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## THE RIGHT TO EDUCATION AND THE INCLUSION OF STUDENTS WITH DISABILITIES IN INDIAN HIGHER EDUCATION: A DOCTRINAL STUDY

~Adv. Rajnandini Tukaram Gadage

### ABSTRACT

*India has a legal framework for the education of persons with disabilities. It includes the constitutional right to education under Article 21A, the United Nations Convention on the Rights of Persons with Disabilities (CRPD), the Rights of Persons with Disabilities Act, 2016 (RPWD Act), a five per cent reservation in higher education, and the National Education Policy 2020. Even so, very few disabled students reach higher education. The 2011 Census shows that only about five per cent of literate persons with disabilities had completed graduation or above. This paper explains the constitutional and international basis of the right, traces the development of inclusive education policy, and studies Sections 16, 17, 18 and 32 of the RPWD Act. It then discusses two High Court decisions on reservation, Sanchita Biswas and Binita Senapati, and reviews the main scholarly literature. It finds that the gap lies chiefly in implementation, monitoring and awareness, and not in an absence of law.*

**Keywords:** Inclusive Education, Disability Rights, Higher Education, RPWD Act 2016, Reservation, CRPD.

### 1. INTRODUCTION

Education is the foundation on which individuals and nations are built. American journalist Walter Cronkite observed that “whatever the cost of libraries, the price is cheap compared to

that of an ignorant nation.”<sup>1</sup> The point applies equally to persons with disabilities, for whom education is a means of empowerment, dignity and participation in society.

Disability is a complex idea with medical, social, legal, political and psychological dimensions, and it is difficult to define comprehensively. The Rights of Persons with Disabilities Act, 2016 (RPWD Act) gives it a legal definition. Under Section 2(s), a "person with disability" is a person with a long-term physical, mental, intellectual or sensory impairment which, in interaction with barriers, hinders his full and effective participation in society equally with others.”<sup>2</sup>

Globally, an estimated 1.3 billion people, about 16% of the world's population, experience significant disability, and nearly 80% of them live in developing countries.<sup>3</sup> In India, the Census of 2011 recorded 26 million persons with disabilities, 2.21% of the population. Access to education remains a serious challenge for them. Nearly 12 million (45%) are illiterate. Of the 14 million (55%) who are literate, only 13% have completed secondary education and merely 5% have attained graduate or higher education.<sup>4</sup>

The Government of India has undertaken many initiatives for the higher education of persons with disabilities, and legislation such as the Right to Education Act, 2009 and the RPWD Act, 2016 exists. Even so, enrolment remains very low, and disabled students continue to face inaccessible infrastructure, a lack of trained faculty, social stigma and financial barriers.

Inclusive education is not merely about physical access to an institution. It is about creating an environment in which disabled students receive the support they need to thrive academically, socially and emotionally. This requires reform in educational policy, infrastructure, teaching methods and societal attitudes. Ensuring the right to education of disabled students, particularly in higher education, is a legal obligation and also a moral imperative to promote equality, dignity and social justice.

## 2. SIGNIFICANCE OF THE STUDY

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<sup>1</sup> N.P. Khan & F. Rahman, *Disability Laws in India* 65, 74 (1st ed. 2018).

<sup>2</sup> Rights of Persons with Disabilities Act, 2016, § 2(s), No.49, Acts of Parliament, 2016 (India).

<sup>3</sup> *Disability*, World Health Org., (Oct. 5, 2026, 7:30 PM), <https://www.who.int/news-room/fact-sheets/detail/disability-and-health>

<sup>4</sup> H.S. Mistry & S.C. Panigrahi, *Inclusion of Students with Disabilities in Higher Education in India: Some Issues and Suggestions*, 11 Asian J. Inclusive Educ. 31, 32 (2023), 377026178\_Inclusion\_of\_students\_with\_disabilities\_in\_higher\_education\_in\_India\_Some\_issues\_and\_suggestions.

This study seeks to understand the extent to which disabled students are included in higher education in India. It looks at the accessibility of infrastructure, amenities and equal opportunities within educational institutions and analyses the effectiveness of government Acts and policies. It asks whether colleges are making meaningful modifications so that disabled students have the same access to education as non-disabled students.

Many colleges still lack suitable architecture. The study therefore also examines disabled students' awareness of their rights and the schemes and privileges that colleges have granted for their support. Reservation is provided for these students, yet their enrolment remains low. This is the issue the study sets out to examine.

### **3. MEANING AND UNDERSTANDING OF DISABILITY**

Before turning to the right to education of disabled students in higher studies, it is necessary to understand what disability means.

#### **3.1 The World Health Organization's Approach**

The WHO describes disability as an umbrella term covering impairments, activity limitations and participation restrictions. An impairment is a problem in body function or structure. An activity limitation is a difficulty an individual encounters in executing a task or action. A participation restriction is a problem an individual experiences in involvement in life situations. Disability is therefore not just a health problem. It is a complex phenomenon reflecting the interaction between features of a person's body and features of the society in which he or she lives.<sup>5</sup>

This shows that disability is not merely a medical condition. It is a multifaceted issue shaped by both individual impairments and societal barriers.

#### **3.2 The Indian Statutory Approach**

The RPWD Act, 2016 does not define "disability" in rigid terms. Section 2(s) defines a "person with disability" as a person with a long-term physical, mental, intellectual or sensory impairment which, in interaction with barriers, hinders his full and effective participation in society equally with others.<sup>6</sup> This definition aligns with the social model of disability and

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<sup>5</sup> Khan & Rahman, *supra* note 1.

<sup>6</sup> Rights of Persons with Disabilities Act, 2016, § 2(s), No.49, Acts of Parliament, 2016 (India).

emphasises that societal structures and attitudes contribute significantly to the challenges disabled individuals face.

### 3.3 Scholarly Observations on Definition

N.P. Khan and F. Rahman, in *Disability Laws in India*, state that disability is difficult to define. Certain parameters can be set and concessions can be given, but an exact definition remains unclear. Disability includes many aspects and can be viewed from both a medical and a social perspective. Countries such as America and the U.K. have laws addressing disability rights, and India implemented the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995. That Act broadened the definition of disability and covered more categories, and it was later replaced by the RPWD Act, 2016.<sup>7</sup>

## 4. EXTENT OF THE PROBLEM: DISABILITY AND EDUCATION IN NUMBERS

The WHO estimates that about 1.3 billion people, roughly 16% of the global population, live with significant disability, with nearly 80% residing in developing countries.<sup>8</sup> Population growth, ageing, chronic illness and medical advancements contribute to the rising number of disabled individuals. This increases the demand for healthcare, rehabilitation and accessibility services.<sup>9</sup>

India has over 1.3 billion people, and the 2011 Census recorded 26 million persons with disabilities. Of these, nearly 12 million (45%) are illiterate. Among the 14 million (55%) who are literate, only 13% have completed secondary education and merely 5% have attained graduate or higher education.<sup>10</sup>

Mistry and Panigrahi point out that although a 3% reservation (now 5% under the RPWD Act, 2016) exists for disabled students, only 0.23% of them have actually been admitted to colleges and universities.<sup>11</sup> These figures show the need for inclusive educational policies that address the barriers faced by disabled students, particularly in higher education. They also raise the question whether the government should put forth incentives to promote higher education for disabled students.

## 5. INTERNATIONAL AND CONSTITUTIONAL FOUNDATIONS

<sup>7</sup> Khan & Rahman, *supra* note 1, at 65.

<sup>8</sup> *Disability*, *supra* note 3.

<sup>9</sup> Mistry & Panigrahi, *supra* note 4, at 32.

<sup>10</sup> *Id.*

<sup>11</sup> *Id.* at 36.

## 5.1 The Constitutional Right

Education is a fundamental right under Article 21A of the Indian Constitution, introduced through the 86th Amendment Act of 2002.<sup>12</sup> Education is a fundamental aspect of human rights, especially for persons with disabilities, because it ensures equal opportunity and active participation in society. As J. Krishnamurti emphasised, education should empower students not just by enhancing their abilities but also by helping them recognise their highest potential.

## 5.2 The Convention on the Rights of Persons with Disabilities

The United Nations General Assembly adopted the Convention on the Rights of Persons with Disabilities (CRPD) on December 13, 2006.<sup>13</sup> The treaty came into force on May 3, 2008 and established a global framework for protecting and promoting the rights of persons with disabilities.<sup>14</sup> It is the fastest-negotiated human rights treaty in history and has influenced policy reforms worldwide, including in India.

India, as a signatory, ratified the convention on October 1, 2007. To align with its principles, the Indian government introduced legislation to give legal effect to the CRPD. The law upholds the principles of dignity, autonomy, non-discrimination, full participation in society, equality, accessibility, and respect for the evolving capacities of children with disabilities. Through this legislation, India aims to create an inclusive society in which persons with disabilities have equal opportunities and rights and can participate fully in all aspects of life.

## 6. EVOLUTION OF INCLUSIVE EDUCATION IN INDIA

India's commitment to inclusive education has developed over several decades through a series of policies and legal frameworks.

**Early policy steps.** The Education Commission of 1966 first proposed integrating children with disabilities into mainstream education. This led to the Integrated Education of Disabled Children (IEDC) Scheme in 1974, which was prioritised in the Sixth Five-Year Plan (1980–1985). The National Policy on Education (1986) and its Programme of Action (1992) further emphasised removing educational disparities. The Project Integrated Education for the Disabled (PIED) and the District Primary Education Programme (DPEP) (1994–95)

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<sup>12</sup> India Const. art. 21A.

<sup>13</sup> Rights of Persons with Disabilities Act, 2016, No.49, Acts of Parliament, 2016 (India).

<sup>14</sup> *Id.*

reinforced the commitment by integrating children with mild and moderate disabilities into regular schools.

**Legislative milestone.** The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 mandated equal educational opportunities and inclusive schooling.<sup>15</sup>

**Later programmes and policies.** The Sarva Shiksha Abhiyan (2001) introduced a "zero rejection" policy, ensuring that no child with special needs was denied education.<sup>16</sup> The National Action Plan for Inclusion in Education of Children and Persons with Disabilities (IECYD) (2005) reinforced the commitment to mainstream education. The National Policy for Persons with Disabilities (2006) recognised them as valuable human resources and advocated equal opportunities. The Right to Education Act, 2009 strengthened these efforts by guaranteeing quality elementary education for all, including children with disabilities.

**Higher education.** The University Grants Commission (UGC) has played a crucial role in promoting special education initiatives. During the Ninth Five-Year Plan, the Higher Education for Persons with Special Needs (HEPSN) and Teacher Preparation in Special Education (TEPSE) schemes were introduced, and they continued into the Tenth Plan. These initiatives focused on three core areas:

1. Establishing Disability Units in universities and colleges to provide admission support, counselling and guidance.
2. Improving infrastructure accessibility to create barrier-free learning environments.
3. Providing assistive and adaptive technologies to enhance the educational experience of students with disabilities (UGC Guidelines, 2012–2017).<sup>17</sup>

The Eleventh Five-Year Plan (2007–2012) expanded these initiatives. It emphasised disabled-friendly campuses and financial support in the form of scholarships, fellowships, residential education facilities and remedial coaching. It also provided for Equal Opportunity Cells in universities. It recommended the creation of National and State Funds to provide

<sup>15</sup> Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (India).

<sup>16</sup> Mistry & Panigrahi, *supra* note 4, at 32.

<sup>17</sup> S. Bagh, Renu & K. Raj, *Issues of Inclusion and Exclusion in Indian Higher Education: A Study of Students with Disabilities*, 10 Res. Expression 44, 48 (2024), <https://doi.org/10.61703/RE-ps-Vyt-710-24-5>.

financial aid and mandated that all government-aided and recognised higher education institutions adopt inclusive education policies.

**The RPWD Act and later developments.** The legal framework for inclusive higher education was further strengthened by the RPWD Act, 2016, which made it legally binding for educational institutions to ensure accessibility, reasonable accommodation and non-discrimination. The Supreme Court of India (2017) ruled that denying education to disabled individuals amounts to discrimination and urged compliance with the RPWD Act. Several government initiatives now support the higher education of persons with disabilities:

- the Equal Opportunity Cell;
- coaching schemes for NET/SET;
- HEPSN and TEPSE;
- financial aid for visually impaired teachers;
- the National Fellowship for Students with Disabilities;
- the National Mission on Education through ICT;
- the Central Polytechnic Scheme for Persons with Disabilities; and
- the NHFDC scholarship programme.

More recently, the National Education Policy (NEP) 2020 brought a renewed focus on inclusive education. It emphasises barrier-free access, teacher training in inclusive pedagogies and the integration of assistive technology.

## **7. THE RIGHTS OF PERSONS WITH DISABILITIES ACT, 2016**

### **7.1 Overview**

The RPWD Act was enacted to protect the rights of persons with disabilities and ensure their access to opportunities. It came into force on 19th April, 2017 and significantly expanded the recognised categories of disability. The number of disabilities covered increased from 7 to 21 compared to the previous Act, and the Central Government has the authority to add more. The recognised disabilities include blindness, low vision, hearing impairment, locomotor disability, dwarfism, intellectual disability, autism spectrum disorder, mental illness, cerebral

palsy, muscular dystrophy, speech and language disability, thalassemia, hemophilia, sickle cell disease, multiple disabilities including deafblindness, acid attack victims and Parkinson's disease.<sup>18</sup>

## **7.2 Provisions on Education (Chapter III, Sections 16–18)**

The Act provides a comprehensive legal framework for inclusive education, ensuring that government-funded and recognised institutions accommodate students with disabilities.

**Duties of educational institutions (Section 16).** The appropriate government and local authorities must ensure that all educational institutions funded or recognised by them provide inclusive education to children with disabilities<sup>19</sup>. Section 16 contains eight clauses specifying the responsibilities of institutions. Institutions must:<sup>20</sup>

- admit students without discrimination and provide equal access to education, sports and recreational activities;
- ensure physical accessibility in buildings, campuses and facilities;
- provide reasonable accommodation based on individual needs;
- offer individualised or general support to maximise academic and social development;
- facilitate appropriate communication methods for blind and deaf students;
- identify and support students with specific learning disabilities at an early stage;
- monitor the participation, academic progress and completion rates of students with disabilities; and
- provide transportation facilities, especially for those with high support needs.

**Measures to promote inclusive education (Section 17).** The government and local authorities must:<sup>21</sup>

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<sup>18</sup> *Rights of Persons with Disabilities Bill - 2016 Passed by Parliament*, Press Info. Bureau, Gov't of India, Ministry of Soc. Just. & Empowerment, (Apr. 5, 2026, 8:06 PM), <https://pib.gov.in/newsite/printrelease.aspx?relid=155592>.

<sup>19</sup> S.K.P. Srinivas, *The Rights of Persons with Disabilities Act, 2016 & Rules-2017 Disabilities Along with Special Emphasis upon Accidental Damages, Tortuous Liabilities* 175, 176 (1st ed. 2018).

<sup>20</sup> Rights of Persons with Disabilities Act, 2016, § 16, No.49, Acts of Parliament, 2016 (India).

<sup>21</sup> Rights of Persons with Disabilities Act, 2016, § 17, No.49, Acts of Parliament, 2016 (India).

- conduct a survey every five years to identify children with disabilities and assess their needs;
- establish teacher training institutions and hire trained educators, including those proficient in sign language and Braille;
- train professionals and staff to support inclusive education;
- set up resource centres to assist educational institutions;
- promote Braille, sign language and alternative communication methods;
- provide free books, learning materials and assistive devices to students with benchmark disabilities up to 18 years of age;
- offer scholarships to eligible students;
- modify the curriculum and examination systems (for example, extra time, scribes and language exemptions); and
- encourage research to improve learning outcomes.

**Adult education (Section 18).** The Act extends educational rights to adult and continuing education programmes, ensuring equal access for persons with disabilities.<sup>22</sup> S.K.P. Srinivas notes that this provision is limited in scope. It speaks only of the need to promote, protect and ensure the participation of persons with disabilities in such programmes.<sup>23</sup>

**Reservation in higher education (Section 32).** To promote higher education for persons with disabilities, the Act mandates a minimum of 5% reservation in all government and aided higher education institutions. It also provides a five-year upper age relaxation for students with benchmark disabilities in admissions.<sup>24</sup>

### 7.3 The Earlier Act of 1995

Srinivas's work also examines the Persons with Disabilities Act, 1995. It focuses on Chapters V, IX, XI and XIII, together with Sections 28 and 29, which deal with the educational privileges of persons with disabilities. The discussion draws on court cases that illustrate the

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<sup>22</sup> Rights of Persons with Disabilities Act, 2016, § 18, No.49, Acts of Parliament, 2016 (India).

<sup>23</sup> Srinivas, *supra* note 19, at 175–76.

<sup>24</sup> Rights of Persons with Disabilities Act, 2016, § 32, No.49, Acts of Parliament, 2016 (India).

real-life challenges disabled students face in accessing education. The Calcutta High Court's ruling in *Dy. Secy. Dept. of H&F. Welfare v. Sanchita Biswas* and the contrasting decision in *Binita Senapati v. State of Assam* are notable examples.<sup>25</sup>

## 8. NATIONAL EDUCATION POLICY, 2020

The NEP 2020, announced on July 29, 2020, introduces significant reforms in school and higher education, including technical education, and lays out action points for implementation at both levels. One chapter relates to equitable and inclusive education for all.

The policy emphasises closing gaps in access, participation and learning outcomes, particularly for students from disadvantaged backgrounds. It promotes equity and diversity so that socially and economically disadvantaged groups (SEDGs) receive better educational opportunities. SEDGs include Scheduled Castes, Scheduled Tribes, Other Backward Classes, minorities, girls and children with disabilities.<sup>26</sup>

**Inclusion of children with disabilities.** For school education, the NEP aligns its strategies for Children with Disabilities (CwD) with the RPWD Act, 2016. Under that law, children with benchmark disabilities have the right to choose between regular schooling and special education.<sup>27</sup>

### Equalising access to higher education.

1. *“Policy goal.* Higher education in India has grown significantly over the past decades, moving towards mass education. The NEP 2020 aims to increase the Gross Enrolment Ratio (GER) from 26.8% (MHRD 2018) to 50% by 2030. Besides increasing overall enrolment, it focuses on expanding opportunities for students from SEDGs. Enrolment among disadvantaged groups has improved, but inequalities remain, especially regional, group-based and gender disparities.
2. *Equity concerns.* These include disparities based on region, social background and gender. They affect enrolment rates and also academic experiences, outcomes and campus inclusivity.

<sup>25</sup> Srinivas, *supra* note 19, at 175–76.

<sup>26</sup> S.V. Halse, *National Education Policy 2020* 564 (1st ed. 2022).

<sup>27</sup> *Id.*

3. *Regional variations.* GER differs across states. Some have higher enrolment while others lag behind. One major factor behind unequal access is the imbalanced growth of public and private institutions. States with higher GERs tend to have strong public education systems, whereas states with lower GERs rely more on private institutions, which are often concentrated in urban areas. This urban-rural divide widens the gap in access to higher education.”<sup>28</sup>

## 9. JUDICIAL APPROACH: CASE STUDIES

### 9.1 The Deputy Secretary (Mart), Dept. of Health & Family Welfare, Calcutta v. Ms. Sanchita Biswas, (2000) 1 CHN 451<sup>29</sup>

**Facts.** The petitioner, a physically disabled candidate, appeared for the Joint Entrance Examination for admission to medical colleges. Section 39 of the Persons with Disabilities Act, 1995 mandates a 3% reservation for disabled candidates in government-aided institutions, but the State failed to implement it for medical admissions. Meanwhile, the State introduced a reservation for "hill candidates" after the examination had already taken place. The petitioner challenged both the non-implementation of the reservation for disabled candidates and the arbitrary introduction of the hill candidates' reservation.

#### **Issues.**

1. Whether the absence of a 3% reservation for disabled candidates violated Articles 14, 15, 21 and 41 of the Constitution and Section 39 of the Disabilities Act.
2. Whether the reservation for hill candidates was unconstitutional for lack of supporting data on social and educational backwardness.
3. Whether the State violated Article 256 by failing to implement a legally mandated reservation.
4. Whether the High Court could compel the State to implement a reservation policy in the absence of specific rules.

**Decision.** The court ruled in favour of enforcing a 3% reservation for disabled candidates in medical colleges as required by Section 39. The State failed to justify its non-compliance, and

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<sup>28</sup> *Id.*

<sup>29</sup> Deputy Sec'y (Mart), Dep't of Health & Family Welfare v. Sanchita Biswas, (2000) 1 CHN 451 (Cal.) (India).

there was no evidence that the Medical Council of India restricted disabled candidates from medical admissions. The reservation for hill candidates was held unconstitutional because it was implemented without supporting data on social and educational backwardness and was introduced after the examination had taken place. This violated Article 14 and appeared to be an attempt to revive a previously abolished quota system.

**Judicial review and the State's responsibility.** The court rejected the State's claim that it had no duty to create reservations unless explicitly mandated. It cited *Air India Statutory Corporation v. United Labour Union*, affirming that judicial review is an essential part of the Constitution and that the High Court can intervene to ensure justice.<sup>30</sup>

**Rejection of the State's justifications.** The State argued that medical practice was unsuitable for disabled persons. The court held that Sections 32 and 33 of the Disabilities Act require the government to identify suitable jobs for disabled individuals and to update the list in light of technological advancements. The court also dismissed the argument that the petitioner could not challenge the process after participating in it, holding that she had a legitimate expectation of protection under the law.

**Donor category.** The petitioner also sought to challenge the donor category reservation, but the High Court declined to interfere, finding no legal error in the lower court's decision. The appeal was dismissed without any order as to costs.

## 9.2 Binita Senapati v. State of Assam, (2000) 7 SLR 280 (Gau)<sup>31</sup>

**Facts.** Binita Senapati, a physically disabled candidate with a 45% disability (shortening of the right lower limb with moderate stiffness of the right hip), applied for MBBS admission in Assam. She sought reservation under Section 39 of the Persons with Disabilities Act, 1995, but the application form had no provision for claiming it. She pointed out that Engineering Colleges in Assam had reserved one seat for physically handicapped persons and that similar reservations existed in Government Colleges for Arts and Science. After her request was denied, she filed a writ petition challenging the exclusion of disabled candidates from medical college reservations.

**Issues.**

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<sup>30</sup> *Air India Statutory Corp. v. United Labour Union*, (1997) 9 SCC 377 (India).

<sup>31</sup> *Binita Senapati v. State of Assam*, (2000) 7 SLR 280 (Gau.) (India).

- Whether she was entitled to reservation under Section 39 for admission to medical colleges.
- Whether the non-inclusion of such a reservation in the Medical College of Assam Admission Rules, 1996 violated the 1995 Act.
- Whether denying her claim amounted to discrimination and a violation of her rights under the Act.

**Discussion.** The 1995 Act was enacted to improve the living conditions of persons with disabilities and promote equal opportunities, but its provisions must be interpreted within the legislative intent. Chapter V (Education, Sections 26–31) focuses on inclusivity in education. Section 26(b) speaks of an effort "to integrate students with disabilities into normal schools." It does not provide for reservation in professional institutions such as medical colleges, which indicated that the legislature did not intend such a provision. Chapter VI (Employment, Sections 32–41), under which Section 39 falls, deals exclusively with employment opportunities. Section 39 states that all Government educational institutions and other educational institutions receiving aid from the Government shall reserve not less than three per cent seats for persons with disabilities. The court held that this applies to employment in educational institutions, not to student admissions.<sup>32</sup>

Applying harmonious construction, the court emphasised that reading Section 39 as applicable to medical college admissions would contradict Chapter V and make it redundant. The court also pointed to the absurdity such an interpretation would produce. Referring to Sections 2(t), 2(i)(vi) and 2(r), which define disability and mental retardation, it observed that even a "100% mentally retarded" individual could then claim a reserved seat. That would be impractical given the competence required for medical education.

**Judgment.** After analysing the legislative intent, the statutory provisions and the principle of harmonious construction, the court held that the petitioner was not entitled to reservation for medical admission under Section 39. The government had not acted illegally, unconstitutionally or arbitrarily by omitting a reservation from the 1996 Admission Rules. Since the Act itself did not mandate reservations in professional courses such as MBBS, the

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<sup>32</sup> Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, §§ 26(b), 39 (India).

absence of such a provision in the rules did not violate her rights, and the writ petition was dismissed as lacking merit.

### 9.3 Observations on the Two Decisions

The two decisions reach contrasting results on the same statutory provision. In *Sanchita Biswas* the court enforced the 3% reservation for disabled candidates in medical admissions and affirmed that the State cannot avoid its duty merely because no explicit rule exists. In *Binita Senapati* the court read Section 39 as an employment provision and refused reservation in MBBS admissions. Both cases show the real-life difficulties disabled students face in gaining entry to higher education, and they explain why the later, clearer provision on higher education reservation in the RPWD Act, 2016 is significant.

## 10. MAJOR CHALLENGES FACED BY STUDENTS WITH DISABILITIES IN HIGHER EDUCATION

Students with disabilities encounter many obstacles that affect their access to education and their overall experience.

1. **Physical accessibility.** Many institutions lack essential infrastructure. Multi-storey buildings without ramps or elevators, heavy doors, inaccessible restrooms and difficult access to classrooms and other facilities create barriers to movement. The absence of lifts and ramps poses particular difficulty for students with locomotor disabilities.
2. **Limited availability of accessible study materials.** Study resources are often unavailable in accessible formats, and visually impaired students struggle to find materials suited to their needs. Students from economically weaker backgrounds face further difficulty because they cannot afford expensive assistive technologies. Language barriers add to the challenge, especially where higher education is conducted predominantly in English.
3. **Lack of awareness.** Students often struggle to access crucial information because communication channels are inadequate. Institutions rely primarily on digital communication, which may not be accessible to them, so they miss vital updates on academic processes. Universities need to ensure timely and accessible communication.

4. **Challenges in the placement process.** Recruitment and placement present additional difficulties. Delays in processing applications for grants and concessions, and inefficiencies in evaluation, create hurdles in securing employment. The implementation of specialised education services and support programmes also faces delays, which hinders career prospects.
5. **Lack of individualised support.** Many funding schemes focus on students' "weaknesses" rather than their "strengths" and rely on rigid classifications. Disciplinary policies on suspension and expulsion are often enforced strictly without considering individual circumstances. There is a need for greater awareness of the environments in which discrimination occurs at all levels of education.
6. **Negative attitudes and stereotypes.** Prejudices and misconceptions about students with disabilities persist within institutions. Some faculty members, staff and fellow students show a lack of understanding and sensitivity, which can result in exclusionary practices. There have been instances where students were denied academic guidance or support simply because of their disabilities.
7. **Financial constraints.** Economic barriers often prevent students with disabilities from accessing higher education or sustaining their studies. Inadequate financial aid policies and support mechanisms worsen these difficulties. Acquiring essential materials, equipment and assistance services such as readers or writers involves additional costs, which makes financial support crucial to equal educational opportunity.<sup>33</sup>

Every individual, including those with disabilities, has the fundamental right to equal education and respect. Educational institutions and society must work together to remove these obstacles and create a supportive learning environment for all.

## 11. REVIEW OF SCHOLARLY PERSPECTIVES

**Mistry and Panigrahi** examine the reasons behind India's poor performance in providing higher education opportunities to persons with disabilities and suggest solutions. They highlight government schemes and the UGC's role in promoting special education after the Right to Education Act, 2009. Despite these efforts, enrolment remains very low, with only

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<sup>33</sup> Bagh, Renu & Raj, *supra* note 17, at 51–52.

0.23% of disabled students admitted against the reservation. Through a systematic review of eleven studies, they identify key barriers across physical, visual, hearing and intellectual disabilities, each requiring specific support and accommodation. They conclude that timely and effective implementation of policies, together with better monitoring and support systems, can significantly improve access.<sup>34</sup>

**Bagh, Renu and Raj** discuss inaccessible buildings, the lack of special learning tools and insufficient support from universities. Both government and private institutions must follow the rules on accessibility, but authorities such as the National Ombudsman have not done enough to ensure compliance, leaving many students without proper support. They suggest a broader approach: improving laws, better coordination between government departments and universities, training teachers to support disabled students, and using teaching methods that work for everyone. The aim is a university system in which disabled students have access and are fully included and supported.<sup>35</sup>

**Khan and Rahman** address the difficulty of defining disability and the medical and social perspectives on it. Another chapter stresses inclusivity and the well-being of disabled individuals. The author notes that education is a fundamental right but that disabled individuals often miss out for lack of awareness, acceptance and facilities, which leads to higher illiteracy among them. The work distinguishes exclusive schools, which cater to a small group of disabled children and limit their integration, from inclusive schools, in which children with and without disabilities learn together. Inclusive education helps disabled students develop socially and emotionally and promotes equality, fair treatment and justice. When students can learn and socialise with peers without fear of discrimination, they are more motivated to continue and to receive quality education. This depends on inclusive education being effectively implemented in India.<sup>36</sup>

**Sriniwas** focuses on the legal provisions for inclusive education, in particular Sections 16, 17 and 18 of the RPWD Act, 2016 and the relevant case law under the earlier Act.<sup>37</sup>

## 12. SYNTHESIS

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<sup>34</sup> Mistry & Panigrahi, *supra* note 4, at 36.

<sup>35</sup> Bagh, Renu & Raj, *supra* note 17, at 52.

<sup>36</sup> Khan & Rahman, *supra* note 1, at 65, 74.

<sup>37</sup> Sriniwas, *supra* note 19, at 175–76.

Taken together, these sources show a consistent pattern. Mistry and Panigrahi show that laws and policies exist but implementation is weak, and they suggest reasons why. Bagh and others stress the role of infrastructure, financial aid and institutional support in building an inclusive system. Khan and Rahman supply the conceptual understanding of disability and inclusion that those articles do not dwell on. Srinivas supplies the legal framework that any study of this subject requires. Across all of them, lack of awareness and weak enforcement continue to hinder progress.<sup>38</sup>

India has laws supporting disabled students, but poor enforcement, lack of awareness and weak institutional support prevent effective inclusion. Universities make efforts to prioritise accessibility, but financial aid and a welcoming learning environment are only one part of the process. Reservation benefits exist for students, yet enrolment issues persist in society. Without active intervention, disabled students will continue to struggle in higher education. Strict implementation and monitoring can fill the gap and truly promote inclusive education.

### 13. CONCLUSION

The right to education of disabled students rests on a layered legal foundation: Article 21A of the Constitution, the CRPD, the Persons with Disabilities Act, 1995, the Right to Education Act, 2009, the RPWD Act, 2016 and the NEP 2020. The RPWD Act, 2016 is the most developed of these in the context of higher education. It expands the recognised disabilities from 7 to 21, places duties on educational institutions under Section 16, requires inclusive measures from the government under Section 17, extends to adult education under Section 18, and provides a minimum 5% reservation with age relaxation in higher education institutions under Section 32.

The judicial decisions discussed show that courts have both enforced and restricted reservation for disabled candidates in professional admissions. This depended on how the governing statutory provisions were construed. They also show that the State cannot avoid its duty by pointing to the absence of explicit rules.

Despite this framework, the statistics show very limited participation of disabled persons in higher education. Only 5% of the literate disabled population has attained graduate or higher education, and only 0.23% of disabled students have been admitted against the reservation.<sup>39</sup>

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<sup>38</sup> Khan & Rahman, *supra* note 1.

<sup>39</sup> Mistry & Panigrahi, *supra* note 4, at 32.

The challenges identified are physical inaccessibility, inaccessible study materials, lack of awareness, placement difficulties, lack of individualised support, negative attitudes and financial constraints. They indicate that the gap lies chiefly in implementation, monitoring and awareness rather than in the absence of law.

Inclusive higher education therefore requires effective enforcement of the existing legal provisions, together with sustained cooperation between educational institutions, government bodies and society. Only then can the right to education of disabled students become a lived reality and not merely a statutory promise.