



Capable even if disabled

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An institutional display of pure and simple discrimination dressed up as legal reasoning is unacceptable

- One of the darkest moments in the American disability rights movement was the American Supreme Court's decision, in 1927, upholding the forced sterilisation of a mentally infirm woman, reasoning that it helped get rid of those who would sap the state of its strength by swamping it with incompetence.
- Similarly, in India, the Supreme Court's ruling in V. Surendra Mohan v. Union of India, has to be regarded as one of the darkest in India's disability rights movement.
- The Court had to rule on the legality of the Tamil Nadu government's policy of reserving the post of civil judge only for people whose percentage of blindness does not exceed 40-50%, resulting in the exclusion of the applicant who was 70% blind.
- Court held that the government's decision was rational and reasonable.
- Court ruled that a judicial officer has to possess a reasonable amount of sight and hearing to discharge her functions.
- It accepted the claim that impaired vision makes it impossible to perform the functions required of judicial officers, such as assessing the demeanour of witnesses and reading and analysing evidence.
- Court also accepted that asking a blind judicial officer to perform such administrative functions as recording dying declarations and conducting inquiries can result in avoidable complications.
- The judgment is problematic for four key reasons.

Examples of success

- First, the view that a totally blind person cannot thrive as a judge is belied by several examples of successful judges who are blind.
- Second, how, some contend, can a blind person be reasonably expected to thrive as a judge without being excessively dependent and inefficient.
- Third, the Court's unreasoned assertion is an outcome of their ignorance

about the capabilities of the disabled.

Reasonable accommodations

- Fourth, as to obviating avoidable complications, the reasonable accommodations required by a blind judge may be considered irksome.

Conclusion

- When the Supreme Court tells that blindness makes a person intrinsically incapable of becoming a judicial officer, when it arrogates to itself the power to stamp a badge of incompetence on thousands of visually challenged about whom it knows nothing, its declaration cuts to the core of confidence of visually challenged about the fairness and robustness of our judicial system.

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