



SENIOR CITIZENS: OUR RIGHTS OR DUTIES?

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“I am retired and not given any pension. My son abuses me as he thinks I have hidden my money” says a 62 year old man. “At my son’s place I am given only two chapattis a day” says another 60 year old man. Beaten in body, mind and spirit paints a dark picture of senior citizens in India. The survey revealed that daughter-in-laws emerged as the biggest perpetrator of abuse with nearly 61% of senior citizens blaming for their miseries¹. Helpage India highlights an awful situation in the lives of ‘old in age- young at heart’. As it is natural that if we are born we will die, similarly when a person is aging his physical and mental change, he also changes from an independent to dependant person. Therefore after he has crossed the age of 60, he should be given proper care and medication by his children and family rather than considering it a burden.

It shall be questioned that whether there should be rights enforced for senior citizens or should it be our duty to look after them? Forget about the rights that elderly enjoy in India, just forget about the legal actions they can take and think on moral grounds. Why do we tend to forget that the reason we are in this world, the reason we are able to read and write, the reason we are able to walk and talk is none other than our own parents. When we were kids our parents always stood as a support of pillar and we

confidently knew no matter what our parents will be our savior but when it’s our turn to give respect, to reciprocate the love and show our gratitude we back out. But the truth is that even when they are counting their last breath they think of us only. Hence it should be undoubtedly stated that the so-called rights should rather be our duty.

As we all know that Maintenance and Welfare of Parents and Senior Citizens Act, 2007 defines senior citizen as any person who is a citizen of India and has attained the age of 60 years or above¹. This Act was enacted to ensure maintenance for parents, senior citizens and their welfare. It is applicable to senior citizens and parents which include mother/step mother, father/step father of any age. Sum of money which a senior citizen gets to ensure his welfare is known as maintenance. The maximum amount which can be claimed for maintenance of senior citizen shall not exceed ₹10,000 per month¹ and shall be prescribed by the State government. A senior citizen can only claim maintenance if he/she is unable to maintain his/herself from property owned or from own earning. Such claims can be made upon his own children or grandchildren who are not minors and if they do not have children then it can be claimed from the relative who will be the legal heir of their property. This application for maintenance may be filed in the District Court where the senior citizen resides or where the child or relative stays. When the application for maintenance is filed under Section 4 of Maintenance and Welfare of Parents and Senior Citizens Act, 2007 the Tribunal will issue a notice to the children and they will get the opportunity of being heard. Thereafter the Tribunal shall fix the



amount of maintenance which shall be paid from the date of order. If one of the children die the other children shall continue to be liable and failure to comply with the order shall be punished with levy of fines and imprisonment up to a month¹. The Maintenance and Welfare of Parents and Senior Citizens Act, 2007 offered that the senior citizens can now reclaim their property they 'gifted' in the name of their children, if their welfare and basic needs are not being fulfilled¹. An aggrieved senior citizen can now approach the Deputy Commissioner and reclaim their property rather than paying futile visits to Court and awaiting outcome for several years. Section 23 of the Act reads "Where any senior citizen who, after the commencement of this Act, has transferred by way of gift or otherwise, his property subject to condition that the transferee shall provide the basic amenities and basic physical needs to the transferor and such transferee refuses or fails to provide such needs, the said transfer of property shall be deemed to have been made by fraud or coercion or under undue influence and shall at the option of transferor be declared void by the Tribunal¹". This means that if the senior citizen decides not to reclaim the property, he can make his children direct through the Deputy Commissioner to pay them monthly maintenance of the property. This application for maintenance may be filed in the District Court where the senior citizen resides or where the child or relative stays. When the application for maintenance is filed under Section 4 of Maintenance and Welfare of Parents and Senior Citizens Act, 2007 the Tribunal will issue a notice to the children and they will get the opportunity of being heard. Thereafter the Tribunal shall

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suit against their own children¹. An advocate Shiv Kumar asked many senior citizens that how many of them wanted their children to go to jail for ₹10,000 and majority replied as “We will beg, we will borrow, we will starve, but we will not have a situation where our children will go to jail¹”.

There is however some benefits for the senior citizens who have been left in the lurch by their children and at the dusk of their lives. The government provides extra financial assistance to them by reserving two seats in front row of the buses, Indian Railway provides 40% concession for males and 50% for females over 60 years in all classes in the train¹. Indian Airlines provides 50% Senior Citizen discount on Normal Economy Class fare for all domestic flights. Complaints of senior citizen in telecommunication are given priority by registering them in VIP flag. Free medical and health services are also provided at various hospitals. A separate queue for senior citizens is also made in hospitals for registration and clinical examination. Special clinics are also available for senior citizens at various hospitals in New Delhi every Sunday between 10 a.m to 12 noon. Senior citizens also enjoy the benefit of not paying income tax at all up to ₹2,50,000. The Ministry of Rural Development under the National Old Age Pension Scheme provides ₹75 per month and under the Annapurna Scheme free food grains up to 10kg per month is provided to the senior citizens who do not have even the basic necessities to survive. These are the proper legal mechanism which ensures that senior citizens are not harassed anymore. 1st October is observed as the International Day of older persons every year. The Ministry

for welfare of senior citizen celebrates this occasion every year by organizing a series of programmes and felicitating the distinguished senior citizen with ‘Vayoshrestha Samman’.. Free medical and health services are also provided at various hospitals. A separate queue for senior citizens is also made in hospitals for registration and clinical examination. Special clinics are also available for senior citizens at various hospitals in New Delhi every Sunday between 10 a.m to 12 noon. Senior citizens also enjoy the benefit of not paying income tax at all up to ₹2,50,000. The Ministry of Rural Development under the National Old Age Pension Scheme provides ₹75 per month and under the Annapurna Scheme free food grains up to 10kg per month is provided to the senior citizens who do not have even the basic necessities to survive. These are the proper legal mechanism which ensures that senior citizens are not harassed anymore. 1st October is observed as the International Day of older persons every year. The Ministry for welfare of senior citizen celebrates this occasion every year by organizing a series of programmes and felicitating the distinguished senior citizen with ‘Vayoshrestha Samman’. The idea behind this celebration is to reiterate the government’s commitment towards welfare of elderly and to ensure that their services get its due recognition in society.

The Constitution of India is regarded as the heart and soul which protects the rights of citizens of India including senior citizens as well. Article 41 under Part 4 of The Constitution of India 1950 directs the State to make effective provisions for securing Right to Work and public assistance which



includes the old age and Article 46 aims to protect the economic interests of the weaker sections. The DPSP being fundamental in governance of the country but are not enforceable in Court of Law. The legal right to claim maintenance is given under various personal laws, Code of Criminal Procedure and also under Maintenance and Welfare of Parents and Senior Citizens Act, 2007. In Hindu Adoption and Maintenance Act, 1956 parents can claim maintenance from their son as well as daughter under Section 20 if they are unable to maintain themselves. Under the Muslim Personal Law both son and daughter are liable to maintain their parents who are poor. The concept of adoption does not exist in Muslim community and hence the personal law is silent on the right to maintenance of adoptive parents. There are no provisions for maintenance of parents under Christian and Parsi Law and thus the parents who wish to claim maintenance from their children can do so under Code of Criminal Procedure (CrPC). Under Section 125 of CrPC parents of any community can claim maintenance from their children (son, daughter, and married daughter) provided their children must have sufficient means to maintain their parents and the parents lack the means to maintain themselves. Lastly, the Maintenance of Parents and Senior Citizens Act, 2007 aims to protect the life and property of senior citizens by setting up Old Age Homes in every district. As per the information available with HelpAge India¹, there are 1279 Old Age Homes in India. Detailed information of 836 homes is available and for 443 homes only contact details are available. 543 homes provide free of cost services while 237 old age homes are on pay & stay basis. 161 homes have both

free as well as pay & stay facilities. 214 old age homes accept medical/ constant care cases. 133 homes are exclusively for older women. Besides all these schemes and facilities there are certain steps taken by the government under National Policy on Older Persons, 1999 where a separate bureau of Social Justice and Empowerment for senior citizens was set up. It also aimed at setting a National Council for older persons to solve the problems of elderly and work towards their solution.

The Hon'ble Chief Justice of India has ordered the Chief Justice of all High Courts in the country to prioritize the cases related to senior citizens and ensure their rapid disposal. Mumbai High Court held that it would give out-of-turn chance to hear and settle the cases where it is related to the people who have crossed the age of 65 years. This High Court decision would also be applicable to its benches at Goa, Aurangabad and Nagpur and would include all matters irrespective of civil or criminal pending in the court of law. Union Minister for Law and Justice referred to the Chief Minister of all the States to set up Fast Track Courts (FTCs) for speedy disposal of cases¹. Separate lane of courts for senior citizens would be of great help to solve all the civil, criminal cases or the cases pending in the courts. If additional courts can't be created for this purpose, then administrative arrangements such as two FTCs may be there with one exclusively dealing with senior citizens cases on priority.

Our culture accepts the status of parents as that of God through sayings like "*Matrudeo Bhava*", "*Pitrudeo Bhava*" etc. Traditional norms and values of the Indian society laid



stress on providing care for the elderly. It is the moral duty and an obligation for children to maintain their parents. However, due to withering away of joint system, a large number of elderly people are not being looked after by their family. Consequently, many older persons, particularly widowed women are now forced to spend all their twilight years alone. They are being sent to Old Age Homes to spend their rest of life and are exposed to emotional neglect due to lack of care and support. It is really disheartening to know that the senior citizens are mostly neglected, become desolate and find it very difficult to eke out their livelihood. Some of them manage to find a place in the 'Homes for the Aged', some of them choose to beg and most of them die of starvation. One sphere in which India is believed to be ahead of other developed western nation is the way we respect and look after our parents and elderly .It's something for which we Indians feel proud .With the fast-paced lifestyle and careers of young Indian, this characteristic is said to be fading. Is this true? Does India care and respect its elders less than before? Is the youth becoming too insensitive towards elders like the west with nuclear families? Passing comments to an old man walking slowly on the road and disturbing the flow of traffic are our ethics? Come on youth, stand up against such injustice. Do not treat your parents like burden, especially when they need you.

