

Reserved Judgment

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

WRIT PETITION (PIL) No.87 OF 2014

Kamal Gupta

.....Petitioner

Vs.

State of Uttarakhand and others

.....Respondents

Mr. Rajendra Dobhal, Senior Advocate assisted by Mr. Devang Dobhal, Advocate for the petitioner.
Mr. Pradeep Joshi, Standing Counsel for the State of Uttarakhand.

Reserved on : 15.06.2018

Delivered on : 11.07.2018

Coram : Hon'ble Rajiv Sharma , J.
Hon'ble Lok Pal Singh, J.

Per : Hon'ble Rajiv Sharma, J.

1. The Court has taken cognizance of letter dated 22.04.2014 written by Shri Kamal Gupta highlighting therein the difficulties faced by Children with Special needs for pursuing education in the Educational Institutions throughout the State of Uttarakhand.

2. Article 21-A of the Constitution of India was inserted in the Constitution by way of 86th amendment Act, 2002 w.e.f. 01.04.2010, it reads as under :

“21-A. Right to education- The State shall provide free and compulsory education to all children of the age of six to fourteen years in such manner as the State may, by law, determine.”

3. The parliament has enacted the Act called “The Right of Children to Free and Compulsory Education Act, 2009”. The Statement of Object and reasons reads as under :-

“The crucial role of universal elementary education for strengthening the social fabric of democracy through provision of equal opportunities to all has been accepted since inception of our Republic. The Directive Principles of State Policy enumerated in our Constitution lays down that the State shall provide free and compulsory education to all children up to the age of fourteen years. Over the years there has been significant spatial and numerical expansion of elementary schools in the country, yet the goal of universal elementary education continues to elude us. The number of children, particularly children from disadvantaged groups and weaker sections, who drop out of school before completing elementary education, remains very large. Moreover, the quality of learning achievement is not always entirely satisfactory even in the case of children who complete elementary education.

2. Article 21-A, as inserted by the Constitution (Eight-sixth Amendment) Act, 2002, provides for free and compulsory education to all children in the age group of six to fourteen years as a Fundamental Right in such manner as the State may, by law, determine.

4. Section 2 (d) defines “child belonging to disadvantaged group”. “Child belonging to weaker section” has been defined under Section 2(e). Section 2(ee) defines “child with disability”, it reads as under :-

- (A) a child with “disability” as defined in clause (i) of Section 2 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (1 of 1996);
- (B) a child, being a person with disability as defined in clause (j) of Section 2 of the

National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999 (44 of 1999);

- (C) a child with “severe disability” as defined in clause (o) of Section 2 of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999 (44 of 1999);

5. “School” has been defined under Section 2(n). The Section 3 provides that the every child of the age of six to fourteen years, including a child referred to in clause (d) or clause (e) of Section 2, shall have the right to free and compulsory education in a neighbourhood school till the completion of his or her elementary education. The Sub Section 3 of Section 3 reads as under :-

3. Right of child to free and compulsory education-

(1).....

(2).....

(3) A child with disability referred to in sub-clause (A) of clause (ee) of Section 2 shall, without prejudice to the provision of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (1 of 1996), and a child referred to in sub-clauses (B) and (C) of clause (ee) of Section 2 have the same rights to pursue free and compulsory elementary education which children with disabilities have under the provisions of Chapter V of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995;

Provided that a child with “multiple disabilities” referred to in clause (h) and a child with “severe disability” referred to in clause (o) of Section 2 of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999 (44 of 1999) may also have the right to opt for home based education.

6. Section 7 provides for sharing of financial and other responsibilities. The duties of appropriate Government are provided under Section 8. Section 13 provides that no school or person shall, while admitting a child, collect any capitation fee and subject the child or his or her parents or guardian to any screening procedure. The norms and standards for school have been prescribed under Section 19. The qualification for appointment and terms and condition of service of teachers is provided under Section 23. The curriculum and evaluation procedure is provided under Section 29.

7. The State of Uttarakhand has framed the Rules under Section 38 of the Right of Children to Free and Compulsory Education Act, 2009 called as “The Uttarakhand Right of Children to Free and Compulsory Education Rules, 2011. Rule 2(g) defines “Child belonging to disadvantaged group”. Rule 2(h) defines “Child belonging to weaker section”. The responsibilities of School and Teachers are defined in Part IV and Admission of children belonging to weaker section and disadvantaged groups is provided under Rule 12. Rule 13 provides for reimbursement of per-child-expenditure by the State Government for the purpose of sub section (2) of Section 12 of the Act. The amendment has been carried out in the Rules on July 02, 2013. Rules 2(g) reads as under:-

“2(g) “Child belonging to disadvantaged group” means a child belonging to the Schedule Caste, the Schedule Tribe, Other Backward Classes as notified by the State Government (except creamy layer), **children of Manual Scavengers family**, an Orphan child, Child suffering from disability as defined in Persons with Disabilities (Equal Opportunities, Protection and Full Participation Act, 1995) (Act 1 of 1996), **OR a child with “severe disability” as defined in clause (o) of section 2**

of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999, a child depending on widow or divorcee mother, whose annual income is less than R 80000/-, HIV+ child or child of HIV+ parents and a child belonging to parents with disabilities (including leprosy effected persons) defined in Persons with Disabilities (Equal Opportunities, Protection and Full Participation Act, 1995) (Act. 1 of 1996) **OR defined in clause (j) of section 2 of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999**, whose annual income is less than R 4.5 Lakh and includes such disadvantaged children as defined by the State Government from time to time;

Provided that 50% of the children belonging to disadvantaged group to be admitted under provisions of section 12 of the Act shall be girls.

8. The Parliament has also enacted the Act called “The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995. Section 2(i) defines ‘disability’ as under :-

- (i) blindness
- (ii) low vision
- (iii) leprosy-cured
- (iv) hearing impairment
- (v) locomotor disability
- (vi) mental disability
- (vii) mental retardation
- (viii) mental illness

9. Section 26 provides that the appropriate Governments and local authorities shall ensure that every

child with a disability has access to free education in an appropriate environment till he attains the age of eighteen years and the endeavour should be promoted the integration of students with disabilities in the normal schools and also to promote setting up of special schools in Government and private sector for those in need of special education, in such a manner that children with disabilities living in any part of the country have access to such schools. These schools are required to be well equipped for children with disabilities with vocational training facilities. Section 27 reads as under :-

27. Appropriate Governments and local authorities to make schemes and programmes for non-formal education, etc.-

The appropriate Governments and the local authorities shall by notification make schemes for (a) conducting part-time classes in respect of children with disabilities who having completed education up to class fifth and could not continue their studies on a whole-time basis;

(b) conducting special part-time classes for providing functional literacy for children in the age group of sixteen and above;

(c) imparting non-formal education by utilizing the available manpower in rural areas after giving them appropriate orientation;

(d) imparting education through open schools or open universities;

(e) conducting class and discussions through interactive electronic or other media;

(f) providing every child with disability free of cost special books and equipments needed for his education.

10. Section 29 provides that appropriate Governments shall set up adequate number of teachers' training

institutions and assist the national institutes and other voluntary organizations to develop teachers training programmes specialising in disabilities so that requisite trained manpower is available for special schools for children with disability. Section 30 provides for Appropriate Government to prepare a comprehensive education scheme providing for transport facilities, supply of books, etc. It reads as under :-

“30. Appropriate Governments to prepare a comprehensive education scheme providing for transport facilities, supply of books, etc. -

Without prejudice to the foregoing provisions, the appropriate Governments shall by notification prepare a comprehensive education scheme which shall make Provision for

- a. transport facilities to the children with disabilities or in the alternative financial incentives to parents or guardians to enable their children with disabilities to attend schools;
- b. the removal of architectural barriers from schools, colleges or other institutions, imparting vocational and professional training;
- c. the supply of books, uniforms and other materials to children with disabilities attending school;
- d. the grant of scholarship to students with disabilities;
- e. setting up of appropriate fora for the redressal of grievances of parents regarding the placement of their children with disabilities;
- f. suitable modification in the examination system to eliminate purely mathematical questions for the benefit of blind students and students with low vision;
- g. restructuring of curriculum for the benefit of children with disabilities;

h. restructuring the curriculum for benefit of students with hearing impairment to facilitate them to take only one language as part of their curriculum.

11. Section 31 provides that all educational institutions shall provide or cause to be equipped amanuensis for blind students or students with low vision.

12. The National Advisory Council has made following recommendations for Special/Integrated Education :-

“Special/Integrated Education: - Opinions vary whether disabled children should be educated in ‘special’ schools or in ordinary schools. There are some who believed that children with sensory disabilities would benefit from education in separate settings which are specifically geared to meet specific needs, in a supportive environment. Others believe that education is the key to the promotion of positive attitudes to persons with disabilities. Segregating children with disability perpetuates stereotyping and lack of understating of difference leading to discrimination in all areas of life.

RPDB does not take a position on the debate exclusively on the side of special or integrated schools. It mandates neighbourhood schools to provide education to children with disabilities, but also includes schools that are exclusively or predominantly catering to children with disabilities.

The NAC concurs with the approach laid in the RPDB insofar that it is appropriate to allow the choice to children and guardians about which kind of school they would like to access-inclusive or special. The NAC further recommends that the RTE should sufficiently safeguard the interests and rights of children with disabilities, and be in conformity with RPDB.

Parliament recently approved an amendment to the RTE, in which children with disabilities are included within the meaning of 'child belonging to disadvantaged group.' This corrects the first great anomaly of RTE relating to children with disabilities, establishing effectively that they have the same right to education as all other children.

In operational terms, however, a great deal still needs to be clarified in RTE. The RTE provides all children right to education, including disabled children, in a neighbourhood school. This is reiterated also in the response of the Ministry of Human Resource Development (MHRD). In operational terms this would imply that every neighbourhood schools would be required to be inclusive. If this is the case, then the RTE norms for schools contained in the Schedule of the Act needs to be revised to indicate the mandatory requirements that schools should adhere to, in order to ensure that they are accessible and educationally appropriate for all forms of disabled children. This would include but needs to go well beyond having ramps: the full meaning of school inclusion for all forms of disabilities would have to be specified in the same Schedule. If all schools are inclusive, this would also imply that all schools would require teachers trained with basic skills of special teachers.

The MHRD in its response implies that all schools indeed may not be inclusive, by stating that if a neighbourhood school cannot admit a disabled child, then safe transport will be provided. But this needs to be clearly built into the language of the law, its Rules and Schedule, if the disabled child is to have a legally enforceable right to education. If it is not feasible to make every neighbourhood school inclusive, then the Act needs to clearly define what would be the maximum distance forms for a disabled chilled to access an inclusive school.

At the same time, since the choice of special schools is also guaranteed in RPDB, RTE needs to indicate norms for special schools, and at which level special schools will be available. For instance, there can be a distance norm, or the every district will have special schools, as well as numbers per population in cities and own. The RTE will need to indicate the qualifications of teachers in special schools, and the system of certification.

The NAC recommends that the Ministry of HRD should amend RTE suitably to ensure that the right to education tall children with disabilities is safeguarded and the choice to such children to stay in an inclusive school or special schools is real. It would need to clarify in the law whether the right to education of every child with disabilities would be in every neighbourhood school or in, or in neighbourhood schools within a specified distance norm. It will also need to indicate the minimum norms of teachers' training, infrastructure and equipment in inclusive as well as special schools.

13. The statutory body has been constituted under the Ministry of Social Justice and empowerment called Rehabilitation Council of India. It has provided minimum qualifications for appointment for special education to Teachers as per letter dated 11.01.2012. The National Council for Teacher Education (NCTE) and Rehabilitation Council of India (RCT) have entered into a Memorandum Of Understanding (MOU) on 19.01.2005 with following aims and objectives :-

AIMS & OBJECTIVES- Therefore, in accordance with the provisions and rules NCTE and RCI, both hereby sign a MOU

which aims at working together in the following areas:

1. Developing minimum standards for offering teacher education preparation courses with disability specific specialization.
2. Developing course curriculum on special education for inclusion in general teacher preparation programmes.
3. Instituting Joint Inspection Committees (JICs) for quality improvement in special education teacher preparation programmes.
4. Offering continuing education programme for general and special education teachers.
5. Undertaking research studies for the promotion of inclusive education.

14. According to Article 17 of the Convention on the Rights of Persons with Disabilities and Optional Protocol, States Parties shall take all necessary measures to ensure the full enjoyment by children with disabilities of all human rights and fundamental freedom on an equal basis with other children and States Parties shall ensure that children with disabilities have the right to express their views freely on all matters affecting them, their views being given due weight in accordance with their age and maturity, on an equal basis with other children.

15. Article 24 reads as under :-

Education : 1. State Parties recognize the right of persons with disabilities to education. With a view to realize this right without discrimination and on the basis of equal opportunity, State Parties shall ensure an inclusive education system at all levels and lifelong learning directed to:

- (a) The full development of human potential and sense of dignity and self-worth, and the strengthening of respect for human rights, fundamental freedoms and human diversity;
- (b) The development by persons with disabilities of their personality, talents and creativity, as well as their mental and physical abilities, to their fullest potential;
- (c) Enabling persons with disabilities to participate effectively in a free society.

2. In realizing this right, States Parties shall ensure that :

- (a) Persons with disabilities are not excluded from the general education system on the basis of disability, and that children with disabilities are not excluded from free and compulsory primary education, or from secondary education, on the basis of disability;
- (b) Persons with disabilities can access an inclusive, quality and free primary education and secondary education on an equal basis with others in the communities in which they live;
- (c) Reasonable accommodation of the individual's requirements is provided;
- (d) Persons with disabilities receive the support required, within the general education system, to facilitate their effective education;
- (e) Effective individualized support measures are provided in environments that maximize academic and social development, consistent with the goal of full inclusion.

3. State Parties shall enable persons with disabilities to learn life and social development skills to facilitate their full and equal participation in education and as members of the community. To this end, State Parties shall take appropriate measures, including;

- (a) Facilitating the learning of Braille, alternative script, augmentative and alternative modes, means and formats of communication and orientation and mobility skills, and facilitating peer support and mentoring;
 - (b) Facilitating the learning of sign language and the promotion of the linguistic identify of the deaf community;
 - (c) Ensuring that the education of persons, and in particular children, who are blind, deaf of deafblind, is delivered in the most appropriate languages and modes and means of communication for the individual, and in environments which maximize academic and social development.
- 4.** In order to help ensure the realization of this right, States Parties shall take appropriate measures to employ teachers, including teachers with disabilities, who are qualified in sign language and/or Braille, and to train professionals and staff who work at all levels of education. Such training shall incorporate disability awareness and the use of appropriate augmentative and alternative modes, means and formats of communication, educational techniques and materials to support persons with disabilities.
- 5.** States Parties shall ensure that persons with disabilities are able to access general tertiary education, vocational training, adult education and lifelong learning without discrimination and on an equal basis with others. To this end, State Parties shall ensure that reasonable accommodation is provided to persons with disabilities.

16. The petitioner has also placed on record the list of children with special needs in the State of Uttarakhand in Tabular form.

17. The respondent No.4 has filed the counter affidavit. The gist of the reply filed is that the State Government has

included the disabled children having age group of 6 to 18 years for education/consultation under the Sarva Shiksha Abhiyan along with the normal Children, and has taken following steps:-

- (i) **Identification of Disabled Children:** In every District of the State the concerned Teacher, C.R.C., B.R.C., and the Specialist of Alimko Kanpur, National Institute for Visually Handicapped, the Social Welfare Department and the Specialist Doctors of the Medical Department are included to identify the Disabled Children, and to issue the Disability certificate. It is submitted that the Social Welfare Department ensures the availability of free bus passes to them and endeavors their participation in the general public life. In the current year i.e. 2014-15, 13663 children have been identified under the District Information System of Education. (DISE).
- (ii) **Teaching/Consultation:** It is submitted that the Special Diploma Holder Resource Teacher/Resource person are being arranged to teach/consult the identified disabled children in the entire State. The district wise progress of the arrangement of the Resource Teachers for the year 2013-14 is as follows:

Sl. No.	District	Nos.
1.	Almora	09
2.	Bageshwar	06
3.	Chamoli	07
4.	Champawat	06
5.	Dehradun	21
6.	Haridwar	22
7.	Nainital	08
8.	Pauri	12
9.	Pithoragarh	09
10.	Rudraprayag	04
11.	Tehri	14
12.	Udham Singh Nagar	27
13.	Uttarkashi	11
Total		156

It is stated that for the year 2014-15 the process for arranging 156 Resource Persons through Government Outsourcing Agency was under progress. It was further submitted that 801 Teachers, working in the State have been imparted 90 days' foundation course recognized by the Rehabilitation Council of India, who are also imparting education/guidance to the children with special needs (CWSN).

(iii) Transport /Escort Allowance :

The Children with Special needs are provided transport/escort facility for reaching their schools, for which a sum of Rs. 50.98 lacs has been sanctioned for

the year 2014-15 for 2039 @ Rs. 250/- per children for 10 months.

(iv) Parental Training /Counseling:

Proper training/counseling for the parents of the disabled children is being provided in camps at C.R.C and B.R.C. level for the registration of such children in the schools, for which targets have been set for organizing such camps in each block of the State in the year 2014-15, and a sum of Rs. 19.00 lakhs has been sanctioned.

(v) Brail Books and Large Books:

The Brail Books and Large Books are being provided to the visually handicapped children with special needs. For the year 2014-15 the Government of India has sanctioned Brail Books for 112 children and Large Books for 717 children. For this purpose a budget of Rs. 18.50 lakhs has been sanctioned.

(vi) Construction Work: As per the budget sanction by the Government of India, 295 obstruction free toilets and 11925 ramp railings have been constructed for the children with special needs. For the year 2014-15 there is a target to construct 165 ram railings, for which a sum of Rs.24.75 lakhs has been sanctioned.

(vii) In-Service Teachers Training: For improving the quality of education of the children with special needs, all the teachers teaching class 1 to 8 have been given in Service Teachers Training of 2

days at the C.R.C. level in the year 2013-14. In the aforesaid training a module of “inclusive education” was used, in which the subject material introduction of specialists and identification, identification of specialists, the teaching methods as per the specialties of children, case study, adapted text for teaching in inclusive class, inclusive syllabus, individual teaching program, the general technique for continuous and detailed evaluation are included. For the year 2014-15 there is a target to provide training to 31203 teachers, for which a sum of Rs. 475.85 lakhs has been sanctioned.

(viii) Community Participation

Training: Under the Community Participation Training the member of the school management committee through training are informed about the disabilities of the children with special needs and the facilities provided to such children under the Sarva Shiksha Abhiyan. The members of the school management committee are also informed of ensuring the registration and stay of such children in the schools. In the year 2013-14 a total of 94793 members of school management committee were imparted training, and for the year 2014-15 there is a target to give training to 102736 such members, for which a sum of Rs. 308.26 lakhs has been sanctioned.

18. The children with special need are being provided proper teaching/consultation by specialized Resource Persons and Special Diploma Holder Resource Teachers. 171 and 156 concerned Teachers were working in the year 2012-13 and 2013-14 respectively in the State. 12906 and 13662 children with special need were identified in the year 2013-14 and 2014-15 respectively. The respondent No.5 has also filed the counter affidavit. The steps taken by respondent No.5 are enumerated as under:

(i) Appointment of Special Teachers:

In the year 2013-14, 40 Special Teachers through outsourcing have been appointed for providing inclusive education and guidance to the children with special needs with general children.

(ii) Construction of Resource room :

In the entire State, 95 resource rooms are being constructed each per block, against which 83 resource rooms are completed, in which the necessary instruments and resources for children with special needs will be kept.

(iii) Construction of obstruction free toilets and ramp railings :

The obstruction free toilets have been constructed for the children with special needs in the aforesaid 95 schools, and ramp railings have also been constructed to go anywhere in the schools.

(iv) In Service Teachers Training: It is submitted that as per the guidelines of the Government of India the working

teachers are being provided training to provide similar education to the children with special needs with the general children. In the year 2011-12, 5 days training was given to 310 teachers at District level, and in the current year i.e. 2014-15, 5 days training will be given to all the teachers working under Rashtriya Madhyamik Shiksha Abhiyan for knowing the needs of the children with special need.

(v) Scholarship : The scholarship @ Rs.600.00 per child per year has been given by the State Government, by which in the year 2012-13 and 2013-14, 912 and 805 children were benefitted respectively.

(vi) Distribution of necessary tools : Under the scheme of ADIP and with the help of NIVH the necessary tools are being provided to the children with special needs.

(vii) For the year 2014-15 the Government of India has sanctioned Rs.171.59 Lakhs to manage the IEDSS scheme as under :-

Sl.No.	Head name	Unit Value (in lakh)	Physical	Amount (in lakh)
Non-Recurring head				
1.	Tools for resources rooms	0.070	38	26.60
Total of Non-				26.60

Recurring head				
Recurring head				
2.	The salary of special teachers	0.18	40	86.46
3.	The special salary of special teachers	.048	40	1.92
4.	The progressive activities for students i.e. helpful and essential tools	.03	1579	47.37
5.	Publicity-transmission program	0.10	93	9.3
The total of Recurring head				144.99
The total of Non-Recurring + Recurring head				171.59

19. In the year 2014-15, the scholarship @ Rs.200/- per girl per month has been sanctioned by the Government of India in different heads of books, stationery, dresses, assessment and necessary tools for the children with special needs. The teachers were appointed by way of outsourcing.

20. What emerges from the facts enumerated is that the respondents though have taken steps but these are inadequate. The steps taken so far by the respondents are not in letter and spirit of the Right of Children to Free and Compulsory Education Act, 2009 and the Rules were framed by the State of Uttarakhand, the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995. The children with special needs have

now been brought in Section 3(3) of the Right of Children to Free and Compulsory Act, 2009 quoted hereinabove. They are included in the definition of Section 2(g) of the Right of Children to Free and Compulsory Education Rules, 2010, amended in year 2013. The sharing of financial and other responsibilities has been defined under Section 7 of the Act, 2009.

21. According to Section 26 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, State Government should ensure that every child with a disability has access to free education in an appropriate environment till he attains the age of eighteen years and endeavour is to be made to promote the integration of students with disabilities in the normal schools. The endeavour should be made to equip the special schools for children with disabilities with vocational training facilities. The State Government is required to promote setting up of special schools in Government and private sector for those in need of special education, in such a manner that the children with disabilities living in any part of the country have access to such schools. The State Government is also required to frame the scheme for improvement in non-formal education for Children with special need. The State Government is required to set up the teacher training institution. The comprehensive education scheme is required to be provided facilities for supply of food to the Children with special need. It is duty of the State Government to provide the education to all the children of the age of 6 to 14 years as per Article 21-A of the Constitution of India. The minimum educational qualification for special education teachers is laid down as per letter dated 11.01.2012 issued by Rehabilitation Council of India. The MOU has also been entered into between the National Council of Teacher Education and Rehabilitation Council of India.

22. Article 24 of the Convention on the Rights of Persons with Disabilities and Optional Protocol deals with the Education. The National Advisory Council has also made recommendation on the proposed disabilities rights legislation with focus upon children with special need to study in any exclusive schools or special schools. The National Policy for Persons with Disabilities of the year 2006 of the Government of India. The relevant portions dealing with education read as under :-

“11B. Education for Persons with Disabilities.

20. Education is the most effective vehicle of social and economic empowerment. In keeping with the spirit of the Article 21A of the Constitution guaranteeing education as a fundamental right and Section 26 of the Persons with Disabilities Act, 1995, free and compulsory education has to be provided to all children with disabilities up to the minimum age of 18 years. According to the Census, 2001, fifty-one percent persons with disabilities are illiterate. This is a very large percentage. There is a need for mainstreaming of the persons with disabilities in the general education system through Inclusive education.

24. There will be concerted effort on the part of the Government to improve identification of children with disabilities through regular surveys, their enrollment in appropriate schools and their continuation till they successfully complete their education. The Government will endeavor to provide right kind of learning material and books to the

children with disabilities, suitably trained and sensitized teachers and schools which are accessible and disabled friendly.”

With respect to children with disabilities the Police inter alia provides -

“IV. Children with Disabilities -

32. Children with disabilities are the most vulnerable group and need special attention. The Government would strive to:

- a. Ensure right to care, protection and security for children with disabilities;
- b. Ensure the right to development with dignity and equality creating an enabling environment where children can exercise their rights, enjoy equal opportunities and full participation in accordance with various statutes.
- c. Ensure inclusion and effective access to education, health, vocational training along with specialized rehabilitation services to children with disabilities.
- d. Ensure the right to development as well as recognition of special needs and of care, and protection of children with severe disabilities.

V. Barrier-free environment:

33. Barrier-free environment enables people with disabilities to move about safely and freely, and use the facilities within the built environment. The goal of barrier free design is to provide an environment that supports the

independent functioning of individuals so they can participate without assistance, in everyday activities. Therefore, to the maximum extent possible, buildings / places/ transportation systems for public use will be made barrier free.

23. Every child with special need has a fundamental right to develop with dignity and equality. He has right to education, health, and vocational training. Children with special needs should have equal opportunities.

24. In view of the above, the writ petition is disposed of with following mandatory directions :-

- a. The State Government is directed to appoint Special Educators in all the Government schools for Children with Special needs and also to ensure that Special Educators are appointed in Government aided and unaided private schools in the State of Uttarakhand within a period of six months.
- b. All the Government schools, Government aided and unaided private schools in the State of Uttarakhand are directed to make building/ school premises/ transportation system barrier free and suitable for free movement of children with special needs.
- c. The State Government is directed to set up special teachers' training institutions as per Section 29 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 within a period of one year.
- d. The State Government is directed to look after all the children with special needs whose parents are not able to look after them. The children with special needs require special care, compassion, passion for bringing them up in order to bring them into the main

- stream and also to provide monetary incentives to the parents/guardians of the Children with special needs.
- e. It shall be the responsibility of the State Authorities to ensure that the children with special needs are imparted education in ordinary schools or special schools by releasing sufficient funds.
 - f. The State Government is directed to construct sufficient number of hostels for Children with special needs as per the specifications of the Persons with Disabilities (Equal opportunities, protection of rights and full participation) Act, 1995 and Right of Children to Free and Compulsory Education Act, 2009, within a period of one year in a cluster of four districts.
 - g. State Government is directed to provide books, uniforms and other material to Children with Special needs for attending the school before the commencement of academic session.
 - h. Children with special needs shall be paid scholarship of Rs.1,000/- per month each .
 - i. Special curriculum be prepared by taking into consideration the difficulties faced by children with special needs.
 - j. All the Educational institutions throughout the State of Uttarakhand are directed to provide amanuensis to blind students, within a period of three months from today.

(Lok Pal Singh, J.)

(Rajiv Sharma, J.)

11.07.2018