The Supremacy of the Constitution

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ABSTRACT: ***The Constitution constitutes the basic law of a Member State regulating the structure and operation of, and the means of ensuring, interactions between public bodies and citizens' rights and fundamental freedoms. The Constitution is the state's overarching statute, at the top of the pyramid, and it is the basis of all legal texts and legislation. The supremacy of the Constitution is assured by an appropriate process that has culminated in a legal institution called the constitutionality of regulation of legislation, and all mechanisms by which low conformity with constitutional provisions can be confirmed. The Supremacy of the Constitution is a concept in which the Constitution is the sole rule of the nation and all state branches are bound by it, including Parliament and State Legislatures. Under the limitations set down by the Constitution, they must act. They owe their lives and powers to the Constitution and, thus, the Constitution must approve their every action.***

KEYWORDS: Constitution; Law; Supremacy.

INTRODUCTION

Our form of government is based on a liberal democratic faith that is "that government of the people, by the people, and for the people shall not perish from this earth." in the words of Abraham Lincoln. The basic values of that faith are expressed in a Constitution of which all state dignitaries, ministers, judges, representatives, and others belong to the nyaya panchayats in the village. Thus, we have enthroned a number of ideals found in the Constitution in place of a living monarch. In such a structure, fidelity to ideals that are 'legally sovereign or supreme, seen as a whole, must rise above all other relations, such as those of kinship, class, creed, or culture[1].

In a legal framework, the principle of the superiority of the constitution confers the highest power over the constitution. Stating this idea does not only mean assigning legal principles a rank order. The argument is not only a disagreement between values of varying dignity. The theory of legislative superiority also affects the administrative framework of state organs. If we reformulate it, the scope of the concept becomes clear: the superiority of the law means the lower level of the statute; and that, at the same time, implies the lower rank of the legislator[1].

For the mindful British peruser, the prompt affiliation will be the opposite standard of parliamentary matchless quality or sway, which is a striking element of English established law. This standard of parliamentary power implies – as per Dicey's definition – that Parliament 'has, under the English constitution, the option to make or undo any law whatever; and further, that no individual or body is perceived by the law of England as reserving a privilege to abrogate or put aside the enactment of Parliament'. Unpredictable summarized this principle in a 'bizarre articulation which has gotten practically certifiable': 'It is a key standard of English attorneys, that Parliament can do everything except for make a lady a man, and a man a lady'[2].

Montesquieu in his work on the Spirit of the Laws composed quite a while in the past that a sound majority rules system depends for its food upon the commonness of a soul of "excellence" among the individuals by which be implied nationalism and love of fairness. It suggests a solid connection to rudimentary standards of reasonableness and equity, a nonattendance of a craving to abuse others, and a careful exertion to give everybody his due. Propensities for thought, feeling what's more, activity which can make unscrupulous or vile activity by either the individuals or their chiefs unimaginable should depend, eventually, on a sound arrangement of schooling and incredible, rousing and fair initiative. It is the immovability with which such a framework, pictured by our Constitution, is planted in the lives, considerations, emotions and organizations of the individuals that will decide if popular government will endure or die among them. A far reaching information and comprehension of our Constitution and its which means should fundamentally play a crucial job in supporting it[2].

Despite the fact that the law assumes that each resident knows the law, and, hence, the Constitution of the Republic, which shapes the lives and fates of us all, yet, this assumption is, we find, now and then inconsiderately shaken by the discourse or activity of the individuals who are endowed with wide legislative forces and who should realize how to utilize them shrewdly, appropriately, legitimately, furthermore, truly, and, here and there additionally of the individuals who, however proficient legal advisors, show net need of one or the other comprehension of it or regard for it[3].

Subsequently, the need and capacity of the courts to clarify and explain the which means of the Constitution in all instances of question and trouble on the subject, and of implementing it when abused. The Supreme Court and the High Courts are the particularly established organs of the Republic for clarifying the importance of the Constitution and for upholding it for the Country against its violators whoever they might be[4].

DISCUSSION

The origin of the Constitution took a very long time. In Roman law, the term "Constitutio" designates laws originating from the emperor. As Gaius said, the Imperial constitution is what the king decrees, orders, or sets by letter. With the introduction of the Magna Charta Libertatum, the first constitution appeared in England in 1215, but the training period began until the genesis of the printed constitution[5].

In the feudal era, those laws on the structure and operation of the state were designated by the term constitution, which guaranteed those privileges and freedoms, leading to the reduction of the monarch's powers. "Enlightenment" launches a modern ideology that is a movement towards constitutionalism aimed at replacing customs with a written constitution. Historically speaking, Constitutionalism is an attack aimed at establishing the division of powers - the essential duties of the state. The constitution had to be a formal text according to the precepts of constitutionalism[5].

None of the three independent legislative institutions of the State [i.e. According to the basic scheme of our Constitution today, the President, the Legislature, and the Judiciary] will jump beyond the limits of their own legally allocated realm or orbit of power into that of the other. This is the logical and natural sense of the Constitution's Dominance principle[6].

This ensures that the legitimacy of each organ or authority's operation in the State must be in a position to be examined by the Court with regard to the Constitution. However, the presumption of supremacy of the Constitution may not be adequate to preserve citizens' fundamental rights, since, in the sense of that Constitution, emergency clauses may suspend the authority of superior courts to enforce citizens' fundamental rights[7].

In the case of an emergency against the State or its officials or employees, where, in order to protect the welfare of the Country or to prevent the possibility of any immediate danger of national disintegration, steps will have to be taken on bare presumption and may not be able to survive judicial scrutiny[7].

If the powers of the courts are revoked, they can only advise about the possibility of Corruption and accumulation of powers by undue executive authority. Here, here, the author related to his sometimes mistaken decision in the Habeas Corpus easel where, though finding that while their powers were suspended, the High Courts were powerless to intervene, he had cautioned administrative officials against abuse of executive powers. He had pointed out the pathetic state of suffering subjects because, thanks to the very unfounded concerns evoked by the French Revolution, the powers of the judiciary were suspended in England to issue Habeas Corpus litigation[8].

A thousand years of British Britain, according to a learned English scholar, History indicates that "no liberty is safe without a Court to protect it." Let us assume that, in a shorter span of time, we in this country have learned this lesson so that disproportionate and unquestionable rights are not readily bestowed on executive officers or officials in a manner that enables their lawless harassment of people[8].

It is true that the rule of law contemplated by Dicey was an attempt to formulate those British Constitution rules that, in Dicey's, while they would not curb Parliament's constitutional powers (which he explained in

England under the principle of 'parliamentary sovereignty'), they did not necessarily love the rulings of the common law courts, and the British Parliament does not dream of repealing them[9].

According to the opinion of the majority, which he shared in those cases, the Constitution of India is not just a comfortable wrap or a coat or sign. A body of universal natural or common law rights that the courts could uphold even though their legislative powers were revoked. It represents the written material into which all the basic rights of people and judicial authorities under natural or common law have been inserted in order to leave nothing above or separate from it in the eye of the law that the courts could impose as a constitutional right[9].

He relied on the views expressed by Chief Justice Subba Rao on behalf of himself and four other Supreme Court judges in the famous Golak Nath case for this conclusion, inter alia, when he held that the fundamental rights of our Constitution are "the modern name for what are traditionally known as natural rights"[10]

He also quoted the opinion of Benjamin Cardozo, a prominent American judge, who said that progressive law theory weaves natural law into positive law and tries to explore the perfect side of positive law itself instead of seeking to find "natural law" beyond positive law. This can be achieved by knowing and holding powers true to their functions, the principle or the purposes behind our Constitutional provisions[10].

CONCLUSION & IMPLICATION

Incomparability of the Constitution is its quality, which situated it on top of all state organizations, making it a lawful and political reality, not simply legitimate. It is a complex idea containing components that guarantee an incomparable situation in the whole state framework. Matchless quality of the Constitution is having a chronicled character.

Consistence with the Constitution, its incomparability and the laws are obligatory, rules esteem as standards are revered in the Constitution. To guarantee the matchless quality of the Constitution was made legality control, control in our nation inside the selective ward of the Constitutional Court of Romania. This is the main lawful assurance of matchless quality of the Constitution.

To accomplish this, control body liable for this impact should be free and unprejudiced, without permitting the obstruction of legislative issues in it's in any case would abuse the established request of the state. As appeared in the writing, "free translation of established arrangements mean infringement of the basic law and popularity based standards explicit to the humanized world".

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