

Bill No. 53 of 2022

THE RIGHTS OF PERSONS WITH DISABILITIES
(AMENDMENT) BILL, 2022

By

ADV. DEAN KURIAKOSE, M.P.

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BILL

further to amend the Rights of Persons with Disabilities Act, 2016.

BE it enacted by Parliament in the Seventy-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Rights of Persons with Disabilities (Amendment) Act, 2022.

Short title and commencement.

5 (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

- Amendment of section 2. **2.** In section 2 of the Rights of Persons with Disabilities Act, 2016 (hereinafter referred to as the principal Act):— 49 of 2016.
- (a) in clause (s), the words "mental, intellectual or sensory" shall be omitted; and
- (b) after clause (t), the following clause shall be inserted, namely:—
- (ta) 'person with mental disability' means a person with long term mental, intellectual or sensory impairment which, in interaction with barriers, hinders his full and effective participation in society equally with others. 5
- Amendment of section 32. **3.** In section 32 of the principal Act, after sub-section (J), the following sub-section shall be substituted, namely:— 10
- "(J) All Government institutions of higher education and other higher education institutions receiving aid from the Government shall reserve not less than,—
- (a) five per cent. seats for persons with benchmark disabilities; and
- (b) one per cent. seats for persons with mental disability.".
- Amendment of section 33. **4.** In section 33 of the principal Act, in clauses (i) and (ii), for the words "persons with benchmark disabilities", at both the places, the words "persons with benchmark disabilities and persons with mental disabilities" shall be substituted. 15
- Amendment of section 34. **5.** In section 34 of the principal Act, in sub-section (I)—
- (a) for the words "not less than four per cent." the words "not less than five per cent." shall be substituted; 20
- (b) after the words "one per cent. for persons with benchmark disabilities under clauses (d) and (e)", the words "and one per cent. for persons with mental disabilities under clause (f)" shall be inserted;
- (c) in clause (d), the words "and mental illness" shall be omitted;
- (d) after clause (e), and before the proviso, the following clause shall be inserted, 25
- namely:—
- "(f) mental disability:"; and
- (e) after the second proviso, the following proviso shall be added, namely:—
- "Provided also that one per cent. of seats reserved for persons with mental disabilities shall be compulsorily filled." 30
- Amendment of the Schedule. **6.** In the Schedule to the principal Act, in paragraph 3, for the words "Mental Behaviour", the words "Mental Disability" shall be substituted.

STATEMENT OF OBJECTS AND REASONS

The Rights of Persons with Disabilities Act, 2016 was a landmark legislation in the history for protecting the rights of differently able people of India. According to 2011 census, 2.68 crore or 2.2 per cent. of Indian population lives with certain mental or physical disability. However, this number is based on a very narrow definition of benchmark disability. If we broaden the definition, the number will increase. According to Human Rights Watch, there are more than 70 million people suffering from psycho-social disabilities in the country.

The Rights of Persons with Disabilities Act, 2016 provides reservation as a means to ensure representation in the Government. However, the number of mentally disabled people who avail these benefits are very less, compared to the physically disabled people. Hence, these categories should be clearly defined and steps taken to ensure the representation of mentally challenged people in higher education institutions and government positions. There should be effort to identify the posts and earmark them to be filled by the people with mental disabilities.

The Bill, therefore, seeks to amend the Rights of Persons with Disabilities Act, 2016 with a view to specify the term "persons with mental disabilities" and provide them reservation in higher educational institutions and in posts in the establishments of the appropriate Government.

Hence this Bill.

NEW DELHI;
4 February, 2022

DEAN KURIAKOSE

ANNEXURE

EXTRACTS FROM THE RIGHT OF PERSONS WITH DISABILITIES ACT , 2016

(No. 49 OF 2016)

	*	*	*	*	*
Definitions.	2. In this Act, unless the context otherwise requires,—				
	(a)	*	*	*	*
	(s) "person with disability" means a person with long term physical, mental, intellectual or sensory impairment which, in interaction with barriers, hinders his full and effective participation in society equally with others;				
	(t) "person with disability having high support needs" means a person with benchmark disability certified under clause (a) of sub-section (2) of section 58 who needs high support;				
	*	*	*	*	*
Reservation in higher educational institutions.	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.				
	*	*	*	*	*
Identification of posts for reservation.	33. The appropriate Government shall—				
	(i) identify posts in the establishments which can be held by respective category of persons with benchmark disabilities in respect of the vacancies reserved in accordance with the provisions of section 34;				
	(ii) constitute an expert committee with representation of persons with benchmark disabilities for identification of such posts; and				
	(iii) undertake periodic review of the identified posts at an interval not exceeding three years.				
	*	*	*	*	*
Reservation.	34. (1) Every appropriate Government shall appoint in every Government establishment, not less than four per cent. of the total number of vacancies in the cadre strength in each group of posts meant to be filled with persons with benchmark disabilities of which, one per cent. each shall be reserved for persons with benchmark disabilities under clauses (a), (b) and (c) and one per cent. for persons with benchmark disabilities under clauses (d) and (e), namely:—				
	(a) blindness and low vision;				
	(b) deaf and hard of hearing;				
	(c) locomotor disability including cerebral palsy, leprosy cured, dwarfism, acid attack victims and muscular dystrophy;				
	(d) autism, intellectual disability, specific learning disability and mental illness;				
	(e) multiple disabilities from amongst persons under clauses (a) to (d) including deaf-blindness in the posts identified for each disability:				
	Provided that the reservation in promotion shall be in accordance with such instructions as are issued by the appropriate Government from time to time:				
	Provided further that the appropriate Government, in consultation with the Chief Commissioner or the State Commissioner, as the case may be, may, having regard to the type of work carried out in any Government establishment, by notification and subject to such conditions, if any, as may be specified in such notifications exempt any Government establishment from the provisions of this section.				
	*	*	*	*	*

THE SCHEDULE

[See clause (zc) of section 2]

SPECIFIED DISABILITY

1. * * * * *

3. Mental behaviour,—

“mental illness” 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 subnormality of intelligence.

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further to amend the Rights of Persons with Disabilities Act, 2016.

(Adv. Dean Kuriakose, M.P.)