

**The Question of Accessibility and The Rights of Persons with Disabilities Act: A Study
of Cases in the Supreme Court of India**

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Abstract

The contemporary Indian society grapples with numerous societal inequalities, discrimination and normative biases, including ableism. The legislation by the parliament for recognising and enforcing the rights of subordinate groups is essential in building an equal society. Equally important is the role of the apex judiciary in interpreting, widening and reinforcing the scope of the rights enumerated in the legislation. The Rights of Persons with Disabilities Act was passed in the Indian parliament in 2016 and came into force in April 2017. The act was brought into force to comply with the United Nations Convention on the Rights of Persons with Disabilities (CRPD) 2006, which was ratified by India on 1 October 2007. A content analysis of the act reveals that in the main text (i.e., excluding the content Index) of the 2016 Act, the terms ‘access’, ‘accessible’, or ‘accessibility’ have been used 48 times. This brief content analysis makes it clear the commitment of the act toward ensuring accessibility, at least in words. The aim of the paper is to analyze the cases in the Supreme Court of India dealing with the question of accessibility for persons with disabilities after the enactment of the 2016 act. These relevant cases are filtered out from the Supreme Court Cases (SCC) digital repository by using a Boolean search tool. Firstly, a phrase search for ‘the right to persons with disabilities act’ was performed, and the result was a list of 49 cases. Upon this result, truncation was performed by using the root word access*. Finally, we got a database of 16 cases that cited the 2016 act and discussed accessibility. Out of these 16 cases, 14 cases that dealt directly with the RPwD were included in the study. The content analysis and discourse analysis of these judgments were performed by employing the social model and human rights approach to disability. The author concluded that the Supreme Court has been promoting accessibility, and a total of five principles can be unveiled through these verdicts. These five principles are given in the key finding section. This examination does not only reveal the judiciary’s reading of disability rights but also underscores the continuous pursuit

of meaningful accessibility, thereby encouraging the relevant stakeholders, such as policymakers and civil society, to incessantly engage in the process of converting legal certainty into lived possibilities.

Keywords: Supreme Court of India; Disability; Accessibility; disability rights; Reasonable accommodation; Social model, Human-rights approach

THE QUESTION OF ACCESSIBILITY AND THE RIGHTS OF PERSONS WITH DISABILITIES ACT: A STUDY OF CASES IN THE SUPREME COURT OF INDIA

Abbreviations

CRPD- Convention on the Rights of Persons with Disabilities

SCC - Supreme Court Cases Database

RPwD Act - Rights of persons with disabilities Act

UPIAS - the Union for Physically Impaired against segregation

UN - United Nations

PwD – Persons with Disabilities

PwBD - Persons with Benchmark Disability

Introduction

The question of access can be understood in various ways. One of these is explained by *Tanya Titchkosky* in her book *The Question of Access: Disability, Space, Meaning*. She understands access as a complex perception in a social space that organises people in a specific social and economic relation. According to her, the question of access is perceived only when the exclusion is already evident (Titchkosky, 2011). In this paper, our concern is accessibility for persons with disabilities, with the understanding that exclusion is already in practice and now is the need to remedy the exclusion and facilitate access. With this background, the study is undertaken to understand the role of the Supreme Court of India in promoting accessibility. The paper is organised in the following sections.

The Indian society in the 21st century faces many challenges, and accessibility for persons with disabilities is one of the challenges that continue to persist despite progressive acts such as the RPWD Act. This research investigates the Supreme Court's role because it demonstrates that well-meaning laws may not necessarily create tangible improvements in

environmental accessibility. The analysis of these cases in the Supreme Court reveals major lacunas in the implementation of legal mandates and the need for enforcement by the judiciary to complement the legislative action of parliament toward making society accessible for everyone.

Firstly, the United Nations Convention on the Rights of Persons with Disabilities (CRPD) 2006 is reviewed, and important provisions of the convention pertaining to ensuring accessibility for persons with disabilities are explained below. The review of the UN convention is critical because India ratified it, and it became the base for enacting the 2016 Rights of Persons with Disabilities (RPwD) Act. In the next section, the 2016 Indian Act titled 'The Rights of Persons with Disabilities Act' is studied, and some of its provisions related to accessibility are discussed. In the third part of the paper, all the relevant cases in the Supreme Court of India, substantially related to the question of accessibility for persons with disabilities are analysed. Finally, in the concluding part of the paper, the important takeaways from the analysis of the Court verdicts are highlighted.

Accessibility Provisions in the UNCRPD and the RPWD Act

Some of the international instruments, particularly the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD), which was ratified in 2006. India signed this treaty in October 2007, and thereafter RPwD Act was passed in December 2016, replacing the previous act of 1995 media (Rights of Persons with Disabilities Act, 2016). Both documents focus only on crucial access rights that target to promote the inclusion of disabled people in society.

Key Provisions of the UNCRPD

As is apparent, Article 9 of the UNCRPD is basic and requires state parties to ensure that the availability of various aspects of a community's life – spaces, buildings and means of transportation, as well as information and communication technologies – is universally

accessible. This commitment requires the government and other stakeholders in the country to put measures in place to reduce the exclusion of Persons with disabilities from all societal activities in urban or rural areas. It also emphasises the need to build the capacity of the countries to deliver features such as Braille, sign language, and digital and technological accessibility from conception to supply of the new systems (United Nations, 2006).

Furthermore, the UNCRPD states that barriers, both physical and communication, should be identified to be eliminated; there should be provisions which champion non-discrimination of persons with disabilities. It focuses on multilateral interactions between the government and business organisations that improve access to information and services for disabled people and increase their social participation (United Nations, 2006).

Accessibility in the Constitution and RPwD Act

The constitution originally did not provide any explicit provisions for PWDs, but some of the articles have been interpreted to contain provisions for equality and prohibition of discrimination against persons with disabilities. The Constitution protects individuals from discrimination through Article 14 and prohibits discrimination on the basis of all these factors including disabilities. Article 19 talks about freedom of movement and free expression. According to Article 21, people possess the right to live with dignity, which underlines the importance of accessibility standards for PWDs to obtain social inclusion. (*Rajive Raturi Vs Union of India*, 2024). Moreover, Article 41 requires state authorities to establish policies that remove employment barriers as well as educational barriers and barriers to general welfare for PWDs. These articles mandated that PWDs enjoy the same rights as others.

The RPwD Act also defines the aspects of accessibility the act promulgates: the removal of architectural, communication, and informational barriers. Section 41 requires the government to provide transport services and facilities at places where people use transport in proportion to their number, and Section 42 is focused on accessible communication or

information. This also involves employing fixed provisions held in audio descriptions and closed captions to ensure equal accessibility to electronic media (Rights of Persons with Disabilities Act, 2016). The Act also extends provisions of physical facilities to educational institutions, whereby the construction shall be made to allow students with disabilities to access classes, and also approves of accommodation adjustments for improvement of learning. It also applies cultural and recreational facilities, their concern with the obligation of local authorities to ensure that the disabled persons have equal rights as any other person in health care, public support and other aspects of life (Rights of Persons with Disabilities Act, 2016).

The RPWD Act of 2016 differs significantly from its preceding Persons with Disabilities Act of 1995, and it shows the development of India's policy toward the inclusion of persons with disabilities. The RPWD Act includes twenty-one types of disabilities instead of only seven defined disabilities in the 1996 act. The 2016 act strengthens the rights of citizens with disabilities in education services, employment access, and public areas by clearly requiring public and private sector compliance. The RPWD Act provides stringent punishment against non-compliance while maintaining a strong enforcement system through commissioners who ensure that constitutional rights transform into practical policies and procedures (Ministry of Law, Justice and Company Affairs (Legislative Department), 1996; Rights of Persons with Disabilities Act, 2016).

Therefore, the RPwD Act is a significant legal achievement towards accessibility in India, focusing on enabling persons with disabilities under the doctrine of the UNCRPD to attain free participation in societal life. This dual approach not only meets legal compliance mandate but also helps in transform the culture from egalitarian to inclusionary for the vulnerable groups in India (Rights of Persons with Disabilities Act, 2016).

Research Methodology

The paper uses qualitative method in general and content analysis and discourse analysis in particular as a methodology to analyse cases dealing with the question of access and related to the Rights of Persons with disabilities act 2016 in the Supreme Court of India. The first step was extracting relevant case judgements from the vast Supreme Court Cases (SCC) Online repository. The cases dealing with the Rights of Persons with Disabilities act were extracted from the SCC repository using Boolean search for the phrase 'Rights of persons with disabilities act' on SCC Online. On performing a Boolean search, a customised list of 49 cases was generated that dealt with the RPWD Act 2016. To further filter these cases and to select cases also dealing with the question of accessibility, a truncation was performed using the root word access with an asterisk (access*). On performing truncation with the root word access, we got a cases list of 16 case judgements, which have words like access, accessibility, and accessing, inaccessible, accessibility, etc.

After extracting 14 relevant cases out of 16 judgements for this study, the content of these case judgements was analysed. In the content analysis method, the researcher looks for particular words, themes, categories and concepts in the raw data. Through inductive reasoning, the content is carefully compared so that common themes can emerge and be transformed into general findings. Qualitative content analysis, which has been used for this study, focuses on interpreting the textual data. To further supplement the content analysis method, discourse analysis is done for some of the statements made by judges in delivering the judgment to understand their understanding of the issue of accessibility in particular and the issue of disability in general. In discourse analysis, the language of a statement (judgment in this case) is interpreted within the socio-cultural context. These analyses of case judgements were performed within the framework of the social model and human-rights approach to disability.

Theoretical Framework

In this paper, the author relies on the social model and human rights approach to disability to analyse and interpret case judgments. The social model of disability came into prominence when the Union for Physically Impaired against segregation (UPIAS) released their Fundamental Principles document. The choice for adopting a social model is the following. The individual model builds on the medical model by incorporating personal, psychological, and emotional dimensions of disability, rather than viewing it solely as a biological issue (Oliver, 1996).

The Individual model identifies disability through personal experience of impairment, yet it lacks effectiveness compared to the social model, which analyses disability related to social obstacles and discrimination (Shakespeare, 2006). According to the social model, society bears responsibility for change by implementing necessary reforms to eliminate disability barriers and create environments for total inclusion. The social model came as a challenge to the individual model of disability, which considers disability as an unfortunate tragedy with the individual; the persons with disabilities in the individual model are solely responsible for their condition, and the solution lies in medical correction and/or rehabilitation of the person's disability. According to the social model of disability, it separates impairment, which is biological, from disability, which represents a social problem. The biological nature of impairment distinguishes it from social disability which represents a social problem. Disability only arises in an ableist society where the diversity of human reality is not respected, and social and attitudinal barriers are present as hurdles in the equal participation of persons with disabilities in society. If society can adjust according to the needs of different members of society, including persons with disabilities, there will be no disability in society (Shakespeare, 2017; Retief & Letšosa, 2018).

Ranjita Dawn, in her book, points out that disability flows through cultural norms in a manner that transforms over time. In the Indian case, traditional beliefs, together with cultural

symbolism and religious beliefs, have historically produced negative attitudes regarding disability. Through traditional texts and cultural practices, disability has typically been associated with punishment or impurity while being regarded as abnormal, which strengthens the practice of exclusion. The multiple perspectives examined in this analysis demonstrate how various aspects develop an extensive "able-bodiedness" standard that creates disability-related discrimination (Dawn, 2021).

The human rights approach to disability also argues that persons with disabilities are entitled to certain human rights and can claim their rights as human beings. This approach relies on enforcing laws and policies under the national or international framework to ensure the full inclusion of persons with disabilities in society (United Nations, 2014). The first internationally agreed framework for the rights of persons with disability was the United Nations (UN) Convention on the Rights of Persons with Disabilities (CRPD) of 2006. Almost all the countries ratified the convention, and India ratified it in 2008. Moreover, to implement the rights guaranteed under the convention, India passed its national act in 2016 titled the Rights of Persons with Disabilities (RPWD) Act. Hence, this paper analysed the Supreme Court case dealing with the accessibility rights guaranteed under the RPWD Act.

The question of access in the Supreme Court of India

The first-ever case judgment after the enactment of the 2016 act was Justice Sunanda Bhandare case. *Justice Sunanda Bhandare Foundation v. Union of India (2017)*, this case judgment was delivered only a few days after the 2016 act came into force. Although the case gives many references to the 2016 act and commends its provision and language for greater accessibility of persons with disabilities, the case was about the non-implementation of the provisions of the Persons with Disabilities (PwD) Act of 1995. The judgment was delivered in response to many writ petitions by persons with disabilities for non-implementation of the PwD Act. The judgment holds importance because it shows that the state and its agencies

failed to implement many provisions of the Pwd Act even after 20 years of its enactment. Further, the judgment emphasised the importance of employment in empowering people with disabilities. The judgment pointed out that the denial of appointment of the visually impaired person to teaching posts in various faculties and colleges is a violation of their fundamental rights. In their judgment, Justices Dipak Misra, A M Khanwilkar and M M Shantanagoudar directed all states and Union Territories to submit compliance reports with the 2016 Act within 12 weeks.

Notably, the judgment highlighted that disabled people are out of jobs not because their disability hinders their way instead, it is social and practical barriers that do not allow them to join the workforce. This statement echoes the voices of disability theorists and activists such as Mike Oliver and Tom Shakespeare, who advocate the social model of disability. For example, Shakespeare, in his book *Disability: The Basics*, talks about the environmental and attitudinal barriers faced by people with disabilities that hinder their participation in education and employment (Shakespeare, 2017).

In another case, *Rajneesh Kumar Pandey and Others V. Union of India and Others* (2017), in its verdict, interpreted the provisions related to education in the 2016 act. The Court held that the Individuals with Disabilities Act requires that once a person is identified as disabled, they must attend special school, as one section of the judgment in the Rajneesh Kumar Pandey case of 2017 read as follows “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” (*Rajneesh Kumar Pandey and Others V. Union of India and Others*, 2017).

Let's carefully read the above statement made by justice A. M. Khanwilkar. The judgment seems to deny any possibilities for persons with disabilities to be part of regular school and receive education in the social environment, which is a microcosm of our society

representing all its diversity. In special schools, students with disabilities have limited interaction only with other disabled students and teachers. When they complete their school and face society, they have adjustment problems. The judgment in the Rajneesh Kumar Pandey case reveals a fundamental misunderstanding of the 2016 Act. Throughout the new act of 2016, reference to special schools is made only once, i.e., in section 31. Only people with a 'benchmark disability' have the option of participating in special schools, again, this is not compulsory. The variance in judgments and viewpoints of Judges in disability rights cases is evidence of the fact that judges are also human beings, and they are socialized in the same society with all its flaws. However, one would not expect a Supreme Court judge to make a statement that dilutes all the progress made in disability rights. India ratified the United Nations CRPD in 2007, Inclusive education is an integral part of the convention. Moreover, the 2016 act emphasises inclusive education of students with disabilities, and reasonable accommodations must be made within the education institute to make education accessible to all.

Another very important case in the Supreme Court of India regarding accessibility rights is *Rajive Raturi Vs. Union of India (2017)*, Justice Sikri delivered the judgment on 15 December 2017. In this case, the petitioner filed a writ petition to ensure accessibility of public places for persons with visual disabilities. The petitioner pointed out some internationally accepted standards for accessibility, which include ensuring the following: safety of individuals, ensuring independent movement of persons with disabilities, affordability of the accessible environment, and lastly, the physical layout should be logical so that persons with disabilities do not have to travel at length to access facilities. In his judgment, Justice Sikri reiterated these four internationally accepted standards for accessibility. In this case, the question of accessibility was investigated in detail both in the case of roads and transport facilities.

What is essential in the judgment regarding accessibility is that the question of accessibility was understood in the language of rights. The claim of the right to accessibility was supported by citing both internationally recognised rights and domestic fundamental rights. For instance, the judgment cited the Report of the United Nations Consultative Expert Group Meeting on International Norms and Standards Relating to Disability and interpreted accessibility rights within the universal human right of equality (*Rajive Raturi v. Union of India*, 2018). The ruling specified how equality protection requires people to follow principles which include non-discrimination alongside reasonable differentiation. Positive discrimination and affirmative action and reasonable accommodations form the basis of reasonable differentiation under the second principle. It becomes a necessity to underline that the principle of reasonable accommodation is enshrined in the 2016 act, the judgment is tracing this principle from international human rights to emphasize its global importance.

Moreover, the judgment read that the right to accessibility is part and parcel of a fundamental right to life enshrined in Article 21 of the Constitution of India. Here, we can see the broadening of the fundamental rights to make space for the rights of persons with disabilities, making the right to accessibility a justiciable right. Hence, the judgment holds importance because the right to access public roads and public transport was recognized as a fundamental right. In the judgment, various state and central governments were directed to ensure the accessibility of public roads and transport by implementing the provisions of the 2016 act and to utilize the principle of reasonable accommodation.

The judgment in another case, *Disabled Rights Group v. Union of India* (2017) was delivered by Justice Sikri on the same day as the *Rajive Raturi* case. Justice Sikri has been one of the most ardent supporters of the rights of the disabled community in the Indian Supreme Court. In this case, the petitioner challenged the non-implementation of the 5 per cent reservation of seats for persons with disabilities in Law Schools. The importance of the

case lies in the intention of the case to make education accessible for one of the most neglected minorities, i.e., persons with disabilities.

Law schools were the only recipients of the initial petition in the Disability Rights Group Case. However, in a notable use of judicial authority, Justice Sikri expanded the order to include all educational institutions, acknowledging the significance of the issues at stake. The court ordered all postsecondary educational institutions subject to the requirements of Section 32 of the Rights of Persons with Disabilities Act, 2016, to adhere to these requirements each year when admitting new students. All governmental higher education institutions and other higher education institutions that receive government financing are required by Section 32 of the RPWD Act to reserve at least 5% of their seats for individuals with benchmark impairments. Even though the court is just restating the law, this condition may not actually be that simple. This reserve was frequently only in place on paper because reputable, well-established institutions were unable to put it into practice.

Another admirable step was taken by the court to make sure that the required reservation was not limited to paper only, even after this ruling. The court ordered all institutions to provide the state commissioner or the chief commissioner for persons with disabilities with a list of the number of disabled individuals admitted annually to each institution. The court filled legal voids regarding reporting systems through institutional control mechanisms to stop institutions from disregarding the reservation rules of the RPWD Act. The establishment of a simple yet ingenious reporting procedure became possible because of these changes. The guidelines include comprehensive recommendations that need an inclusive infrastructure at educational institutions and a modification to how classes are taught and exams are administered there. This court's order to the UGC to finish an accessibility report and study within a specific time frame is a welcome relief in a nation

where an audit report from 2016 found that not a single public building is accessible (Sharma, 2016).

Another case was *Pankaj Sinha v. Union of India* (2018). The three-judge bench of the Supreme Court under Chief Justice Deepak Mishra announced the judgment. In this case, the petition was submitted under Article 32 of the Indian Constitution to address the prejudice that people with leprosy experience in various settings, including banking, housing, healthcare, and education. The leprosy community is further marginalized as a result of prejudice, the Supreme Court found, which violates the fundamental right to equality and jeopardises the right to a dignified life. The Supreme Court decided that all patients should be entitled to free drugs from the government. Furthermore, the ruling brought attention to the prejudice against leprosy-affected women. The Supreme Court established this connection between gender and disability for crucial purposes. Women with disabilities become more susceptible to discrimination because they experience combined effects of gender and disability-based discrimination. In addition, the court decided that in order to preserve people's dignity, medical professionals were to be sensitised to leprosy, and all patients needed to be treated with dignity (*Pankaj Sinha v. Union of India*, 2020).

The *Vikash Kumar v. UPSC* (2021) case in the Supreme Court of India cannot be missed if our concern is accessibility for persons with disabilities. The case involved an individual who suffered from Writer's Cramp—a severe neurological ailment that makes writing extremely difficult. The UPSC refused to provide him with a scribe for the Civil Services Exam because he did not meet the requirements for a person with a benchmark disability (40 per cent or more of a specified disability). Rejecting this position, the Court determined that the petitioner was a disabled individual and that providing a scribe for him fell within the purview of reasonable accommodations. In this case, the Court pronounced the following

“The accommodation which the law mandates is 'reasonable' because it has to be tailored to the requirements of each disability condition. The expectations that every disabled person has are unique to the nature of the disability and the character of the impediments that are encountered as a consequence” (*Vikash Kumar v. UPSC, 2021*).

The Indian Constitution's fundamental rights provision enshrines the principle of non-discrimination, and the Supreme Court held that the higher benchmark disability level, which is equal to or more than 40 per cent, could not be used to deny those with disabilities equitable access. One finding from these Supreme Court rulings involving access rights is that the right to access is increasingly seen as an essential component of the fundamental rights section of the Indian Constitution. Furthermore, the UPSC had expressed worry that assigning scribes may give people with disabilities an unfair advantage. In response, the Court cited the lack of scientific evidence to maintain that the misuse claim was unfounded. The Court further observed that the baseless concern really contributed to the prejudice that people with disabilities must rely on state largesse or unfair means because they are unable to compete fairly. The court contested common misconceptions and biases regarding the capabilities of people with disabilities and ordered UPSC to apply strict guidelines and exam hall surveillance measures that have been applied to non-disabled individuals without limiting the access of PWDs to exams. The Supreme Court, through this case as one can see, is trying to demolish prejudices in our society against persons with disabilities. This case became a reference point for the Supreme Court of India when pronouncing a judgment supporting the accessibility rights of persons with disabilities.

Another notable case concerning the question of accessibility was *Avni Prakash v. NTA* in which judgment was pronounced on November 23, 2021. Avni Prakash, the petitioner, was a student with dysgraphia, a learning disability that results in erratic and inconsistent handwriting, trouble transcribing, a slow writing tempo, and reduced coherence. The question

at hand was whether the appellant's PwD status qualified her for one hour of compensatory time. The NTA denied her an extra hour in the exam because the petitioner did not have a Persons with Benchmark Disability (PwBD) certificate (*Avni Prakash v. National Testing Agency*, 2021)

According to the apex court ruling, refusing a PwD a reasonable accommodation is highly invidious. Making a difference between PwD and PwBD exacerbates the awareness generated in addition to the ableism surrounding the petitioner. The court in *Vikash Kumar v. Union Public Services Commission* made it clear that the rights and entitlements that have been granted cannot be restricted by using the benchmark disability definition as a precedent or a need to be eligible to receive the rights. Instead, the legal requirements for benchmark disabilities may apply, but the entitlement to a reasonable accommodation cannot be examined in the same way. The argument that scribes could only be offered to PwBD candidates was dismissed; the petitioner was entitled to a reasonable accommodation regardless of whether she met the benchmark impairment criteria. The argument's persuasive appeal lies in its emphasis on every individual's right to reasonable accommodations (*Avni Prakash v. National Testing Agency*, 2021).

In the aforementioned judgment, the court made examination and, hence, education more accessible to students with disabilities and directed them not to create additional barriers in the lives of persons with disabilities. Moreover, the decision of the court also directs the NTA to sensitize and impart training to persons working in NTA and exam centres so that they can understand the needs and work to create reasonable accommodation for persons with disabilities.

In *Ravinder Kumar Dhariwal v. Union of India* (2021), the Supreme Court considered whether it was discriminatory to begin disciplinary proceedings for misconduct against an Assistant Commandant in the Central Reserve Police Force who developed a mental illness

while on the job in *Ravindra Kumar Dhariwal v. Union of India*. In addition, the Court had to determine whether the Appellant's case fell under the more progressive Rights of Persons with Disabilities Act, 2016 (RPwD Act) or the Persons with Disability Act, 1995 (PwD Act). However, in accordance with the equality mandate in Article 5 of the CRPD, Section 20 of the RPwD Act not only prohibits discrimination against employees based on their disability in any matter about employment, but it also places a burden on the State to ensure that individuals with disabilities receive reasonable accommodations and a free, conducive work environment. Due to these factors, the Court determined that the reasonable accommodation obligation under Section 20 of the RPwD Act was much broader than the more restrictive requirements under Section 47 of the PwD Act. In light of the reasonable accommodation principle, the employer is required by Section 20(2) to post an employee with a disability in a location that is closer to their home. This was clarified by the Court and this type of reasonable accommodation is not available under section 47. Moreover, in this case, the Supreme Court directed the authorities not to conduct any disciplinary proceedings against Ravinder Kumar. The Supreme Court ruled that any kind of disciplinary proceedings against a person with a mental illness will be a form of indirect discrimination. The court judgment holds importance in this case because in our society, mental disabilities are not considered as important as physical disabilities, and sometimes psychosocial disabilities are not even considered a disability.

The court case *Arnab Roy V. Consortium of National Law Universities (2023)* obtained access for individuals with disabilities. The petitioner who serves as a legal representative and disability rights advocate submitted this case to the Constitution based on Article 32 to challenge specific regulations for the Common Law Admission Test 2023 scheduled for December 18, 2022. The petitioner specifically addresses the facilities for candidates who plan to use scribes because the restrictive conditions were only recently

imposed, four weeks before the exams, meaning that at least 13 visually impaired candidates would not be able to use the scribe. This included denying candidates who do not have a baseline disability the option to hire a scribe even when they actually struggle with writing. The bench of the Supreme Court made it clear that applicants taking the Consortium of National Law Universities' Common Law Admission Test have two options: they can bring their own scribe, or if that is not feasible, they can ask the Consortium to provide one, which will then be made available to the applicant. The court instructed that if the candidates are unable to find a scribe on their own and the Consortium supplies one, they shall be given at least two days to communicate with the scribe.

In the case of *Mohd. In Ibrahim v. Chairman & Managing Director (2023)*, the appellant challenged the High Court of Madras' decision. The High Court decided that since the appellant is colour-blind, he is not eligible to be appointed to the post of Assistant Engineer. The Supreme Court overruled the decision of the High Court in ruling that since the appellant has completed the graduate degree course in electrical engineering required for the post, he is suitable for the post. Moreover, the regional medical board set up to assess the appellant's vision opined that he is suffering from colour-defective vision and not colour blindness. The medical board further noted that the employer had not set any norms regarding this condition, so it was wrong to reject the candidature of the appellant outright. In its judgment, the Supreme Court again cited the principle of reasonable accommodations, emphasised in the 2016 act, to provide access to the appellant by employing him in another department where his disability does not hinder him from exercising his full potential.

In the recent milestone judgement in the Rajiv Raturi case in November 2024, the Supreme Court pronounced that the Central Government must develop accessibility rules under section 40 according to the RPWD Act, which becomes a mandatory requirement for service providers and public building retrofitting within five years under sections 45 and 46,

respectively. All new buildings must comply with the plan approval and completion stages under section 44. The Court supports retrofitting to eliminate obstacles from existing structures and implementing universal design at the start of all new projects. It clarifies that reasonable accommodation works alongside these broad accessibility requirements. Rule 15 of the RPWD Rules assembles an expanding set of guidelines issued by different ministries which maintain persuasive power instead of mandatory enforceable authority and establish an "aspirational ceiling" without concrete requirements known as a "floor": "A ceiling without floor does not make for a stable structure". Because Rule 15(1) ultra vires the RPWD act and the Court declared it invalid and ordered the government to prepare essential mandatory accessibility standards ('floor') separate from advisory guidelines ('ceiling') within three months through consultation with stakeholders and NALSAR-CDS . (*Rajive Raturi Vs Union of India, 2024*).

Key Findings and Conclusion

The in-depth analysis of these cases mentioned above reveals the following principles adopted by the apex Court in promoting accessibility.

1. Access is almost always interpreted within a human rights-based approach.
2. The right to accessibility is interpreted within the fundamental right to life.
3. Reasonable accommodation has been an underpinning principle.
4. Disability is understood within the framework of the Social Model of Disability.
5. Sensitization of various stakeholders has been pointed out.

First, interpreting accessibility within the human rights-based approaches means all forms of discrimination and inequality have to be eliminated. Those at the margins of society should be given priority so that they can exercise their rights in their fullest capacity and their empowerment can be ensured (*The Human Rights-Based Approach, 2014*). This is visible in instances when SC promoted access to employment and education to persons with

disabilities. Second, the right to access for persons with disabilities has been interpreted as part and parcel of Article 21 of the Indian Constitution, which is the right to life. This principle is a continuation of the broadening of Article 21, which has been expanded time and again by the Indian judiciary to include various rights, such as the right to education and the right to pollution-free water and air. It implies that accessibility is now a justiciable right, and in case of its violation, an aggrieved individual can directly approach the Supreme of India.

Moreover, the principle of reasonable accommodation has been continuously cited in these judgments to promote accessibility of persons with disabilities. The term came into vogue after the enactment of the 2016 act, and since then, it has become part of the legal discourse for the promotion of accessibility. This principle is interpreted in various instances, in the promotion of accessibility in the area of education and particularly participation in examinations *Vikas Kumar V UPSC*, and *Anvi Prakash v. NTA*. Further, this principle was used in the arena of employment, as evident in the case of *Mohd. Ibrahim v. Chairman & Managing Director* and *Ravinder Kumar Dhariwal v. Union of India*. Furthermore, the very understanding of disability has changed and the Supreme Court is interpreting disability within the social model of disability. For example, the first-ever case in the Supreme Court of India that cited the 2016 act was *Justice Sunanda Bhandare Foundation v. Union of India*. This case noted that persons with disabilities are not out of the job because of their disabilities but because of social barriers they face in the social environment. Hence, the judgment underlined the need to transform the society, not the individual who is disabled by the society. Finally, the Supreme Court has been arguing for the sensitisation of various stakeholders, to ensure a more sensitive and equitable environment for persons with disabilities. This fifth principle is linked with the interpretation of disability within the social model, hence requiring sensitisation to make people understand disability and to refute prejudices and stereotypes linked to disability.

It is therefore worth noting that the court utilised the social model and human rights model of disability. The Court has been clear in rejecting such regimes and contemplating prejudices and discrimination since it has come to understand that ghettoisation itself is the real problem, since exclusion is not a function of harm but of imposed partition. This is exemplified in the principle of the scope of the duty to reasonableness, which challenges stakeholders to make structural alterations with a view to making persons with disabilities' environment and practices fit perfectly.

The report titled *Finding Sizes for All* by NALSAR University recommended improving accessibility by ensuring better implementation of the RPWD Act. According to the report, multiple sources, including the disability community along with access experts and domain specialists, recommended that self-regulation is inadequate for guaranteeing accessibility because there is a pressing requirement for enforcement and independent oversight. When non-compliance has no consequences, organizations show little interest in the implementation of accessibility guidelines. The Chief and State Disability Commissioners need enhanced powers from the legal system because they should have broad authority for effective regulatory actions. Their current level of authority remains insufficient according to current observations; therefore, the Supreme Court should support changing Sections 76 and 81 within RPWD to enforce Commissioners' orders and define their oversight responsibilities. The report emphasises the need to establish basic accessibility levels immediately, which should progressively develop through time, although all accessibility measures cannot be constantly implemented over time (Centre for Disability Studies & NALSAR University of Law, Hyderabad, 2024).

The court produces decisions that go beyond legal jargon because they generate social advancement through their recommended changes. Multiple authoritative voices representing educational institutions through to employers and public members have proven that society

needs an updated understanding of disability alongside new attitudes towards it. However, challenges remain. The achievement of progressive measures to the mentioned reforms is hinged on the synergy of the three arms of government: the legislature, the bureaucracy and the public.

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