

# For the welfare of persons with disability

Their interests are safeguarded by the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999

## htestates LEGAL REMEDIES

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I outlined the background and scope of The Mental Health Act, 1987, in a column earlier. I had written about this Act making provisions for taking care of the estate of a person who is mentally ill. Such a person needs treatment for his or her mental disorder. It is important to know here that a mentally ill person does not in any way mean or include a mentally retarded person. Mentally retarded persons are specifically excluded from the definition of 'mentally ill' people. Mental retardation means a condition in which mental faculties of a person are not properly developed. This condition is specially characterised by sub-normality of intelligence.

In case of mental retardation, the provisions of the National

Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999, will be applicable. This Act is a special law enacted for persons suffering from certain specified disabilities. A 'person with disability' may mean a person suffering from any or a combination of the condition relating to autism, cerebral palsy and mental retardation. Under the said Act, a body is constituted by the Central government known as the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disability. The local level committees are constituted by the board for specific areas and are empowered to appoint a guardian to take care of the person with disability. This guardian is supposed to take care of the person with the disability and to manage his or her property.

The parent of a disabled person or his or her relative can make an application to the local level committee for appointment of any person of

his or her choice to act as the guardian. A registered organisation can also make such an application with consent of the natural guardian of the disabled person.

The Act also has a provision regarding the duties of a guardian. Any person who is appointed as the guardian of a person with disability shall either have the responsibility to take care of such a person and his property or be responsible for the maintenance of the person in question. A guardian appointed under this Act is required to furnish an inventory to the appointing authority of the immovable property, assets and moveable property along with statement of claims and debts/liabilities of the person with disability. This inventory is to be furnished within a period of six months from the date of his appointment as a guardian. Furthermore, at the end of every financial year, the guardian is required to furnish to the appointing authority an account of the property in his charge.

To protect the interest and



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to take care of the welfare of the person with disability is paramount and therefore, the guardian can be removed if it is found that he or she is abusing or neglecting the person with disability or misappropriating or neglecting the property of such person. Any person who is removed is bound to deliver the charge of all property of the

person with disability to the new guardian and also to account for all the moneys received or disbursed by him.

To sum up, this Act is a welfare measure for the protection of property of persons with disability and includes in its ambit mentally retarded persons. It empowers the local area committee to appoint a guardian to

take care of the property of a mentally retarded person.

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