

DE JURE NEXUS LAW JOURNAL

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2nd Year, BBA LL.B.**RIGHT TO EQUALITY IN REFERNCE TO CONSTITUTION OF INDIA****ABSTRACT**

The main purpose of this research is to identify with the principle of Right to equality. As we all are aware of the fact that the term Right to Equality needs no explanation because the term itself makes us aware of its meaning. The right to equality is one of the fundamental rights. But however there still are some hidden aspects that needs to be understood in reference with the constitution of and this research project aims to highlight those points and even exceptions which are said to be admissible by our Indian constitution. This research work will also help us know why discrimination is accepted under constitutional law of India?¹

Right to equality comes under Article 14 of our Indian law and is one of the fundamental rights. Right to equality ensures and guarantees every person equality before law and equal protection of law. This right is not only for citizens of India but is also extends to the non-Citizens. The article 14 mentions “the state shall of India. Under Article 14 no one is above the law and all

are considered equal in the eye of Law.

-Equality before law

“The state shall not deny any person equality before the law”

-Right to equality-meaning

before the law. Basically this means that every person, who resides within the territory of India, has equal rights it tells that all are equal in same line. There shall be no discrimination based on race, color, caste, religion, sex, and place of birth. All are to be treated equally among equals and there will be no discrimination based on lower or upper class.

INTRODUCTION

The state cannot deny to any person equality before the law or the equal protection of the laws within the territory of India. strict prohibition on discrimination on the basis of caste, color, sex, religion and place of birth.

The idea of right to equality does not mean outright equality among each and every individual which is practically unrealistic to accomplish. It is an idea implying that there should be no extraordinary benefit by reason of birth or the like for any individual, and furthermore the equal subject of all individuals and classes to the ordinary law of the land. As Dr. Jennings has said “Equality before the rule of law asserts that among equivalents the law ought to be equivalent and ought to be similarly applied, that are ought to be dealt with in a like manner. The right to sue and be sued, to prosecute and be prosecuted for a similar sort of activity ought to be the same for all residents of full age and comprehension without refinements of race, religion, wealth, societal position or political impact.” The phrase “equality to the law” find a place in all written constitutions that guarantees fundamental rights. “All citizens regardless of birth, religion, sex, or race are said to be equal before law ; that is to say, there shall not be any discrimination between one citizen or class of citizens and another.” “All citizens , as human persons he held equal before law.” “All inhabitants of the republic are assured equality before the laws.”

EQUALITY BEFORE LAW AND RULE OF LAW

The pre assurance of equality before the law is a part of what Dicey calls the Rule of Law in

England. It basically asserts that no man should be barred from the rules that everyone else follows and that every individual, be in whatever position or condition, is subject to the purview of ordinary jurisdiction. Three meanings are given by professor dicey on rule of law

1. Absence of Arbitrary Power or Supremacy of the Law:

This provision says that in no circumstances can the use of power exercised arbitrarily overshadow the supremacy of the law. putting it differently, it is also said that a person can be punished for nothing other than a breach of law.

2. Equality Before the Law:

It implies subjection of all classes to the ordinary rule administered by ordinary law courts that everyone must follow. This Says that 'nobody is barred from the laws that apply to everyone else with the sole special case of the monarch who won't ever be blamed no matter what'. Everyone in England, whether he is an authority of the State or a private individual, will undoubtedly comply with the same law. In this manner, public authorities don't hold a privileged position in Great Britain.

3. Predominance of Legal Spirit:

The Constitution is said to be the after effect of the ordinary law of the land that everyone must follow. It asserts that the pool out of which the rights of people arise isn't the rigid Constitution but instead they are said to be the standards as characterized and upheld by the various courts instead

The first and the second provision is said to apply to the Indian framework however the third part of his rule of law is not making a difference to the Indian framework as the source of rights of people is the Constitution of India. The constitution is said to be the supreme laws of land and all laws sanctioned by the legislature should be steady and in consonance with the constitution provision.

EQUAL PROTECTION OF LAW

The guarantee that is given under equal protection of laws is said to be accessible to each and every individual that can also extend to an organization or different affiliation or different group

of people. As it is said in the word to any person iChat is mentioned in Article 14 of the Indian constitution. The protection under Article 14 of the Indian Constitution stretches out to both the natives and non-residents and to legal as well as natural persons. The equality before the law is ensured to all regardless to race, color or nationality. Organizations that are being juristic people are additionally deemed to get the benefits that is provided under article 14. The rule of law is said to force an obligation to the State to take measures that are exceptional to counteract the fierceness which can arise by the procedures taken by the police. The Rule of Law that is mentioned in Article 14 is said to be the basic feature of the Constitution of India and subsequently, it cannot be crushed even by an amendment of the Article 368 that is mentioned in our Constitution.

RIGHT TO EQUALITY UNDER ARTICLE 14

According to Article 14 Of the Indian constitution, There is an obligation with the State that it cannot deny to any person equality before the law on an equal protection of the law in the territory of India. The concept of equality before law has been taken from the English Constitution and the other concept of equal protection of laws' is said to be taken or borrowed from the American Constitution. Both these articulations is said to aim at setting up what is designated equality in status that is mentioned in the Preamble of the Indian constitution. However, while both the articulations may appear to be not distinguishable, they don't generally pass on a similar significance. While 'equality before law' is, to some degree said to be a negative idea suggesting the absence of any special benefit for people and the equal subject of all classes to the conventional law. "Equal protection of law" is said to be a positive idea that infers equality of treatment in equal conditions.

Exceptions to the Rule of Law

The rule of equality that is given in the Indian constitution is not a stringent rule that is without any exceptions. There are a number of several exceptions to it: first being, 'equality before the law' does not imply that the powers that are given to the public authorities will be the same as the powers given to the private citizens of the nation. To explain this in a better manner better, we are aware of the fact that, a cop has the ability to arrest while, generally, no private individual possesses this power. This is not said to be the infringement of the rule of law. In any case, the

rule of law requires that these forces ought to be unmistakably characterized by the law and the maltreatment of power by public officials must be punished by common courts in a similar way as unlawful acts committed by private people.

Furthermore, the rule of law does not stop certain classes of people being liable to extraordinary rules., individuals that are from the military are constrained by the mentioned military laws. Likewise, medical professionals are exposed to the guidelines confined by the Medical Council of India, a statutory body, and the jurisdiction of ordinary courts does not apply to them. The Indian president and the State Governors are afforded immunity under Article 361 of the Indian Constitution. Article 361 says that the President or even the Governors of the State shall not be liable to any Court for the activity and execution of the powers and obligations of the office. No criminal proceeding will be proceeded against the President or the Governor of a State in any Court during his tenure in the office. there is no procedure for the capture or detainment of the President or the Governor of State will be issued from any Court during his term of office.

thirdly it is mentioned that - Statutory Bodies in India is said to confer really wide discretionary powers in the name of various ministers and other said executive bodies. A minister is said to give full autonomy to act like he wants to but with this autonomy, we also see that such power conferred is often grossly misused, countless enactments are passed as delegated legislations today, i.e. various principles and requests or statutory instruments made by ministers and different bodies and not straightforwardly by the Parliament. These standards is said to not exist in Dicey's time.

fourthly-conduct of certain individuals of the society is administered by unique guidelines which are laid out by their professions that is the legal counsellors or various specialists, medical attendants, individuals from military and police.

NEW CONCEPT OF EQUALITY FOR THE PROTECTION OF THE PEOPLE OF INDIA

In the case of John Vallamattom v. union of India², section 118 of the Indian succession Act, 1925 court had invalidated which prohibited the proper of a Christian to form valid will for a

²John Vallamotam v Union of India

spiritual or charitable purpose as long as he made it a minimum of 12 months before his death. The court occurred the prescription of your time and therefore the application of the supply only to Christian artificial having no nexus with the thing of law. In the case of P. Rajendan v. state of Madras, court said that there was district wise distribution of seats in state medical colleges on the bottom of proportion of population of a neighborhood to the total population of the state. classification are going to be valid under article 14, there must be a relation between the classification and therefore the object sought to be achieved. Any one scheme of admission rules should be devised so on select the simplest available talent for admission to medical college within the state. in reality discriminatory as a high qualified candidate from one district could also be rejected while a less qualified candidate from another district could also be admitted.

In the case of D.S Nakara v. union of India³⁴, during this case supreme court said that Rule 34 of the central services rules, 1972 as unconstitutional on the bottom that the classification made by it between pensioners retiring before a particular date and retiring then date wasn't depending on the any rational principal it had been arbitrary and therefore the infringement of article of article 14 of Indian constitution law.

Conclusion

Keeping in mind all the things that are mentioned above it is clear that Article 14 gives the ensurity of equal rights without any discrimination.it asserts that every person is equal in the eye of law irrespective of their caste, creed, color, race, place of birth.

Dr. Jennings has rightly said: equality before law basically means that among equals everyone has to be treated alike and there can be no discrimination. The right to sue and to be sued to prosecute and to be prosecuted for the same kind of action has to be alike for all citizens of different and understanding without distinctions of race, religion, wealth, social station or political influence.” Right to equality is taken into account one among the foremost important a part of our Indian constitution, which strengthen all the people that belong to the Indian Nationality It is extremely necessary for the upcoming generation to make sure that they secure

³ D S Nakara v Union of India

their rights and change the status of India from a developing nation to a developed one.
developed one.

ⁱ Right to equality



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