

Article 14: Equality before Law

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Abstract

The Constitution of India contains an article 14 which states about the “right to equality”. In this research paper Right to equality will be explained and examined. Though its meaning is quite obvious still there are provisions and meaning that are still not known or should be highlighted. The exceptions of the article are also mentioned. The cases leading this article and their judgements are also stated for better understanding. In this research paper those points and exceptions are highlighted, which are admissible by our Indian Constitution. Article 14 is the fundamental right under the Indian Constitution along with the other fundamental rights that enables the person to have equality before the law. At the end of this research paper questions such as “why there is discrimination accepted under the constitutional law?” will be answered.

Keywords: Right to equality, Article 14, fundamental rights, constitutional law, Indian constitution

INTRODUCTION

The Constitution of India begins with the Preamble, in which term Equality in all aspects is mentioned. Since India is a diverse country it becomes essential that to introduce fundamental rights to ensure that each and every citizen is treated right and equally. This right to equality is practised with the assistance of Article 14 [1].

Article 14 is considered to be the most important fundamental right for the citizen of Indian territory. This article not only imposes a duty on the state but also puts a positive duty to take actions by which the inequalities will not be practised. This article is the part of Golden Triangle.

TOPIC

Article 14

This article mentions “equality before the law which means the State shall not and can not deny any person equality before the law or the equal protection of the laws within the country of India and prohibition of discrimination on grounds of religion, race, caste, sex or place of birth.”

In its own words, article 14 ensures that no person is treated unequally before the law and there should be no discrimination on a different basis such as gender, caste etc.

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Article 14 is mainly divided into three parts, that are, equality before law, equal protection of land access to justice. These are discussed in brief below:

EQUALITY BEFORE LAW

Equality in this sense entails similar treatment before the law to all the people comprising in the Indian territory. There should be no discrimination or unequal treatment between two or more citizens because there is difference in gender, race or caste etc.

This concept has two parts:

1. Absolute equality
2. Rule of law.

Equality before Law and Absolute Equality

Equality before law prohibits providing any individual or community with special privileges but on the other hand equality of law has many exceptions to it. In simple terms, it means equals should be treated with equality. This is not an absolute right. It should be amended and restricted as per the needs of society and the public. The supreme court conducted that the right is not absolute [2].

RULE OF LAW

This was given by jurist Albert Venn Dicey. It means that no citizen is above or greater than the law. It has two main rules which are, that no man is above the law and no man is punishable except if he breaches the law.

According to Dicey, there are three distinct meanings of “Rule of Law”, which that are, firstly, it is the supreme law, it means having equality before the law for everyone and the constitution of India originates from ordinary law. The first rule and second rule have been adopted by the Constitution of India but the third one has not been adopted because the law is supreme and the rights of the people has came from the Constitution of India itself.

The basic principles of this rule are:

- The law is supreme in nature and nobody should be considered above the law.
- No person should suffer otherwise except when breach of concept has occurred.
- All the things should be done and said according to the law.
- This rule works in absence of arbitrary power.
- There should be fair and just procedure conducted.
- The practice of independent and impartial judiciary is there.

EQUAL PROTECTION OF LAW

This is considered to be a subset of equality. A positive concept. Under section 1 of the US Constitution, it is mentioned. According to this, each and every citizen in India should be treated equally and should get equal protection from the law. The state has no right to deny equal protection of the law. It puts a positive obligation or liability on the state to prevent any violation of the rights happening. Similar people should be treated alike under this rule whereas unlike should not be treated alike. If people are being treated in a similar manner when they are in a different position then it will impact society negatively.

ACCESS TO JUSTICE

This concept of right of equality means that each and every citizen in Indian territory has the right to access to justice. This means that no one can be barred from practice the access to justice and thus, everyone should be treated equally. The concept “access to justice” means that everyone has the right to appear in court and has the right to get justice. It needs to be mentioned that there are still many people who are deprived to access to justice because of lack of awareness or economical knowledge.

EXCEPTIONS OF ARTICLE 14

- Article 31-C.
- Article 105 is also an exception as it saves the members of the parliament from any court proceedings.
- Article 194 of the Indian Constitution acts to protect the members of the legislature against things said in the legislature.

- Article 361 of the Indian Constitution acts to give certain immunities to the President of India and the State Governor such as no criminal proceedings etc.
- Article 361 of the Indian Constitution acts to say that no person shall go through the criminal or civil proceedings in a court if it is based on a report that is published in the newspaper.

DOCTRINE OF LEGITIMATE EXPECTATIONS

It is the duty of the administration to make laws that promote equality and are in favour of the general public.

They act as a connecting line between the individual and the authorities. These expectations need to be reasonable and logical, so they are named legitimate expectations.

TEST OF REASONABLE CLASSIFICATION

The apex court stated that equality before the law is important in the case of *Ram Krishna Dalmia v. Justice Tendolkar* [3] it was held the test of reasonable classification and it was contended that the government actions are correct and reasonable.

IMPORTANCE OF THE TOPIC

Article 14 is important because of the public interest. It is important because it provides for equality before the law. It also provides for equal protection of the law for the people of India. It provides the public equal treatment before the law and prevents discrimination on various grounds to the people of the country. It expects the state to treat everybody as equals, abolishes untouchability and many more.

ISSUE

“Why there is discrimination accepted under the constitutional law?” this is the issue to be raised in this research paper, as why discrimination on some aspects is accepted.

LITERATURE REVIEW

This research paper is concerned with understanding the importance and the existence of Article 14 in the Constitution of India. The issue related to Article 14 as mentioned above is also discussed. The instruments used for this research paper are articles and books of constitutional law for taking assistance in understanding of the Article 14.

CASE JUDGEMENTS:

***Air India v. Nergesh & Ors* [4]**

Petitioner: Air India

Respondent: Nergesh & Ors

Bench: J. Faizal, J. Syed Murtaza & J.A. Vardarajan

Background: In this case the policy by Air India was challenged. The rule complying the air hostesses to retire because of marriage or the first pregnancy or being at the 35 years of age. The rule violates the Article 14. The rule was declared invalid by the Apex Court and extended the retirement age to 45 years and also extended customary period of 10 years.

Facts: Regulations 46 and 47 mentioned in the Air India Employees Service Regulations were questioned. These regulations created degree of disparity between male and female employees. The regulations were on the grounds such as promotions, retirement ages, cases of pregnancy or marriage. Air India's regulations expected women to retire under three circumstances upon getting married, reaching the age of 35 and upon first pregnancy whereas there were no such rules of the male attendants. These regulations created a major difference in the salaries of the male and female attendants.

Issue I: The issue was whether regulations 46 and 47 violates Articles 14, Article 15 and Article 16 of the Indian Constitution or not.

Issue II: The issue was whether the optional powers under regulation 47 can be seen to be excessive delegation.

Analysis with relevant law: The that arouse was of article 14 being violated by regulations 46 and 47. The court states that article 14 forbids discrimination on unfavourable contents and that it is not against reasonable classification. The assistance of previous judgement was taken which states that treating equals and un-equals differently does not amount to discrimination. Thus, article 14 was not violated. By looking at the promotional avenues, salaries and entry level qualification the court stated that these are two different categories and thus, article 14 being violative was rejected on the basis of the reasonable classification. As article 16 states no discrimination on the basis of sex but it does not state the discrimination on the basis of sex and other considerations [5]. On the basis the Court rejects the violation article 16. Regulation 47 was held violative of the article 14 because of the excessive delegation.

Conclusion: After all the analysis the court held the rules regarding the retirement and pregnancy for being unconstitutional and ordered them to be struck down. In case of regulation 47 it was also declared unconstitutional because it suffered from excessive delegation of powers without having any reasonable classification.

SOME OTHER CASES

State of bombay v. FN balsara [6]

The petitioner pleaded that the Bombay Prohibition Act was violative of Article 14 and Article 19(1)(g) of the Constitution of India and thus, it must to taken down. The pith and substance doctrine is implied here. The provisions said that medicines with alcohol and cleaning goods comprising of alcohol contents were banned from being marketed. The High Court contented for some provisions being correct and some not. Unsatisfied with this decision, the petitioner moved to the Supreme Court. The Supreme Court observed that the state legislature is within its right to prohibit the keeping, selling and using of intoxicated wine under list two of the Indian Constitution. Hence, no dispute has arisen. It observed that some parts were invalid so in contrast to this the complete act cannot be taken down as unconstitutional.

Indra Sawhney v. UOI [7]

This case is one of the most important cases in constitutional cases. The relation of article 14 and article 16 was considered. It recorded the right to equality for being one of the basic rights of the Indian Constitution. It applies to all people. Similarly, article 16 acts to provides reasonable classification involved with reservation of seats or vacancies.

State of West Bengal v Anwar Ali Sarkar [8]

The West Bengal Special Courts Act, 1950 mentions section 3 and 5 that were challenged as there was no focus for making the classification between different offences as per this Act. The Apex Court disproved the Act because it authorized the arbitrary powers to the government of India to classify offences or classes of offences as per its own pleasure. As a result of this provisions the appellant was treated differently. The speedy trial necessity was to uncertain to form a valid reasonable classification. This case helped to lay the foundation of the article 14.

E.P. Royappa v. State of Tamil Nadu [9]

The test of “new doctrine” or the “arbitrariness test” was formed by Bhagwati, J. The text mentions that the equality mentioned in article 14 includes an order against the arbitrariness of the state action.

Maneka Gandhi v UOI [10]

There was a seven-judge bench. The question about Articles 14, 19 and 21 being violated was stated. All these articles have to be read with each to understand. If any law or provision interferes with the personal freedom or liberty of an individual it has to satisfy the following points, firstly, there has to be a decision process, secondly, the decision process shall comply with the test of one or more rights under Article 19 and thirdly, it has to be tested with Article 14.

CONCLUSION

The research paper specifically revolves around article 14 and its attributes and importance. It can be concluded that article 14 is a very important article for the Indian Constitution and also for the public interest. It is also important to note that the reasonable classification test in Article 14 is of at most importance as the equals should be treated as equals and classification on some aspects is important. As per the issues raised in this research paper:

“Why there is discrimination accepted under the constitutional law?” the answer is reasonable classification. Discrimination in some areas or situation or cases is necessary and required.

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