

CONSTITUTION OF INDIA AND SOCIAL JUSTICE

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"The ends you serve that are selfish will take you no further than yourself but the ends you serve that are for all, in common, will take you to eternity."

-MARCUS GARVEY

ABSTRACT: Indian democracy is the largest one in the world that embraces within a very important goal to achieve social equality and justice in a very clear way. Justice is always associated with a presumption of fair treatment, equal rights and access in the legal system. Social justice is a concept necessary for the welfare state. Indian Constitution adopts this concept in various provision including preamble in the form of 'Socialist', 'Social and Economic Justice', 'Equality' etc. that clearly states that the state is lengthily involve in social welfare of people and endeavour to establish an equal society. The author in this research paper has elaborately discussed the scheme of social welfare as enumerated in the Indian Constitution. The author has stressed that Social justice does not demand equal treatment but preferential treatment. The proper and balanced implementation of government policies is needed to ensure social justice in the society.

Introduction

Man has been continuously struggling for a Justice. In democratic place Justice is given the highest place. Justice literally means to behind,' to contract in Latin terms. In Greek it means nearer to righteousness'. Justice means following the norms, following the right path.

The ideal of justice -social, economic and political-has been taken from the Russian revolution (1917).

Dr. Bhim Rao Ambedkar was first law minister of India. He continued the crusade for social revolution with the highest National Honour, Bharat Ratna in April 1990. Therefore Justice stands for conduct, fairness or maintenance of right. Justice is not only an integral part of political science, but also of ethics, law of philosophy etc. Justice implies in establishment of status-Quo. It seeks to protect freedom person and property of the individual.

In primitive society, the basic objective of Justice was inflicting punishment on the offenders of a crime. According to Aristotle, Justice consisted in the fulfillment of ones moral duties towards community. Justice plays a vital role in the development of society. It maintains three values-Liberty, Equality and Fraternity.

Now if we talk about social Justice it relates to the balance between an individual's rights and social control ensuring the fulfillment of the legitimate and is equally distributed also. To weaker sections also and to other who wants social Justice- Yes, those people who are economically backward, who are not so aware of their rights, who find difficult for survival, who cannot make their life path easy and so on. Though there is no lacuna in our Constitution regarding provision as we all know but there is lacuna in implementing them. There is a discrepancy in distribution of social Justice that it cannot be distributed equally.

The term Justice in the Preamble embraces three distinct forms-

1. Social
2. Economic
3. Political

And these have been secured through various provisions of fundamental Rights and directive principles.

"I think each village was meant to feel pity for its own sick and poor whom it can help and i doubt if it is the duty of any private person to fix his mind on ills which he cannot help. This may even become an escape from the works of charity we really do to those we know. God may call anyone of us to respond to some far away problems or support every worthy cause. And real needs are not far from us".

Concept of Social Justice

The concept of social Justice which was subject of skepticism in early fifties has become embodied in the Constitutional jurisprudence of this country as an effective interpretative fool of legal a Constitutional provisions.

The term 'Social Justice' implies several sound and eminently desirable concept enunciated for the good of society in general and of course fairly for every section, especially for the weaker groups of the population. If we talk about social Justice, we can say that there are several provisions in our Constitution for different of our society.

In D.S. Nakara Vs. Union of India (vol.1 SCS 1983), the Supreme court has held that the principle aim of socialist state is to eliminate inequality in income, status and standard of life.

In Excel Wear Vs. UOI the Supreme court held that the addition of the word 'Socialist' might enable the courts to learn more in favor of Nationalism.

Dr. Ambedkar is the man of millennium for social Justice, since he was the first man in the history to successfully lead to secure social Justice to the vast section of Indian humanity, with the help of law. He was also a man who tried to turn wheel of Justice for all.

The concept in our republic has committed itself to have been spelt out in the Constitution of India. Over the years social Justice has become a tool for the courts sometimes to construe and sometimes to test the validity of different forms of state actions and in exceptional cases private actions as well.

"Social Justice is very vague and intermediate expression and no clear cut definition can be laid down which will cover all the situations".

In case of Patna Electric Supply Co. Ltd. Vs. Workers Union (AIR 1959 SC) decided after five years however "Social Justice was viewed as an effective tool for construction".

There is a wide planning of Justice according to necessity in the Constitution. It expects distribution of social benefits according to necessity which needier person can get benefits under Art. 41 it is expected to the state shall, within the limits of its economic capacity and development make effective provision for securing the right to work to education and to public assistance in case of unemployment old age, sickness and some other cases of undeserved want under Art. 42, 43 provisions include social Justice.

In India we talk about courts, they have played a great role to make social Justice successful. Ideals and goals are to deliver social Justice. Another concept of equality is right to equality.

Art. 15 (4) the state shall make any especial provision for advancement of society to make principle of equality more effective and in same manner Art. 16 (1) (4), Art. 46 is added, while the directive principles in part 4 represent social economic Justice and freedom to community.

Social Justice is the foundation stone of Indian Constitution. It is found useful for everyone in its kind and flexible form. Although it is not defined anywhere in the Constitution but it is an ideal element of feeling which is the goal of Constitution. Social Justice is a relative concept which is always changeable according to circumstances, need and ambition of people. But in our Constitution it is used in very wider sense which includes social and economic Justice both. According to chief Justice Gajendragakar-"In this sense social Justice hold the aims of equal opportunity to every citizen in the matter of social and economical activities and to prevent inequalities."

Social Justice is the foremost and is also a priority for each and every action because it is the maintenance of social Justice itself that the balance can be maintained in each wings of Constitution. For the proper maintenance of Executive, Legislature and Judiciary it is the utmost necessity of the nation to maintain social Justice and to give foremost importance to social Justice. Because it is sure that if society is satisfied then only nation will progress and all achievement is possible.

Though social Justice is very wide concept, we cannot cover this by simply adding few Constitutional cases or by adding saying of different Jurist. The concept social Justice which is integrated in the Indian Constitution includes/incorporate various principles to develop the personality of every citizen. It is such a dynamic device which can remove or diminish the problems of downtrodden deprived and other backward classes and can upgrade their status to live with dignity in the society.

So many articles have been inserted so that the increasing inequalities in the most spheres in human activities and the endless discrimination against the weaker section of society especially backward classes and number of scheduled castes and tribes. So to remove these defects Art. 15, 17 and so on were added. Art. 39 A inserted by Constitution (42nd Amendment) Act 1976, provides legal aid and assistance to poor and indigent litigants. The resolution was passed by human rights held in Tehran in 1968 under the auspicious of UN which emphasized the need for the free legal aid and for assistance to poor and indigent for protection of the human rights and save guarding their fundamental freedom. Therefore free legal aid is also the best e.g. of bringing social Justice to all citizens of India. Therefore Justice is becoming scarcer with every passing year. The coming year hold a little promise of restoring social Justice in the country with so many provision and dedication is needed to bring social Justice and if we educated people also join this race of bringing social Justice to the entire country then certainly the aim of securing "welfare state", will be achieved.

Indian Constitutional provisions ensuring Social Justice

Fundamental rights in Part III some of which are available to all persons and some are enjoyable only by the citizens of India are:- a) Equality before law (Art 14) b) Prohibition of discrimination on ground of religion, race, caste, sex or place of birth (Art 15) c) Equality of opportunity in matters of public employment (Art 16) d) Abolition of Untouchability (Art 17) e) Abolition of titles (Art 18) f) Protection of certain rights regarding freedom of speech etc. (Art 19) g) Protection of life and personal liberty (Art 21) h) Protection in respect of conviction for offenses (Art 20) i) Protection against arrest and detention in certain cases (Art 22) j) Protection of traffic in human beings and forced labour (Art - 23) k) Prohibition of employment of children in factories or mines or in any other hazardous employment (Art 24) l) Freedom of Religion (Art 25 - 28) m) Protection of interests of minorities (Art 29-30) n) Judicial remedies for enforcement of rights conferred by this Part - III of the Constitution (Art 32). 7 Chapter IV of Indian Constitution Article 36 to 51 incorporate certain directive principles of State policy which the State must keep in view while governing the nation. The most important of these directives are – a) Promotion of welfare of the people (Art 38) b) Adequate means of livelihood; equal distribution of material resources of the community; distribution of means of production to the common good and equal pay for equal work; - promotion of health and strength of workers, men and women and the children : Protection against exploitation of child hood and youth (Art 39) c) Equal justice and free legal aid (Art 39A) d) Right to work, education and to public assistance in certain cases (Art 41) e) Just and human conditions of work and maternity relief (Art 43) f) Living wages for workers (Art 44) g) Uniform civil code (Art 44) h) Free and compulsory primary education for children (Art 45) “The principles of Policy set forth in this part are intended for the guidance of the State. While these principles shall not be cognizable by any Court they are nevertheless fundamental in the governance of the country and their application in the making of laws shall be the duty of the State.”

Conclusion

In spite of the tremendous progress in almost all of the area especially in economy, science and technology, infrastructure development, the gap between poor and rich is being increased day by day. In India, courts have performed a great role to make the social justice successful. In the field of distributive justice, legislature and judiciary both are playing great role but courts are playing more powerful role to deliver compensatory or corrective justice but these principles are known as mutually relatives not mutually opposites. Ideals and goals are to deliver social justice. "In keeping silent about evil, in burying it so deep within us that no sign of it appears on the surface, we are implanting it, and it will rise up a thousand fold in the future. When we neither punish nor reproach evil doers, we are not simply protecting their trivial oldage, we are thereby ripping the foundation of Justice from beneath new generations."

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