

Right to Equality Before Law

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ABSTRACT: *The concept of equality followed in Indian Constitution is egalitarian equality and not just formal equality concept. There is a difference between formal equality and egalitarian equality. Formal equality means that law treats everyone equal and does not favour anyone either because he belongs to the advantaged section of the society or to the disadvantaged section of the society. Egalitarian equality is proportional equality. Concept of proportional equality expects the states to take affirmative action in favour of disadvantaged section of the society within the framework of liberal democracy. Proportional equality is equality in fact whereas formal equality is equality in law. The article 14 provides equality before law and equal protection of the laws to any person within the territory of India. By bare reading, the terms equality before law and equal protection of the laws may seem similar but that is not the fact. The meaning of both these terms is different.*

KEYWORDS: *Article 14, Constitution of Law, Democracy, Equality, Ethical issues, Law and Order.*

INTRODUCTION

The first expression equality before the law contained in Article 14 is taken from English common law. Equality before the law is a declaration of equality of all persons within the territory of India, implying thereby the absence of any special privilege in favour of any individual. Article 14 of the constitution is both a negative and positive right. Negative in the sense that no one can be discriminated against anybody and everyone should be treated as equals [1]. The latter is the core and essence of the right to equality and the state has the obligation to take the necessary steps so that every individual is given equal respect and concern which he is entitled to as a human being. The doctrine of equality is embodied not only in Article 14 but also in Articles 15 to 18 of Part III as well as in Articles 38, 39, 39A, 41 and 46 of Part IV. The doctrine of equality is a dynamic and evolving concept.

All that article 14 guarantees is a similarity of treatment and not identical treatment. The guarantee of equal protection of law and equality before the law does not prohibit reasonable classification. The state always has the power to have a classification on the basis of rational distinction relevant to the particular subject to be dealt with but such permissible classification must satisfy two conditions namely the classification to be founded on intelligible differentia which distinguishes persons or things that are grouped from others who are left out of the group and the differentia must have a rational relation to the object sought to be achieved by the legislation. In other words, there must be a nexus between the basis of classification and the object of legislation [2].

So long as the classification is based on rational basis and so long as all the persons falling in the same class are treated alike, there can be no question of violating the equality clause. If there is equality and uniformity within each group, the law cannot be condemned as discriminatory. Conferment of special benefits of protection or rights to a particular group of citizens for rational reasons is envisaged under Article 14 and is implicit in the concept of equality.

Equal protection means the right to equal treatment in similar circumstances, both in the privileges conferred and in the liabilities imposed [3]. Implicit in the concept of equality is the concept that persons who are in fact unequally circumstanced cannot be treated on par. Equal protection of the laws means that amongst equals the law should be equal and should be equally administered and the likes should be treated alike. Thus, what it forbids is discrimination between persons who are substantially in similar circumstances or conditions. It does not forbid different treatment for un-equals.

The amalgamation of two classes of people for reservation would be unreasonable as two different classes are treated similarly which is violation of the mandate of Article 14 of the Constitution which is to treat similar similarly and to treat different differently. It is well settled that to treat unequal as equals also violates Article 14. Equal protection requires the affirmative action by the state towards unequal by providing facilities and

opportunities. There should be no discrimination between one person and another if their position is same under the clause of equal protection of the laws [4].

Article 14 of the Indian constitution of India provides that the state shall not deny to any person Equality before the law or the equal protection of the laws in the Territory of India.

Article 14 uses two expressions "Equality before law" which implies the absence of any special privileges in favour of individuals and the subject of all classes to the ordinary law and equal protection of the law which implies "Equal Treatment in Equal Circumstances".

DISCUSSION

"Equality before law" means that among equals the law should be equal and should be equally administered, that like should be treated alike. The right to sue and be sued, to prosecute and be prosecuted for the same kind of action should be same for all the citizens of full age and understanding without distinction of race, religion, wealth, social status or political influence.

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 [5].

The state not deny to any person equality before the law or the equal protection of the laws within The territory of India. protection prohibition of discrimination on grounds of religion, race, Caste, sex, or place of birth. Prof. Dicey, explaining the concept of legal equality as it operated in England, said: "with us every official, from the prime minister down to a constable or a collector of taxes, is under the same responsibility for every act done without any legal justification as any other citizen"

The phrase "equality to the law" "find a place in all written constitutions that guarantees fundamental rights. "All citizens irrespective of birth, religion, sex, or race are equal before law; that is to say, there Shall not be any arbitrary discrimination between one citizen or class of citizens and another." "All citizens shall, as human persons he held equal before law." "All inhabitants of the republic are assured equality before the laws."

Article 14 permits classification but prohibits class legislation the equal protection of law guaranteed by article 14 does not mean that all laws must be general in character. It does not mean that the same laws should apply to all persons. It does not mean that every law must have universal application for, all persons are not, by nature, attainment or circumstances in the same position. The varying need of different classes of persons often require separate treatment. From the very nature of society there should be different places and the legislature controls the policy and enacts laws in the best interest of the safety and security of the state [6].

In fact, identical amount to unequal circumstances would amount to inequality. Thus, a reasonable classification is permitted for the develop society. article is forbids is class-legislation but it does not forbids reasonable classification. The classification, however, must not be "Arbitrary, artificial or evasive" but must be based on some real and substantial Distinction bearing a just and reasonable relation to the object sought be achieved by the legislation [7][8].

Article 14 implied where equals are treated differently without any reasonable basis. But where equals and unequal are treated differently, article 14 does not apply class legislation is that which makes an improper discrimination by conferring particular privileges upon a class of persons arbitrarily selected from a large number of persons, all of whom stand in the same relation to the privilege granted that between whom and the persons, not so favoured no reasonable distinction or substantial difference can be found justifying the inclusion of one and the exclusion of the other from such privilege [9].

In the case of the **Air India v. Nargesh Meerza Regulation** 46 of Indian Airlines regulations provides an air Hostess will be retire from the service upon attaining the age of 35 years or on marriage within 4 years of Service or on first pregnancy, whoever found earlier but regulation 47 of the regulation act the managing director had the discretion extend the age of retirement one year at a time beyond the age of retirement up to the age of 45 years at his option if an air hostess was found medically fit [10].

It was held by the court that an air hostess on the ground of pregnancy was unreasonable and arbitrary, it was the violation of article 14 under constitution law of India. The regulation did not restrict marriage after four years and if an air hostess after having fulfilled the condition became pregnant, there was no ground why first pregnancy should stand in the way of her running service. of the court said that the termination of service on pregnancy was manifestly unreasonable and arbitrary on the basis of this it was violation of article 14 of Indian constitution.

In **John Vallamattom v. union of India**, section 118 of the Indian succession Act, 1925 court invalidated which prohibited the right of a Christian to make valid will for a religious or charitable purpose only if he made it at least 12 months before his death. The court occurred the prescription of time and the application of the provision only to Christian artificial having no nexus with the object of law. In *P. Rajendan vs. state of Madras*, court said that there was district wise distribution of seats in state medical colleges on the ground of proportion of population of a district to the total population of the state. classification will be valid under article 14, there must be a relation between the classification and the object sought to be achieved. Any one scheme of admission rules should be devised so as to select the best available talent for admission to medical college in the state. in reality discriminatory as a high qualified candidate from one district may be rejected while a less qualified candidate from another district may be admitted [11]. **D.S Nakara vs. union of India**, in this case supreme court said that Rule 34 of the central services (pension) rules, 1972 as unconstitutional on the ground that the classification made by it between pensioners retiring before a certain date and retiring after that date was not depend upon the any rational principal it was arbitrary and the infringement of article of article 14 of Indian constitution law.

CONCLUSION & IMPLICATION

Keeping in view of above mentioned statements said by the different courts, it is clear that Article 14 gives the ensurity of equal rights without discrimination. It says equal everyone is Equal in eye of law. Whether he belongs to different race, religion, social status or wealth. As Dr. Jennings rightly said: “equality before the law means that among equals the law should be equal and should be equally administered, that like should be treated alike. The right to sue and be sued to prosecute and prosecuted for the same kind of action should be same for all citizens of full age and understanding without distinctions of race, religion, wealth, social status or political influence.” Right to equality is a one of the most important part of our Indian constitution, which gives strengthen to all those people who belongs to Indian nationality. It is necessity of the upcoming generation to secure their right & change our developing India in to develop India.

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