PROTECTION OF SENIOR CITIZENS’ RIGHTS: LAW AND ITS IMPLEMENTATION.

Dr. Naresh Vishwanath Waghmare,
Assistant Professor,
Dept. of Law, SPPU, Pune.

ABSTRACT

India is a welfare State governed by a Constitution which holds the pride of place in the hearts of its citizens. It lays, special emphasis on the protection and well being of the weaker sections of society and seeks to improve their economic and social status on the basis of constitutional guarantees spelled out in its provisions. The welfare of senior citizens is mandated by the Constitution of India. In India, age of 60 is considered (to be Senior citizens) as the beginning of old age. Senior citizens should be treated as a human being entitled to all the basic human rights, human dignity and human sympathy. It is, therefore, important that Government and the community play a proactive role in taking care of them. In this paper, the researcher has discussed the law in changing society with reference to senior citizens, need for care and protection of rights of them and suggestions to have general consensus in deciding the age of senior citizens, awareness and proper implementation of the law, and provision for necessary care and support to them within the families and community setting instead of opening more old age homes.

INTRODUCTION

Prof. Roscoe Pound defines ‘right’ as an interest recognised, protected and enforced by law. Law is an instrument of social welfare. State and Society are composed of human beings. Primarily, human beings must be taken care of by their families. Families are consisted of children, parents and grandparents. India has traditionally enjoyed robust joint family system taking full care of elderly persons. However, with the fast changing socio-economic conditions, disintegration of joint family system and emergence of nuclear families, the old people are getting increasingly neglected, adversely affecting their care and dignity. It is, therefore, important that Government and the community play a proactive role in taking care of the elderly.

RIGHTS OF SENIOR CITIZENS AND DUTIES OF THE STATE

Directive Principles of State Policy are fundamental in the governance of the country and it shall be the duty of the State to apply these principles in making laws. 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 underserved want. Article 46 of the Constitution provides that the State shall promote with special care the educational and economic interests of the weaker sections of
the people, and shall protect them from social injustice and all forms of exploitation. Thus, the welfare of senior citizens is mandated by the Constitution of India.

The Maintenance And Welfare Of Parents And Senior Citizens Act, 2007 (henceforth ‘the Act’) provides for more effective provisions for the maintenance and welfare of parents and senior citizens guaranteed and recognised under the Constitution and for connected and incidental matters. Section 2(h) of the Act defines ‘senior citizens’ means any person being a citizen of India, who has attained the age of sixty years or above. The Act deals with two important aspects of senior citizens namely, maintenance and welfare of them. The act defines ‘maintenance’ includes provisions for food, clothing, residence and medical attendance and treatment, and ‘welfare’ means provision for food, health care, recreation centres and other amenities necessary for the senior citizens.

SENIOR CITIZENSHIP: INDIAN SCENARIO

According to United Nations Report 2013 on World Population Aging, in 2050, India will be the second largest population of people aged 80 years or over in the world. The United Nations defines a country as ‘aging’ where the proportion of people over 60 reaches 7 percent. As per 2011 Census, total population of Senior Citizens (people aged 60 years and above) is 10.38 crore, of which population of males and females was 5.11 crore and 5.27 crore respectively. The share of female senior citizens is highest in the State of Uttar Pradesh (0.74 cr.), followed by Maharashtra (0.58cr) and Andhra Pradesh (0.44 cr.). The population of male senior citizens is highest in Uttar Pradesh (0.80 cr.), followed by Maharashtra (0.52 cr.) and Bihar (0.41). The number of senior citizens in the total population is highest in Uttar Pradesh (15.44 cr.), followed by Maharashtra (11.10 cr.) and Andhra Pradesh (8.27 cr.).

Over the years, the government has launched various schemes and policies for senior citizens. These schemes and policies are meant to promote the health, well-being and independence of senior citizens around the country. The central government came out with the National Policy for Older Persons in 1999 to promote the health, safety, social security and well being of senior citizens in India. Recently, the Government has drafted National Policy on senior citizens 2011. It is mentioned there that men and women have different problems with their old age. The large increase in human life expectancy over the years has resulted not only in a very substantial increase in the number of older persons but in a major shift in the age groups of 80 and above. In 12th Plan (2012-17), it has been mentioned that the needs of the older (80+) persons are different from those senior citizens in the age group of 60 years and above.

In Maharashtra, the Act was notified and enforced in 2009, and the rules were notified in 2010. In 2013, the Government of Maharashtra has formulated Senior Citizens Policy. The State Policy is in complete contravention of the National Policy on Older Persons of India and also the United Nations' Madrid International Plan of Action on Ageing (MIPAA), 2002, to which India is a signatory, which stipulates that any person of and over 60 years of age is a senior citizen.
MAINTENANCE OF SENIOR CITIZENS

Under Sec. 4 of the Act, a senior citizen including parents who is unable to maintain himself from his own earning or out of the property owned by him, is entitled to make an application for maintenance. The obligation of the children or relative as the case may be, to maintain a senior citizen extends to the needs of such citizen so that senior citizen may lead a normal life. At such old age, it is difficult for the senior citizens to go through all stages for maintenance order from the tribunal, such as, application, notice, hearing, an inquiry for determining the amount of maintenance and maximum maintenance allowance ten thousand rupees and etc. In some States, Tribunals and Appellate Tribunals have not been constituted, even if constituted, not in function.

In 2011, the Maharashtra Government designated the Special District Social Welfare Officer of every District as Maintenance Officer, for each District.

OLD AGE HOMES

Under Sec. 19 of the Act, the State Government may establish Old Age Homes. There is no mandatory obligation of establishment by the State. Established homes are not adequately and reasonably known to the senior citizens. Management of such homes is a matter of inquiry.

Providing necessary care and support to elderly people within the community setting is also recommended instead of opening more old age homes.

MEDICAL CARE

Medical care of senior citizens is a major challenge to the State. As per Sec. 20 of the Act, the State shall ensure that hospitals shall provide beds for all senior citizens as far as possible, facilities for treatment of diseases, research activities for chronic elderly diseases and etc.

Mental health of older person is influenced not just by ageing changes in the body and brain, but by socio-economic and psychological factors. Hence, mental health of older must be taken care of by the families, society and the State.

PROTECTION OF LIFE AND PROPERTY

According to Sec. 22 of the Act, the State Government shall prescribe a comprehensive action plan for providing of life and property of senior citizens.

CONCLUSIONS AND SUGGESTIONS

There is no consensus on the age of senior citizens, it differs from agency to agency and therefore there is a need to have general consensus in deciding the age of senior citizens. Though the National Policy for Senior Citizen was formulated in 2011, the Centre and state are yet to take necessary steps to implement it.

For maintenance of senior citizens, there are enough legal provisions such as an application on behalf of senior citizens by any organisation, in case of incapacity or *suo motu*
cognizance by the tribunal, interim maintenance, time bound disposal of application for maintenance.

The State Government shall give wide publicity through public media including the television, radio and the print about the implementation of the Act. The periodic sensitization and awareness training on the issues relating to this Act should be conducted. Effective coordination between the service provided by the concerned Ministries or Department dealing with law, home affairs, health and welfare, to address the issues relating to the welfare of the senior citizens and periodical review of the same is to be conducted.

As with all social welfare legislations, it is the implementation that decides their efficacy. This means that what is required is a sensitized and efficient bureaucracy and a vigilant society. A comprehensive law for the social security and protection of the dignity of senior citizens of the country be enacted at the earliest.

REFERENCES