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## **CASE COMMENT: RAJIVE RATURI VS. UNION OF INDIA (2018) 2 S.C.C. 413**

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### **INTRODUCTION**

The case of “Rajive Raturi Vs. Union of India”, (2018) 2 S.C.C. 413 <sup>1</sup>is a landmark decision made by the Hon’ble Supreme Court of India. this case addresses the statutory and constitutional entitlements and rights of persons with visual disability in order to access public spaces, transport, and government infrastructure. This case was decided by a bench of Justice A.K. Sikri and Justice Ashok Bhushan. The following case was brought under Article 32 as a public interest litigation (PIL).

The petitioner sought the enforcement of obligations “under the Rights of Persons with disabilities act, 2016 (RPwD ACT, 2016)”. Earlier, the same act was known as the Persons with disabilities act, 1995, as the petitioner himself was visually impaired. He even invoked the constitutional guarantees “under articles 14 and 21 of the Constitution of India” and India’s international commitments under “the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD).<sup>2</sup>”

The court observed and said that “the rights that are guaranteed to the disabled persons have to be respected and provisions made for them so that they also become equal participants in the life of the society”. The judgment decisively shifted India’s disability rights jurisprudence from a welfare/charity approach to a rights-based model grounded in dignity and substantive equality by rejecting resource constraints as an excuse and laying down time-bound directives.

### **FACTS OF THE CASE**

The petitioner, Rajive Raturi, visually impaired and associated with a Delhi-based human rights organization, filed this PIL in 2005 on behalf of the disabled community. This particular

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<sup>1</sup> Rajive Raturi v. Union of India, (2018) 2 SCC 413

<sup>2</sup> INDIA CONST. art. 14 & 21; Convention on the Rights of Persons with Disabilities, Dec. 13, 2006, 2515 U.N.T.S. 3

petition specifically focused on the rights of persons who are visually impaired or persons with visual disabilities, through the broader implications and interpretations, it extended to all differently abled persons. The petitioners' main grievance was that, despite the mandatory statutory obligations related to the accessibility of public infrastructure, it remained inaccessible to persons with disabilities, especially those with visual disabilities.

According to the petition, most public buildings lacked ramps, tactile flooring, Braille signage, or lifts with auditory signals. Government offices, courts, educational institutions, hospitals, and transport facilities remained largely inaccessible. Even footpaths in metropolitan areas were often dangerous for the blind due to encroachments, open manholes, and a lack of tactile paving.

The petition calls attention to severe accessibility barriers in:

- Public roads and pedestrian paths: footpaths with open manholes, absence of tactile flooring, and footpaths with encroachments for the visually impaired.
- Public transport: lack of auditory signals, low-floor buses, disabled friendly coaches in the railways, and lack of ramps.
- Building and infrastructure: hospitals, courts, and government were inaccessible even the airports were inaccessible.
- Communication infrastructure: lack of an accessible information system and the sign language interpreters.

The petitioner pointed out that almost sixty to seventy million people suffer from disability in India, and nearly half of them suffer from visual impairments, highlighting how the exclusion from public infrastructure was more or less towards the exclusion from the public itself.

The public interest litigation (PIL) contained around ten action points mentioning mandatory and necessary accessibility requirements. These included:

- Accessible roads
- Pedestrian pathways
- Government buildings and infrastructure

- Transportation systems
- Information and communication technologies and training of the staff.

The union of India and the state governments contended, while making sure they do not disrupt the difficulties faced by persons with disabilities, that steps had been initiated under the schemes like the Accessible India Campaign (Sugamya Bharat Abhiyan), which was launched in the year 2015. The reports of committees and circulars were submitted before the Hon'ble court of law. However, the petitioner focused on the gap between paper commitments and ground reality, which were totally different.

This particular public interest litigation, therefore, presents the court with the task of interpreting constitutional guarantees to determine whether accessibility is a constitutional right, international commitments, and how statutory obligations must be enforced to work towards the betterment and work in order to get effective relief for effective implementation.

## **ISSUES THAT WERE RAISED PERTAINING TO THE PUBLIC INTEREST LITIGATION**

1. Whether the Central and State Governments are constitutionally and statutorily obligated to provide safe, barrier-free access to public facilities for visually impaired persons.
2. Whether limitations of resources and financial constraints can be valid justifications for non-compliance with mandates under the Rights of Persons with disabilities act, of 2016 (RPwD Act, 2016).
3. What judicial directions are necessary to ensure effective and timely implementation of accessibility rights?
4. Whether international conventions such as the UNCRPD can guide the interpretation of fundamental rights and statutory obligations in India.

## **ARGUMENTS**

### **PETITIONER'S SUBMISSIONS**

1. **Rights-based frameworks:** Rajive Raturi, the petitioner in the case, argued that

the Rights of Persons with disabilities act of 2016 (RPwD Act) shifted the laws of disability from welfare-oriented to a rights-based mandate. Sections 40-46 of the act impose duties on the government to notify the accessibility standards and retrofit the existing buildings in order to make them friendly for persons with disabilities.

**2. Constitutional guarantees:** accessibility was presented as an integral part of Articles 14, 19(1) (c), and 21. As the petitioner contended, “without accessibility, the promise of equality remains illusory”.

**3. Judicial precedents:** the court of law has set many landmark precedents related to this:

- “*Jeeja Ghosh vs. Union of India*”- the court in this particular case held the dignity of a disabled passenger<sup>3</sup>. Right to health of persons with disability, and accessibility, equal treatment was given priority, hence, ramps became mandatory
- “*State of Himachal Pradesh vs. Umed Ram Sharma*”- the court in this case recognized the right to roads as part of the right to life under Article 21 of the Constitution.<sup>4</sup>
- “*Francis Coralie Mullin vs. Administrator, Union territory of Delhi*”- in the mentioned case, the court of law held that Article 21 of the Constitution does not merely mean mere existence, but something more than just physical existence, rehabilitation of rights and dignity.
- In the case of “*State of Kerala vs. N.M. Thomas*”, the hon’ble court held that the equal protection of rights requires positive actions<sup>5</sup>. Therefore, the petitioner brings forth the rights of the disabled to the mainstream of Indian equality jurisprudence.
- In the case of “*Vishaka vs. State of Rajasthan*”, it was held that the international conventions can be used in order to fill the gaps in the domestic

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<sup>3</sup> Jeeja Ghosh v. Union of India, (2016) 7 SCC 761

<sup>4</sup> State of Himachal Pradesh v. Umed Ram Sharma, (1986) 2 SCC 68

<sup>5</sup> State of Kerala v. N.M. Thomas, (1976) 2 SCC 310

laws<sup>6</sup>. By invoking “Article 9 of the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD)”, the court of law ensures that the right to accessibility is not treated as aspirational but as binding.

The following harmonization is consistent with the global disability rights trends. In the U.S.A. Americans with Disabilities Act, 1990, and in the U.K., Equality Act, 2010 impose accessibility duties. Through this judgment, India moved much closer to these standards set by the global trends.

### **RESPONDENTS’ SUBMISSIONS**

- Work in progress: the state mentioned the accessible India campaign and submitted progress reports regarding retrofitting and accessibility audits.
- Resource constraints: the respondents argued that such infrastructural changes need time and funds, and the compliance must be gradual.
- State-level delays: a lot of state governments failed to submit the reports or audits of compliance, pointing out administrative dormancy.

### **DECISION OF THE COURT**

The court passed a judgment in favour of the petitioner, affirming accessibility as a statutory and constitutional entitlement. The Supreme Court delivered a strongly pro-disability rights judgment.

1. Fundamental rights: The Hon’ble Court in this particular case held that the denial of accessibility violates the fundamental rights of the person. The hon’ble court stated, “it hardly needs to be emphasized that the rights that are guaranteed to the disabled persons have to be respected and provision made for them so that they also become equal participants in the life of the society.”
2. Positive obligations: the court focused that the state is under a duty to take positive actions to enable persons with disabilities to enjoy equal rights in the country.

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<sup>6</sup> Vishaka v. State of Rajasthan, (1997) 6 SCC 241

Accessibility is a right and not a matter of charity.

3. International law: referring to the UNCRPD, the court observed: “Article 9 mandates that appropriate measures are to be taken to ensure access to persons with disabilities, on an equal basis with others, to the physical environment, to transportation, to information and communications, and to other facilities.”
4. Directions:
  - The government building must be accessible to persons with disabilities in a time-bound manner.
  - Public transport must be modified, including the railways, and buses should be made disabled-friendly.
  - Periodic compliance reports should be submitted. The following was directed to the union and the state.
  - Training- sign language interpreters to be trained and developed.
  - ICT- websites and digital platforms to meet the standards of accessibility.

Therefore, the court converted the constitutional and statutory guarantees into obligations that are now being monitored and are enforceable.

Here, “*Justice Sunanda Bhadare Foundation vs. Union of India and National Assn. Of Deaf Vs. Union of India*” was also invoked in order to entrench patterns of non-compliance<sup>7</sup>.

## CRITICAL ANALYSIS

1. If we talk about the strengths of the judgment, we can come to a conclusion that there was:
  - **Constitutional depth:** the courts placed the rights of the disabled at the core of the constitutional jurisprudence, or we can say placed it within the heart

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<sup>7</sup> See *Justice Sunanda Bhandare Found. v. Union of India*, (2017) 14 SCC 595; *Nat'l Ass'n of the Deaf v. Union of India*, 2017 SCC OnLine Del 12431

of the constitution by integrating “Articles 14,19, and 21 of The Constitution of India”. The following even resonated from the case of “*State Of Kerala vs. N.M. Thomas*”, where the court recognized that treating unequals equally perpetuates inequality<sup>8</sup>. Even in the case of *Paschim Banga Khet Mazdoor Samity vs. State of West Bengal*, we can see that the court held that budgetary constraints cannot be the reason for dilution of the right to emergency medical care.<sup>9</sup>

- **Precedential support:** the court gives a strong doctrinal foundation through the judgments on the cases of *Jeeja Ghosh vs. Union of India*, *Francis Coralie Mullin vs. Administrator, Union territory of Delhi*, and *State of Himachal Pradesh vs. Umed Ram Sharma*. Moreover by invoking dignity under Article 21 also aligns with the case of “*Francis Coralie Mullin vs. Administrator, Union Territory of Delhi*”.

- **Detailed directives:** the court gave clear and specified directions, deadlines, audits, and accountability to enhance enforceability. This is the symbolic point of the judgment.

- **Affirmation of rights paradigm:** the disability law was shifted from welfare to rights by the court of law, which now aligns with the “United Nations Convention

on the Rights of Persons with Disabilities (UNCRPD)”. This follows the Vishaka principles, where the court of law used the CEDAW to frame the guidelines. Here, in this case, the UNCRPD’s article 9 was important, which required states to ensure accessible justice is given to all, including transport and information.

## 2. Weaknesses and limitations

- **Implementation gaps:** a continued delay was seen through the reports that were submitted after the judgment. The accessibility remained uneven even in the public transport and the government buildings. There should have been

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<sup>8</sup> State Of Kerala v. N.M. Thomas, (1976) 2 SCC 310

<sup>9</sup> Paschim Banga Khet Mazdoor Samity v. State of West Bengal, (1996) 4 SCC 37

continuous monitoring by the judiciary in the same manner it was seen in the case of *M.C. Mehta environmental cases*.<sup>10</sup>

- **No penalty mechanism:** due to no sanctions, it allowed bureaucratic delays, even though the court relied on the reports, and the reports showed continuous delays.
- **Private sector enforcement:** the Rights of Persons with disabilities act of 2016 (RPwD ACT). Extends duties to the private sector as well, but the judgment did not detail any mechanism for the compliance by the private sector.
- **Uniformity issue:** despite the guidelines, actual retrofitting remained inconsistent, and continuous delay was seen.

### 3. Comparative jurisprudence

- **United States:** In the United States, the ADA (1990) allows private suits and penalties for those who are not complying with the order.
- **United Kingdom:** Here in the United Kingdom, the Equality Act makes sure there are reasonable adjustments in the services and infrastructure.
- **South Africa:** In South Africa, the constitution explicitly recognizes the grounds for the disabled for affirmative rights.

By comparing it with other countries, we come to the conclusion that India still lacks explicit constitutional recognition, yet the case of Rajive Raturi demonstrates judicial creativity in order to fill such gaps.

### 4. Broader impact

Decisions like *The Vikash Kumar vs. UPSC* are already shaping such cases<sup>11</sup>. The Court cited Rajive Raturi in affirming “reasonable accommodation” as a fundamental right. It also

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<sup>10</sup> The M.C. Mehta cases refer to a large body of public interest litigation jurisprudence initiated by advocate M.C. Mehta. For a representative example, see *M.C. Mehta v. Union of India (Oleum Gas Leak Case)*, (1987) 1 SCC 395.

<sup>11</sup> *Vikash Kumar v. Union Public Service Commission*, (2021) 5 SCC 370

influenced administrative schemes like “Sugamya Bharat Abhiyan,” which now references judicial standards. The judgment elevated the rights of persons with disabilities to the level of enforceable constitutional entitlements.

## **CONCLUSION**

The case of “Rajive Raturi vs. Union of India” represents a sudden shift in Indian disability rights law. By holding entitlement for accessibility under articles 14 and 21, the hon’ble court transformed the rights for the persons with disabilities from welfare to rights that are guaranteed and are enforceable, constitutional promises that are actionable obligations. The court made sure that the judgment aligns with the Constitutional interpretation, statutory obligations, and international law by issuing comprehensive directions to the states.

Yet, the main task lies in the implementation. Although the judgment is powerful, the enforcement requires continuous supervision from the judiciary, bureaucratic will, and societal awareness. It will depend on the future whether accessibility becomes an everyday reality in India for the disabled citizens. Nevertheless, this particular case remains a landmark case in expanding such frontiers of equality and dignity, and by rejecting resource constraints as excuses. In this case, the court set a benchmark that says accessibility is no longer charity, but justice.