

The Concept Equality of Justice under Indian Constitution

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ABSTRACT;

When India has declared itself a democratic state, it owes a paramount duty to provide equal justice to all. One way to achieve this objective is to provide legal services to those who on account of various reasons are not able to get justice. Keeping this in view numerous legislative measures are introduced by the Indian parliament for the upliftment of weaker sections of the society. Legal aid implies giving free legal services to the poor and needy who cannot afford the services of a lawyer for the conduct of a case or a legal proceeding in any court, tribunal or before an authority. At present, legal aid finds special place in our constitution. The concept of legal aid has its roots in this very provision of the constitution. So long as socioeconomic and other forms of inequality exists, the implementation of National Charter becomes impossible, until we evolve a process of administration of justice where economic difference is not a factor for getting justice. Our constitution guarantees Justice – social, economic and political to each citizen as enshrined in the Preamble. In fact, mere assurance of political justice is of no substance if the citizens are denied their social and economic rights. Similarly, mere social justice is meaningless in the absence of just distribution of economic resources along with equitable access to the opportunities. Justice Sabharwal former Chief Justice of India has rightly said – “Given that the justice is defined in terms of rights, access person to approach the appropriate authority and effectively claim the enforcement of rights. Thus, access to justice, in more real terms, would include the sum total of all those rights and remedies available to a person through which he can seek the enforcement of his or her rights.” The word 'Justice' is derived from a French word 'Jostise' which means uprightness, equity, vindication of right, administration of law. The concept of justice is as old as civilization and society. There can't be existence of lawful society without the presence of justice. One of the most important pillars of any nation is justice. A lawful society can't exist without the presence of justice. It is one of the most important pillars behind the growth of any nation. Also justice means, 'Justice is the correct application of a law, as opposed to arbitrariness'. By correct application of law, we mean to say "proper implementation of law". Justice can be attained in the society only by correct interpretation and implementation of Laws.

KEYWORDS: Equal Justice, Indian Constitution, Lok Adalat. philosophy of law.

INTRODUCTION;

Justice means to give each and every person what they deserve. Justice and fairness are closely associated terms which are sometimes used in place of each other. Justice means the standard of rightfulness, by standard of rightfulness one means to say that the minimum threshold should be applicable of what will amount to right or wrong. There have been historical evidences to prove that a civilized society can't exist without existence of Justice in its administration system. The civilizations which lacked the presence of justifiable system vanished with time. With the advent of time and progress in the society the need for inclusion of justice in the administrative system has increased due to which approach of those in power has become more cautious and systematic. Justice is one of the most important moral and political concepts with no agreed definition. The claim for justice gains meaning in specific circumstances and cultural contexts. Justice is an evolutionary concept. It's interesting to know the change in the meaning of word justice from ancient Greek civilization to modern society.

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. 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 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: 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.

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*, 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. Gopalan vs. State of Madras*⁴ - 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”. 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 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"

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."

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;

provision of legal aid to the poor is based on the humanitarian considerations. The main aim of this provision is to help the poverty stricken people who are socially and economically backward. It is necessary to have the peaceful transformation to avoid through revolutionary process. Political equality can only be assured if there is economic equality. The concept of free legal aid will break the shackles of ignorance and exploitation. It is an innovative which needs to be adopted and executed if we want the concept of welfare state to be a reality. 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.

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