

Right against Exploitation -a Tool for Social Security

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ABSTRACT

India is considered to be a welfare state where system provides many provisions in various acts and laws to assure social security and prohibit exploitation. Preamble of Indian constitution clearly assures to citizens justice, social economic and political which implies that all types of insecurities should be abolished. Although, nowhere exploitation has been defined properly in Indian laws but article 23 and 24 of the India constitution give meaning of exploitation. Article 23 (1); traffic of human being begar and other similar forms of forced labour shall be an Offence punishable in accordance to law. Article 24 (1) is no children below the age of fourteen years of age shall be engaged in any hazardous employment.

I INTRODUCTION

Exploitation is undoubtedly an ugly and hateful act which cannot be recognized and permitted on any basis in our vedice period a special protection was given to weaker section and handicapped persons of society and they were exempted from paying any tax to the king.

The supreme law also strictly prohibits and makes any exploitation punishable offence although how much quantum of punishment shall be for that, is “ambiguous still. The exploitation as is intended in article 23 and 24 of Indian constitution is that “all types of acts which derogate the human dignity and honour are the exploitation. As per language of article 23 of constitution, “if someone does not pay full wage to worker, it will be exploitation. Similarly selling and purchasing of men or women or any human being shall be exploitation.

The Hon’ble Supreme Court of India in case of people union for democratic rights. vs. Union of India; 1 held and interpreted exploitation in wide sense and ruled that following shall amount to exploitation:-

- (a) To take work with any worker for more than prescribed hours.
- (b) To pay less wage than prescribed.
- (c) To engage children in building construction.
- (d) Building construction shall be amounted hazardous employment.

Begging is also an exploitation and violation of article 23 of constitution

Begging has also been prohibited by article 23 of the constitution. The beggar is the form of labour which is taken for payment of debt. There are many illegal custom prevailing Indian societies in which land lords or the mahajans provide debt to poor and when they are not in a position to pay, then debtor are compelled to do service in lieu of debt for the period till debt is not fully set off. What is prohibited by article 23 (1) is making of a person to render service where he was lawfully entitled not to work or to receive remuneration of the services rendered by him. The clause (1) of article 23

therefore does not prohibit forced labour as a punishment for a criminal offence. The protection is not limited to beggar only but also to the other kind of forced labour amounting to take bonded labour and work against will.

Sanjit Roy VS state of Rajasthan;2

It has been laid down by hon’ble Supreme Court in the case that if someone is paid lesser than prescribed wage it is an exploitation and violation of article 23.

Labour taken from prisoner without payment is an exploitation; 3

Prisoners are the persons who are in jail after conviction of an offence from competent Court. The Indian constitution confers certain rights to prisoners in jail. The certain rights are the fundamental rights. In respect of article 23, Hon’ble Supreme Court has laid down that if the prisoners are giving labour in jail than it is their rights to be remunerated reasonably otherwise it will be exploitation and violation of article 23.

The High Court of Allahabad has pronounced a remarkable and far reaching judgment in case of Banbri VS state 4

The court said when a person is prohibited from refusing to under service merely on the ground that the person asking for it belongs to a scheduled caste he is not there by subjected to forced labour. Likewise the payment of wages act 1926 which provided that every employer is responsible for payment of wages to his employees has been held to be valid.

The Devdasi custom is also amount to contravention of article 23;

Many evils like devadasi system under which women were dedicated in the name of religion of Hindu deities, idols objects of worship, temple and other religious institutions and under which instead of living life of dedication, self renunciation and piety, they were the lifelong victims of lust and immorality had been prevalent certain parts of southern and western India. Vestiges of such evil customs and practices were still there in many parts

of country. The constitution makers were eager to proclaim a war against them through the constitution as these practices would have no place in the new political and social concept that was emerging with the advent of independence. The ideal of “one man one vote, one value” equality before law and equal protection of laws.

II CONCLUSION

The constitution makers were determined to abolish all types of inequalities and discrimination from Indian society because it was the main form of exploitation. To eradicate the exploitation constitution prohibited the practice of begging traffic of human being and other equal forms of forced labour, bonded labour, Devdasi, and involuntary labour in-human work. The supreme court of India has given wide meaning to article 23 & 24 of the constitution and held that ‘not to provide minimum wage and taking work more than prescribed hours would be also an exploitation.

REFERENCES

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