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*CDLA presents...*

**Empowerment  
through Law:  
A Disability Rights  
Newsletter**

Edition II

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## How “Aankh Micholi” Offends: Ableism in Bollywood

In a ruling that has set an important precedent for the representation of persons with disabilities in visual media, the Supreme Court of India addressed the concerns raised in the case of *Nipun Malhotra v. Sony Pictures Films India Private Limited*. This judgement, delivered by a bench comprising Chief Justice Dr. DY Chandrachud and Justice JB Pardiwala, arose from a petition filed by Nipun Malhotra, a disability rights advocate challenging the portrayal of disabled characters in the film *Aankh Micholi*. The film, which was released in November 2023, was criticised for using derogatory language and reinforcing harmful stereotypes about persons with disabilities.

The legal challenge centred on multiple problematic representations in the film, including derogatory references to characters with various disabilities. Specific examples shocked disability advocates: a person with Alzheimer's was referred to as a “bhulakkad baap” (forgetful father), a hearing-impaired character was described as a “soundproof system,” and a character with speech impairment was mockingly called an “atki hui cassette” (stuck cassette). The appellant contended that such depictions violated fundamental rights under Articles 14, 15, and 21 of the Constitution, as well as provisions under the Rights of Persons with Disabilities Act, 2016 (RPwD Act) and the Cinematograph Act, 1952. Despite these objections, the Central Board of Film Certification (CBFC) had granted the film a ‘U’ certification, allowing for public screening without any censorship. Sony Pictures defended the film, claiming its overall message was about ‘overcoming the challenge of disability.’ But the Supreme Court saw through this defence, drawing a crucial line between creative expression and discriminatory representation.

Their legal analysis differentiated between “disabling humour” and “disability humour,” a very important differentiation in determining what was acceptable and not acceptable in terms of representation. This principle was supported by reference to previous judgements, including *Indibly Creative Private Limited v. Government of West Bengal (2020)*, which established similar precedents regarding representation.

The court also directed filmmakers to avoid language that individualizes impairment, including terms like “afflicted,” “suffering,” or “victim.” It emphasized accurate representation of medical conditions and reflecting the diverse lived experiences of persons with disabilities. The ruling recognized that words can cultivate institutional discrimination and perpetuate harmful societal attitudes towards persons with disabilities. One particularly powerful directive challenges the “super cripple” stereotype. The Court noted that not all visually impaired individuals have enhanced spatial senses, and suggesting otherwise both misrepresents reality and implies that those without such “superpowers” are somehow less worthy.

The principle of “nothing about us, without us” emerged as a cornerstone of the guidelines. The Court emphasized the need for meaningful participation of persons with disabilities in content creation. This means moving beyond tokenism to genuine representation and consultation. Practical recommendations include implementing training programs for creators, collaborating with disability advocacy groups, and fundamentally reimagining how disabilities are portrayed in visual media.

The Supreme Court, although leaving the Central Board of Film Certification’s stamp of approval intact on this film, gives a pretty exhaustive blueprint to the creators of further content. The guidelines are thus not a restriction per se but are balanced, keeping room for creative freedom without going to the other extreme either, and therefore respect one another. The ruling serves as a significant legal precedent, providing clear guidance for filmmakers, content creators, and media professionals on the portrayal of persons with disabilities in visual media.

Written by Grace Joseph

<https://indiankanoon.org/doc/26990343/>

## Rights of the Child and the Negligence of State Agencies

The Jammu and Kashmir High Court has maintained principles of human rights, particularly rights of the child and persons with disabilities, by ruling against the Power Development Department ('Department') due to their carelessness which had led to the irreversible disability of an 8-year-old child. Besides awarding compensation, the judgement of the Court also relied on the tort law principles of strict and absolute liability evolved through landmark Indian judgements.

In this case, there was an 8-year-old boy from the Kashmiri village of Kujjar Kulgam whose life turned upside down when he was electrocuted by a snapped 11 KV live wire. The accident left the boy, Abrar Tantray, with severe burn injuries, necessitating the amputation of his left arm and resulting in a 75% orthopaedic disability and 15% deformity, which was confirmed by the Medical Board. Due to a lack of compensation being paid by the Department, the petitioner approached the Honourable High Court of Jammu & Kashmir.

While the respondents, the Department, contended that the case was hit by the statute of limitations due it being filed nine years after the fact, the Court ordered for a status report by the Government Medical College, Srinagar, to assess the extent of disability caused to the petitioner. The report reaffirmed the contentions of the petitioner, stating that there had been an "Electric Burn injury with Below Elbow Amputation (Lt) (Upper 1/3) with Deep Burn Scalp with Scar (L) Arm/Thigh; he has 78% permanent disability as per guidelines (Guidelines for the purpose of assessing the extent of specified disability in a person included under RPWD Act, 2016 notified by Government of India vide S.O. 76€ dated 4th January 2018."

Therefore, Justice Vinod Chatterji Koul relied on the landmark judgement of *M.C. Mehta v. Union of India*, evolved from the case of *Rylands v. Fletcher*, by stating that "where an enterprise is engaged in a hazardous or inherently dangerous activity and harm is caused on any one on account of the accident in the operation of such activity, the enterprise is strictly and absolutely liable to compensate those who are affected by the accident." This theory ensures victims receive compensation for damages brought on by procedures that are inherently harmful, and the court does away with the requirement to prove negligence.

Further, while adjudicating on the payment of compensation, the Court examined different cases pertaining to the law about 'non-earning persons.' In these cases, such as *Kishan Gopal and others v. Lala and others* (2014) 1 SCC 244, the Court had allowed compensation along with an interest payment due to the disability that had been caused by the accused. In light of this, in the present case, Justice Koul awarded Rupees 20 lakhs as compensation along with interest @ 6% per annum from the date of presentation of the petition.

In this case, the court highlighted the duty of institutions to reduce their carelessness as well as the unavailability of any negligence caused by corporations and hazardous businesses. This ruling is a wakeup call to organisations that execute their roles bearing in mind laws require them to safeguard the lives of the public. Although, Abrar's case is a tragic one, it corroborates the fact that the judiciary can safeguard the rights of the victims and punish institutions for their actions.

Written by Ansika Baranwal

<https://www.scconline.com/blog/post/2024/08/12/jk-high-court-awards-rs-20-lacs-compensation-for-electric-shock-induced-permanent-disability-scc-times/>

## Supreme Court Issues Handbook to Empower Disabled Persons: A Step Towards Inclusive Justice

The Supreme Court of India published the Handbook Concerning Persons with Disabilities on September 28, 2024. The book was launched at the 9th Annual National Stakeholders Consultation on “Protecting the Rights of Children Living with Disability and Intersectionality of Disabilities.” The book is a publication of the Juvenile Justice Committee, along with UNICEF India. It has been published to advance the cause of the use of more accessible language, thereby working against stereotypes concerning persons with disabilities in judicial contexts.

The then Chief Justice of India, D.Y. Chandrachud, while launching the handbook, emphasized the critical role language plays in shaping societal attitudes and ensuring justice for persons with disabilities. He pointed out that the justice system has a responsibility to address the vulnerabilities of children with disabilities and emphasized the need for reliable data to drive meaningful reforms.

Prepared under the guidance of Justice B.V. Nagarathna, this handbook outlines clear guidelines for using sensitive and respectful language. It cautions against pejorative terms like “crippled”, “retard”, “mad”, and labelling ones like “special”, “differently abled”, or “people of determination.” It primarily promotes a ‘people-first approach,’ however, where the person’s identity is placed above that of the disability, that is, ‘person with a disability’ rather than ‘disabled person.’ However, the handbook still acknowledges that some may prefer an ‘identity-first approach,’ which is ‘blind person’ for example, as opposed to a ‘people-first approach’, to which the SC emphasised the need to listen to people on their language of choice.

The handbook also demands an avoidance of terms like “afflicted,” “suffering,” or “victim.” Such terms reinforce negative stereotypes; it also demands that proceedings be simple and lucid. This initiative is aligned to the Rights of Persons with Disabilities Act, 2016 and the UN Convention on Rights of Persons with Disabilities, 2006, reflecting the judiciary’s commitment toward inclusivity and equity.

Written by Sanika Dehury

<https://www.livelaw.in/top-stories/supreme-courts-handbook-on-persons-with-disabilities-debunks-stereotype-perpetuating-terms-advises-judges-to-avoid-dehumanising-language-271053>

## Strengthened Framework for Disability Rights: Calls for Assessment Centres and Reforms for Persons with Disabilities

On October 14th, the Supreme Court issued a notice in a PIL for the establishment of centres across the states for the assessment of disabilities as well as reforms to strengthen the framework of the Chief Commissioner for Persons with Disabilities (CCPD) and State Commissioners (SCPDs) under the Rights of Persons with Disabilities Act, 2016 (hereinafter 'Act'). This comes from a PIL filed by Dr. Satendra Singh, in which his main grievance was the non-compliance of the State and ignorance by State Authorities of the recommendations made by the CCPD and SCPDs in matters of breach of the rights of disabled persons under the Act. According to sections 76 and 81 of the Act, authorities are bound to act on these recommendations, and if the recommendation is not accepted, the communication of such should be communicated to the Commissioner and the aggrieved party within three months. The PIL states that these recommendations are only present on paper and have not been acted upon.

The following guidelines have been proposed in the petition for bringing effective changes at the ground level:

1. Simplifying the filing and maintenance of complaints, with no rigid format or excessive documentation required other than a valid disability ID.
2. Establishing a unified online portal enables easy submission and tracking of complaints across all states.
3. Mandating timely action, with Commissioners empowered to issue interim recommendations in urgent cases and summon authorities in non-compliance.
4. Ensure a response from the authority to whom a recommendation is made, precisely reasons in writing for non-compliance and penal action, as per Sections 89 and 93, for authorities that fail to comply with recommendations or provide reasons within three months.
5. Commissioners include non-compliance cases in their annual reports and maintain detailed records of complaints and compliance reports.

The guidelines were developed in collaboration with key stakeholders, including civil society organisations and state commissioners for persons with disabilities, during the International Purple Fest 2024 State Commissioners' Meet.

Written by Sai Abhiram Vempati

<https://www.livewlaw.in/top-stories/supreme-court-issues-notice-on-disability-rights-activists-pil-to-strengthen-right-of-persons-with-disabilities-act-2016-272420>

## Centre Announces Ease of Obtaining Identity Cards and Disability Certificates

On October 22nd, the Central Government announced amendments to Rights of Persons with Disabilities (RPwD) rules, with an aim to streamline the process and improve the accessibility of obtaining disability certificates and Unique Disability Identity (UDID) cards. One can apply for the UDID Cards via the UDID portal. The amendment also introduces colour coded UDID cards to signify the level of disability. White for disabilities below 40 per cent, yellow for 40-79 per cent and blue for those with 80 per cent or higher disability. One major change that occurred was that only a medical authority or any other competent medical officer can issue these certificates at a district level. These amendments also called for the disability certificates and UDID cards to be issued within 3 months of application.

However, a day after these amendments were issued, National Platform for the Rights of the Disabled (NPRD), a cross-disability rights organisation protested against these amendments and claimed that these new rules would complicate the process of obtaining disability certificates and UDID cards. The NPRD's contention was that the amendment was regressive in nature and only created more hurdles that people with disabilities would have to cross to obtain disability certificates. For instance, the NPRD contended that asking a person to reapply if their application hasn't been responded to for two years was 'unacceptable', viewing it as a 'punishment' that people with disabilities have to face due to systemic failures.

Another key issue that was pointed out by them is that there should be mandatory online registration for a certificate to be issued. The NPRD pointed out that many disabled individuals lack internet access thus adding onto their hurdles on obtaining a certificate. NPRD also expresses their discontent in their recommendations, submitted in August, being looked over. They also highlighted that the amendments do not address the actual issues faced by people with disabilities, particularly after the Puja Khedkar case. After their perusal of the amendments, the NPRD called for a withdrawal of the aforesaid amendments by the government.



## GN Saibaba's Letter – A Disabled Prisoner who was Denied Access to Healthcare and Accommodation

Professor Saibaba in his letter, "Please send me the new Act (Rights of Persons with Disabilities Act, 2016) and related critical material. I would like to train myself as an activist for disabled people in India."

GN Saibaba was a scholar and a human rights activist from Andhra Pradesh. He was a former professor at Delhi University who had been suspected of associations with banned Maoist organisations and was subsequently charged under Section 18 of the Unlawful Activities (Prevention) Act, 1967 ('UAPA').

Professor Saibaba had initially been acquitted by a Division Bench of the Bombay High Court in 2022 based on their finding that the prosecution had started without proper sanction. Therefore, the entire proceedings were held to be null and void. The Maharashtra Government, however, was not pleased to say the least. The Solicitor General, Tushar Mehta, initially tried getting the case listed before then Chief Justice UU Lalit, but was unsuccessful as the Court's sitting for that day had concluded. On approaching Justice Chandrachud's bench, he was allowed to apply for hearing before the Chief Justice instead.

Due to the urgency posed by the Solicitor General, a special bench was put together to preside over the hearing consisting of Justices Bela Trivedi and MR Shah. The Special Bench ultimately held that the HC had erred since it merely looked at the procedural irregularities and failed to look at the merits of the case as well. Therefore, they ordered another bench of the HC to hear the case on the sanction as well as the merits. Ultimately, the HC bench acquitted Professor Saibaba on 5th March, 2024 by holding that the allegations were vague at best and that there was no tangible evidence to show preparatory acts by the accused to wage war against the government.

On 12th October 2024, Professor Saibaba passed away of cardiac arrest. In light of his death, a letter that he had authored to a disability rights activist while in jail surfaced. Professor Saibaba had a 90% handicap at the time of his conviction and subsequent life imprisonment. Despite his disability, he had been kept in solitary confinement, a jail cell that resembled an 'anda' or an 'egg' due to its shape. He required multiple medical treatments for his ailments for which he approached the court for bail, but was categorically denied multiple times. Due to the lack of timely treatment, his left arm became paralysed. Additionally, his letter also mentioned the lack of accessibility for people on wheelchairs inside prisons, the humiliation he faced while serving time, and the resultant extreme health problems he contracted due to India's poor prison system.

**Professor Saibaba's case is a perfect example of the failure of the Indian criminal justice system and the lack of human rights – particularly people with disabilities. The lack of cognisance taken by the Supreme Court whilst denying bail to a person with multiple injuries, the procedural errors while hearing the case, the utter disregard for constitutional rights under Article 21, and the wrongful convictions that result from the UAPA.**

**Disability rights, while highlighted through multiple SC judgements, have not been maintained as is observable through this case. Prisons (along with every other State provision) must be equipped to treat prisoners with disabilities with dignity and fundamental rights, for what is the point of democracy and human rights if the State itself is unable – and at times even unwilling – to provide accessible amenities?**

Written by Aditi Krishna

## Paving the Way for Inclusion: PIL Filed for Accessible Infrastructure

In 8th November 2024, the Supreme Court delivered a landmark judgement in the case of Rajive Raturi v. Union of India & Ors., bringing in a new dimension in the accessibility rights for Persons with Disabilities ('PwDs') in India.

A three-judge bench comprising of then CJI DY Chandrachud, Justice JB Pardiwala and Justice Manoj Misra passed a judgement in response to a PIL filed by Mr Rajive Raturi, a visually impaired person, in 2005 requesting meaningful access to public spaces for people with disabilities. The petition sought for measures to be taken in respect of roads, such as for parking areas, zebra crossings, overbridges, etc., as well as public transport facilities such as using braille maps for metros and buses.

The Court examined disability rights in light of principles of international law such as the United Nations Declaration on the Rights of Disabled Persons as well as rights provided to all under the World Programme of Action which seeks to equalise opportunities for all. Similarly, on a national level, the Court also evoked Constitutional rights of Articles 19(1)(c) and 21 with respect to the issues of accessibility to all and the right to live with dignity. In doing so, the Court reiterated the Preamble to India's Disability Act of 1955 as well as the subsequent 2016 Act. In addition to citizens' rights, the Court also highlighted a duty on the State to provide for access to all.

The accessibility mandate intended to be delivered faced several roadblocks, which were systematically sought out and removed. The bench instructed the Union of India to create a floor on accessibility and frame rules as required under Section 40 of Rights of Persons with Disabilities Act, 2016 to ensure PWDs be supplemented with adequate public services and area accessibility. The court also ordered a list of directions to the Union for making their public buildings accessible. These directions stem from the fact that the court held that Rule 15 of the Rights of Persons with Disabilities Rules, 2017 was ultra vires to the parent act, as it didn't provide binding or mandatory instructions on accessibility. Therefore, the court directed the Centre for Disability Studies, NALSAR University of Law to make a report on requisite steps to be taken to make public spaces adequately accessible to PWDs.

**In conclusion, the Court ordered the Union Government to delineate mandatory rules, as required by Section 40, within a period of three months from the date of the judgment in consultation with stakeholders, and once prescribed, to implement the same and hold non-complying actors accountable by imposing fines.**

**This judgement highlights the need for mandatory accessibility standards and government accountability, while also pointing out the slow progress in this field and the legislative gaps that mar the scene.**

Written by Nilotpal Mukherjee

## Kolkata Airport's Failure to Uphold Disability Rights and Dignity

Another judgement on 12th November 2024 was passed to dispose of a writ petition filed by Arushi Singh earlier in the year in response to a humiliating experience at Kolkata's International Airport, where no necessary special provisions were provided to aid her, despite her being a person with a benchmark disability. She was reportedly kept waiting outside the airport without necessary assistance for a period of time, and was subsequently asked to stand during the security screening thrice by the concerned CISF personnels, despite her prolonged explanation of her wheelchair bound disability.

The Supreme Court outlined a number of suggestions to ensure a respectful and dignified treatment of disabled individuals at airports, which include sensitisation training of airport staff and physical accessibility measures to be installed. These provisions are not limited only to specially abled persons, but also extend to elderly and injured passengers, or to anyone who requires these special considerations. The judgement also further states that any airport that already has these facilities in place, cannot withdraw them under these guidelines. This judgement greatly increases the required accessibility provisions in these important places of transport. However, work remains to be accomplished in actually implementing these provisions in railway stations and airports, not just in metro cities but in other parts of the country as well.

Written by Nilotpal Mukherjee

<https://livelaw-nluo.refread.com/top-stories/wheelchair-bound-woman-approaches-supreme-court-alleging-she-was-asked-to-stand-up-during-kolkata-airport-security-check-250536>

## Disability Rights in International Fora

**In international news, the United Kingdom celebrated the UK Disability History Month, which has historically taken place on 22nd November until 22nd December, but will take place from 14th November to 20th December in 2024. The Disability History Month is celebrated with a view to raise awareness about disability history, inclusion, and disabled people's contributions to the economic and social demographic of the UK. Employers are urged to uptake workplace inclusive measures to improve productivity and employment rate among disabled people. This comes at a crucial time when statistical studies show that disabled people are more likely to face workplace discrimination, bullying, mental and sexual harassment. Hence, provision for jobs suitable for disabled people with requisite accessibility measures are the need of the hour.**

Written by Nilotpal Mukherjee

<https://ukdhm.org>

# International Day of Persons with Disabilities, Enforcing Inclusion in the AIBE, and a Call for a More Inclusive Civil Service

As we kick off the month of December, we join the global community in celebrating International Day of Persons with Disabilities on December 3rd! This special day is dedicated to promoting the rights and well-being of people with disabilities worldwide. The observance day was started by the United Nations in 1992 to promote disability rights and issues, awareness and the intersectionality within the disabled community as well. Each year, a theme is chosen as part of the celebrations, which for the year 2024 was “amplifying the leadership of persons with disabilities for an inclusive and sustainable future.”

While this day is a significant milestone, it also serves as a reminder of the ongoing challenges faced by individuals with disabilities. In India, while the number of people with disabilities is increasing, many still lack access to essential facilities and services – even those in the legal field. For instance, recently a few law graduates petitioned before the SC to make the bar examination more accessible to them. The SC then stepped in to prompt the Bar Council of India (‘BCI’) to take notice – going so far as to threaten contempt action if the students weren’t given adequate facilities by the BCI.

The SC on December 11, opened an information technology enabled window for visually impaired law graduates to take the All-India Bar Examinations (AIBE), without being dependent on scribes to write answers. Three of the five visually impaired law graduates through advocate Rahul Bajaj, a visually impaired advocate, contended before the bench that given the government guidelines from August 2018, the BCI should permit these candidates to appear in AIBE using a new screen reader software. Following the contentions of the petitioners, the bench asked advocate Akshay Amritanshu, appearing for the BCI, to ensure the following facilities:

1. JAWS (Job Access with Speech) screen reader, in addition to the option for Non-Visual Desktop Access (NVDA) screen reader, is made available to the candidates.
2. The candidates be permitted to use their own keyboard and customised mouse, if not the laptop, in conformity with Union government’s August 29, 2018 office memorandum.
3. The candidates be permitted to complete downloading/installation of the screen reader software and other related exercises a day prior to the commencement of the examination.
4. The candidates be permitted to answer the questions on computer instead of through a scribe, but the option for use of scribe must also be allowed to be exercised by the candidates who want to opt as such.

**In addition to the BCI, the SC also felt it prudent to extend these directions to the Consortium of NLUs, the body that runs the CLAT UG and PG examinations for admissions to National Law Universities.**

Written by Ittaboina Rakesh



## Civil Service Examinations

In another significant judgement for disability law jurisprudence, the SC also issued a contempt notice to the Union Government for not implementing a prior order of the SC for the appointment of a 100% visually impaired candidate who had cleared the Civil Service Examinations (CSE). The candidate, Pankaj Kumar Srivastava, had passed through both written and interview stages of the CSE in 2008. However, he had still not been given a position. This prompted him to move the Central Administrative Tribunal as well as the Delhi High Court, but to no avail. Finally, the SC had to intervene.

The SC, on hearing the case, ordered the Centre to fill in vacancies as per Section 36 of the PWD Act – specifically for Pankaj Srivastava and ten other candidates who had been listed above him in the merit list. The order called for the appointment process to be complete within three months. However, on December 9, the Centre's lack of action prompted a show-cause notice from the SC to the Secretary of the Department of Personnel and Training (DoPT). The Centre then attempted to excuse their actions by requisitioning a medical examination of the candidate. Further, the Centre had also asked for an extension of one month to “create additional posts.” Justice Oka, however, stated his alarm at such requests by the Union and on the date of the final hearing, December 20, recorded the compliance of the Union.

The candidate had been given a position in the Indian Information Service (IIS) after a prolonged delay in legislation. While justice was ultimately given, a win for the disabled community, the lengthy and expensive process of litigation could have and should have been avoided by the Union. Going forward, we can only hope that such cases are reduced in the future and stricter implementations are ensured by the judiciary.

Written by Aditi Krishna

<https://livelaw-nluo.refread.com/top-stories/after-supreme-court-summoned-dopt-secretary-centre-gives-appointment-to-blind-civil-services-candidate-279027?fromlpLogin=77573.66019482193>



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