



IS RESERVATION CONSTITUTIONAL?*

Introduction

Equality enshrined in Article 14 of the Constitution is the basic structure of the Constitution. The Constitution of India guarantees “equality among the equals”, which means there will be equal protection of laws. In other words, the laws will be the same to all who are equally placed. The rule is ‘like should be treated alike.’ The Article lays down that all laws must be of universal application. The state can treat different persons differently if circumstances justify such treatments. For example: Imposing less tax on low income group.

The courts uniformly agreed that “reasonable classification” is not prohibited. In the case of State of WB V. Anwar Ali Sarkar, the Supreme Court said that the classification to be reasonable must fulfill 2 conditions: 1st, the classification must be based on an intelligible differentia which distinguishes those who are grouped together from those left out of the group. And 2nd, the differentia must be in relation to the object sought to be achieved by the Act.

For example, if the government groups brown haired people and black haired people and imposes a less tax on brown haired. It is not reasonable classification. Hair color has nothing to do with paying of tax.

The name "reservation" comes from the conception of the Native American tribes as independent sovereigns at the time the U.S. Constitution was ratified. Reservation is a special provision upbringing the one lagging behind by facilities so that they can cope up with the rest. There are reservations for the backward classes, women, scheduled caste and scheduled tribes in fields of education, public employment and promotion as guaranteed under the Article 15 and 16.

Article 17 also guarantees right of dignity to those considered untouchables by abolishing untouchability and making it a punishable offence or giving any special advantages to the title holder of titles given by the British, like Rai Bahadur.

Every individual as right to life with dignity as falls under right to life under Article 21 of the Constitution.

But the question lies whether with time the reservation is still important for the section of society which have already enjoyed the fullest of it. Is the reservation facilities reaching to those who actually require them? Is’nt reservation to the already benefitted section an arbitrary provision?

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Many SC and ST's are now in a equal position with others, why is it they are enjoying the benefits still and some poor family, who require it are not getting the benefit of it.

Presently, we see the middle class general candidates are the ones who are suffering. The rich gets into the educational institution with their money and the reserved candidates with their reservations.

As we have seen, in the controversial IIT verdict, where the reserved candidates are almost studying free of cost and the hike is on the fees of the general candidates. It is clear, that the general candidates are paying for two of the students.

I think it is time to raise voice against such discrimination and reach out to those who are really in need of such reservations guaranteed under the Constitution.

