

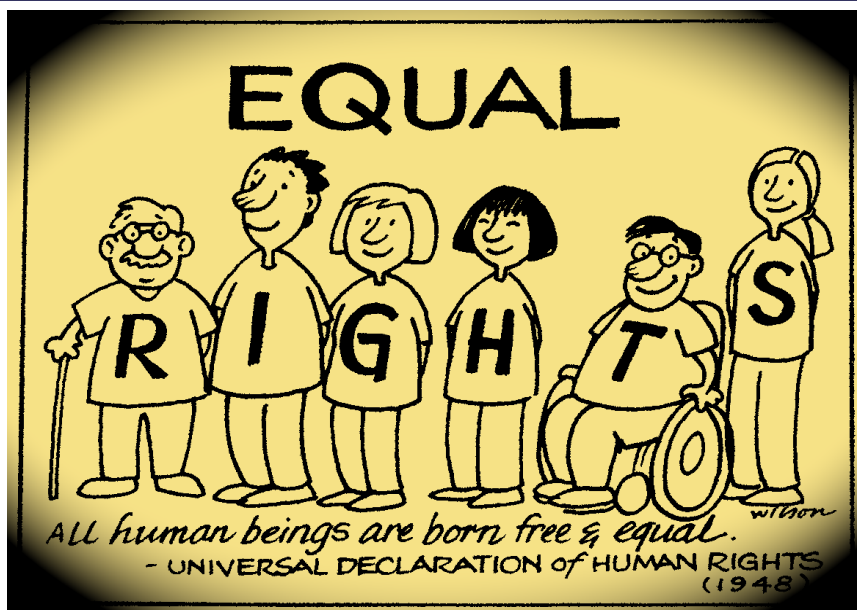
For equal treatment

Context:

- Supreme Court judgment on entitlements for the disabled people.

Delhi High Court judgment of 2012:

- In 2012, a university had allowed a 10% concession in the minimum



eligibility requirement for SC/ST candidates, and 5% concession for disabled applicants. This was challenged in the Delhi High Court.

- In its 2012 judgment in the *Anamol Bhandari (minor) through his father/Natural Guardian v. Delhi Technological University*, the High Court ruled against this differential treatment, terming it discriminatory.
- The major principle behind this judgment was that without imparting proper education to those suffering from disabilities, there cannot be any meaningful enforcement of their rights as mentioned under the Constitution and the prevailing legislation on providing **equal opportunities to the disabled and protecting their rights**.
- The SC has upheld the 2012 judgment of the Delhi High Court, holding that **persons with disabilities are socially backward** and hence are entitled to the same benefits of relaxation as Scheduled Caste and Scheduled Tribe candidates in public employment and education.
- Similar to how SC/ST candidates get a relaxation of a certain percentage of marks to qualify for admission or employment, the same relaxation shall apply to disabled candidates too.



The Rights of Persons with Disabilities Act, 2016:

- The Rights of Persons with Disabilities Act, 2016 aims to empower disabled people. This Act replaces the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995.
- The Rights of Persons with Disabilities Act, 2016 fulfills the obligations to the **United Nations Convention on the Rights of Persons with Disabilities (UNCRPD)**, to which India is a signatory.

Salient provisions:

- The Act defines disability based on an evolving and dynamic concept. The types of disabilities covered under the Act have been increased from the existing 7 to 21 and the Central Government will have the power to add more types of disabilities.
- The Act envisages certain **affirmative measures** to ensure that persons with disabilities enjoy their rights equally with others. Benefits such as **reservation in higher education (not less than 5%), government jobs (not less than 4%)**, reservation in the allocation of land, poverty alleviation schemes (5% allotment), etc. have been provided for persons with benchmark disabilities.
- Every child with a benchmark disability between the age group of 6 and 18 years shall have the right to free education. Government-funded educational institutions as well as the government recognized institutions will have to **provide inclusive education to children with disabilities**.
- National and State Fund will be created to provide financial support to persons with disabilities.
- The Act provides for penalties for offences committed against persons with disabilities and also violation of the provisions of the new law. Special Courts would be designated in each district to handle such cases.

What is the significance?

- Through this judgment, the Supreme Court has recognised the difficulties faced by the disabled in accessing education or employment, regardless of their social status. People suffering from disability have always been an **under-privileged and under-represented section**.



- There is the issue of **low literacy and employment rates among persons with disabilities**.
- As per the 2001 Census, in educational indicators, illiteracy among the disabled was much higher than the general population figure. The share of disabled children out of school was quite higher than other major social categories. The 2001 Census put the illiteracy rate among the disabled at 51%.
- According to a study, only 34 lakh of the about 1.34 crore people with disabilities (PwDs) in the employable age have a job in India.
- The judgment could help alleviate some of the difficulties faced by this section through this affirmative action.
- According to the National Statistical Office (NSO) survey, the **overall percentage of persons with disabilities in the population is around 2.2 percent**. This significant segment of the population should not be left out of social and economic advancement.

What are the concerns?

- A counterpoint to the idea of eliminating the distinction between the disabled and the Scheduled Castes and Scheduled Tribes is that this could end up equating **physical or mental disability with social disability** and the experience of untouchability suffered by marginalised sections for centuries.
- This would allow disabled persons from a traditionally privileged community an advantage over those suffering from a historical social disability.