

SOCIO - ECONOMIC JUSTICE UNDER THE INDIAN CONSTITUTION

Harriet. Shini. Nandihal

Research Scholar, Department of Studies in Law, Karnatak University, Dharwad,
Karnataka, India, 580001.

Received: June 12, 2018

Accepted: July 19, 2018

ABSTRACT

The Constitution of India envisages "Socio-Economic Justice" as an arch to ensure a meaningful and dignified life to everyone. The main aim of inclusion of socio-economic justice in the Constitution was to bring about a socio-economic revolution so as to promote the welfare of the common man. The objective of "Social Welfare State" in the present day scenario, is to secure for each human being the economic necessities, a decent standard of health and living conditions, equal opportunities with his fellow citizens and the highest possible degree to self-respect and freedom of thought and action without interfering with the same rights of others.

The question that arises for consideration is how far we have been able to achieve the objectives and realize the goal of socio-economic justice as set in the Constitution. The Constitutional Amendments have played a major role to achieve the goal of socio-economic justice to a greater extent. The Author seeks to examine some of the Constitutional Amendments touching upon the concept of "Socio-Economic Justice". The Constitution (First and the Fourth) Amendment Acts, 1951 and 1955, the 42nd Amendment Act, 1976, the 73rd Amendment Act, 1992 and the 86th Amendment Act, 2002. In conclusion, it is stated that, over a period of time there has been a complete socio-economic transition. Much has been achieved in this field despite various barriers to this endeavour.

Keywords: Socio-Economic Justice, Directive Principles of State Policy, Constitutional Amendments.

Introduction

Indian Constitution is first and foremost a social document.¹ Socio-Economic Justice,² is the prime concern of the Constitution. The Constitution envisages socio-economic justice as an arch to ensure a meaningful and dignified life to everyone. The sole aim of the inclusion of socio-economic justice in the Constitution was to bring about a socio-economic revolution so as to promote the welfare of common man. Socio-economic justice is the life-breath of democracy.³

Modern world is influenced very much by the democratic values. It is now being swept from one end to the other by the ever increasing waves of human rights. In such a context, the clamor for social justice has become more pronounced and intense, particularly in societies wherein there are large number of "Socially handicapped human groups".⁴ Needless to say that India is one such country wherein social justice has become the prime need of the time, which act as an elixir for socio-economic ills that have been crippling the Indian Society since ages.⁵

Concept of Socio-Economic Justice under the Indian Constitution

Preamble – After Independence the Indian Constitution declares India to be a Sovereign Democratic Republic and affirms its faith in democracy.⁶ The Preamble of the Constitution enunciates the great objectives of the socio-economic justice, for the achievement of which the Indian Constitution has been established. The four concepts of justice, liberty, equality and fraternity embedded in the Preamble are guidelines for the progress of the country.⁷ The Preamble⁸ speaks of securing to all its citizens-

"Justice-social, economic and political; Liberty-of thought, expression, belief, faith and worship; Equality - of status and of opportunity; and to promote among them all, Fraternity-assuring the dignity of the individual and the unity and integrity of the Nation."

It is, thus, very clear that Socio-Economic Justice was made the foundation of the Constitution. It envisages a welfare State whose primary function is to promote the welfare of the community. In words of Gajendragadkar P.B;⁹In lucid expressive words it emphatically brings out the socio-economic content, political freedom and gives an inspiring picture of the future of India which was then beginning its career as a Welfare State... The positive constructive aspect of the political freedom has to be the creation of a new social, order, based on the doctrine of Socio-Economic Justice. The feeling that political freedom, without socio-political justice will have no significance to the masses of the country, found its expression in the Preamble of the Constitution. In other words, the Preamble and most of the significant Articles of the Constitution emphasise the fact that, for political freedom to have a meaning to the masses of India, it is essential that Socio-Economic Justice be achieved."

Directive Principles of State Policy – Articles 38, is the basic value directive and a good starting point.¹⁰ Article 38(1), directs the State to strive, “to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice, social, economic and political shall inform all the institutions of the national life”.

Article 38(2) directs the State to strive “to minimise the inequalities in income and endeavour to eliminate inequalities in status, facilities and opportunities, not only amongst individuals but also amongst groups of people residing in different vocations”.¹¹

Part IV enjoys a very high place in the constitutional scheme as it imposes obligations on the state to take positive actions for creating socio economic conditions in which there will be egalitarian social order with social and economic justice to all. Directive principles are fundamental in the governance of the country and it shall be the duty of the state to apply these principles in making laws.¹²

Let us now examine some of the Constitutional Amendments and the laws made to achieve the goals of Social- Economic Justice in Indian and the corresponding development of society and its people.¹³

As mentioned above, the Indian Constitution emphasis upon the achievement of “Social-Economic Justice”, especially in the Parts III and IV. The Part III guarantees certain fundamental rights. These rights are enforceable at law under Art.32 of the Constitution. Art.32 contains right to move to the Supreme Court on infringement of fundamental rights and is itself a fundamental right. On the other hand Part IV of the Constitution are directives of the State and not enforceable at Law. Nevertheless, they provide guidelines to the judiciary, executive and legislature.

Land Reforms -¹⁴ Beginning from the 1st Amendment, read with the 4th Amendment which speaks about land reforms policy which brought into effect the principle that land must belong to the tiller and exploitation of all sorts must be eliminated.

Preamble - The word “Socialist” was not there originally in the preamble. It was added to the Preamble by the 42nd Amendment of the Constitution in 1976. Thus, the concept of “Socialism” has been made explicit and India’s commitment to this ideal has been underlined and strengthened.

Free Legal Aid- Article 39-A – 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.¹⁵

The Supreme Court has emphasized that legal assistance to a poor or indigent accused who is arrested and put in jeopardy of his life or personal liberty is a constitutional imperative mandated not only by Article 39 - A but also by Article 14 and 21. In the absence of legal assistance, injustice my result. Every act of injustice corrodes the foundations of democracy.

¹Granville Austin, Indian Constitution: Cornerstone of Nation, 1966 at 50.

² It is a device to mitigate the sufferings of the poor, weak, dalit, tribal and other deprived section of the society.

See Air India Statutory Corp.v. United Labour Union, AIR 1997 SC 645.

³Santosh Kumar Pathak, “Alcoholism, Socio-Economic Justice and Article 47 of the Constitution”.Indian Bar Review, Vol.XXXV(1-4), 2008, at 113.

⁴V.R.KrishnaIyer, Social Justice and Handicapped Humans, 1978, at 4.

⁵CESC Ltd.v.S.C.Bose, AIR 1992 SC 573.

⁶Dr.J.S.Jakhar, “ Role of Judiciary in Erection of Social Welfare State in India”, Orient Journal of Law and Social Sciences,Vol.V; Issue 12, November 2011, at 9

⁷Dr.Durgambini Patel, “Democracy, Social Justice and Development in India – Conceptual Analysis”, Vidyasthali Law Journal,Vol.II, 2004, at 109.

⁸ These four concepts are the integral part of social justice, for justiceisolated from the other three concepts will lead to injustice, The Preamble is not a mere platitude but is sought to be implemented through the provisions of the Indian Constitution. Ibid.

⁹Gajendragadkar, P.B,The Constitution of India(Its Philosophy and Basic Postulates), 1969, at 12-13.

¹⁰V.R.KrishnaIyer, Justice at Crossroads, 1999, Deep and Deep Publications, New Delhi, at 4.

¹¹M.P.Jain, Indian Constitutional Law, 7th edn., 2014, Reprint 2016, LexisNexis, Gurgaon, at 15.

¹² A.David Ambrose, “Directive Principles of State Policy and Distribution of Material Resources with Special Reference to Natural Resources – Recent Trends”, 55 Journal of the Indian Law Institute (2013), at 3.

¹³ Development means progress towards a just society. Three essential pre-conditions of such a society are;
(1)

growth of the economy so as to serve the needs of the people, (2) liberty, equality and justice to all irrespective of religion, ethnicity, caste, race, or sex and (3) a polity which is participatory. See, S.P.Sathe, "Women Development and Gender Justice" (A paper read in the International Winters Law Workshop held by ILS Law College, Pune, in January, 1998, on Law Development and Gender Justice).

¹⁴See Constitution (First Amendment) Act, 1951, Constitution (Fourth Amendment) Act, 1955, Constitution (Forty- Fourth Amendment) Act, 1978. See also Constitution (Twenty- fifth Amendment) Act, 1971 and Twenty- Sixth Amendment, 1971.

¹⁵V.N.Shukla's, Constitution of India, ed., by, Mahendra Pal Singh, 12thedn., 2015, Eastern Book Company, Lucknow, at 374. See also G.B.Pant University of Agriculture and Technology v. State of Uttar Pradesh, (2002) 7 SCC 109.