

# EQUAL JUSTICE UNDER CONSTITUTION OF INDIA

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## ABSTRACT

In the beginning of law, man had no more ambitious conception than a peaceable ordering of society at any cost. But the Geeks soon got a better conception of an Orderly and peaceful maintenance of the social status quo-a form which expresses its nature, a perfect form of the social status quo-a form which expresses its nature, a perfect form of the social organization of a given civilization that which the legal order is to further and maintain. Civilization has the foremost thirst for justice. Justice is as free as air or water. It has relation with every sphere of human activity. Thus judge and jurist obtain a guide, which has served them well ever since. They are to measure all situations by an idealized form of the social order of the time and place and so to shape the law as to make it maintain and further this ideal of the social status quo. We shall meet this idea in various forms throughout the subsequent history of philosophy of law.

**KEYWORDS:** Equal Justice, Indian Constitution, Lok Adalat.

## INTRODUCTION

The goal of justice is generally the same as human development and the relevant institutions are usually taken to include education, health care, social security, labour rights as well as broader system of public services, progressive taxation and regulation of markets, to ensure fair distribution of wealth, equality of opportunity, and no gross inequality of outcome. All have an urge for justice and a mission for community interest, but divergence in thinking to guide oneself. In a society of progressive people, the term justice bears numerous brands, patents and labels, viz, Legal, Social, Distributive, Human, People's so on. And each one of them is held to be independent as well in contradiction with the other. Ancient Hindu society was based on equality of all beings.

## MEANING OF EQUAL JUSTICE

The general principle of Equal Justice is nowhere defined in the Indian Constitution. It can be understood by Constitutional Provision to understand meaning. To understand this two different approaches to equality through which the constitutional guarantees can be understood: a formal approach to equality, and a substantive approach to equality.<sup>1</sup> While the formal approach to equality has been dominant within Indian Constitutional law, fragments of the substantive approach have from time to time been identifiable. Indian Constitutional law has been overwhelmingly informed by a formal approach to equality. Article 14 guarantees equality before the law and equal

<sup>1</sup> Constituting Equality: Gender and Comparative Constitutional Law (Cambridge University Press 2011)56-60

protection under the law. Article 14 basically states that “The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India”.

The Supreme Court of India has held that the equality guarantees do not require that the law treat all individuals the same, but rather that any classifications made between individuals be reasonable. According to the Supreme Court, the classification must meet two conditions in order to be found reasonable:

(i)...the classification must be founded on an intelligible differentiation which distinguishes person or things that are grouped together from others left out of the groups (ii) that differentia must have a rational relation to the object sought to be achieved by the statute in question.<sup>2</sup>

The Indian Constitution guarantees Equal justice to all, All Indian citizens are guaranteed equal right to life and personal liberty. In general sense, everybody here is capable of understanding Article 14 of the Indian Constitution i.e. “Right to Equality”.

Article 14 permits classification but prohibits class legislation. Class legislation is that which makes an improper discrimination by conferring particular privileges upon a class of person arbitrarily selected from a large number of persons. Article 14 does not forbid reasonable classification of persons, Objects, transactions by the legislature for the purpose of achieving specific ends but the classification should be reasonable.

#### **ARTICLE 21: Protection of life and personal liberty.**

“No person shall be deprived of his life or personal liberty except according to procedure established by law”.

Article 21 is one of those articles which, though not textually amended, has been totally transformed by virtue of important judicial pronouncements. It may be mentioned that the important components of Article 21 are the following:

- (1) Person;
- (2) Deprivation of life;
- (3) Deprivation of personal liberty;
- (4) Procedure established by law.

Of these components, the second and the fourth are increasingly receiving expanded interpretation. Relevant to the fourth component is the decision in *Maneka Gandhi vs. Union of India*<sup>3</sup>, the Apex Court opened up a new dimension and laid down that the procedure cannot be arbitrary, unfair or unreasonable one. Article 21 imposed a restriction upon the state where it prescribed a procedure for depriving a person of his life or personal liberty. Justice Bhagwati used three terms ‘just, fair and reasonable’ while giving his judgment so that there is no scope of injustice. In *A.K.*

<sup>2</sup> Budhan Choudhary v. State of Bihar AIR 1955 SC 191.

<sup>3</sup> AIR 1978 S.C 597

Gopalan vs. State of Madras<sup>4</sup>- Post Gopalan case the scenario in respect of scope of Article 21 has been expanded or modified gradually through different decisions of the Apex Court and it was held that interference with the freedom of a person at home or restriction imposed on a person while in jail would require authority of law.

It is not enough that there is, in force, a law, which is formally, enacted by a competent Legislature and which authorizes the deprivation of life or liberty.

## RIGHT TO FREE LEGAL AID

Article 21 of the Constitution also makes the right to free legal aid. On the other hand right to protection of life and personal liberty also contains right to free legal aid. So the State is to make provision for free legal aid under Part IV of the Constitution. The Supreme Court held that “Legal aid may be treated as a part of the right created under Article 21”<sup>5</sup>.

### Article 39A

“The state shall secure that the operation of the legal system promotes justice, on a basis of equal opportunity, and shall in particular, provide free legal aid, by suitable legislation or schemes or in any other way, to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities”.

Along with Article 21 this article has taken care to promote justice on equal basis and for that equal justice has to be rendered to all. On the other side equal justice means to promote justice on the basis of equal opportunity offered and to have access to justice by the citizens of India. Article 39A promotes justice on the basis of equal opportunities imposing an imperative duty upon the state to provide free legal aid to the poor. “It has been held to be a mandate not only from Article 39A but also from Article 14 and<sup>6</sup> 21” to uphold the principles of “Equality before the law or the equal protection of the laws. “The legal aid constitutes a part of the right to personal liberty guaranteed under Article 21 and is enforceable by the court”<sup>7</sup>.

Free Legal aid (Article 39A of the Constitution) is providing assistance to the people who are unable to afford legal representation and access to the court system. It guarantees to provide equal access to the justice system to persons who are not in financial sound condition, by providing legal and professional assistance free of cost or at lower fees. In the words of Justice P.N. Bhagwati, “Legal Aid means providing an arrangement in the society so that the mission of administration of justice becomes easily accessible and is not out of reach of those who have to resort to it for enforcement... the poor and illiterate should be able to approach the courts, and their ignorance and poverty should not be an impediment in the way of their obtaining justice from the courts. Legal aid should be available to the poor and illiterate, who don't have access to courts. One need not be a litigant to seek aid by means of legal aid.”

<sup>4</sup> AIR 1950 S.C. 27

<sup>5</sup> Kishore Vs. State of Himachal Pradesh (1991) 1 SCC 286.

<sup>6</sup> Sheela Barse Vs. State of Maharashtra MR 1983 SC 378.

<sup>7</sup> Sugreev Vs. Sushila Bai AIR 2003 Raj. 149.

Persons eligible for getting free legal aid in Statute :

- i) Women and children;
- ii) Members of SC/ST
- iii) Industrial workmen
- iv) Victims of a mass disaster, violence, flood, drought, earthquake, industrial disaster.
- v) Disabled persons.
- vi) Persons in custody
- vii) Victims of Human trafficking and beggar.

## MEANING OF LOK ADALAT

Freely translated Lok Adalat means a people's Court. Lok Adalat or Lok Nyalay means a place of justice for a common man. Lok Adalat voluntarily efforts for resolving dispute through conciliation and persuasion. Lok Adalats are held with the spirit of give and take. The concept of Lok Adalats stands as a unique contribution of the Indian legal system to world legal jurisprudence. The introduction of Lok Adalats added a new chapter to the justice dispensation system of this country and succeeded in providing a supplementary forum to the victims for a satisfactory settlement of their disputes. This system is based on Gandhian principles. This is the system, which has deep roots in Indian legal history and its close allegiance to the culture and perception of justice in Indian ethos.

## OBJECT OF LOK ADALAT

The basic object of Lok Adalat is to friendly overcome difference or hostility they try to bring about a solution which is acceptable to both the parties by intervention of third party. The main characteristic of the Lok Adalat by conciliation process.

## PERMANENT LOK ADALAT

In 2002, the Parliament brought about certain amendments to the Legal Services Authorities Act, 1987 to institutionalize the Lok Adalats by making them a permanent body to settle the disputes related to public utility services. The Central or State Authorities may, by notification, establish Permanent Lok Adalats at any Permanent Lok Adalats, for determining issues in connection to Public Utility Services.

Public Services include:

- i) Transport service
- ii) Postal, telegraph or telephone services
- iii) Supply of power, light and water to public
- iv) System of public conservancy or sanitation
- v) Insurance services and such other services as notified by the Central or State Governments

## CONSTITUTION OF PERMANENT LOK ADALAT

The Permanent Lok Adalat, organized under Section 22-B of The Legal Services Authorities Act, 1987. Permanent Lok Adalats have been set up as permanent bodies with a Chairman and two members for providing compulsory pre-litigative mechanism for conciliation and settlement of cases relating to Public Utility Services like transport, postal, telegraph etc. Here, even if the parties fail to reach to a settlement, the Permanent Lok Adalat gets jurisdiction to decide the dispute, provided, the dispute does not relate to any offence. Further, the Award of the Permanent Lok Adalat is final and binding on all the parties. The jurisdiction of the Permanent Lok Adalats is upto Rs. Ten Lakhs. Here if the parties fail to reach to a settlement, the Permanent Lok Adalat has the jurisdiction to decide the case. The award of the Permanent Lok Adalat is final and binding upon the parties. The Lok Adalat may conduct the proceedings in such a manner as it considers appropriate, taking into account the circumstances of the case, wishes of the parties like requests to hear oral statements, speedy settlement of dispute etc.

## CONCLUSION

The free Legal Aid and Lok Adalats have become an integral part of the Indian legal system and have become the apertures for access to justice for the poor and downtrodden. When a poor man gets rights to access to justice, he finds himself equal justice under constitution. By virtue of Legal Aid and Lok Adalat programmes Equal Justice under Constitution has been achieved but the attitudes of the stake holders and mechanisms for implementing programmes are to take new dimensions. With finality, one can conclude that there is more than meets the eye which can be done to make Lok Adalats a better redressal system towards rising litigation.