

Maintainance and Welfare Rights of Parents and Senior Citizens: Issues and Challenges



Seema Sharma

Sr. Assistant Professor
The Law School,
University of Jammu,
Jammu, India

Abstract

During the ancient period parents were worshiped as living Gods for the children. Nowadays responsibility is shifting from family to government/ State. Although legislations, policies and integrated programmes are assisting them to cater their needs to uplift their status but still one cannot ignore the fact that a lot of work is still pending to give them complete justice. This paper shall highlight and analyze comprehensive set of rights conferred on the elderly persons through various laws and policies of the government. State is under obligation to make laws and policies under directive principles of State Policy to give full protection to them and it is covered under article 21 of the constitution. Besides constitution section 125 CrP C and personal laws also provides protection to senior citizens. In 2007 an Act was introduced to exclusively deal with senior citizens The Act set rights for the elderly and responses to the challenges faced at state and national protection regime, elimination of financial exploitation and employment discrimination and thus establishing adequate care facilities.

Keywords : Senior citizen , Constitution of India, Welfare Programmes, Scheme for Senior Citizens, Old Age Homes, of integrated programmes, National Programmes for elderly persons.

Introduction

The Sanskrit phrases “Matru Devo Bhav” and “Pitru Devo Bhao” reflects the respect and sanctity one has for the persons who have played vital role in shaping personality of an individual. But presently nuclear family system has distorted the image of the parents at older age and they are not treated well because of biological, psychological, economic and social factors including infirmness and dependency thus making them more vulnerable who need special protection .

Legal framework

Various provisions of the constitution under Part 1V of the Constitution as well as in Part 111 Right to life protects the rights of the elderly persons along with preamble which forms bases for distribution of justice to all. Article 41 of the Constitution provides that, “The State shall, within the limits of its economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want.” It places obligation upon the State to provide job opportunities and other help to the elderly so that they can earn and live a respectful and independent life¹. Article 38(1) enjoins the State to strive to promote welfare of the people by securing and protecting as effective as it may a social order in which justice social, economic and political shall inform all institutions of the national life. In particular the State shall strive to minimize the inequalities in status, facilities and opportunities. Article 39(e) requires the State to secure that the health and strength of workers, men and women and children of tender age are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their area of strength. To achieve these goals, State provides pensions as monetary benefit to former employees so that they can live meaningful life with dignity². Entry 24 in list III of schedule VII of constitution of India deals with the welfare of labour, including conditions of work, provident funds, liability for workmen’s compensation, invalidity and old age pension and maternity benefits. Further, item 9 of the state list and item 20, 23 and 24 of concurrent list relates to old age pension, social security and social insurance, and economic and social planning. The right of parents,

without any means, to be supported by their children having sufficient means has been recognized by section 125(1) (d) of the Code of Criminal Procedure 1973³, and section 20 (1 & 3) of the Hindu Adoption and Maintenance Act, 1956. Till 2007⁴, there was not a single legislation dealing separately with rights of senior citizens except section 125 of Code of Criminal Procedure, 1973, and the Hindu Adoption and Maintenance Act, 1956⁵. Provisions of these two legislations impose obligations upon the children to maintain their parents if they are unable to take care of themselves. In pursuance to UN General Assembly Resolution 1999 was observed as International Year of Older Persons. Keeping in view vulnerable conditions of parents and senior citizens and to eliminate the agony and sufferings of this vulnerable section of society, legislation for the welfare of the Parents and Senior Citizens in pursuance of the provisions of Article 41 read with Entry 23 of the Concurrent List (Schedule VIII) of the Constitution of India has been enacted and titled as The Maintenance and Welfare of Parents and Senior Citizens Act, 2007. The Act seeks to make it a legal obligation for children and heirs to provide sufficient maintenance to senior citizens, and proposes to make provisions for state governments to establish old age homes in every district. The Act has to be brought into force by Jammu and Kashmir state in 2014. But after coming of Jammu and Kashmir reorganization Act 2019 when article 370 of the Constitution of India was abrogated, 2014 Act stands repealed and under section 95 of the Act - (1) All Central laws in Table -1 of the Fifth Schedule to this Act, on and from the appointed day, shall apply in the manner as provided therein, to the Union territory of Jammu and Kashmir and Union territory of Ladakh. In schedule five serial number 58 section 1(1) where word except Jammu and Kashmir state is written, it has been omitted. International Day of Older Persons is celebrated every year on 1st October, since 2009 to promote inter-generational bonding.

Aim of the study

The present study has made an attempt to analyse different dimensions of rights of senior citizens and to check and review central and state legislations and policies for ensuring effective implementation of Maintenance & Welfare of Parents and Senior Citizens Act.

Welfare Programmes

Central Sector Scheme of Integrated Programme for Older Persons (IPOP)

IPOP is being implemented since 1992 with the objective of improving the quality of life of senior citizens by providing basic amenities like food, shelter, medical care and entertainment. Non-Governmental Organizations are financed for running and maintenance of old age homes, day care centres and mobile medicine units.

National Policy for Older Persons (NPOP) 1999

It was launched by the Central Government of India in the year, 1999 to promote the health, safety, social security and well-being of elderly in India to enable support and protection to vulnerable elderly people.

National Council for Older Persons (NCOP)

It was constituted in 1999 under the chairpersonship of the Ministry of Social Justice and Empowerment to operationalize the National Policy on Older Persons. It is highest body to advise the Government in the formulation and implementation of policy and programmes for the elderly⁶.

National Programme for Health Care of Elderly (NPHCE)

It is centrally sponsored scheme under the new initiatives in the XI five years plan to provide accessible, affordable and high quality long-terms comprehensive and dedicated care services to an Ageing population⁷.

National Policy on Senior Citizens 2011

National Policy for Senior Citizens 2011 promotes medical science and technology among older poor people from rural areas⁸.

Other Schemes: List of Ministries/Departments of the Inter-Ministerial Committee implementing: National Policies on Older Persons

Ministry of Social Justice and Empowerment, Ministry of Health and Family Welfare, Ministry of Finance, Ministry of Rural Development and Employment, Ministry of Urban Affairs and Employment, Ministry of Human Resource Development, Ministry of Labour, Ministry of Personnel, Public Grievances and Pensions, Ministry of Law Justice and Company Affairs, Ministry of Home Affairs, Ministry of Information and Broadcasting, Ministry of Communication, Ministry of Railways, Ministry of Agriculture, Ministry of Surface Transport Ministry of Civil Aviation, Ministry of Petroleum and Natural Gas, Ministry of Food and Consumer Affairs, Ministry of External Affairs⁹

Ministry of Railways

The Ministry of Railways provided the following facilities to senior citizens (elderly).

Ministry of Health and Family Welfare

Central Government Health Scheme provides pensioners of central State government offices the facility to obtain medicines for chronic ailments up to three months.

Insurance Regulatory Development Authority (IRDA)

Insurance Regulatory Development Authority (IRDA) vide letter dated 25.05.2009 issued some instructions on health insurance for elderly or senior citizens.

Senior Citizens Unit Plan (SCUP)

Senior Citizens Unit Plan is a Scheme under which one has to make a onetime investment depending on his/her age and have the benefit of medical treatment for himself and spouse at any of the selected hospitals on completion of 58 years of age

Medical Insurance Scheme

The Medical Insurance Scheme known as Medclaim is available to persons between the age of 5 years and 75 years.

Old Age Pension Scheme

In February 2012, the NCOP was reconstituted with National Council for Senior Citizens¹⁰

Schemes of the Ministry

In order to facilitate implementation of the National Policy following schemes are being implemented:

(i) Scheme of Assistance to Panchayati Raj Institutions/Voluntary Organizations/ Self Help Groups for construction of old age homes/multi service centres for older persons

Senior Citizen Savings Scheme (SCSS)

The scheme provides tax saving benefits for investment for those who are over 60 years of age.

Scheme of National Award for Senior Citizens (Vayoshreshtha Sammans)

It was launched in 2005 and is funded by the Central government for eminent senior citizens for rendering services.

Senior Citizens' Welfare Fund (2015-16)

This was launched for promoting Financial security of senior citizens, health care and nutrition of senior citizens, welfare of elderly widows, schemes relating to Old Age Homes, Short Stay Homes and Day Care of senior citizens.¹¹

Rashtriya Vayoshri Yojna- 2017(RVY)

The Scheme provides assistance to old persons under BPL category suffering from age related disabilities/infirmities which can restore them to move freely through devices like walking sticks, elbow crutches, walkers/ crutches, tripods/ quad pods, hearing aids, wheelchairs, artificial dentures, spectacles free of cost.

National Social Assistance Programme (NSAP)

It is a Centrally Sponsored Scheme of Ministry of Rural Development which is applicable to old aged, widows, disabled persons and bereaved families on death of primary bread winner, belonging to below poverty line household.¹²

Indira Gandhi National Old Age Pension Scheme (IGNOAPS)

It is a social sector scheme and forms part of the National Social Assistance Programme (NSAP) which came into effect from 15th August, 1995.

Annapurna Scheme

Department of Food and Public Distribution distributes 10 Kg of food grains per month free of cost according to requirement of aged by the Ministry of Rural Development¹³.

Antyodaya Anna Yojana (AAY)

Department of Food and Public Distribution give rice and wheat at a highly subsidised cost to widows/terminally ill/disabled persons/senior citizens who do not have sufficient means of Income.

Conclusion

Although implementation of legislation, policies, and a package of integrated programmes and projects discussed above are implemented by the government to cater to needs of older persons but still one can observe that they are still suffering and there is dire need to help them to improve their vulnerability through proper checks and balances. It is not only the responsibility of the state to protect the interests of the elderly people through policies and laws but as a responsible citizen everyone is required to make effort to provide secured and dignified status of senior citizens.

Endnotes

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