

The Concept of Social Justice in Indian Constitution

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ABSTRACT

India a secular and democratic country is regarded as a model of pluralistic society, which is reflected in its cultural, pluralized of various religion, castes, languages and regions. About 82% of the Indian Population follows Hinduism and 15% Islam. Its plurality is visible in four fold Verna system (Brahmin, Khstriya, Vishay, shudra) and about 5000(five thousand) Castes and sub castes. Now the segmental excepts of the traditional four fold Verna system is reflected in terms of four major caste groups created by the Modern participatory Democratic political system such as the scheduled caste (Sc 16.73%) the scheduled Tribes (St 7.95%) other backward classes (OBC 52%) and the rest as upper caste or forward caste (estimated 23%). These four modern caste categories also include social segment of the minorities ² The Judicial pronouncement with regal to backward classes of citizens has created round on two points. The first is the identification of backward classes of people and second is fixation of quota of reservation in employment of government services. To achieve the goal of social justice state is empowered to provide reservation to the weaker section of society but the reservation is not absolute and unconditional, it cannot be motivated to achieve political goal.

I INTRODUCTION

The human being is considered invaluable living being of nature therefore it is the purpose of state to provide full honour and dignity to human being. In India there was discrimination among people on various grounds such as, discrimination on the ground of Caste, religion, race, sex and place of birth. After the independence, our constitution came in to force and abolished such discrimination and established equality. Although social justice has not been defined properly in any Act or Law but it means and requires the abolition of all sorts of inequalities which result from inequalities of wealth, opportunity, race caste and religion thus in India there are many Act which has been passed to eradicate such discrimination Part IV of constitution Art 39 provided many provisions like equal pay for equal work. The citizens, men and women, equally have the right to an adequate means of livelihood. Art 23 provides abolition of exploitation and forced labour. The workers should be provided full remuneration in lieu of their work is the object of Minimum Wages Act 1948, and Workmen Compensation Act 1923. To establish social justice discrimination is not prohibited only on economic basis but also declares invalid on the racial and caste grounds. There are many provisions which prohibit discrimination on racial end caste basis like Art 17 of the constitution which declares abolition of untouchability.

The Civil Right Protection Act 1955

The Schedule Cast, Schedule Tribe Abolition of Atrocities Act 1989.

To establish social justice Legislature and Judiciary both has made serious aoffers in India. According to Supreme Court.

“Social justice and equality are complementary to each other, So that both can maintain their own vitality. The rule of law is thus a patent instrument of social justice to bring about equality¹”

The Rule of law as laid down by Prof. Diecy requires equality in eye of Law and all persons should be subjected to the jurisdiction of common court. The Rule of law the important tool to establish social justice.

The question of the validity of reservation for scheduled castes and tribes, other backward classes came up before the Hon’ble Supreme Court in M.R Balaj Vs State of Mysore³ where an order of Mysore government reserving 68 percent of the seats for scheduled castes, scheduled tribes and backward classes was challenged. In this case it was held that the impugned order made a classification based only on caste without regard to other relevant factors and that such a classification was not permissible of social justice is not only object of constitution but also under the ILO Declaration on Fundamental principles and right adopted by International Labour Conference in June 1998 which supported rights of workers. Further in order to ensure social justice Indian legislature enacted a law “The Employment of manual scavengers and construction of Dry Latrines (Prohibition Act 1993) to eliminate the dehumanizing practice of employment of manual scavengers and for protecting and improving the human environment to make it obligatory to construct water seal latrines in new constructions, The aim of Act was to abolish the practice once for all, by declaring the employment of manual scavengers to remove human excreta an offence, and to prohibit the construction of dry latrines.

The purpose of reservation was motivated to establish equality among peoples but it was observed for last many years that reservation policy was misused to achieve political goal hence Hon'ble Supreme court of India has imposed restriction and held that son of IAS IPS officers not entitled to other backward quota job.⁴ Again Supreme Court has imposed ban in order to prevent the misuse of reservation policy and laid down a principle that if someone converts his caste or religion to get the benefit of reservation then he shall not be entitled for benefit of reservation.⁵

II RESERVATION OF SERVICE IN PRIVATE COMPANIES

As the world and India is entering in globalization so pressure to provide the reservation in private companies is increasing and Government bent upon this policy that reservation should be provided in private sector but industrial undertakings are resisting it.

III RESERVATION ON RELIGIOUS GROUNDS

Despite the prohibition of reservation only on religious grounds in article 15 and 16 of constitution some states like Andhra, Karnataka, Kerala provided reservation with a view to achieve political goal therefore Hon'ble High court of Andhra Pradesh quashed such reservation.⁶

IV CONCLUSION

As Indian constitution preamble obviously guaranteed that Supreme law was motivated to establish equality in the field of Social, Economic and Political. Social and economic equality could be achieved when all sorts of discrimination whether based on social, religions or other be abolished. So that all peoples of various sections could take part in main stream of development. But it was not the purpose of constitution framer to provide reservation unrestricted and unlimited. It was made for definite period and definite grounds but political parties made reservation in contravention of art 14 and 15 of constitution. The political parties provided reservation sometimes specially on casts basis and sometimes specially on religions basis which has no nexus with spirit of constitution hence Supreme Court laid down important guidelines to restrict the abuse of reasonable reservation are as follow.:-

- (i) That reservation should not be for unlimited time.
- (ii) That reservation cannot be made arbitrary.

- (iii) That reservation cannot made especially on caste and religion basis.
- (iv) That reservation cannot be provided to the son of IAS and IPS personnel who are come within purview of creamy layer.
- (v) That conversion of caste with view to take benefit of reservation is not legal and the parson who comes with in reservation quota after conversion would be disentitled for reservation.

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