



THE MAINTENANCE AND WELFARE OF PARENTS AND SENIOR CITIZENS ACT 2007: A STUDY

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ABSTRACT

India is one of the few countries/societies where culturally, and traditionally, there is so much respect for elders. It is probably the only country where we touch the feet of our elders as a mark of respect. Traditionally parents were worshiped as Gods and Goddesses and placed at a very high position. Elderly were never considering as a burden by their family, instead they used to consider it as their moral responsibility to take care of the elderly. The well-being of senior citizens is mandated in the constitution of India under Article 41. Now-a-days elderly are exposed to various kinds of problems such as lack of physical, social, emotional and financial support. To overcome such difficulties and to face new challenges the government of India, in consonance with Article 41 of the Constitution of India, has enacted the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 to provide maintenance and protection to parents and senior citizens. The objectives of the research includes, To study the existing legal framework protecting the rights of senior citizens at national level and To explore how far existing legislative framework is successful in promoting the welfare of senior citizens in India.

KEYWORDS: Maintenance, India, senior citizen, Act.

INTRODUCTION

“With age human beings gain lots of experiences to share and wisdom to pass on. They are the building blocks who stand in the middle of past and future. Hence it is really important to utilize and respect such an immense source of knowledge.”

A man’s life is normally divided into five main stages namely infancy, childhood, adolescence, adulthood and old age. In each of these stages an individual has to find himself in different situations and face different problems. The old age is not without problems.¹ The senior citizens constitute a precious reservoir of human resource gifted with knowledge of various sorts, varied experience and

deep insights. May be they have formally retired, yet an overwhelming majority of them are physically fit and mentally alert. Hence, given an appropriate opportunity, they are in a position to make significant contribution to their nation.²

BACKGROUND

In traditional Indian culture, old age is considered as one of the stages of human development wherein a person attains wisdom, maturity, social and economic stability, with social recognition and emotional fulfillment, leading to the last phase of life which is considered to be of spiritual salvation. In traditional India, society generally shown great respect and consideration for

¹ Agnihotri, Rashmi Rani, “A Study on National Policy for Older Persons”, *International Journal of Research in Commerce, Economics, Management*, Vol. 4, No. 2, December, p. 5.

² Singh, Rakesh, *Rights of Senior Citizen: Need of the Hour with special reference to the Maintenance and Welfare of Senior Citizen Bill, 2007*.p.114.



old aged. In the past, the old people were reversed as repositories of wisdom and traditions and were not perceived as problems. They occupied position of prestige, power and privileges.³

But, because of western influence, migration to cities, employment avenues in abroad, self centered interest of children and dilution of traditional and cultural values, the sensitive family bond has broken, which led to dissolution of joint family system. Consequently, the old aged people are ignored and left in isolation. Children are not fulfilling their moral responsibility of caring their aged parents. The old aged persons are felt as burden in the family.

But aging is inevitable and thus of concern to each of us. Our constitutional framers were aware about the position of old aged persons in our country. That's why the well being of old aged persons has been mandated in the Constitution of India, after independence a little attempt has been made by the Indian legislature or government for the social security of the old aged people, inspite of the imposition of an affirmative duty on state by the Constitution to respond appropriately for the care and welfare of this weaker section of the society.⁴

ROLE OF GOVERNMENT TO PROVIDE SECURITY TO SENIOR CITIZENS IN INDIA

The Indian government is the main role player in meeting the challenges of an aging population. The government has passed various constitutional and legal provisions and has implemented various programmes, schemes and policies from time to time for the welfare of senior citizens.⁵

The Constitution of India guarantees certain rights to the old aged persons and takes it upon itself to fulfill the goals, which have been envisaged in the Constitution. In fact, the Chapter IV of the Constitution deals with the Directive Principles of the State policy which gives certain rights to the individual and mandates that the state should act as a check to ensure that these rights are not violated. The first provision dealing with old age security is enumerated in the list III of 7th schedule. According to it, the welfare of labour, including conditions of work, provident funds, liability for workmen's compensation, invalidity and old age pension and

maternity benefits are the part of the duty of the state.⁶

THE MAINTENANCE AND WELFARE OF PARENTS AND SENIOR CITIZENS IN 2007

The Maintenance and Welfare of Parents and Senior Citizens Act, 2007 is a legislation enacted in 2007, initiated by Ministry of Social Justice and Empowerment, Government of India, to provide more effective provisions for maintenance and welfare of parents and senior citizens.⁷ The present Act attempts to make a difference between a parent and a senior citizen. Clause 2(h) of the Act defines 'senior citizen', as it means any person being a citizen of India, who has attained the age of sixty years or above includes parents whether or not a senior citizen. Meaning thereby the children are responsible to maintain their parent even they have not completed the age of sixty years.⁸

The Act entitles a senior citizen or a parent, who is unable to maintain himself from his own sources, to claim for legal maintenance. A parent or a grandparent can claim maintenance from one or more of his children. A childless senior can claim against his relatives, who inherits his property.

However, the Act exempts minors from liability. The Act widened scope of the term children by adding grandson and granddaughter including children of daughter, with an object to extend security even to grandparents. The Act also explicitly provides protection to adoptive parents or step father or step mother which was not covered in earlier legislations.⁹

This Act also directs State Government to establish in every district old age homes at that places where it deem necessary. State Government are also given power to make schemes for the management of old age homes, such as, the standards and various

⁶ Entry 24, List III, Schedule VII, Constitution of India, 1950.

⁷ Tripathi, Bibha, "Problem of Elderly People: Remedy Lies Somewhere else", *Criminal Law Journal*, (2013), p. 131

⁸ Section 2(h) The Maintenance and Welfare of Parents and Senior Citizens Act, 2007

⁹ Section 4, The Maintenance and Welfare of Parents and Senior Citizens Act, 2007, says that "Maintenance of Parents and Senior Citizens. (1) A senior citizen including parent who is unable to maintain himself from his own earning or property owned by him, shall be entitled to make an application under section 5 in case of parent or grand-parent, against one or more of his children not being a minor; a childless senior citizen, against such of his relative referred to in clause (g) of section 2".

³ Kumar, S. Vijaya, *Family Life and Socio Economic Problem of the Aged*, (1991) p. (xiii).

⁴ *id*

⁵ Mishra Nidhi, "Aging in India Concerns and Challenges," *A Quarterly Journal of the United Nation*, Vol. 24, No. 4, Aug. 2014, p. 9.



types of services which are necessary including medical care and means of entertainment.¹⁰

This Act also provides punishment with imprisonment for a term which may extend to 3 months or fine which may extend to Rs. 5000/- or with both, to the custodian when he leaves senior citizen in any place with the intention of wholly abandoning him.¹¹

The Act provides wide and vivid provisions and overcomes lacunae in the existing law of old age social security. It provides adequate, appropriate speedier and less expensive relief. Apart from maintenance it also provides for care, welfare and protection which are more essential during this age. The Act ensures security of health, life, person and property of the aged. The legislation is a comprehensive law and direct to address grievances of the old aged persons.¹²

SUM UP

At last it may be concluded that with the changing demographic composition, the population of senior citizen has been increasing over the years. In order to reflect on their specific needs, the government has been coming up with schemes and programmes as well as legislation from time to time. Efforts to create awareness, about the issues concerning the senior citizens and the mechanism and legislation which has been put in place for their welfare, have to be generated in a big way.

The senior citizens constitute a precious reservoir of human resource gifted with knowledge of various sorts, varied experiences and deep insights. May be they have formally retired, yet an overwhelming majority of them are physically fit and mentally alert. Hence, given an appropriate opportunity, they are in a position to make significant contribution to their nation.

¹⁰ Section 19, The Maintenance and Welfare of Parents and Senior Citizens Act, 2007, says that "(i) The State Government may establish and maintain such number of old age homes at accessible places, as it may deem necessary, in a phased manner, beginning with at least one in each district to accommodate in such homes a minimum of one hundred fifty senior citizens who are indigent. (ii) The State Government may, prescribe a scheme for management of old age homes, including the standards and various types of services to be provided by them which are necessary for medical care and means of entertainment to the inhabitants of such homes".

¹¹ Section 24, The Maintenance and Welfare of Parents and Senior Citizens Act, 2007, says that, " Exposure and abandonment of senior citizen-whoever, having the care or protection of senior citizen leaves, such senior citizen in any place with the intention of wholly abandoning such senior citizen, shall be punishable with imprisonment of either description for a term which may extend to three months or fine which may extend to five thousand rupees or with both".

¹² Supra note 13 at 36.