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Right to Equality in a Sovereign Nation : (Under Article 14 – Equality before Law and Equal Protection of Laws)

What is right to equality ?

It is one of the significant corner stone of Indian democracy and it embodies the main idea of equality contained in the preamble of the Constitution.

Equality is the fundamental or basic right for a person to live in a society. In a society there are groups or sections of people who are rich or poor, who practice different religions, belong to different types of communities, those who belong to different groups with different types of culture, people in different regions speak many languages and they are vested with the right to equality i.e. Article 14 of the Constitution of India. There should not be any discrimination based on caste, creed, gender, language (including bengali, marathi, hindi, urdu, tamil, etc), religion (including Hindu, muslim, sikh, Buddhist, Jew, Christian), disability in any form, place of birth etc. which violates the basic notion of right to equality contained in the Article 14 of our Constitution.

India is a nation which has diversity, not only in terms of geographical sense but also in the biological sense, especially human beings. There are several varieties of people living in this country. Some groups of people are discriminated and harassed from the ancient times because they were either unable to earn sufficient money or physical inability or as tradition and culture going on from ancestral time. Scheduled caste, scheduled tribes and woman were backwarded from British periods but after the britishers left India, Constitution was framed and drafted in a way to give rights and protection to those group which really need this.

Therefore, it's included with the Fundamental rights contained in part 3 from Art. (12-35) of the Constitution of India, which is a part of the basic structure doctrine. ¹

Natural equality and History of Article 14

Nature has provided mankind or human beings with different gifts from it's jackpot or treasure box, in different forms for the survival of organisms on earth. Equality is not only man made thing but also comes from the nature, this has been within the nature for years until men founded or discovered it and put it into the Constitution which is the mother law of our mother land coming from the mother nature.

All men are equal and contains the right of natural equality and it is the basic principle and foundation of liberty as per with natural law.

It was primarily included in Constitution draft of Article 15 which was later on received for discussion on 6th and 13th December of 1948. Discussions which took place on these two days, particularly revolved around the first part 'equal protection of laws' whereas, the second part – 'equality before law' was not discussed at all. On 3rd Nov, 1949 the date of presenting the revised draft Constitution through a letter to the President of the Constituent Assembly. The Drafting Committee made it clear and referred that, they had considered it more suitable to split the Article into two parts and to transfer the latter part or the 2nd part of the Article dealing with 'equality before law' to a new Article 14 under the heading of 'Right to equality'. Therefore, Article 14 was incorporated into the Constitution of India 1950.²

What is the judicial interpretation of article 14 ?

In the Allahabad High Court, the case of Indu Bhushan Pandey v. State of UP Thru. Prin. Secy. under department of energy. It was held that denial of pension by retrospectively applying amended rule is a violation of Article 14 of the Constitution of India. ³

The Calcutta High Court has recently held that it is not permissible and violates the right to equality under Article 14 of the Constitution of India, to differentiate between contractual employees and permanent employees for the purpose of extending material leave. ⁴

The Calcutta High Court has recently observed that the right to equality enshrined under Article 14 of the Constitution does not mean giving equal treatment or equal protection of the law to persons who are unequal and its violation would entail giving iniquitous treatment to persons falling under the same bracket despite their homogenous characteristics.⁵

In *Kesavananda Bharati v. State of Kerala*, the Supreme Court of India held that Article 14 is a part of the basic structure of Constitution of India.

In the case filed at Patna High Court, it was held that the differentiation between government employees and other employees for leave encashment exemption is neither discriminatory nor violative of Article 14 of the Constitution.⁶

In the case of *Olga Rosina v. Foreigners Regional Registration office*, it applies not only to the citizens but also to non-Citizens, by Bombay High court at Goa.⁷

Doctrine of Reasonable classification

This is a legal concept or legal principle which ensures fair treatment through Article 14 of Constitution which is the law of the land . This includes the process of classification which takes into consideration that not all cases are identical or similar and allows fair treatment for prevention of unjust discrimination.⁸

Landmark decision of *Shayara Bano v. Union of India*

This decision has been decided by proper and through, interpretation and review of the mother law or the Constitution of India by the apex court or the Supreme Court of India. This case is also known as the 'Triple Talaq Case'. This practice of triple talaq violated the aspect of Right to equality under Article 14 of the Constitution of India and one of the mile stone or historical judgment .⁹

Conclusion

Every citizen of India has got fundamental rights for the protection and realisation of their interests. This Right to equality given by our Constitution gives us fruitful results in our lives and no one can violate or infringe such law.

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