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RULE OF LAW AND SOCIOECONOMIC AND POLITICAL JUSTICE UNDER INDIAN CONSTITUTION

INTRODUCTION

To understand the meaning of the term “rule of law” it has to be analysed that nation is maintained not by monarch but through representatives elected constitutionally. Constitution itself doesn't defines the term “rule of law” but it is defined by the judiciary in the prominent cases. Thus, it become important for the law makers to keep in mind that the laws should be made in general and equally for all the people's. The government is thus administered by law and it should be ensured that no person can infringe it. The concept of justice to all talks about removal of all types of discrimination behaviour from society which are mainly social and political in nature. Distribution of wealth, relaxation in taxation are some form of relief which can be given to the people. Social justice can be done with the implementation of benefits and restrictions. The constitution of India has promised to make a welfare state and the how to make it is mentioned indirectly in the constitution.

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DEVELOPMENT OF RULE OF LAW

The growth is done expressly in two ways: (1) Constitutional provisions (2) Judicial Pronouncements

2.1 Constitutional Provisions

It has not been directly mentioned in the rule book but explained in many of the terms in the constitution. Constitutional law is the supreme law and all the extra laws are made under it. The judiciary can declare any law null and void under special circumstances. Various provisions are made under the Part III of the constitution. In our country, constitution is the apex law. There are three pillars of democracy namely which comes under the premise of constitution.

In India, the courts has explained this term from time to time. It cannot be infringed accordingly.¹Principal of natural justice plays an important role under it. Court explains that to implement the requirements of provisions of article 14, the legislature should make laws which are lawful in nature and shouldn't have arbitrariness², unreasonableness³ and also for welfare of its citizens.⁴

In *A.D.M Jabalpur v Shivakant Shukla*,⁵it is explained constitutional law is supreme

In *K.T. Plantation Pvt. Ltd. v. State of Karnataka*, it was held that:

“The rule of law as a principle contains no other component like eminent domain but has many shades and colours. Violation of principle of natural justice by not considering rule of law may result into unreasonableness, arbitrariness etc. but such infringements may not undermine the rule of law so as to invalidate a law. Infringements must be of such a serious nature where the basic principles of constitution are harmed. But once the court finds, a law undermines the rule of law which has the status of a constitutional principle the said grounds are also available and not true in other way.”⁶

To achieve social justice rule of law is not an absolute means. It depends upon on the type of infringement. Rule of law can be upheld in any case where basic structure of constitution gets infringed.

2.2 Judicial Pronouncements

"A judge should value independence above gold, not for his or her own benefit, but because it is of the essence of the rule of law."

- Lord Chief Justice Phillips

Courts are constituted so that basic rights of the people can be saved and they can live an dignified life. The courts only have limited view in the beginning. Administrators requires

¹Indira Gandhi v Raj Narain, AIR 1975 SC 2299

²Nakara v Union of India, (1983) UJSC 217

³Maneka Gandhi v Union of India, AIR 1978 SC 597

⁴Kasturi v State of Jammu & Kashmir, AIR 1980 SC 1992 (2000)

⁵(1976) 2 SCC 521, AIR 1976 SC 1207

⁶(2011) 9 SCC 1

discretionary powers to bring socioeconomic changes in the society. The abuse of the power is one of the major fear in the minds of people since there is a saying that too much power with too little responsibility. To remove this difficulty our constitution makers has introduced an independent body which will limits the powers the government when it overlaps the rights of the citizens.

The authority is required the power should be exercised for the required purpose only and no abuse of power should be done. Such authority is exercised by the courts only. The courts have to ensure that it acts as the arbitrator between the citizens and the state and provide justice to all. An authority was put over on the judiciary to lessen the responsibility of the legislature and executive.

No political or economic ideology should be propagated by the judges while making the judgement. They have the duty to held the laws unconstitutional which are against the constitution. In *Smt. Ujjam Bai v. State of Uttar Pradesh*⁷, it was explained that the necessary rights for the petitioner should be taken on concern while declaring any law unconstitutional.

Political desire has nowadays becomes a rigid thing. They are making laws which has high chances to held unconstitutional for their desire of power.

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1. Development of Socio-economic justice in India

The development is done in our country in mainly two ways. One is from constitutional perspective and other is from judicial perspective.

3.1 Constitutional emphasis

The aim of the constitution is to provide justice to all its people by removing the hurdles from their paths which are in the form of inequality, inadequacy of resources, discrimination and many others⁸.

One of the requirement for the formation of welfare state is to provide social justice to all. These principles are greatly reflected in Part III and Part IV of our constitution. It is clear from the

⁷AIR1962SC1621

⁸Consumer Education & Research Centre vs. Union of India, AIR 1995 SC 922

judgements of the courts that the validity of any law can be checked. These provisions are made to promote welfare in the society and to provide justice to all its people.

In *S.R. Bommai v Union of India*⁹, the two foremost components of our constitution are social justice and judicial review are explained. The term has always been a part of preamble itself and has been enriched in the other parts as well.

In *Meenakshi Mills Ltd. v Meenakshi Mills Ltd.*¹⁰, it is observed as constitution itself talks about protection of three types of justices of the people and thus it is should be protected for mostly.

Law is made for maintaining social order of society. It is used as tool so eliminate hardships of people who are deprived of their rights and to provide them with same rights as that of other people so that they can live a dignified life. Therefore, rights given to the people are not only individual. They have large responsibilities since the objectives of the constitution cannot be realized otherwise. Fundamental rights therefore represents the rights of the individual. The justice can be ensured through three parts, one is

A. Fundamental Rights

The apex court in *Sadhuram vs Pullin Behari* held that in order to secure justice to all the people our constitution provides some specific provisions.

They are as follows-

Right to education, live a dignified life, protection for conviction, provisions for arrest and detention, provisions for labourers, provisions for employment regarding children's, right to pursue their religion, some special provisions for minorities for their protection and remedies for citizens.

B. Directive Principles of State Policy

Our Constitution provides some provisions for securing justice to all its people's and thus part IV is introduced. It provides some objectives which has to be achieved by the state in future and laws has to made in consistent with these principles. Some of these provisions are as follows –

⁹AIR 1994 SC 1918

¹⁰[1992] 3 SCR 33

To do welfare of all its people; to provide justice to everyone, right to work, to provide education to all, proper wages for labourers, Uniform civil code, free primary education for children's.

In *State of Bihar vs. Kameshwar Singh*¹¹, it was explained that the state must promote welfare for the people by promoting the social order in the society. Social justice is important for the development of the individuals as well as society¹².

In *Air India Statutory Corp. vs United Labour Union*¹³ it is used to be as the tool to provide dignified life to the individuals. The constitution treats justice, liberty and equality as foundations for a welfare state. They are the backbone of an economy. Social justice consists of various principles which are required for the welfare of an individual as well as of a state. Article 46 has been made for the same purpose¹⁴.

3.2 Judicial Pronouncements

After the independence of our country, an important change has occurred in the role of the judicial process in our society. Judicial activism figures importantly in contemporary India with active cooperation of social activists and public interest litigators for the exonerated of the governmental promise to social justice and welfare.

In *Maneka Gandhi vs Union of India*¹⁵, it is observed that personal liberty is also a part of human rights. Thereafter, the court tried to explore social justice in our constitution.

The concept of social justice has been explained in the following cases:

- *Sunil Batra vs Delhi Administration*¹⁶;
- *Bandhua Mukti Morcha vs Union of India*¹⁷ (right against bondage);
- *People's Union for Democratic Rights vs Union of India*¹⁸ (right against bondage);
- *Olga Tellis vs Bombay Municipal Corporation*¹⁹ (right for livelihood);

¹¹ AIR 1952 SC 252

¹² Consumer Education & Research Centre vs. Union of India AIR 1995 SC 922

¹³ AIR 1997 SC 654

¹⁴ Sadharam Bansal vs. Pulin Bihari Sarkar, AIR 1984 SC 1471

¹⁵ AIR 1978 SC 597

¹⁶ AIR 1978 SC 597

¹⁷ 1984 3 SCC 161

¹⁸ AIR 1982 SC 1473

¹⁹ AIR 1986 SC 180

- *M.C. Mehta vs Union of India*²⁰(right against environmental pollution),
- *Upendra Baxi vs State of Uttar Pradesh*²¹(right to human dignity),
- *Sheela Barse vs Union of India*²²(right to legal aid);
- *M.K. Sharma vs Bharat Electronics Ltd.*²³(right to have safety and protection to the workers);
- *Sankar vs Durgapur Projects Limited*²⁴;
- *Krishen Pattanyak vs State of Orissa*²⁵(victims of starvation deaths in the district of Kalahandi, Orissa);
- *Vishal Jeet vs Union of India*²⁶(child abuse);
- *M.C. Mehta vs. State of Tamil Nadu*²⁷(right for children against exploitative employment in hazardous industries);
- *Banwasi Sewa Ashram vs State of U.P.*²⁸

From these cases it can be concluded that judiciary provides justice to all its people. In Kerala Education Bill 1957²⁹, judiciary supported a harmonious construction of relations between the part 3rd and part 4th of the constitution. *People's Union for Democratic Rights vs. Union of India*³⁰ is an important case in that area.

In *Ashok Kumar Gupta v State of U.P.*³¹, term social justice is explained through another perspective. In *Municipal Corporation of Delhi v Female Workers* held that provision relating to maternity relief should be given to all the women and not to only those who are working in regular jobs.

2. Political Justice under constitution of India

²⁰1985 SC 652

²¹(1983) 2 SCC 308

²²(1986) 3 SCC 596

²³AIR 1987 SC 1792

²⁴AIR 1988 Cal 136

²⁵(1989) AIR 677

²⁶31 AIR 1990, SCR (2) 861

²⁷(1996) 6 S.C.C. 756

²⁸1992 SCC (2) 202

²⁹AIR 1958 SC 956

³⁰AIR 1982 SC 1473

³¹(1997)5 SCC 201

Meaning regarding political justice can be taken from its term only. It can be mean as the all citizens equally share the political power in the state so that they become able to take part in administration and thus enjoys all types of political freedoms. According to article 326 of the Indian constitution, every citizen has right to exercise his right to vote and to elect his representatives without any kind of limitations after a certain age. Further more some other provisions have also been made for the enjoyment of political justice through the Part 3rd and part 4th of our constitution.

They are:

(a) Right to Hold Public Office:

Political justice can be made if all the people are given equal rights to occupy public offices.

(b) Right to Criticise the government:

Our constitution makers enriches the constitution with the freedom to have a right to express their views. Through this way every Indian citizen achieves the right to criticise the government and thus plays a role in making a responsible government. This right is necessary since criticism is treated as the backbone of democracy.

(c) Right to form Political Organisations:

Constitution of India provides the persons a right to form political organization's for the protection of their interests.

(d) Right to Protest:

Our constitution also provides the citizens with the right to protest. They can exhibit their protest against the government by means of processions, strikes, rallies and public meetings etc.

(e) Protection of Rights:

In order to achieve political justice it is essential that the rights of all citizens should be protected equally. Article 32 of the Indian constitution provides protection for rights of citizens.

3. CONCLUSION

Concept of justice for all is the main objective of all the laws. Problems of vulnerable groups has to be removed by the government. State must take necessary steps to uplift the living standard of peoples. It is responsibility of government to minimise social and economic discrimination from the country. The state shall secure a dignified life for all its citizens. Rule of Law is the best tool to eliminate the social and economic discrimination from the country. Efforts are also taken by the courts by linking the rule of law with human rights. Strategy has been developed from time to time by the court to not only force the government to work as per law but also to create conditions where capacities can be developed fully by the people so that they can enjoy their rights in proper and dignified manner.



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