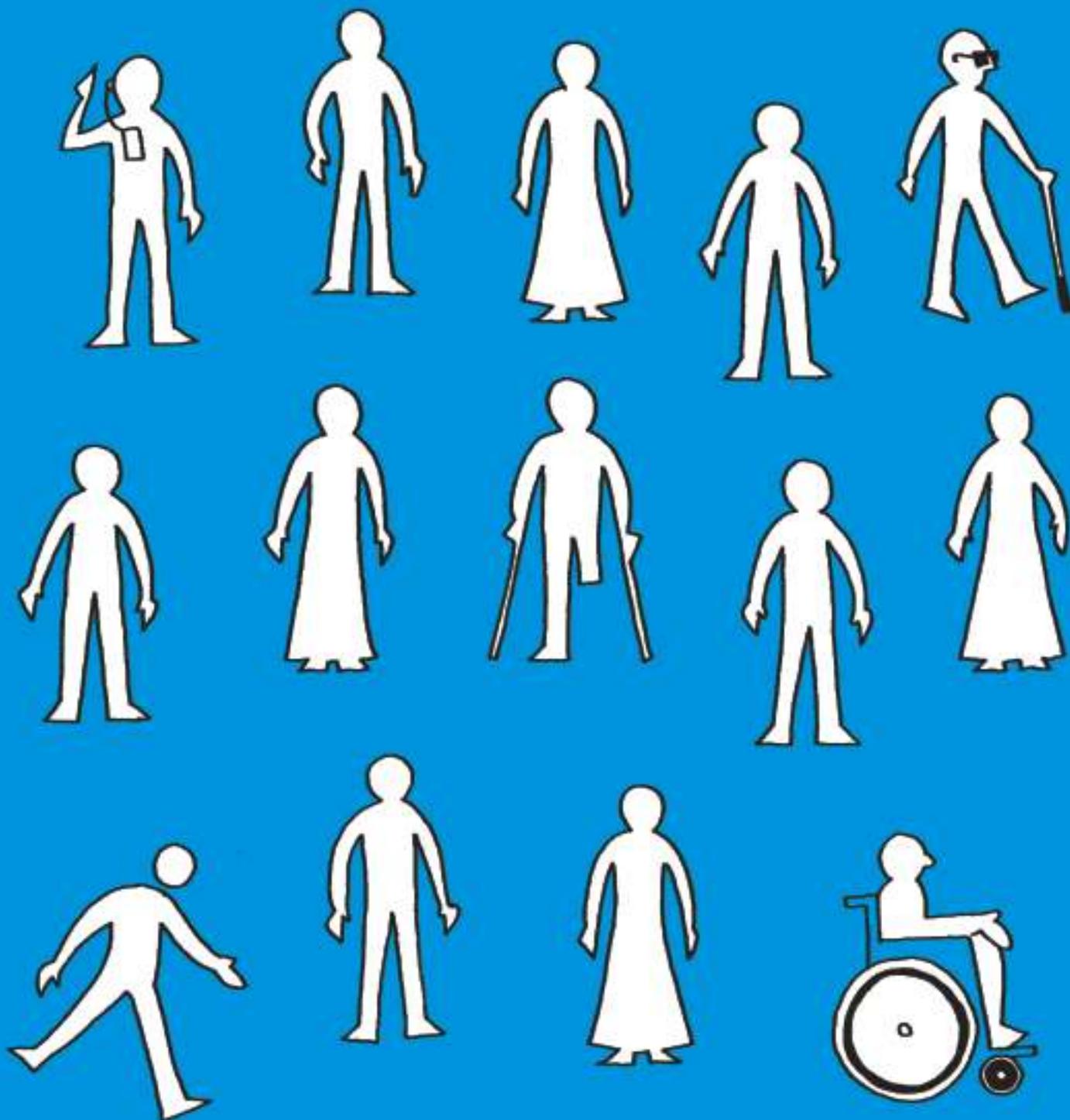


# How can the Rights of Persons with Disabilities be Protected?



## ***How can the Rights of Persons with Disabilities be Protected?***

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**The text of this booklet is available in Braille and a larger font size on request.**

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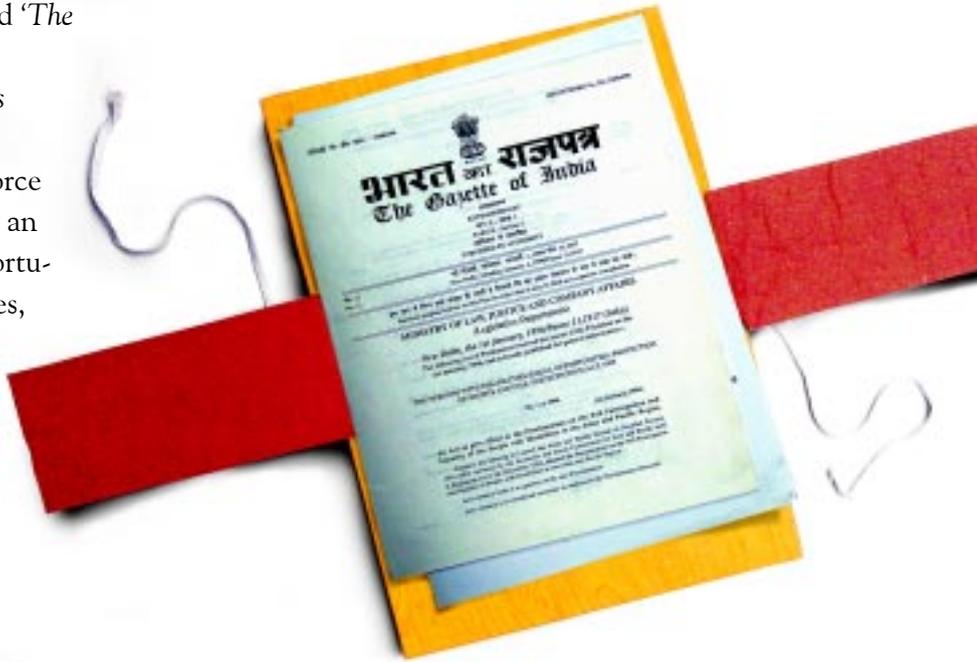
A sincere word of gratitude to all those who have given their valuable time, inputs and suggestions to make it possible to publish this booklet. Special thanks to all those who have shared their stories of successes and challenges and have given us the permission to use them to provide encouragement to many others to understand their rights and take action, if they are denied their rights.

The information in this booklet has been compiled after extensive research and interaction with persons with disabilities, their families and several organisations. This is an attempt to understand '*The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995*' from the user perspective. Please note that some of the information may change from time to time due to a change in policies or other reasons. Hence, readers are advised to contact the persons/departments concerned at the addresses and phone numbers given inside and verify the information.

We welcome comments and suggestions that will help us improve our effort and respond better to your queries.

## Is there a legal provision that protects the rights of persons with disabilities?

The Parliament of India enacted 'The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995' (PWD Act) which came into force on February 7, 1996. The Act is an initiative to promote equal opportunities for persons with disabilities, protect their rights and grant them full participation so that they are integrated into society and their rights are realised.



## Why was this Act enacted?

Efforts for rehabilitation of persons with disabilities have evolved over time from institution-based care and services to community-based rehabilitation. Yet, the focus continues to be on helping persons with disabilities to adapt to the community through providing them aids and appliances, education and training.

It is being gradually accepted that it is equally important to change the environment and context in which the person lives. Over the past decade or so, internationally and nationally, a need has been felt to move away from a welfare and medical approach to promoting and protecting the rights of disabled persons, ensuring equal opportunities in all spheres and enhancing the engagement of civil society for the 'inclusion' of the disabled. Several countries, including India, have enacted disability rights Acts. The PWD Act 1995 seeks to empower disabled persons so that they can be part of the mainstream society.

## How many persons with disabilities are there in India?

Several organisations have collated data on the magnitude of disability in developing countries. Some organisations, such as the World Health Organisation (WHO), put it at five to six per cent of the total population while other reports put the figure at as high as 10 per cent\*. The National Sample Survey Organisation (NSSO), Government of India, conducted its third survey during July-December 2002 to provide information on the magnitude and other aspects of persons with disabilities. The findings published in the report, titled 'Disabled Persons in India', estimate that 1.8 per cent of the total population of our country are disabled. Of them, about 10.63 per cent are affected by more than one type of disability. The variation in the estimates is attributed to different methods and procedures employed, including the definition of disability, age groups studied, scope and geographical coverage, consideration to social and attitudinal barriers, the skill of data enumerators, etc.

\* E Helander, *Prejudice and Dignity; An Introduction to Community-based Rehabilitation*, UNDP, 1992. One in 20 is a conservative figure with some sources suggesting that 1 in 10 of the world's population may be defined as having a disability.

## Who benefits under this Act?

The PWD Act, 1995 recognises the following seven categories of disability for providing equal opportunities, protecting the rights and ensuring full participation of persons with disabilities. The definition of each disability, as given in the Act, is also indicated.



- **BLINDNESS** means total absence of sight, visual acuity not exceeding 6/60 or 20/200 (snellen) in the better eye with correcting lenses or limitation of the field of vision subtending an angle of 20 degrees or worse.



- **LOW VISION** means a person with impairment of visual functioning even after treatment or standard refractive correction but who uses or is potentially capable of using vision for the planning or execution of a task with appropriate assistive device.

- **LEPROSY CURED** refers to a person who is cured of leprosy but is suffering from loss of sensation in the hands or the feet as well as loss of sensation and paresis in the eye and eyelid but with no manifest deformity; manifest deformity and paresis but has sufficient mobility in the hands and the feet to engage in normal economic activity; or extreme physical deformity as well as advanced age which prevent the person from undertaking any gainful occupation.



- **HEARING IMPAIRMENT** means loss of 60 decibels or more in the better ear in the conversational range of frequencies.



- **LOCOMOTOR DISABILITY** means disability of bones, joints or muscles leading to substantial restriction of the movement of the limbs or any form of cerebral palsy.

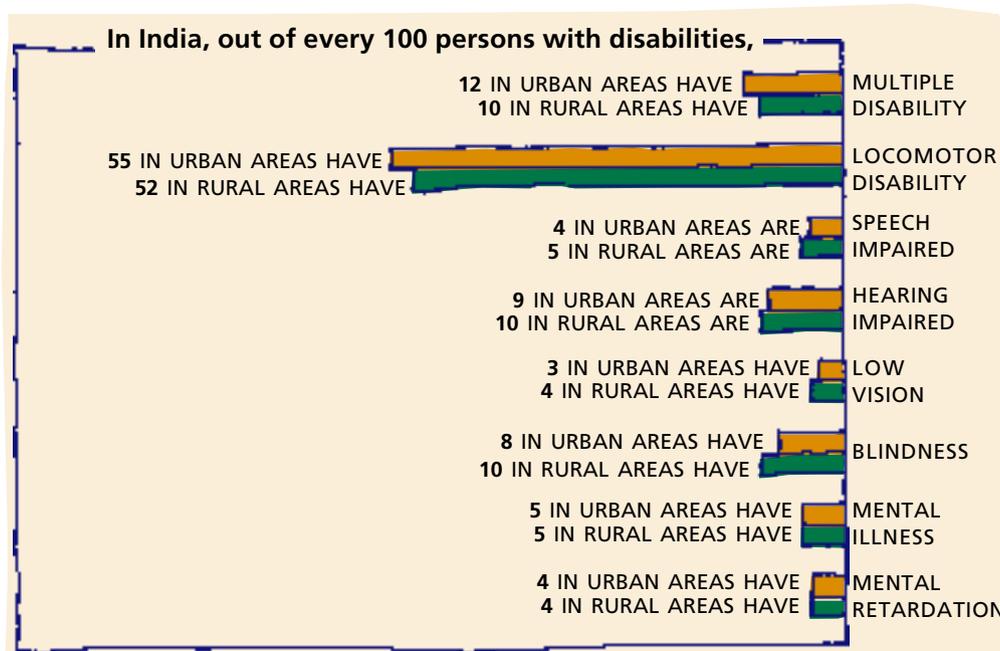


- **MENTAL RETARDATION** refers to a condition of arrested or incomplete development of the mind of a person which is specially characterised by subnormality of intelligence.



- **MENTAL ILLNESS** refers to any mental disorder other than mental retardation.

### Distribution of disabled persons by disability in rural and urban areas



Source: NSSO Report on 'Disabled Persons in India' July - December 2002

## What are the main provisions of the Act?

The PWD Act seeks to empower disabled persons to be part of the mainstream. It is comprehensive and encompasses provisions for the prevention of disability, promoting education, employment, affirmative action, non-discrimination, research and manpower development, recognition of institutions for persons with disabilities and monitoring the implementation machinery.

Broadly, it includes the following provisions:

- Prevention and early detection of disability (**Sec. 25**)
- Free education for every child with disability in an appropriate environment till the age of 18 years (**Sec. 26 a**)
- Schemes and Programmes for non-formal education (**Sec. 27**)
- Reservation of three per cent seats for admission to all government educational institutions (**Sec. 39**)
- Reservation of not less than three per cent in all poverty alleviation schemes (**Sec. 40**)
- Non-discrimination in transport, on the road and in the built environment so that persons with disabilities can go to any place without any hindrance (**Sec. 44 - 46**)
- Identification of posts which can be reserved and reservation of posts for persons with disabilities (**Sec. 32 a and 33**)
- Special opportunities to overcome any kind of discrimination being faced, eg. preference in allotment of land to disabled persons for housing, business, special schools, research centres, recreation centres and factories (**Sec. 43**)
- Generic and specialised services for rehabilitation (**Sec. 66**)
- Insurance scheme for employees with disabilities (**Sec. 67**)
- Scheme for unemployment allowance for persons not gainfully employed (**Sec. 68**)
- Co-ordination and monitoring of provisions under the PWD Act (**Chapters 2 & 3 / Sec. 3-24**)
- Appointment of a Commissioner in every State to look into complaints relating to deprivation and denial of rights of persons with disabilities (**Sec. 62**)

## Which documents does a person with disability require to avail benefits under this Act?

To avail the benefits under the Act as well as those under the government schemes, one needs the following documents:

1. Photograph depicting the disability of the person
2. Proof of residence – ration card or voter's ID Card
3. Certificate of disability
4. Identity Card
5. Proof of income
6. Birth certificate

For each specific benefit or scheme, different documents are required. The details of documents required for various schemes are given in a table on page 9

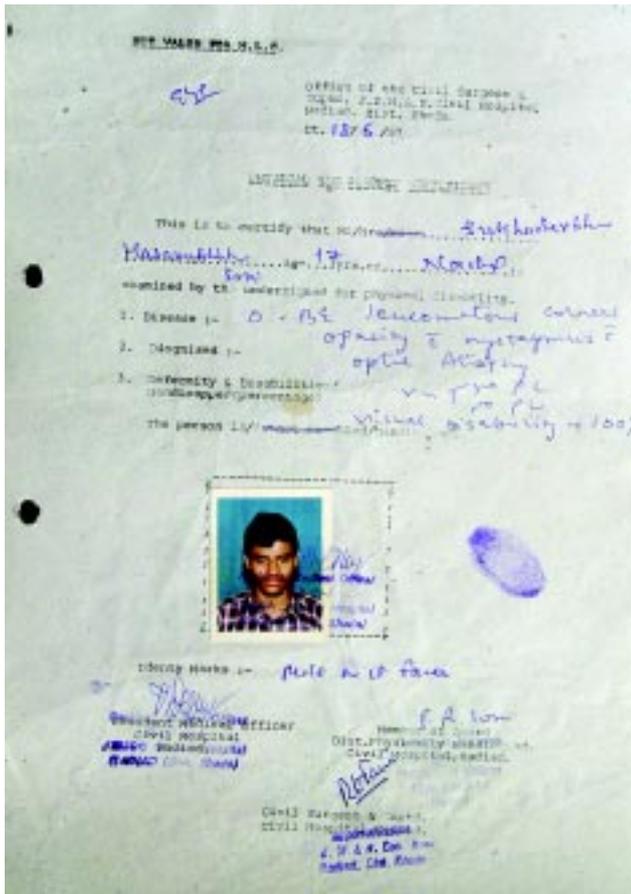


## How can one get a certificate of disability?

A certificate of disability is issued by the civil surgeon of the district hospital on the recommendation of the respective specialists for different disabilities - an orthopaedician for a person with locomotor disability, an ophthalmologist for a visually impaired person and so on. The applicants would need to personally visit the specialist concerned in the civil/district hospital in the district of their residence who will examine them and recommend their case for certification. Applicants should submit 3 copies of a passport-size photograph and a copy of their ration card.



Entrance to the Civil Hospital, Ahmedabad



A sample of a disability certificate

## What are the benefits of having a certificate?

A certificate can help one get the benefits of education and employment and in getting aids and appliances, the details of which are given later in this booklet. However, for admission to some professional courses such as medical and engineering, one would need a certificate in the prescribed format that could be obtained from the academic institution concerned. Similarly, for getting concession for rail travel, certification from a doctor in the prescribed format is necessary.

## Who issues an Identity Card? What are the advantages of this card?

In order to avail various benefits for travel, scholarships, concessions, etc. under the State/Central schemes for persons with disabilities, one needs an Identity Card. This Card is issued by the Department of Social Defence. In every district there is a Social Defence Officer whose office in most places is located in the Zila Panchayat Office.



A sample of an ID Card

## Besides the certificate of disability and the ID Card, which other documents are required to avail the benefits and concessions that a person with disability is entitled to?

For availing any benefit or concession, some specific documents are required. For example, for getting a tricycle, a photo depicting the person's disability, a disability certificate and an income certificate are required. The table on the opposite page contains details of documents required for various benefits and concessions.

GOVERNMENT SCHEMES AND BENEFITS	DOCUMENTS REQUIRED															
	Stamp size photo	Passport photo	Photo depicting disability	Disability certificate	Identity Card	Ration Card	Income certificate	BPL No.	Birth certificate	School certificate	Notary certificate	Experience certificate	Permission for place/Land ownership certificate	Audiogram for hearing impaired	Proof of residence in State	Marksheet of last exam taken
Disability Certificate	✓				✓											
ID Card	✓			✓	✓											
Tricycle			✓	✓			✓									
Caliper				✓			✓									
Crutch				✓			✓									
Artificial limb				✓			✓									
Surgical shoes				✓			✓									
Wheelchair		✓	✓				✓									
Walker			✓				✓									
Cerebral Palsy Walker			✓				✓									
Cerebral Palsy Chair			✓				✓									
Hearing - aid				✓			✓							✓		
Handcart				✓			✓									
Sewing machine				✓			✓				✓					
Telephone booth		✓	✓					✓			✓					
Scholarship			✓	✓			✓		✓					✓		✓
Educational kits			✓				✓									
Integrated education	✓		✓	✓				✓	✓							
Sant Surdas Yojana			✓	✓	✓	✓	✓	✓							✓	
Niradhar Pension					✓	✓	✓	✓		✓				✓		



**P. S.** The table attempts to provide an overview of some benefits and schemes that a person with disability can avail. For details of the eligibility criteria for availing these, please refer to the book on 'Welfare Schemes for Persons with Disabilities' published in Gujarati by the Directorate of Information, Gujarat.

Please note that the above information may change from time to time, hence readers are requested to verify it from a local Non-Government Organisation (NGO) working for the rehabilitation of disabled persons or the Social Defence Officer in their district.

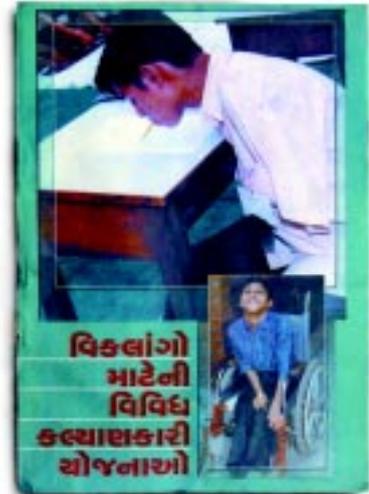
For more information on IEDC contact: Project Implementing Agency or Director, Gujarat Council of Education Research & Training (GCERT)



## My 12 year old daughter Sonal cannot hear but can speak a little. She is very keen to go with her brother to his school. Is it possible?

Of course, she can. The government provides for free education (Sec. 26) for all children with disabilities till the age of 18 at the primary, middle and secondary levels. The Department of Education, Government of Gujarat, has also issued a Resolution dated 20.10.99 No. AEEE-1299-1962-N. to this effect. However, since most teachers in these schools are not trained to respond to the special needs of children with disabilities, the government has started a scheme for Integrated Education for Disabled Children (IEDC). The IEDC scheme provides support so that children with disabilities who are below 18 years can study in regular schools with other children. This support is in the form of provision of special teachers, allowances for books, stationery and transport, escort and reader's allowance, uniform, counselling, provision of aids and appliances, etc. (Sec. 30).

Did you know that if you are 18 years or less and are keen to study in a mainstream school like all other children do, you can do so. There is a scheme for Integrated Education for Disabled Children (IEDC) under which the government will pay all the costs for your education. In Gujarat, this scheme is being implemented in 25 districts in a total of 203 talukas. In these districts, 50 Non Government Organisations (NGOs) identify such children who want to study. They help the children to get admission to schools and in getting all other benefits. There is a plan to cover more areas in the future. A list of these NGOs can be obtained on page 142 in the book titled '*Welfare Schemes for Persons with Disabilities*' published in Gujarati by the Directorate of Information, Gujarat.



Besides, under the Sarva Shiksha Abhiyan, a government programme aimed to promote total literacy, the District Primary Education Programme (DPEP) is also focusing especially on the education of children with disabilities through various initiatives like:

1. providing services for identification and screening of children through camps,
2. promoting enrollment of children through motivational campaigns,
3. organising awareness campaigns and publishing relevant educational material and, above all,
4. organising sensitization programmes on disability for teachers in mainstream schools so that they can better understand the needs of disabled children and give them the necessary support.

FOR MORE INFORMATION ON DPEP, CONTACT: ASSISTANT DISTRICT COORDINATOR, OR STATE PROJECT DIRECTOR D.P.E.P

## Children benefiting under the IEDC scheme in Gujarat

Coverage through IEDC	1998	2003-04
Children with disabilities in school	1,827	31,728
Mainstream schools covered	941	12,625
Districts covered	14	25
Talukas covered	58	203

Some of the larger private schools in bigger cities like Ahmedabad, Vadodara, etc. have also started admitting children with disability to their regular education programme and making necessary arrangements to support them.



**I am studying in Class VII in a government school. The secondary school is very far from my house and it is difficult for me to reach there. But I want to continue studying. What are the options that I have?**

The Government of Gujarat provides scholarship for tuition and, where necessary, for hostel accommodation for pursuing primary or secondary education. To avail these benefits, you may contact the Social Defence Officer in your district with:

- Identity Card
- Certificate of disability
- School Leaving Certificate from the principal of the school
- Marksheet of the last examination attended.

**I am a student of Class X and I cannot see properly. I cannot write myself. Is there any assistance I can get for writing my tests/exams?**

You can definitely appear for the exams, as under Sec. 31 of the Act, you can get special assistance in the form of a writer allowance or the services of a writer. It is a rule that the writer must be studying in at least one class lower than the child whom s/he is assisting and should not be from the same school. Under the Integrated Education Scheme, this assistance is available to all children studying in Class V or above. It covers not only children



Appearing for an examination  
with the assistance of a writer

like you but also those children who have completely lost their sight or are orthopaedically disabled and are unable to write. For details, you can contact your school principal or a local NGO working with the disabled.

A list of  
special schools can  
be obtained from  
the District Social  
Defence Officer.



**My daughter Meena cannot see. She also has difficulty in speaking clearly and in understanding. We feel she will not be able to cope up in a mainstream school. She is, however, very keen to go to school. How can we help her?**

Children like your daughter Meena, who have more than one kind of disability, need special attention and education. They require teachers who are trained to attend to them. Special schools are being run for children like Meena in different parts of the State, especially at the district level.

**I have completed Higher Secondary with science and want to do a course in pharmacy. I can speak but cannot hear properly. I understand that there is some reservation for students like me. Is that true?**

Yes, under Sec. 39 of the PWD Act, three per cent reservation is provided in all government educational institutions and other educational institutions receiving aid from the government. The Department of Education, Government of Gujarat, passed a Resolution (No. P R CH/ 15-2001/517/2) dated July 10, 2001 reserving three per cent of the vacancies in all educational institutions of the State. This reservation is for all university