

HEALTH MINISTRY ISSUES NOTIFICATION TO BRING HIV/AIDS ACT, 2017, INTO FORCE

Relevant for: Health, Education & Human Resources | Topic: Human resources & Sports and related issues

Safeguarding the rights of people living with and affected by HIV, the Union Health Ministry has issued a notification to bring in force from Monday the Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome (Prevention and Control) Act, 2017.

“Provisions of the Act address HIV-related discrimination, strengthen existing programme by bringing in legal accountability, and establish formal mechanisms for inquiring into complaints and redressing grievances,” noted a release issued by the Ministry.

‘Holistic approach’

Angela Chaudhuri of Swasti Health Catalyst, a not-for-profit organisation working for marginalised sections of society including LGBTQ and women in sex work, said: “Implementation of the HIV/ AIDS [Prevention and Control] Act is certainly a positive and a much-awaited development. However, the provisions only protect infected individuals from prejudiced behaviour and attitudes. Communities that are vulnerable to infection, individuals who are yet to be tested and kin of those infected are still subjected to stigma and biased perspectives. The need is to adopt a holistic approach to successfully combat discrimination against the infected and the vulnerable, and create safe spaces for them.”

The Ministry said the Act seeks to prevent and control the spread of HIV and AIDS, and prohibits discrimination against affected persons. The Act lists various grounds on which discrimination against HIV positive persons and those living with the condition is prohibited.

These include the denial, termination, discontinuation or unfair treatment with regard to: employment, educational establishments, health care services, residing or renting property, standing for public or private office, and provision of insurance (unless based on actuarial studies). The requirement for HIV testing as a prerequisite for obtaining employment or accessing health care or education is also prohibited.

“Every HIV infected or affected person below the age of 18 years has the right to reside in a shared household and enjoy the facilities of the household. The Act also prohibits any individual from publishing information or advocating feelings of hatred against HIV positive persons and those living with them,” noted the Ministry release.

Provisions of the Act state that a person between the age of 12 and 18 years who has sufficient maturity in understanding and managing the affairs of his/her HIV or AIDS-affected family shall be competent to act as guardian of another sibling below 18 years of age to be applicable in matters relating to admission to educational establishments, operating bank accounts, managing property, and care and treatment, among others.

‘Double stigma’

Provisions of the Act state that every person in the care and custody of the State shall have the right to HIV prevention, testing, treatment and counselling services.

V. Sam Prasad, country programme director, AIDS Healthcare Foundation India Cares, said:

“Till about 15 years ago, people living with HIV/AIDS faced several challenges once they tested positive, particularly from healthcare providers, hospitals or clinics. Even today, the LGBTQ community faces double stigma — for being a part of the community and for being HIV positive. This is the reason many of them became secretive about their condition, and lived in seclusion. The historic apex court decision will ensure protection of their rights, reduce taboos and increase visibility for their issues. It will also cover legal disputes of family succession and property, which this community generally faces. Services provided to this community, such as health, entitlements or legal protection will now be regulated, and protected from abuse and exploitation. The next important step will be public education as acceptance of this community in society is still a challenge. A law is a law, but it is up to each individual to abide by it, and we have to sensitise the common man to understand and support it.”

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