



A study of Right to Equality and its needs

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ORIGINAL ARTICLE



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Right to Equality and its Importance: A Descriptive Study Abstract: "Right to equality" is the fundamental right under the Indian constitution. The purpose of the research paper is to explain and ORIGINAL ARTICLE highlight those points which are admissible by our Indian constitution. "Right to equality" also helps to know why discrimination is not accepted under constitution law of India.

Abstract :-

"Right to equality" is the fundamental right under the Indian constitution. The purpose of the research paper is to explain and highlight those points which are admissible by our Indian constitution. "Right to equality" also helps to know why discrimination is not accepted under constitution law of India.

Article 14 of Indian law given under Right to equality is one of the Indian citizen's fundamental rights. It is not only right of Indian citizens but also right of non-citizens. Article 14 ensures and guarantees to every person the right to equality before law & equal protection of the law. Article 14 states that no one is above the law. All are equal in the eyes of law.

Key words :-

Equality, Article, Constitution, Law.

Introduction :-

Every citizen of India is guaranteed the right to equality by Articles 14 to 18 of the Constitution. The idea of equality doesn't mean equality among individuals which is practically unrealistic to accomplish. It is an idea implying the absence of any extraordinary benefit by reason of birth or the like for any individual, and furthermore the equal subject of all individuals and classes to the ordinary law of the land. Under the regulation of equality, every Indian citizen, irrespective of religion, caste, class or economic status, has equal statutory rights. Freedom related to social justice, income taxation and expression has been provided equally to every Indian citizen. From the statutory point of view, no individual who is an Indian citizen is given exclusive rights by the Constitution. Special

statutory rights have been made available to Indian citizens appointed in specific statutory posts, but their limits are also determined.

As per **Dr. Jennings** puts it : “Equality before the law implies that among equivalents the law ought to be equivalent and ought to be similarly applied, that ought to be dealt with in a like manner. The privilege to sue and be sued, to prosecute and be prosecuted for a similar sort of activity ought to be the same for all residents of full age and comprehension without refinements of race, religion, wealth, societal position or political impact.”

The law of equality provided common rights to all the citizens of the country which is not effected by their religion, cast, status or any other quality which he get from the nature as gift. The basic objective of this study is to know how this act is beneficial for the Indian society and how it is affected for the civilization of India.

According to Article 14, it is an obligation to the State to not deny any person equality before the law and equal protection of laws within the territory of India. The concept of ‘equality before law’ is taken from the English and the concept of ‘equal protection of laws’ is borrowed from the American Constitution. Both these articulations aim at setting up what is designated “*equality of status*” in the front of the Constitution. While both the articulations may appear to be indistinguishable, they don’t generally pass on a similar importance. While ‘equality before law’ is, to some degree a negative idea suggesting the absence of any special benefit for people and the equal subject of all classes to the conventional law. “*Equal protection of law*” is an increasingly positive idea inferring equality of treatment in equal conditions. Notwithstanding the aforementioned things, one overwhelming thought regular to both the articulations is that of providing justice.

The rule of equality given in the Constitution of India is not a static rule without any exceptions. There are a number of exceptions to it: Firstly, ‘equality before the law’ does not imply that the powers that are given to the public authorities will be the same as the powers given to the private citizens of the nation. For example this better, we know that, a cop has the ability to arrest while, generally, no private individual possesses this power. This isn’t the infringement of the rule of law. In any case, the rule of law requires that these forces ought to be unmistakably significance by the law and the maltreatment of power by public officials must be punished by common courts. The rule of law does not stop certain classes of people being liable to extraordinary rules. Along these lines, individuals from the military are constrained by military laws. As medical professionals are exposed to the guidelines confined by the Medical Council of India and the jurisdiction of ordinary courts does not apply to them. The President of India and the State Governors are afforded immunity under Article 361 of the Indian Constitution. Article 361 gives that the President or the Governors of the State will not be liable to any Court for the activity and execution of the powers. No criminal proceeding will be proceeded against the President or the Governor of a State in any Court during his term of Tenure. No procedure for the capture or detainment of the President or the Governor of State will be issued from any Court during his term of officiating period. Statutory Bodies in India confer really wide discretionary powers in the name of the ministers and other executive bodies. A minister is giving full autonomy to act like he wants to but with this autonomy; such power conferred is grossly misused. Countless enactments are passed as delegated legislations authority, statutory instruments made by ministers and different bodies are not straight forwardly by the Parliament. Conduct of certain individuals of the society is administered by unique guidelines which are laid out by their professions, legal advisor, specialists, medical attendants, individuals from military and police. Such classes of individuals are dealt with uniquely in contrast to common residents.

Equality before the law and equal protection of the laws does not mean a similar treatment to everybody. As any individual is equal in all regard, a similar treatment to them in each case would bring about unequal treatment. For example, a similar treatment in all regards to a youngster, or to a physically impaired individual as to a person free of any health problems, or to a poor individual, will bring about unequal treatment or treatment which no one will endorse. Consequently, the basic standard of equality isn't consistent of all treatment to things considered equal, but instead to give them similar treatment in those regards where they are comparable and diverse treatment in those condition in which they are not alike. Basically, it is expressed; Equals are deal with a similar manner while unequal were deal with in different way. For real-life application of the principle of equality, all things considered, we should, consequently, discriminate between the individuals who are equivalent and the individuals who are not similar. The mark demarcation is known as perfect classification and will be discussed throughout the article. Its explain that despite the fact that two individuals are comparable in all regards, they are for the most part comparative in one regard, that they are being human. In this manner as people they require similar treatment; they should all be treated as people. In the Ancient Indian setting, as much as in all religion, regardless of whether we are created from various pieces of the body of that first individual or God, we are for the most part God's children. It is in this aspect that we are all known as equals. In this way, as noted all-around and a more comprehensive manner, particularly under Articles 15 and 16 of the Constitution of India, the meaning of equality is not just restricted to prohibiting unequal treatment but manage equal treatment. A prerequisite obligation for the state is to treat people unequally but in addition to that the state must also come up with steps to eradicate the existing inequalities the inequalities which recognized human beings within a superset of human beings. This article ensures equal protection of laws but that does not imply that all laws must be general in nature. It doesn't imply that similar laws ought to apply to all people and it doesn't imply that each law must have all-inclusive application for, all people are not, ordinarily, similarly situated. The variable needs of deferent classes of people regularly require separate treatment. There ought to be various laws in various places and the Legislature controls the strategy and orders laws to the advantage of the healthy Governance and security of the State. Indistinguishable treatment in inconsistent conditions would add up to be called inequality. Article 14 precludes is class-legislation however it not prohibit reasonable classification. The classification, under all circumstances, must not be "*discretionary/fake or shifty*" however should be founded on some genuine and significant qualification bearing a fair and reasonable connection to the objective looked to be accomplished by the legislation. Article 14 applies where people who are equal and deal with contrastingly on no reasonable grounds. In a situation where equals and unequal are classified separately, Article 14 does not come to apply. Class legislation is what makes an in appropriate segregation by giving specific benefits upon a class of people discretionarily chosen from countless people, each one of whom remains in a similar connection to the benefit conceded.

Article 14 of the Constitution of India which explains about the Right to Equality which has been discussed about requires laws to be made in order to become operative and effective to achieve the goal which is treat equals equally and unequal unequally. The rule of equality, it is explain that it does not explain that each law must have all- inclusive application to all people who not essentially; accomplishment wise or conditions wise are similarly situated. The variable needs of various classes of citizens require diverse treatment. The welfare of the public necessitates that people, property and occupations be characterized and be exposed to various certinately and fitting legislation. Governance is a basic exercise. It experiences and manages the issues which originate from people in a limitless assortment of relations. Nature

and classification is the acknowledgement of these relations and in making it, the council must have a wide scope of prudence and judgment. Our statutory law is brimming with cases of unique legislation applying just to a specific class. Legal counselors, automobile drivers, insurance agencies, minors medical specialists, money-lenders, landowners, and, without a doubt, most different classes are liable to extraordinary legislation. Such order without a doubt separates between people having a place with one class and the others, however that itself does not make the legislation offensive to Article 14.

A legislative classification is important to define basic objective of article. It should consistently based on some genuine and significant reason bearing a sensible connection to the requirements in regard the classification is made. While Article 14 indicates class legislation, it doesn't proper sensible classification of people. So, the classification must not be "*counterfeit, sly or discretionary*". It should consistently base upon some genuine and perfect refinement bearing a fair and sensible connection to the article looked to be established by the lawmaking authority.

This classification satisfies the following conditions :

1. The classification must be made on clear different logics which recognizes people or things that are create from others which are not part of the group.
2. The difference must have balanced the connection to the article looked to be accomplished by the Act.

The differentia which is the base of the classification and the object of the Act are two particular things. Which is important that there must be a nexus between the base of classification and the object of the Act which makes the differentia? If when there is no sensible reason for a classification that legislation making such classification might be proclaimed oppressive. The Legislature may determine the age at which people will be considered skillful to contract between themselves however anybody will guarantee that competency. Any agreement cannot be made to rely on the stature or shade of the hair. Such a classification will be subjective.

The substantial classification is not requiring numerical calculation and impeccable equity. It is require the identification of treatment. In the event that there is consistency within a group, the law won't be denounced as biased, because the some serendipitous conditions emerging out of a specific condition, some people are to gather into a class get a bit of leeway over others, and they are not singled out for unique treatment. In this manner, the law does not allow to any person for appeal that has not deposit the tax which was due on him. Any person who is not clears the dues by the causes of financial problem he is also not able to convey to the judge. This does not result in the creation of two distinct classes whose main object is to treat them differently.

In the case of the primary purpose of demarcation of the individuals into different groups, the purpose cannot be random or arbitrary.

Special provision for women and Children and SC, ST & backward classes :

Under the Indian constitution of law Article 14 says that all are equal in the eye of law. No one can prevent the state from making any special provisions for women and children. For a examples, special seating arrangement for women in buses, trains, metros trains is not unconstitutional. It was held by court that "reservation of some seats for women in college."

Article 15 secures the citizen from every sort of discrimination by the State, on the grounds of religion, race, caste, sex or place of birth or any of them. This Article does not

prevent the State from making any special provisions for women or children. It also allows the State to extend special provisions for socially and economically backward classes for their advancement. It applies to the Scheduled Castes (SC) and Scheduled Tribes (ST) as well.

Article 16 assures equality of opportunity in matters of public employment and prevents the State from any sort of discrimination on the grounds of religion, race, caste, sex, descent, place of Birth, residence or any of them. This Article also provides the autonomy to the State to grant special provisions for the backward classes, under- represented States, SC & ST for posts under the State. Local candidates may also be given preference in certain posts. Reservation of posts for people of a certain religion or denomination in a religious or denominational institution will not be deemed illegal.

The Supreme Court in various cases has built up certain significant standards which further explain the extent of permissible segregation. These might be expressed as underneath :

1. It must be seen that the right to equality does not extend to illegal acts.
2. The right to equality is available in the imposition of burdens as well as grant of favors.
3. It does not need to be perfect from a scientific angle or be logically sound, for a classification to be considered appropriate.
4. The legitimacy of a standard must be made a decision by surveying its general impact and not by grabbing cases which are exceptional in nature. What the court needs to see : Whether in the wake of thinking about all perspectives, the order is viable or not.
5. The court must look past the apparent characterization and to the motivation behind the law, and apply the test of “*unmistakable randomness*” with regards to the felt needs of the occasions and societal exigencies.
6. A law might be sacred despite the fact that it identifies with a solitary individual if, because of some uncommon conditions, or reasons pertinent to him and not appropriate to other people, that solitary individual might be treated as a class without anyone else. In any case, such laws are seen with doubt, particularly when they influence private privileges of a person.
7. There is consistently an assumption for the legality of sanctioning, and the weight has arrived on the shoulders of who assaults it to demonstrate that there has been an unmistakable transgression of the established standards. The individual, in this manner, who argues that Article 14 has been abused, must make out that not just he has been dealt with uniquely in contrast to other people, yet he has additionally been dealt with uniquely in contrast to people likewise circumstanced with no sensible premise, and such differential treatment has been outlandishly made.
8. It must be assumed that the law-making body comprehends and effectively acknowledges the need of its subjects, that its laws are coordinated to issues made manifest by experience, and that its differential treatment depends on sufficient grounds.
9. The lawmaking body is allowed to perceive the degrees of mischief and may restrict its restriction to those situations where the need is considered to be the clearest.
10. So, as to support the assumption of the constitutionality of the nation, the court may mull over issues of basic information, matters of basic report, the historical backdrop

of the occasions and may expect each set of facts which can be imagined existing at the time of lawmaking.

11. While good faith and knowledge of the existing conditions on the part of the legislature are to be presumed, the presumption of constitutionality cannot be carried to the extent of always holding that there must be some undisclosed and unknown reasons for subjecting certain individuals or corporations to hostile or discriminatory legislation.

Every one of these arrangements, although valid, should be read in conjunction with the new advancements under Article 14.

Conclusion :-

Under the law of equality every citizen of India either an individual or of group treated as equal they are not classified in any other groups or cast or financial discrimination etc. The article 14, 15, 16, 17 and 18 explains the application of law properly on the citizen of India. Nobody can discriminate any person for the judgment to get undue advantage on behalf of law. For the preparation of law it might be determine that every law of the constitution implements among the people similarly. The constitutional law which represent the various sectors or society or similarly implemented upon the whole citizen of the country they are not discriminated on any basis imposed by any part of the society.

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