which is 61% of India's 6.6 million disabled population in the 5-19 age group were studying in an educational institution in 2011. The proportion of children studying in a school was higher for the total population by 10 percentage points (71%). Of the rest, 27% (1.75 million) children with special needs never attended any school, while 12% (0.8 million) had dropped out of school.⁹

In school, one of the problems is lack of accessibility of resources. This includes not only educational resources but also includes infrastructure and transportation friendliness. The educational resources which are viable for one child may not be viable for visually challenged or mentally challenged child. Less availability of resources in Braille or audio clipping or visual

²Vocational Rehabilitation (Differently able) Recommendation, 1955 (No. 99) retrieved from www.ilo.org/dyn/normlex/en/f?p=1000:55:0::NO::P55_TYPE,P55...en.... Also, see www.businessanddisability.org/index.php/en/boxes

³ https://www.unicef.org/sowc2013/files/SWCR2013_ENG_Lo_res_24_Apr_2013.pdf as accessed on July 3, 2020

⁴ J D Singh, INCLUSIVE EDUCATION IN INDIA – CONCEPT, NEED AND CHALLENGES, DEC-JAN, 2016, VOL. 3/13 www.srjis.com DEC-JAN, 2016, VOL. 3/13 at 3222 available at <https://www.researchgate.net/publication/301675529>

⁵ <http://edudel.nic.in/ssa/8.pdf>

⁶ <http://edudel.nic.in/ssa/8.pdf>

⁷ <https://www.theguardian.com> › Opinion › India elections 2014

⁸ http://censusindia.gov.in/Census_And_You/differently_able_population.aspx

⁹ Alope Tikku, “27% differently-able kids have never been to school: Census”, HINDUSTAN TIMES <https://www.hindustantimes.com/india-news/27-differently-abled-kids-have-never-been-to-school-census/story-NhGNoqTS4mmua51faDZ0N.html>

clipping or audio- visual clipping or lack of experiential learning tasks causes a downfall. Another problem is disgrace or insult or laugh at or ignorant attitude of people. The differently abled child needs from us to an empathetic attitude and not sympathetic or apathetic. We try to teach differently abled child how to behave in society but we are lacking when we are not teaching the normal child to be empathetic. The Salamanca Statement and Framework of Action on Special Needs Education, 1994 quotes

“Regular schools with inclusive orientation are the most effective means of combating discriminatory attitudes, creating welcoming communities, building an inclusive society and achieving education for all, moreover, they provide an effective education to the majority of children and improve the efficiency and ultimately the cost-effectiveness of the entire education system.”

The research paper looks into the various International Conventions, legislative provisions, reports and judicial pronouncements. Also, the various schools which have worked for inclusive education,

II. INTERNATIONAL CONVENTIONS

Disability is an umbrella term, covering impairments, activity limitations, and participation restrictions, impairment is a problem in body function of structure.¹⁰ In different conventions human rights and lately, education has been discussed. In 1948, Universal Declaration of Human Rights is adopted wherein the States first recognized the human right to education internationally. However, it is in 1960, UNESCO adopted its Convention against Discrimination in Education. The concept of inclusive education is contained implicitly in Article 13, paragraph 1 in International Covenant on Economic, Social and Cultural Rights, 1966. Article 13 highlights education’s role of enabling, “all persons to *participate effectively* in a free society”.¹¹ The right of everyone to free and compulsory primary education as well as, progressively, to free secondary and tertiary education. After 23 years, in 1989 the Convention on the Rights of the Child discussed it under Article 23 relates specifically to children with disabilities, by imposing an obligation on States to ensure that children with disabilities have “effective access to and receive education, training, health-care services, rehabilitation services, preparation for employment and recreation opportunities in a manner conducive to the child’s achieving the fullest possible social integration and individual

¹⁰Ajit Mondal and Jayanta Mete, Education of Children with Disabilities in India : Concern and Policy Perspective retrieved from http://www.caluniv.ac.in/academic/education_journal/7%20Education%20of%20Children%20with%20Disabilities%20in%20India%20Concern%20and%20Policy%20Perspective.pdf

¹¹This Article has formally acknowledged the Universal Declaration and elaborates further on education.

development”. Article 29 focuses on the purpose of education. This is ratified by India in 1992. UN Standard Rules for Persons with Disabilities, 1993 Rule 6 laid down responsibility on State for the education of persons with disabilities in integrated settings by making a clearly stated policy, understood and accepted at the school level and by the wider community; allow for curriculum flexibility, addition and adaptation; provide for quality materials, ongoing teacher training and support teachers.

In the World Conference on Special Needs Education, 1994 *the Salamanca Statement and Framework for Action on Special Needs Education* is adopted. It is for the first time inclusive education is discussed expressly. The Salamanca Statement of UNESCO asserts that education for all could not be achieved without including all types of learners in one learning environment. *Convention on the Rights of Persons with Disabilities, 2006* established an obligation of States to ensure an inclusive education system. It aims on full participation of persons with disabilities in schools, colleges, communities and workplace. Article 7 provides for full enjoyment of all human rights and fundamental rights on an equal basis with other children, best interests of the child, right to freedom of expression and Article 24 provides inclusive education systems at all levels, access to inclusive, quality and free primary and secondary education, reasonable accommodation and support within general education system. India is a signatory State to the Convention and consequentially Rights of Persons with Disabilities Act, 2016 is enacted.

The *World Education Forum, 2000* held in Dakar reiterated the need to focus on access to education and inclusion for learners from disadvantaged or marginalized backgrounds. Inclusion requires responding to the diversity of needs among all learners, through increasing participation in learning, cultures, and communities, and reducing exclusion from and within education.¹²

UNESCO Agenda 2030, Sustainable Development, Goal 4 aims to “ensure inclusive and equitable quality education and promote lifelong learning opportunities for all”.¹³ This objective means that a school can only be inclusive when all its students are able to access its resources and participate in its activities without exception. Children with disabilities should not be left behind.

III. LEGAL PERSPECTIVE IN INDIA

The concept of inclusion is based on the premise that all children and adults are part of society

¹² http://www.ungei.org/resources/files/Equity_and_Inclusion_Guide.pdf as accessed on July 4, 2020

¹³ N for Nose, State of the Education Report for India 2019: Children with Disabilities, UNESCO

and that the community helps in the development of resources where all children are equally valued and have the same opportunities for participation.¹⁴ Traditionally, the education in schools is covered under two heads, general and differently abled. In 1826, Raja Kali Shankar Ghosal started first learning facility for the visually handicapped in Varanasi.¹⁵ The first school for blind was established at Amritsar in 1877. Mahatma Gandhi once said, "Education is a powerful instrument of social revolution. Higher education is essential to obtain knowledge and seek better jobs, and thereby develop self-confidence."¹⁶

After Independence, the Constitution of India, 1950 in the Preamble provides right to equality, justice and liberty. The differently abled person fundamental rights are secured under following provisions. Article 14 provides equality before law and equal protection of law. At a broad level, this connotes the right to participate in society and contribute as meaningfully as the others.¹⁷ The differently able person has the right to life and liberty guaranteed under Article 21 of the Constitution. Right to life includes the right to live with dignity. Also, Articles 15, 16, 17, 23, 24, 25 and 32 are the other provisions. Article 29(2) provides that no citizen shall be denied admission into any educational institution maintained by the State or receiving aid out of State funds on the ground of religion, race, caste or language. Article 45 of the Constitution directs the State to provide free and compulsory education for all children (including the differently able) until they attain the age of 14 years.

Also, several legislations are framed from time to time. In 1992, Rehabilitation Council of India (RCI) Act was enacted which provides minimum standards in training and qualification for rehabilitation professionals. It dealt with the development of manpower for providing rehabilitation services. The standards for rehabilitation are earlier not provided. It also established consequences for teaching without a license with imprisonment up to one year, be fined Rs.1000 or both. Later by amendment in the year 2000, establishment of statutory mechanism for monitoring and standardizing courses for the training of professionals required in the field of special education are included. The responsibility is on RCI to train special educators and resource teachers that can offer support services to children with disabilities in regular schools.

¹⁴ M. Puri and G. Abraham, *Handbook of Inclusive Education for Educators, Administrators, and Planners* (Sage Publications Pvt. Ltd., New Delhi, 2005)

¹⁵http://shodhganga.inflibnet.ac.in/bitstream/10603/62666/9/10_chapter_01.pdf

¹⁶ M.N.G Mani and others, *See with the Blind*, (Bangalore: Christoffel Blinden Mission, 1999), p. 111 retrieved from https://shodhganga.inflibnet.ac.in/bitstream/10603/103065/9/09_chapter%203.pdf

¹⁷ *OPINION: The SC ruling that a blind or a deaf person can't be a judge goes against the Constitution's spirit*, HINDUSTAN TIMES (2019), <https://www.hindustantimes.com/analysis/the-sc-ruling-that-a-blind-or-a-deaf-person-can-t-be-a-judge-goes-against-the-constitution-s-spirit/story-tBHaxJ6uYL2xVcelFcqUFP.html> (last visited May 5, 2021).

People with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 provides about the education of children with disabilities up to the age of 18 years in an appropriate environment endeavour to promote integration of students with disabilities in the normal schools.¹⁸ However, there are various lacunas noted in 1995 Act as the definition of person is based purely on the 'degree of disability', definition of mental illness is narrow¹⁹ and features under education were less.

In 2016, Rights of persons with Disabilities Act (RPWD Act) is enacted. It repealed 1995 Act. The new Act provides about inclusive education institutions, inclusive employment policies and non-discrimination and employment and right to participate in cultural life, recreational activities and sporting activities. The appropriate Government and the local authorities shall endeavour that all educational institutions²⁰ admit them without discrimination and provide education and opportunities; making building, campus and various facilities accessible; providing reasonable accommodation; necessary support individualised or otherwise in environments that maximise academic and social development; ensuring that the education to persons who are blind or deaf or both is imparted in the most appropriate languages and modes and means of communication; detect specific learning disabilities; monitor participation, progress and completion of education.

Also, the appropriate Government and the local authorities²¹ shall take the measures to conduct survey of school going children in every five years. However, the fact to be noted is that there is no penal provision for making the State for non-performance of its obligation. 79.2% States have not allocated State funds and 58.3% States have not notified State rules.²²

The amendment of 2015 in Right to Education Act, 2010 provided disadvantaged groups to be included in the definition of "persons". Section 3 provides that a child with disability in Section

¹⁸ Section 26, PWD Act, 1995

¹⁹ "Mental illness" as covered in 2016 Act means a substantial disorder of thinking, mood, perception, orientation or memory that grossly impairs judgment, behaviour, capacity to recognise reality or ability to meet the ordinary demands of life, but does not include retardation which is a condition of arrested or incomplete development of mind of a person, specially characterised by sub normality of intelligence.

²⁰ Section 16, RPWD Act, 2016

²¹ Section 17, RPWD Act, 2016. The measures are for identifying children with disabilities; establish adequate number of teacher training institutions; to train and employ teachers, professionals and staff; to establish adequate number of resource centres to support educational institutions at all levels of school education; to promote the use of appropriate augmentative and alternative modes including means and formats of communication, Braille and sign language; to provide books, other learning materials and appropriate assistive devices to students with benchmark disabilities free of cost up to the age of eighteen years; to provide scholarships in appropriate cases to students with benchmark disability; to make suitable modifications in the curriculum and examination system to meet the needs of students with disabilities such as extra time for completion of examination paper, facility of scribe or amanuensis, exemption from second and third language courses; and to promote research.

²² The sources of these data is DRIF, NCPEDP and NCRPD retrieved from <https://www.thehindu.com/news/national/disabilities-act-states-going-slow-on-roll-out-says-study/article25664949.ece>

2 (ee) (A) shall without prejudice to the provisions of the Persons with Disabilities Act, 1995, and a child referred in Section 2 (ee) (B) and (C) will also have the same rights to pursue free and compulsory elementary education which children with disabilities have. Special Learning Disabilities Bill, 2016 that covers teacher training needs, surveys and campaigns.

In 2017, the Three-Year Action Agenda of the Niti Aayog recognized the challenges such as absence of ramps, disabled-friendly toilets, special teaching materials and sensitized teachers. However, the targets are limited to schools having at least one section of each class accessible under Universal Design Guidelines²³, providing aids to approximately 3.5 lakh beneficiaries every year, and conducting cochlear implant and corrective surgeries for 5,000 children on a yearly basis.

IV. ROLE OF SOCIETY

Inclusion involves changes in content, approaches, structures, and strategies, driven by a common vision that covers all children and the conviction that it is the responsibility of the regular system to educate all of them.²⁴ The stakeholders responsible are learners, parents, community, teachers, administrators and policy makers. Parents need to create awareness for inclusion. Despite the measures taken to include differently abled in the society, yet large number of children feels 'left-outs', or 'drop-out', or disinterested to cope pressure. Right to education requires the education for differently abled stressing upon individual needs also. Skills that make them independent are required and not traditional. Teachers must develop their knowledge and skills, and an understanding of key strategies.²⁵

Lack and improper utilisation of funds, less inclusive schools, large class size and rigid curriculum hampers the differently abled from education. The government initiatives in the area of inclusive education can be traced back to National Educational Policy, 1986.²⁶ India has introduced several schemes Education at three levels is studied up to 6, 6-14, 14-21 yrs. Goa is pioneer in opening inclusive schools.²⁷ Several reports have expressly or impliedly

²³ As per the RPWD Act, "universal design" means the design of products, environments, programmes and services to be usable by all people to the greatest extent possible, without the need for adaptation or specialized design and shall apply to assistive devices including advanced technologies for particular group of persons with disabilities.' A checklist for Making Schools Accessible to Children with Disabilities has also been prepared. See UNICEF, Samarthyam and Accessible India Campaign (2016) retrieved from <https://unesdoc.unesco.org/ark:/48223/pf0000368780/PDF/368780eng.pdf.multi> as on July 7, 2020

²⁴ http://www.ungei.org/resources/files/Equity_and_Inclusion_Guide.pdf as accessed on July 4, 2020

²⁵ Including Children With Special Needs : *Primary Stage, NCERT, 2014*

²⁶ NPE, 1986 recommended, as a goal, 'to integrate the handicapped with the general community at all levels as equal partners, to prepare them for normal growth and to enable them to face life with courage and confidence'

²⁷ The first school that started a resource room was in the year 2003 (Holy Cross High School, Bastora, Goa). Subsequently three more schools with IE have been functioning in Goa, Chubby Cheeks, Spring Valley High School at Pilerne (2004), Jyot-Adarsh School at Margao (2006) and Lourdes Convent High School

discussed regarding education.

V. REPORTS

The Sargent Report, 1944 by the Central Advisory Board of Education proposed a system of universal, compulsory and free education for all boys and girls between ages of six and fourteen.²⁸ It suggested that children with disabilities should be entirely mainstreamed.²⁹ The government organised workshops and separated trade schools from those for schools where students without disabilities to teach children with disabilities skills to enter the workforce. Large number of NGOs came up to establish special schools. Most of these segregated schools were expensive and located in urban areas, further marginalizing people with disabilities in rural areas.

In 1964, Kothari Commission created a plan of action to improve the education system and to include people with disabilities.³⁰ It stressed that proper education generally enables a handicapped child to overcome largely his or her handicap and make him into a useful citizen. Also, social justice demands it. But, the Government never implemented the recommendations.³¹

In 1968, the National Policy on Education (NPE) suggested the expansion of educational facilities for physically and mentally handicapped children, and the development of an 'integrated programme' enabling handicapped children to study in regular schools.³² In 1986, NPE encouraged to prepare them for normal growth and to enable them to face life with courage and confidence. Later, in 1992, NPE broadens the definition of who should be included in mainstream schooling, that "a child with a disability who can be educated in the general school should not be in the special school."

In 1974, the Integrated Education for Differently abled Children (IEDC) was introduced, centrally sponsored scheme, to provide equal opportunities to children with disabilities in general schools and facilitate their retention.³³ Integrated Education of Differently abled

(2007). Presently around 14 schools are considered to be Inclusive Education schools.

The Social Welfare Department and the Education Department of Goa Government are the main nodal agencies and local NGOs like Sangath, Sethu and others are actively involved in spreading the concept and practice of IE in Goa. retrieved from http://shodhganga.inflibnet.ac.in/bitstream/10603/62666/9/10_chapter_01.pdf

²⁸ http://www.ncert.nic.in/departments/nie/degsn/pdf_files/INDEX%20FINAL%20FOR%20WEBSITE.pdf

²⁹ <http://www.ijip.in/Archive/No84/18.01.004.20160484.pdf>

³⁰ <http://www.ijip.in/Archive/No84/18.01.004.20160484.pdf>

³¹ Aruna and Kuldeep Singh (et al) Inclusive Education in India retrieved from <http://www.ijip.in>

³² Ajit Mondal and Jayanta Mete, Education of Children with Disabilities in India : Concern and Policy Perspective retrieved from http://www.caluniv.ac.in/academic/education_journal/7%20Education%20of%20Children%20with%20Disabilities%20in%20India%20Concern%20and%20Policy%20Perpective.pdf

³³ J D Singh, INCLUSIVE EDUCATION IN INDIA – CONCEPT, NEED AND CHALLENGES , DEC-JAN, 2016, VOL. 3/13 www.srjis.com DEC-JAN, 2016, VOL. 3/13 at 3223

Children (IEDC), revised in 1992, is a national level central government sponsored scheme where one resource teacher was given to every 8 children with special needs. It suffers due to quality of resource persons, government teachers and time in travel spent. Children were either pulled out from regular classes for resource teaching or they were asked to come before school and stay back. In 2009, IEDC created the *Inclusive Education of the Differently abled at the Secondary Stage* (IEDSS) and considers resources for differently abled in ages 6-14 under Sarva Shiksha Abhiyan.

“The Centrally Sponsored IEDSS Scheme aims to enable all students with disabilities completing eight years of elementary schooling an opportunity to complete four years of secondary schooling (classes IX to XII) in an inclusive and enabling environment. It provides educational opportunities and facilities to students with disabilities in the general education system at the secondary level (classes IX to XII) and supports the training of general school teachers to meet the needs of children with disabilities at the secondary level.

The objectives of the scheme are to ensure that every student in need of aids and appliances, assistive devices and learning material be provided the same, architectural barriers in schools are removed, supplied learning material as per his/her requirement. All general school teachers at the secondary level will be provided basic training to teach students with disabilities within a period of three to five years. Appointment of special educators and establishment of resource rooms in every block. Model schools are set up in every state to develop good replicable practices in inclusive education.”

In 2009, Rashtriya Madhyamik Shiksha Abhiyan (RMSA) is launched to make secondary education of good quality available, accessible and affordable. The scheme envisages increasing the number of children enrolled for classes IX-X within 5 years by providing a secondary school within a reasonable distance of every habitation, improving quality of education imparted at secondary level through making all secondary schools conform to prescribed norms, removal of gender, socio-economic and disability barriers. One of the 12th Plan Goals for the Secondary Education sector is to achieve near-universal enrollment in secondary education, with the GER exceeding 90 per cent by the 2017.³⁴

National Trust has launched ‘Inclusive India Campaign’, 2015. The Inclusive India initiative attempts to facilitate the realisation of equal opportunities, protection of rights and full participation of individuals with intellectual and developmental disabilities into the fabric of

available at <https://www.researchgate.net/publication/301675529>

³⁴ Rashtriya Madhyamik Shiksha Abhiyan (RMSA): भारत सरकार, शिक्षा मंत्रालय, Rashtriya Madhyamik Shiksha Abhiyan (RMSA) | भारत सरकार, शिक्षा मंत्रालय, http://mhrd.gov.in/rmsa_status (last visited May 5, 2021).

society.³⁵The three core focus areas are Inclusive Education, Inclusive Employment and Inclusive Community Life. Inclusive Education will make awareness campaigns so that schools and colleges provide inclusive for the children and adults with intellectual disabilities. There are different schemes³⁶ on education like:

- DISHA- This is an early intervention and school readiness scheme for children in the age group of 0-10 years. It aims at setting up Disha Centres for therapies, trainings and providing support to family members.
- VIKAAS- This scheme provides for enhancing interpersonal and vocational skills as they are on a transition to higher age groups.
- GYAN PRABHA (Educational support) – The scheme aims to encourage PWD for pursuing educational/ vocational courses like graduation courses, professional courses and vocational training leading to employment or self-employment.
- BADHTE KADAM - This scheme aims to create community awareness, sensitisation, social integration and mainstreaming of Persons with Disabilities. There are other schemes also.³⁷ At present, National Trust is focussing upon awareness about inclusion.

About 19.67 crore of children are enrolled in 14.5 lakh elementary schools across the country with 66.27 lakh teachers deployed under the SSA.³⁸ However, the teachers appointed under the scheme have not been regularised.³⁹ The Centre is now considering merging both SSA and RMSA and wants and will consult the States. Despite all these recommendations, there are number of schools forcing specially-able kids to drop out is in thousands exists.⁴⁰ NCERT has been constantly working with UNESCO and been organising workshops to assess Inclusive Education in India. In 1987, NCERT in co-operation of UNICEF launched a project IEDC which helped in increasing the number of differently abled in school.⁴¹ NCERT has come up

³⁵Press Information Bureau, Government of India, Ministry of Social Justice & Empowerment <http://pib.nic.in/newsite/PrintRelease.aspx?relid=164434> as on June 6, 2017 retrieved on October 5, 2017

³⁶ *The National Trust*, MINISTRY OF SOCIAL JUSTICE AND EMPOWERMENT (MSJE), <http://thenationaltrust.gov.in/content/scheme> (last visited May 5, 2021).

³⁷ SAMARTH(respite home for orphans or abandoned, families in crisis and PwD from BPL & LIG families); GHARAUNDA (Group Home for Adults); NIRAMAYA (Health Insurance Scheme); SAHYOGI (Caregiver training scheme); PRERNA (Marketing Assistance) and SAMBHAV (Aids and Assisted Devices).

³⁸Prakash Kumar “Centre contemplates merging SSA and RMSA”, Deccan Herald as on 27-Jun-2017 <http://www.deccanherald.com/content/619578/centre-contemplates-merging-ssa-rmsa.html>

³⁹ SSA, RMSA teachers seek regularization, <http://www.tribuneindia.com/news/ludhiana/ssa-rmsa-teachers-seek-regularisation/463867.html> on September 7, 2017 retrieved on October 5, 2017

⁴⁰Deepak Lavania, “Schools not friendly, thousands of disabled kids drop out, remain illiterate” www.timesofindia.indiatimes.com as on June 25, 2017 retrieved on June 5, 2020

⁴¹ NCERT and Education for Differently able <http://www.jagranjosh.com/articles/ncert-and-education-of-differently-able-1287813322-1>

with series of 40 booklets to allow specially-able child read a book.⁴²

VI. CONTRIBUTION BY SCHOOLS

In 1985, Air Force Golden Jubilee Institute started as a school only for the mentally retarded children but subsequently it was felt that an integrated Institution was a better option, which would provide the mentally handicapped children, an opportunity of receiving education in the atmosphere of a normal school.

The Cathedral and John Connon Middle School, Mumbai encourages inclusive education and awareness. It sensitises the students and difficulties faced by special needs. It creates an environment to have different learners. It is affiliated with Jai Vakeel Foundation where the students interact with specially-abled children.

The Shriram School, Vasant Vihar provides inclusive education. All teachers are trained in strategies to teach children with disabilities. The members of school took a pledge that each child is included at all places not only in schools but also in parks and birthday parties. “I believe, that world is one community and each child is special and gifted. I pledge to embrace, to respect and include the different being. I support inclusive India.”

The Heritage School has been an Inclusive school since its inception in 2001. The family has grown to about 100 children and 12 Special Educators under the Special Needs umbrella. We cater to the needs of children with various needs like physical impairment, cognitive impairment, learning disabilities, ADHD and autism. We have learnt to be realistic in our expectations, to be better able to bridge the gap between expectation and achievement and most importantly, to provide a happy, healthy environment for our students.⁴³

More or less other schools are giving admission to differently abled children as per provisions of law and government orders. According to 2019, UNESCO Report there is 75% children with disabilities don't attend schools in India.⁴⁴ The contribution from many more schools is required.

VII. JUDICIAL INNOVATIONS

In *Unni Krishnan v. State of Andhra Pradesh*⁴⁵ the Honourable Supreme Court held that ‘right to education’ is concomitant to fundamental rights and this right is available up to the age of

⁴² “NCERT books to make classroom inclusive” www.timesofindia.indiatimes.com

⁴³ *Inclusive Education Policy*, THE HERITAGE SCHOOL, <http://www.theheritageschool.org/heritageschoolinternational/inclusion-policy.php> (last visited May 5, 2021).

⁴⁴ India Today Web Desk, *75% of children with disabilities don't attend schools in India: UNESCO*, INDIA TODAY (2019), <https://www.indiatoday.in/education-today/news/story/unesco-report-says-75-5-year-old-children-with-disabilities-don-t-attend-schools-in-india-1561722-2019-07-04> (last visited May 5, 2021).

⁴⁵ 1993 SCR (1) 594

18 years. In the case of *Social Jurist v. Govt. of NCT of Delhi*⁴⁶ the Delhi High Court held that respondent should try to achieve teacher pupil ratio of 1:5 at the secondary level and 1:2 at the primary level. Also, equivalence to B.Ed. (SE) with B.Ed. (General) and to D.Ed. (SE) with D.Ed./TTC for the purpose of appointment of special teachers in all the schools in the State as well as schools run by local bodies namely NDMC, MCD and Cantonment Board and the service conditions of the special teachers shall be same as that of the regular teachers holding the qualification of general teachers. The school authorities shall ensure that each school shall have at least two special teachers and further that necessary teaching aids and reading materials are provided. Also, two or three schools in a cluster should avail the services of itinerant teacher as mentioned by NCERT in its affidavit. We also direct to start programmes to train in-service teachers as resource teachers so that they are equipped to take care of differently abled children and to start short term orientation programme for principals and educational administrators so as to sensitise them towards the needs of a differently abled children.

In the case of *Sheikh Nasim v. Union of India*,⁴⁷ the facts are that the Director of Education, Maharashtra on the basis of notification under IEDSS scheme has made appointments but later cancelled via order. Also, no show cause notice was served. The petitioners referred to IEDSS scheme.⁴⁸ The court held that the Director of Education has committed utter disregard to the principles of natural justice, without application of mind and by arbitrary exercise of powers and quashed such order.

However, in the case of *Rajneesh Kumar Pandey v. Union of India* (2016) made an observation contrary to RPWD Act, 2016 the Supreme Court observed that it is impossible to think that the children who are disabled or suffer from any kind of disability or who are mentally challenged can be included in the mainstream schools for getting education... The students who suffer from blindness, deafness and autism or such types of disorder may be required to have separate schools with distinctly trained teachers. This judgment negates inclusion.

In *Harish Shetty v. Regional Director National Institute of Open Schooling*⁴⁹ case, Bombay HC stressed upon obligations on educational institutions to implement directions of Section 16, Right of Persons with Disability Act, 2016. The need is to have exposure of teachers, sensitisation of children and differently abled friendly attitude with quality education. In *All Kerala Parents' Association of Hearing Impaired v. State of Kerala*⁵⁰ the matter before the

⁴⁶ (2009) 163 DLT 489

⁴⁷ 2016 SCC online Bom 5442

⁴⁸ The points of the scheme are covered in Reports part of the present paper.

⁴⁹ 2017 SCC online Bom 8266

⁵⁰ (2018) 2 SCC 410

Honourable Supreme Court was regarding applicability of Section 39, Persons with Disability Act, 1995⁵¹. The Court held that the provision is clear and unambiguous and it applies to governmental educational institutions and also to the educational institutions receiving aid from the Government.⁵²

In the case of *Disabled Right Group v. Union of India*⁵³, the petitioner has referred the UGC Guidelines for “Higher Education for Persons with Special Needs” that trainers to be sensitized towards disability and inclusion and respective societies/associations to ensure that the information about RPWD events/contests reaches the differently abled students also. Similarly, cultural activities with adequate modifications are to be made available. The Supreme Court observed “Disabilities Act is premised on the fundamental idea that society creates the barriers and oppressive structures which impede the capacities of person with disabilities... To ensure the level playing field, it is not only essential to give necessary education to the persons suffering from the disability, it is also imperative to see that such education is imparted to them in a fruitful manner. That can be achieved only if there is proper accessibility to the buildings where the educational institution is housed as well as to other facilities in the said building, namely, class rooms, library, bathrooms etc. Without that physically handicapped persons would not be able to avail and utilise the educational opportunity in full measure.” In the case of *Jeevoday Education Society, Nagpur v. State of Maharashtra*⁵⁴, the Bombay High Court held that no distinction can be made amongst the students with disabilities at least while formulating welfare measures for their benefit. There is an obligation upon the State Government to provide necessary infrastructure to enable a mentally retarded student up to the age of 18 years to take education in neighbourhood school or then in a special school of his choice can be spelt out. That education has to be free and hence obligation is automatically cast upon the State Government to extend grants for that purpose.

⁵¹ 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.

⁵² Now as 2016 Act is applicable, we make reference to Section 32, RPWD Act, 2016.

Section 32. (1) All Government institutions of higher education and other higher education institutions receiving aid from the Government shall reserve not less than five per cent seats for persons with benchmark disabilities. (2) The persons with benchmark disabilities shall be given an upper age relaxation of five years for admission in institutions of higher education.

⁵³ (2018) 2 SCC 397

⁵⁴ The petitioner, a society which runs a Special School for Mentally Challenged Children at Nagpur since last about 30 years. It is pleaded before the Bombay High Court that the State Government has avoided to formulate a policy which will permit release of proportionate increased or additional grants for institutes like that of petitioner, when the number of students taking education increase.

In an affidavit filed by the petitioner in the *Shamnad Basheer v. Union of India* case which is currently pending before the Supreme Court, the petitioner has highlighted that not even one seat was reserved for persons with disabilities by some national law universities.⁵⁵

VIII. CONCLUSION AND SUGGESTIONS

The steps for inclusive education of differently abled are introduced to bring them up with mainstream. Several legislations and judicial pronouncements are incorporated, yet the number of school is less. Also, numbers of special educators, counsellors, occupational therapist have been less in comparison to set guidelines. Also, the schools till date do not have ramp or elevators to make it differently abled – friendly. The need of the hour is to translate the discussions, into action.

Following are the suggestions to make inclusive education a success:

- Development is required in three streams that are education, skill and dignity.
- An attitude of empathy rather than sympathy. It requires simple arrangements like support of schoolmates, acceptability by teachers to help in overcoming some of these problems. Preparation from school, teachers and parents is needed
- Don't misunderstand the capability of any individual.
- Different teaching methods like experiential learning, models, audio and visual are needed.
- Harmony between legislations like RPWD Act and RTE Act should be established.
- Steps for Early childhood care and education are needed.
- Use of ICTs to promote inclusion.
- Awareness among service providers, officials and PWD.
- Proper utilization of financial and human resources.
- Services to reach rural people.

⁵⁵ Anusha Reddy and Namrata Dubey, Paving the Way to an Inclusive India, One Judgment at a Time, <https://thewire.in/government/ro-postpones-scrutiny-of-nomination-after-congress-complains-aap-candidate-for-rs-polls-holds-office-of-profit> as on January, 2018 and retrieved on July 8, 2020

- The need is several teaching styles like interactive teaching,⁵⁶ alternative teaching,⁵⁷ parallel teaching⁵⁸ and station teaching⁵⁹ should be incorporated⁶⁰.
- Role of Government and NGOs to expand into rural areas.
- Special educators to be treated at par with other teachers.
- RTE Act should provide about training for inclusive education.

⁵⁶ Here, teachers alternate roles of presenting, reviewing and monitoring instructions.

⁵⁷ One person teaches a small group and other monitors or teaches the remaining students.

⁵⁸ Students are divided into mixed ability groups and each co-teaching partner teaches the same material to one of the groups.

⁵⁹ Small groups of student rotate to various stations for instruction, review and/or practice.

⁶⁰ www.education.wm.edu