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# Case Comment on Rajiv Raturi V. Union of India: The Dawn of Disability Rights in India

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ABHISHEK DIXIT<sup>1</sup> AND SHIVANGI SHARMA<sup>2</sup>

## ABSTRACT

*The leading judgment of Rajive Raturi v. Union of India<sup>3</sup> is the basal case underlying the rights of the disabled in our country. This case made the policymakers realize all the grounds of basic amenities that the disabled are missing out. It all began with a public interest litigation to provide amenities to the disabled and resulted in compelling lawmakers to make astounding changes to the disabilities act 1995.*

*The case of Rajeev Raturi brought futuristic changes to accessibility and transport of visually impaired in public transport and the necessary infrastructure India was lacking on. The recommendations of this judgment saw changes like making every educational institute accessible for the disabled, every public transport to be made accessible to the disabled, and most importantly an audit each year to be conducted on how many institutions have been made accessible to the disabled and how many institutions are yet to be made.*

*This case comment will throw light on the jurisprudential aspect of the judgment trying to understand the whole legal understanding of the apex court on why and how the changes to the Rights of Persons with Disabilities Act were brought. In the process, the ambit of Article 21 of the Indian Constitution will be discussed, and what theories were taken into consideration while delivering this judgment. The writing will also throw light on the precedents on this subject especially emphasizing on Jeeja Ghosh v. Association of India, which is also a leading judgment and was also benched by Justice A.K Sikri. The case comment will also enshrine the issues raised by the petitioner and brief facts of the case. At last, this case comment will further conclude the understanding of the apex court on the jurisprudential side of the case and will highlight the amended sections and impact they had on the society.*

**Keywords:** Disability, Rights of the Persons with Disabilities Act, 2016.

## I. INTRODUCTION

In the particular case, the petitioner is a visually challenged individual, inhabitant of Gurgaon

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<sup>3</sup> (2018) 2 SCC 413

(now 'Gurugram') - he recorded this petition out in the open interest of the handicapped people- for appropriate and sufficient admittance to public places- In particular, this petition seeks providing all accessibility requirements to meet the needs of visually disabled persons in respect of safe access to roads and transport facilities.

## II. ISSUES RAISED

Key issue that was raised in the petition was that of providing universally satisfactory components of physical accessibility which are-

- *Safety*: the environment should be such where disable could move freely without any concern on their safety.
- *Independence*: the environment should be such where the disable could move on its own without any assistance.
- *Affordability*: the free movement of disable in the public places should not charge a fare/premium.
- *Logical format*: the environment should be such where disable could explore the place without being targeted of longer routes or unnecessary travel.

## III. HIGHLIGHTS OF JUDGEMENTS

There can't be any disagreement on the point that our country clearly fails to provide a safe and secure environment for the disables especially the visually impaired which are in question in the respective case, betterment of such people is the need of the hour in this 21<sup>st</sup> century India especially when it hampers the Article 19 of Indian Constitution, which is ensured to every single resident of this country. Not only Article 19 but the case also touches upon principles of Article 21; Right to Life which in modern constitutional development has become the umbrella article subsuming many rights of an individual. In *Francis Coralie Mullin v. Administrator, Union Territory of Delhi & Ors.*<sup>4</sup> this Court has held that:

*"The fundamental right to life which is the most precious human right and which forms the ark of all other rights must, therefore, be interpreted in a broad and expansive spirit"*

Right to Dignity was highlighted in this particular judgement as an essential facet of right to life, which is elaborated as "every act which offends against or impairs human indignity would constitute deprivation pro tanto of this right to life". This elaborative understanding of right to life is the best way to proportionate right to life on disables, who require more compensative

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<sup>4</sup> Francis Coralie Mullin v. Administrator, Union Territory of Delhi & Ors , 1981 AIR 746

measures from the government not only financial but social and mental in order to life their life with dignity and assure safety. The discussion on accessibility of disables and what are the standards to measure accessibility of an disable has been of great concern to the apex court.

The importance of Accessibility of the disabled could be comprehended well by understanding the judgement of *State of Himachal Pradesh & Anr. v. Umed Ram Sharma & Ors.*<sup>5</sup>. Here, the Court broaden the ambit of Article 21 and has included the right to accessibility with in it.

#### IV. TAKING JURISPRUDENTIAL ASPECT INTO CONSIDERATION

Right to dignity is guaranteed to every person of our country and is of more emphasis when a person requires special attention from the society and government for its secure and dignified survival on in other words whose dignity is vulnerable in our country. In judgment of *Jeeja Ghosh and Anr. v. Association of India and Ors.*<sup>6</sup>, these viewpoints were featured by this Court. The rights enshrined under Disabilities Act, 1995 for the disabled is based on sound foundation of human morals and principalities for guarding the dignity and safety of the disables. A tract which is enshrined under Article 21 of Indian Constitution the Right to life of disables is Constitutionally checked on the touchstone of various schools. Jurisprudentially, three kinds of models for deciding the substance of the established estimation of human respect are perceived.

*These are:*

*(i) Theological Models*

*(ii) Philosophical Models*

*(iii) Constitutional Models.*

Legal scholars have analysed all three schools from the lens of all ages and centuries have come to conclusion that jurisprudentially these are the standards of Jurisprudential norms to be satisfied by the law and act to stand true to jurisprudence concept. The Kant, Emmanuel and Savants of different schools have studied different ages and have propagated different theories on different ages. The theological school test the foundation on social acceptance and betterment as the touchstone of law, the philosophical school deals with the principalities and morals backing the law to be forced whereas the constitutional school test the veracity of a law on the valid standpoint of the constitution i.e., what is in the text is the supreme law. In case of India the jurisprudential comes to us on mix bag where we don't incline towards a school

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<sup>5</sup> State of Himachal Pradesh & Anr. v. Umed Ram Sharma & Ors, 1986 AIR 847

<sup>6</sup> Jeeja Ghosh and Anr. v. Association of India and Ors, (2016) 7 SCC 761

neither do, we completely disagree with any. All the cases on jurisprudential questioning have been decided by the apex court taking in purview of point of views of all schools.

In case of disabled, the validity of Article 21 of the Indian constitution comes in the forefront which is true to all standards of jurisprudential study. The dignity of the disables is not only to be protected but, to given a position of constitutional predicament of their existence of an Indian citizen guaranteed by the Indian Constitution. There is no doubt on the jurisprudential backing of Article 21 and umbrellaing the right of dignity under it, the jurisprudential test of veracity of disabilities act 1995 is satisfied.

## **V. CONCLUSION AND CHANGES MADE IN LAW**

This case brought major amendments in the laws dealing with disabilities in the country The Disabilities Act of 1995 was amended to The Disabilities Act of 2016 which sets out the arrangement identifying with boundary free climate. Those significant arrangements, are as under various sections like Section 2(i) - 'foundation incorporates a Government foundation and private foundation' Section 2(k) - 'Government foundation' signifies a partnership set up by or under a Central Act or State Act or a position or a body possessed or controlled or supported by the Government or a nearby power or a Government organization as characterized in section 2 of the 20 Companies Act, 2013 (18 of 2013) and incorporates a Department of the Government. Section 2(v) - "private foundation" signifies an organization, firm, agreeable or other society, affiliations, trust, office, organization, association, association, manufacturing plant or such other foundation as the proper Government may, by warning, indicate;

“Section 2(w) - "public structure"<sup>7</sup> signifies a Government or private structure, utilized or got to by the general population everywhere, including a structure utilized for instructive or professional purposes, working environment, law implementation organizations, reformatories or legal foras, railroad stations or stages, streets transport stands or end, air terminals or streams; These changes in the law implied that the admittance of disables in the public places and public transport be well secured and instrumentalised for efficiency. It was the legal battle of the petitioner which became the voice of the disables of the country and made the changes to ensure that they are provide with all civil rights and facilities enjoyed by every citizen of the country. The insertion of Section 2 (ze) also indicates towards expansion of the plans the government should not be satisfied with the changes being made but, also thrive for excellence in providing admittance to disables in public places and public transport.

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<sup>7</sup> Section 2(w) Public Structure, The Rights of Persons with Disabilities Act, 2016

The evolvement of Disabilities Act from 1995 to 2016 is in a way a result of this leading case law which made the law makers realise that prevailing laws of land on protection of disables was not sufficing the need and changes are essential to be made. This case re-define the trust of citizen in Indian Constitution and Indian Judiciary.

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