



RULE OF LAW; THE SOLUTION TO THE BARRIERS FACED BY THE ECONOMICALLY WEAKER SECTION OF THE SOCIETY FOR JUSTICE

*By Yatharth Chauhan
From Gautam Buddha University, Greater Noida*

ABSTRACT

Justice is the foundation of the rule of law and without rule of law society could not be able to headway effectively. Accessibility to justice will ensure an equal opportunity of being heard before the court of law on the part of each and every individual gets an opportunity of being heard effectively then it will give rise to free and fair justice with no prejudices. But still even after the 73 years of independence, we could see the social dogmas. Being belong to the Dalit and minority community, people have been discriminated adversely. This paper aims to shed light on the standing block with respect to accessibility to justice as well as the significance of Rule of Law.

Keywords: Discriminated, Justice, Standing block, Rule of Law, equal opportunity.

INTRODUCTION

Justice is one of the imperative aspect of the Rule of Law. Each and every individual should have accessibility to justice with no discrimination as well as marginalization. Access to justice could be defined as where every human being is able to attain remedy for affront. Effective maintenance of the state directly banks on the notion of justice because rule of law blossoms only if the parties endures pain with respect to the either civil or criminal wrong have access to the

justice before the constitutional bench. And when the people are able to seek remedy against the wrongdoer, it will contribute towards the extant of the state. Accessibility to justice or in other words we could say that right to the constitutional remedies is a basic human right which shall be made available to each and every individual regardless of prejudices.

Ordinarily, it has seen that, for the economically weaker section of the society, justice become restricted or unhandy. In more simple words we could say that minorities as well as Dalits are unable to attain justice for themselves. It should be taken into the meditation that justice is an indispensable right required to maintain the uniformity as well as the dignity of the individual.

Here, the noteworthy aspect is that our society is divided into halves that is to say poor as well as rich. The leukemia is that richer section of the society nimbly has the accessibility to the every opportunity but when it comes to the poorer section of the society it has observed that the direction of the vehicle get change that is to say they undergone the numerous loopholes including effective accessibility to justice. They are unable to pony up the requisite fees with respect to the counsel as well as the representation. The chief ratiocination behind this is scarcity of economic source. Thus, such issue are of paramount nature which needs to be highlighted before the appropriate law making authority or the legislature.

As we know that we live in the era of the 20th century rife with the democratic form of government subject to the title of “Best form of Government” but that does mean that it



does not constitute any loopholes or shortcomings rather it. If not then, why people who belongs to the Dalits as well as minorities community are immune to impartiality as well as stigmatization with respect to every field whether it is housing, education, employment, public participation, etc ? why they are vulnerable to the dogmas? Thus, Franklin Roosevelt himself portended that democracy could not be able to survive market if it does not consider the rights of each and every individual including Dalits as well as the minorities¹.

Even in the Constitution of India it has been very decorously propounded that each and every Individual has a right to secure justice, equality, liberty and fraternity so that every human being is able to live his life with dignity. If minorities as well as the Dalits have not been given the equal opportunity of being heard properly then how come each and every individual is able to secure justice, equality, liberty and fraternity ?

We know that justice, equality, liberty and fraternity are the vital pillars of our constitution that is to say these are the main objective of our constitution. All these are indissociable or interrelated with each other. It means if anyone of these is violated then the others' will also get violated. Hence, hampering the right to constitutional remedies with respect to socially, politically and economically weaker section of the society directly gives rise to injustice.

Our constitution insist on that WE THE PEOPLE OF INDIA of India having solemnly resolved to constitute India into

sovereign, secular, democratic and republic and to secure all to all its citizens justice, liberty, equality and fraternity. Here, the noteworthy aspect is that the word "all its citizen" constitute that every human being, with no discrimination, shall have the right to derive the benefits from their rights. Thus, right to not being heard itself implies that we are driving the vehicle against the direction provided by our founding fathers of our constitution.

In **Maneka Gandhi vs. union of India**², justice Bhagwati stated that fundamental rights are very crucial to each and every individual to maintain or safeguard the dignity of the individual. It was also said that the main object of the fundamental rights is to maintain the Rule of Law in a society.

METHODOLOGY

This research paper deals with the dilemma confront by the economically exhausted people with respect to the accessibility to justice and the same has been explicated in the great detail. The data mentioned in the said research paper has been collected theoretically in great detail.

BARRIERS FACED BY THE ECONOMICALLY WEAKER SECTION OF THE SOCIETY

1. POVERTY

Poverty contributes to the inability on the part of the poor to seek remedy for the grievances. Because they are insolvent to endow the numerous payments say for instance administrative payment, payment for legal advice, counsel, etc. Thus, lack of economic resources contributes to the infringement of

¹ Soli J. Sorabjee, "Minorities: National and International Protection", in Iqbal A. Ansari, (ed.), Readings on Minorities, Perspectives and Documents

(New Delhi: Institute of Objective Study), Vol. 1, p.166

² AIR 1978 (1) SCC 248



their legal rights. Abolishment of poverty does not mean that providing proper health care facilities, housing facilities, education, food, employment besides each and every individual must have requisite authority as well as power to derive the benefits from their basic rights with no discrimination. Thus, if the law is equivalent before each and every individual then only we could be on the path to eradicate the poverty from each and every corner of our societies effectively³.

Being vulnerable to the poverty, they are unable to fight for their exploitation, they are unable to fight for their rights. Consequently, it give rise to the conflict with respect to their livelihood. According to the Article 14 of International covenant on civil as well as Political rights, if any individual is unable to pursue the legal panacea for the civil or criminal wrong then it merely not only violates the right to constitutional remedies rather than it also hampered several other rights like right to security, right to equality, right to non-discrimination⁴.

2. DISCRIMINATION

The word discrimination primarily means that where the growth of an individual is restricted on the basis of caste, creed, religion, nationality, language, wealth, etc. This is the general interpretation of the Discrimination. But now with respect to the those who are politically, socially and economically weak, the word discrimination means prohibition on their participation, prohibition on the decision making, prohibition on their access to education, prohibition on their access to job, etc. Here,

the notion of employment is quite essential. The chief ratiocination is that lack of employment contributes to the production of poverty in the sense that lack of means of earning a living will deteriorate their other basic needs required for their survival. Here, the most important canvas which arises is that why these people prone to such an adverse discrimination? Why don't they have adequate source of livelihood as the rest of the population has?

There was a boy named Govind Gyan chand. He was 14 and used to go to the school situated near his village. At school, one day he was being questioned about his caste. To this question, he gave the answer that he belongs to the Dalit community. Thus, one day when he was going back to the home after school, some of the boys who used to study at the same school, flogged him so adversely just because he belongs to the Dalit community. He himself stated that "upper caste people use to always torture the lower caste people and I wanted to skip the school but I was unable to do the same⁵."

Manash Firaq Bhattacharjee, professor at Ambedkar university of Delhi himself wrote that these extreme violence blossom an invisible stigma on those students who belong to the community of Dalits.

After getting acknowledged with respect to such brutal treatment numerous question tends to appear. The education is denied to them just because they belongs to Dalits community. Is that how we are going to achieve the objective of our constitution by treating the students on the basis of caste? Is that how we are going to realize the right to

³ Soros and Abed, 2012

⁴ See <https://www.ohchr.org/EN/Issues/Poverty/Pages/Accessjustice.aspx>

⁵ See <https://www.theguardian.com/world/2018/may/22/class-act-the-great-dalit-fightback-that-started-in-the-schoolroom>



education? Is that the way to achieve the equality by flogging the Dalit communities people? Is that how we are going to constitute India into free and fair India on the basis of caste?

3. EDUCATION

We know that there is a famous old saying that “**you do not know what you do not know**”. It primarily means that there is something which each and every individual should know but unfortunately they are not well versed with that thing. Similarly, here also this old saying is quite applicable, in the sense that people who are socially, politically, and economically frail, are not aware about the certain rights available to them. How they can enforced those fundamental rights effectively grant to every human being by Part III of the Indian constitution. Thus, the notion of caste become a major problem for them.

Why the caste is the basis of education? Why not equality is the basis of education? Why the economically, politically and socially weak are not entitled to the growth as well as development?. But sometimes it also happens that though they are receiving the education but that education don't constitute any quality that is to say that they have not been teach by the qualified teacher effectively. It is just for the name sake of right to education. Judicially, in **Environmental and Consumer Protection Foundation v. Delhi administration**⁶ the court held that in order to achieve the true motive of Article 21A that is to say Right to Education it is quite

necessary on the part of the school that school shall have the highly qualified teacher along with the reasonable infrastructure.

There was a PHD scholar at Jawaharlal Nehru university, named Muthu Krishnan, was found dead on 13th March, 2017. He was hanging by the ceiling fan. From his investigation it was realized that he was subject to the extreme depression as well as discrimination. Before dying he himself wrote that when the equality is disrespected or violated then all other things will also automatically get rejected. Even he wrote a letter to the vice chancellor that let the student of marginal background should be given an opportunity to study⁷

Similarly, there was a one more student named Rohith Vemula, PHD scholar at Hyderabad central university, did suicide. He himself stated that his birth was nothing but a “fatal accident”⁸

4. LEGAL ASSISTANCE

Legal assistance is another stumbling block to seek remedy for the wrongs. As we are well versed with the fact that our society is divided into parts that is to say Haves and Haves no. It means Haves category ordinarily has all the opportunities to live their life with dignity. And what about Haves not ? When it comes to the Haves not situation becomes contradictory. They have to fight for their dignity? Why is it so ? They do not have the adequate source of food. They do not have a adequate source of education. They don not have the adequate source of deep pocket, most important source

⁶ AIR 2012 (4) SCALE 243

⁷ See <https://www.firstpost.com/india/jnu-dalit-student-suicide-when-equality-is-denied-everything-is-denied-wrote-27-year-old-j-muthukrishnan-3333050.html>

⁸ See <https://www.indiatoday.in/magazine/the-big-story/story/20160215-dalits-untouchable-rohith-vemula-caste-discrimination-828418-2016-02-03>



because if they have the accessibility to the deep pocket then their other needs will get the pillars to stand effectively. Lack of adequate deep pocket not only affect them with respect to the education, housing, etc but also before the constitutional bench that is to say when they are unable to pay the requisite amount before court of law with respect to the legal assistance.

Dr. Bhimrao Ramji Ambedkar stated that “if somebody asked me to name the most important Article of the Indian constitution without which all the articles of the Indian constitution is equivalent to vain then I would like to shed light on the Article 32 of the Indian constitution that is to say remedies for the enforcement of the right or right to constitutional remedies and the right to constitutional remedies is both heart of the constitution as well as soul of the constitution⁹.

Hence, owing to the abuse of the constitutional remedies, it would not be possible to showcase their misery effectively before the hon’ble bench that is to say their opportunity of being heard gets hampered and consequently they are unable to secure justice for themselves.

And when such kind of circumstances will appear it will hamper the confidence of people with respect to Justice. Judicially, in **Hussain vs. Union of India**¹⁰, the court held that to deliver the justice on time is part associated with the basic human rights and if the justice is not delivered then as a result it

will curtail the confidence of the people with respect to the administration of justice

SIGNIFICANCE OF THE RULE OF LAW

The concept of Rule of Law is primarily derived from the English constitution. There is an exigency to shed light on the concept of rule of law because rule of law facilitate to maintain the balance in the society. If there is no rule of law in the society then ultimately it will lead to chaos or conflict. The rule of law requires that people should abide by the accepted rules and regulations rather than focusing on the decision which are arbitrary in nature and these accepted rule should be applicable equally to every human being¹¹. The rule of law cutback the root of arbitrariness from the society and in turn it will ensure the free and fair procedure to seek justice for every human being because it is based on the idea of justice, equality, liberty and fraternity¹². It merely not only put restrictions on the employment of the arbitrary power but also shield the fundamental rights of every human being so that each and every individual is able to live his life peacefully with no discrimination and maintain the unity as well as the integrity of the nation. Thus, it will furnish the justice with no favouritism at the earliest and give birth to the consistency with respect to the law.

It has been rightly said that “ the most effective way to know the interpretation of the Rule of Law in everybody life is to reminiscent such situation when there was no rule of law¹³”. One of the famous Greek Philosopher wrote that if law is immune or

⁹ J.N Pandey, *Constitutional Law of India*, 446 (Central Law Agency, Allahabad, 55th edn, 2018)

¹⁰ AIR 2017 SC 1362

¹¹ Alok Kumar Yadav, *Rule of Law*, vol. 4, IJLLJS, p. 206 and 207

¹² Ibid

¹³ Dwight D. Eisenhower



subject to any authority then society would not be able to progress effectively but on the other hand here the law is the head with respect to the government then we could say that each and every individual would receive the blessings of God that shower on the state¹⁴.

Thus, we could say that Progress of society count on Rule of Law and rule of law could be realized only when the right to constitutional remedies is protected. The right to constitutional remedies is the right which makes the other rights real and if there is no right to constitutional remedies then the others right are of no use¹⁵.

UNITED NATION PRINCIPLES WITH RESPECT TO ACCESS TO LEGAL AID

1. RIGHT TO LEGAL AID

It is one of the vital principle of the united nation to secure justice effectively on the part of every human being. The right to legal aid banks on the rule of law. It is a duty on the part of the state that right to legal aid should be introduced in the legal system as well as in the constitution.

2. RESPONSIBILITY OF STATE

The state shall formed some appropriate mechanism to educate people about their rights available to them with the purpose to eradicate criminal conduct as well as victimization and provide protection to those who provide legal aid that is to say their independence should not be hampered. Besides, the state shall also make people aware about the procedure to file a complaint before the court of law and how one can secure justice at the earliest.

3. LEGAL AID FOR ECONOMICALLY EXHAUSTED PEOPLE

There is a duty arises on the part of the judges as well as prosecutors to provide lawyers who cannot afford to fight for their misery due to the exhausted economic position so that justice could not be denied to them.

4. NON- DISCRIMINATION

The state shall make sure that legal aid shall be provided to each and every individual irrespective of caste, creed, education, color, religion. Nationality, wealth, birth, property, political or social views, etc.

5. RIGHT TO INFORMATION

The state shall ensure that every human being has a right to know about the legal aid and also ensure that such services of legal aid should be made available to every human being free of cost.

6. REMEDIES AS WELL AS SAFEGUARDS

The state shall formed effective remedies if the circumstances like where approach to legal aid is impede as well as undermined or where an individual is not informed with respect to the provision of legal aid.

7. EQUALITY WITH RESPECT TO LEGAL AID

The state shall ensure that legal aid should be provided equally to every human being which includes women, children, minorities, Dalits, people who are immune to HIV and other harmful diseases, refugees, asylum seeker, migrants and also to those who are living in the socially as well as economically backward areas.

8. FORMATION OF THE PARTNERSHIP

¹⁴ Plato

¹⁵ J.N Pandey, *Constitutional Law of India*, 446 (Central Law Agency, Allahabad, 55th edn, 2018)



The state shall motivate the barristers, colleges/universities, civil society, etc to contribute with respect to the legal aid and also focus on establishing the public-private partnership with the motive to enhance the benefits of the legal aid to every human being.

CONCLUSION

As we know that right to constitutional remedies is the heart as well as the soul of the constitution because right to constitutional remedies is the only right which gives life to the other rights that is to say to derive the benefits or to enforce the other rights, conferred by the Part III of the constitution, right to constitutional remedies is quite fruitful. There is a duty or commitment arises on the part of the state to make socially, politically and economically weak people realize about the certain fundamental rights available to them and should protect those rights from the discrimination and fund these people whenever required so that they could be able to seek remedy against the wrongdoer before the appropriate court of law. Because this would maintain the confidence among the people with respect to the system of administration of law.
