

IN PARLIAMENT 6 WINTER SESSION

How nice, notes Rajya Sabha chair as MPs unite to pass disability bill

ANAND MISHRA & SHUBHAJIT ROY
NEW DELHI, DECEMBER 14

RULING AND Opposition MPs showed rare unity in Rajya Sabha Wednesday as they passed a bill to protect the rights of the disabled. As soon as the Rights of Persons with Disabilities Bill was passed, however, acrimony was back with the Congress raising alleged misuse of office by minister Kiren Rijju.

Some Opposition members cracked jokes about the definitions of various disabilities. "... I want to know who the authority to interpret them is," said Sitaram Yechury (CPM). "Otherwise, the whole House can come under these clauses, 'mentally disabled', 'intellectually disabled', 'loss of hearing'," he said.

"Intellectual disability, a condition characterised by significant limitation both in intellectual functioning... and in adaptive behaviour which covers a range of everyday, social and practical skills... Now, Sir, many



The whole House can come under these clauses, mentally disabled, intellectually disabled...

SITARAM YECHURY, CPM

times they charge us and we charge them of the same thing," Yechury said. "... Memory impairing judgment is a constant charge we have against the ruling benches."

This led to laughter, prompting deputy chairman P J Kurien to say, "I compliment

every member. What a good atmosphere. Why can't you do it every day? How nice it is, how good it is. Let us proceed on it now."

Yechury also chose the occasion to say, "People have an ordinary demand for cash but they are not getting it and standing in queues. Will you call that also mental?"

As a number of members including Satish Chandra Mishra (BSP) and Renuka Chowdhury (Congress) raised concerns on who will define new categories including about the status of mental health, Minister for Social Justice and Empowerment Thawar Chand Gehlot assured them a medical board will define these criteria. Congress MPs Viplove Thakur, Rapolu Ananda Bhaskar and Madhusudan Mistry raised various aspects.

Such was the atmosphere that Kurien started the discussion in the morning session although it had been listed for 2 pm.

In the morning, Leader of the Opposition Ghulam Nabi Azad had said, "This should be passed without any discussion."

The bill: new disability conditions, revised quota and a few concerns

SHALINI NAIR
NEW DELHI, DECEMBER 14

THE RIGHTS of Persons with Disabilities Bill 2014, which was introduced in Rajya Sabha in 2014, was cleared Thursday with 119 amendments moved by union Minister for Social Justice and Empowerment Thawar Chand Gehlot. The legislation, drafted to make Indian laws compliant with the UN Convention on Rights of Persons with Disabilities, will replace the Persons with Disabilities Act 1995.

The number of disabilities listed rises from seven in the 1995 Act through 19 in the 2014 bill to 21 after the amendments, including acid attack and Parkinson's disease.

The bill sets the government a two-year deadline to ensure persons with disability get barrier-free access in all kinds of physical infrastructure and transport systems. It recognises the need for reservation for them in promotion and makes special mention of the rights of disabled women and children. It defines many terms vague in previous versions, including what constitutes discrimination.

While disability rights activists have welcomed the amendments, they are upset about section 3(3) allowing discrimination

ACTIVISTS QUESTION...



- Section 3(3) allowing discrimination if it is "a proportionate means of achieving a legitimate aim"
- Restricted hike in job quota, from 3% to 4% instead of 5%
- Limited powers of Chief Commissioner of Disabilities, no clause that s/he should be a person with disability

against a disabled person if it is "a proportionate means of achieving a legitimate aim". Prasanna Kumar Pincha, till date the only disabled person appointed Chief Commissioner for Persons with Disabilities, welcomed the bill but said this clause leaves "legitimate aim" open to the subjective interpretation of the bureaucracy.

Also, reservation in jobs, once proposed to be enhanced from 3 per cent (1995 Act) to 5 per cent (2014), has now been restricted to 4 per cent. CPM MPs Sitaram Yechury, K K

Ragesh and C P Narayanan moved amendments to rectify the discrimination and reservation clauses. Gehlot assured clauses will be inserted when rules are framed to ensure the discrimination clause is not misused.

"Why is there a hesitation to address this concern regarding discrimination in the parent act itself?" Pincha said.

"The bill is definitely a stride forward from the 2014 bill," said advocate S K Rungta, convener of the All India Disability Alliance. He felt there was no need for the bill to dilute the fundamental right to equality as the Supreme Court has often recognised "reasonable classification". "For example, a blind person cannot be employed in the military. It clearly does not constitute discrimination."

Another sore point with activists is a provision for a Chief Commissioner of Disabilities instead of National Commission proposed in 2014. The chief commissioner has only recommending powers and there is no provision to ensure he or she too is a disabled person. "Every commission — minorities, women, SCs or STs — has a chairperson from the same category," said disability rights activist Dr Satendra Singh.

Another amendment drops imprisonment (two months to six years) for violation. There is only a fine: Rs 10,000 to Rs 5 lakh.