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THE SOCIO-ECONOMIC AND CULTURAL RIGHTS OF DALIT IN INDIA: AN OVERVIEW FROM JUDICIAL PERSPECTIVE

-Mr. Abhijit Mahadeo Chavan¹

ABSTRACT

The Dalit community is one of the backward class communities of India. They remained backward due to lack of their socio-economic and cultural development. In fact, according to United Nations guidelines socio-economic and cultural development is the right of all the individuals, groups, and communities to live a life of dignity. India being the member of United Nations ratified all the relevant international treaties and made constitutional provisions also for upliftment of the Dalit communities on all socio-economic and cultural fronts. Apart from this, not only government agencies but non-governmental organisations are also making efforts for development of Dalit communities. Despite all this, Dalit communities are lagging far behind on all fronts of Socio-economic and cultural developments and are forced to live in an undignified life. This paper tries to investigate the causes and factors responsible for forcing Dalit communities to live in an undignified life. However, instead of harping merely on traditional factors, like caste discriminations, religious rituals, this paper investigate, whether constitutional machinery: legislators, executives, and judiciary; discharge their duties as envisaged by the makers of Indian constitution. These socio-economic and cultural developments are recognised as rights of all the communities. Dalit communities are not exception to this. Dr. Babasaheb Ambedkar himself being Dalit made adequate provisions in the constitution for socio-economic and cultural development of Dalit communities. This paper investigates not only the role played by legislators and executives but also to investigate the role played by judiciary to establish socio-economics and cultural rights of the Dalit communities.

Key words: - Dalit, socio-economic and cultural rights, Constitutional machinery, life of dignity

¹ LL.M II (Constitutional and Administrative law), Savitribai Phule Pune University, Department Of Law

1. INTRODUCTION

The word Dalit is derived from the Sanskrit word “Dal”² means the broken man, downtrodden, oppressed and Harijan. Though the term Dalit is said to be popularized by Dr. Ambedkar, but the real fact is that, he hated this term, like the word Harijan. Historically, all these terms are used to those people who were “Untouchable” and subjected to extreme forms of discriminations and excluded from the mainstream society.

However, the Indian Constitution did not recognise any of the above nomenclature, instead, preferred the word “Scheduled Caste” which indicate the Conglomeration of various castes, facing the stigma of Untouchability. Thus, the British promulgated this term through “The Government of India Act 1935,” which represent the class facing Social and economic inequalities and the same nomenclature has been adopted in constitution of India (1950), with certain safeguards like reservations in educations, job and political field and certain preventive measures like article 17, 46 and 335, so that they can mingle with, mainstream society, and efface their old recognition.

However, despite such legal recognition and protections, Dalit continued to face significant social, economic, educational, and political discriminations and prejudice in the various walks of life, limiting not only their upward mobility but access to all types of resources. All this has been continued even after the constitutional provisions and ratifications and acceptance of all sorts of international conventions, treaties and declarations like: UDHR, ICCPR, ICESCR, by the Indian government to provide all sorts of human rights to all the Indian citizens without any discrimination, still the Dalit communities are lagging far behind as far as their socio-economic and cultural rights are concerned; therefore the problem crops up as to how and who is responsible for such plight of Dalit communities. As all these rights are legal and fundamental rights, so, naturally it becomes incumbent upon the judiciary to protect all these rights of Indian citizens, more particularly the rights of Dalit.

We therefore, manifested in this paper to find out whether Indian judiciary has failed to protect the fundamental rights Such as: socio-economic, cultural, and political rights of Dalit.

DISCUSSIONS

Looking to the historical background and conditions of Dalit Communities, constitutional makers have made adequate provisions in the constitution for upliftment of Dalit from their degraded and

² <https://edurev.in/question/1174259>

undignified life and put them at par with mainstream society. However, despite the sufficient constitutional provisions and lapse of 75 years of acceptance of the constitution; government of India: Legislative, Executive, Judiciary; has failed to fulfilled the dreams of the constitution makers.

Of course, all the three wings of the government are collectively responsible; however, legislature and Executives are related to political parties and they have their own political, Social, and economic agenda, which they try to implement within the constitutional framework, as against this judiciary has its fixed agenda and that is to protect the rights of citizens, constitutional value, and the democracy.

Therefore, issue arises whether the Indian judiciary is discharging their constitutional responsibilities put upon them by the constitution. Indian judges Unlike USA, are not political appointees, moreover, they enjoy constitutional independence from the other two wings of the government: legislature and executive; means both wings have no authority to interfere in judicial functioning; Despite this, Indian judiciary appears' to have failed in discharging its responsibility, more particularly, to protect the rights of Dalit, and as a result of which, Dalit are lagging far behind as compared to privileged class.

The irony and sad part is that, if we compare Indian Dalit with their counterpart in America called Black American, who got their constitutional rights only after the Indian Dalits i.e. they got in the year 1964, in spite of this, they have made par excellent progress in almost all the field of life, even they have gone to the extent of becoming a president of the America, but herein India Dalits have to struggle to become a Sarpanch of a small local body. The reason behind it is that, Indian government is hiding such regressive practices of untouchability from international communities. One of our Foreign Ministers has gone to the extent of denouncing the efforts made by United Nation to address the rights of Dalit, from the platform of world conference by saying that, "An attempt is being made to ascribe racial connotations to caste....racism should not be confused with the caste;"³ In fact both these discriminations are equally destructive; the effort made by United Nation in world conference was a significant step in drawing the attention of International communities to the plight of Dalit community of India. Although the Indian government denies the problem of mistreatment to Dalit and points to the extensive legal protections evidencing the compliance with the international standards, but the numerous reports of violence and discriminations indicate that Dalits of India remains to be "Broken Man" until the atrocities against Dalit ends, the International community ought to continues to publicize the conditions

³ Human Rights abuses of Dalit in India by Bina B. Hanchinamani

of India's Dalit and encourage India to live up to the standards, established in its domestic laws and in consonance with the international laws and obligations.

Therefore, it has become essential to find out the loopholes and lacunas in the functioning of the Indian judiciary Visa-a-Vis Supreme Court of India through various judgements of Supreme Court of India more particularly judgements related to Dalit.

2. UNTOUCHABILITY, ATROCITY ACT AND SUPREME COURT OF INDIA

The constitution of India contains article seventeen for "Abolition of untouchable", pursuant to this article the act of Untouchability (offences) act was made by the parliament in 1955, which came into force with effect from 1st June, 1955, later on it was re-enacted and renamed as, "The scheduled caste and Scheduled tribes (Prevention of Atrocities) Act 1989 and which was brought in force from 30/01/1990, however, it has not been proved to be effective, in spite of implementation machinery and special courts.⁴

2.1. THE SCHEDULED CASTES AND THE SCHEDULED TRIBES

(PREVENTION OF ATROCITIES) ACT, 1989

The Experience of the last 25 years shows that, though the above act is strong in nature and construction also, however, judiciary has not only narrowed down its scope but diluted also to the extent that the conviction rate is shockingly low. The fact of this act is that, the contentious issue involve is between two caste: upper caste and lower caste and irony is that, right from filing of FIR and investigation to the final judgement of the judiciary, all the officials dealing with the issue are from upper caste, and naturally they hold bias attitude towards this act, hence the conviction rate is bound to be too low, as the hatred ingrained in the minds of officials is such that they cannot tolerate supremacy of Dalit at any cost.

That is why Dr. Babasaheb Ambedkar had made the statement that, "When law enforcement agency, police and judiciary does not seem to be free from caste prejudice, expecting the law to ensure justice to victims of caste crime is rather an impractical solution to a perennial problem" and therefore, unless there is a transformative shift in the understanding of caste-based

⁴ Constitutional provisions for SC/ST by Jeetu Kanwar (Army Institute of law, Mohali)

discrimination, doors to access justice as envisaged by the Indian constitution will remain a distant dream. This has been proved by the cases like

1) Dr. Subhash Kashinath Mahajan vs. State of Maharashtra, 20 March, 2018

2) Recent judgement Khuman Singh vs. State of Madhya Pradesh, 27 August, 2019

2.2. DR. SUBHASH KASHINATH MAHAJAN VS. STATE OF MAHARASHTRA, 20 MARCH, 2018

This judgement has exposed the functioning of the judiciary, as to how the judges hold the bias views about the Atrocity act of 1989, as a result parliament without waiting for the outcome of the review petition amended section 18 of the act and incorporated section 18(a) in the Atrocity act, and supreme court also accepted it without any grudge.

2.3. KHUMAN SINGH VS. STATE OF MADHYA PRADESH, 27 AUGUST, 2019

In this case also, the Supreme Court appear to have diluted the act, in fact FIR contains the 302, it under section 3(2)(v) of the scheduled castes and scheduled tribes(Prevention of Atrocities) act 1989, but in spite of the existence of eye witness, supreme court treated it as not proved, apart from this though it was a case of a murder punishable under section 302, the benefit of exception 4 of section 300 had been given and instead of punishing under section 302, it was converted to section 304 where there is lesser punishment. The culprit being from Thakur community they managed everything; had the Atrocity case not been diluted, the accused would have got life imprisonment, thus the supreme court itself weakened the case by eliminating section 3(2)(V) of Atrocity act.

Thus, the Supreme Court's judgement raising the bogey of misuse of the scheduled caste and scheduled tribes (Prevention of Atrocities act), 1989 is a grave atrocity against Dalits and Adivasis in itself, it seeks to effectively generalise one case to rewrite an entire law and to transfer judicial function to the police creates hurdles in the immediate arrest of perpetrators and their collaborators make the law toothless.⁵

⁵ <https://www.epw.in/engage/why-do-we-need-specific-law-safeguard>

3. VARIOUS SAFEGUARDS TO PROTECT THE RIGHTS OF DALIT: -

The constitution contains article 15(4) and 16(4) which speak about the fundamental rights of scheduled caste and scheduled tribes vis-à-vis Dalit communities. Though constitutional makers have made article 15(4) and 16(4) as inalienable part of the fundamental rights, Supreme Court has not only interpreted both the Articles in isolation but treated as merely an enabling provision and subverted the very concept and purpose with which Dr. Babasaheb Ambedkar framed these articles however, judiciary interpreted them in such way that Dalit are deprived of their fundamental right. As a result of which Scheduled castes and scheduled tribes are deprived of their socio-economic and cultural rights also.

Thus, we can very well say that, Supreme Court has not appreciated the constitutional socio-economic and cultural rights also and statutory provisions in proper perspective due to which Dalits are deprived of their socio-economic and cultural rights also.

3.1. ARTICLE 335 OF THE CONSTITUTION AND SUPREME COURT OF INDIA:

The article 335 comes under part 16 of the Indian constitution wherein Special provisions relating to certain classes are embodied. The article run as under, **“The claims of the members of the scheduled castes and scheduled tribes shall be taken into consideration, consistently with the maintenance of efficiency of administration in the making of appointments to services and posts in connection with the affairs of the union or of the state.”**

The construction of this article clearly denotes that, the claims of S/C and S/T **“shall be taken into consideration,”** here the word **“SHALL”** is deliberately used to give strong message and direction to the government that, the claims of SC and ST must be honoured but the Supreme court did not appreciate it in its proper perspective and kept harping on the **second part of this article that,** is, ***“consistently with the maintenance of efficiency of administration”***, and interpreted in such a way that, as if this article is a restriction on article 16(4), and started to avoid the claims of S/C and S/T under the guise of efficiency, and not only in services but also in educational admission also; where merit is assessed and not efficiency. As mentioned above, though both these terms are appearing to be similar but they are not identical. Thus, the article 335 has been made to stand on its head instead of legs, which has been proved to be detrimental to both S/C and S/T communities and they are deprived of their legitimate rights, due to wrong interpretation of article 335 of the constitution.

Apart from this they have applied this interpretation to article 15(4) also, but the real fact is that, this provision of article 16(4) pertains services and not to article 15(4); where merits must be taken in to account for admission and not the efficiency. Though both these terms are relative in nature and appear to be same in meaning but they are not identical and convey altogether different meaning from each other.

Thus, the Supreme Court of India has not properly appreciated the constitutional provisions of article 335 of the constitution; due to which both the Communities are deprived of their legitimate socio-economic and cultural rights.

3.3. RECENT JUDGEMENT IN CASE OF STATE OF PUNJAB VS. DAVINDER SINGH, 1 AUGUST 2024

In this case also dissenting judgement itself shows that the majority judgement has not been arrived with due justification as far as the sub-categorisation in to SC and ST is concerned.

1) The bench of Supreme court of India comprising nine judges has unequivocally stated in Indra Sawhney case that, the doctrine of creamy layer is not applicable in case SC and ST, despite of this, it has been mentioned in the instant case, about its application to SC and ST.

2) As regards the sub- categorization in SC and ST, the decision given by the constitutional bench comprising of five judges, has been doubted in open court, by the division bench comprising of three judges and recommended for fresh hearing by the larger bench.

Is it all right for division bench to express doubt about the judgement given by the constitutional bench, that too in open court?

Is it not violation of article 141 of the constitution in both the cases?

Such question has already been raised by constitutional expert prof. Gautam Bhatia in case of need of Quantifiable data in case of promotions to SC and ST as under,

“It does raise a question of judicial propriety. Can a five judgement hold that a coordinate bench wrongly interpreted the law and is therefore incorrect?”⁶

Thus, all the above points and conceptual errors in application of creamy layer and sub-categorization to SC and ST communities must be studied in this paper along with other judgements given by the supreme court in connection with reservation policy.

⁶ Unsealed covers, by Gautam Bhatia (page no 148)

CONCLUSIONS AND RECOMMENDATIONS

1) The above discussion made the researcher to derive conclusion that, the Supreme Court has made conceptual errors in understanding some of the articles, wherein social issues are involved. This has happened because most of the judges are not only coming from elitist privileged class but in addition to this most of them appear to be unfamiliar with socio-economic issues of Indian society.

Moreover, they are born and brought up in such a surrounding and atmosphere wherein they learnt hatred from the birth itself and they cannot discard it from their mind even after assuming such a high status, and their claims of superiority even at the far end of their life. Such hatred and superiority failed them to understand the social evil prevailing in Indian society and ways and means of their elimination envisioned and embodied in the constitution by the makers of the constitution.

2) The Indian judicial services more particularly judges of higher judiciary are the unique services where the appointments are made without any test or examination and interview. Moreover, this is the only department wherein no training programs or workshops are arranged for sitting judges of higher judiciary.

3) The most important thing is that, our constitution is not merely a “Law Book” or a political document, it is a Socio-political and socio-economic document.

4) Moreover, our constitution is an organic and living constitution; therefor its articles shall not be interpreted in isolation.

RECOMMENDATIONS

In view of observations and conclusions suggestions are as under,

1) There should be proper test for not only of legal knowledge but knowledge of Indian sociology, socio-economic and political economy of India. Apart from this, candidates aspiring to be judge, his views about the Indian constitution must also be tested.

2) Sufficient training program must be arranged in between their tenure as a sitting judge of the higher judiciary as well as to the lower judiciary.

3) There should be proper recruiting or appointing agency like UPSC.

4) There should be adequate social diversity in the higher judiciary. Directly

- 5) No judge is to be directly appointed to the higher judiciary merely based on his experience he must undergo at least interview by the panel of judges and jurist.
- 6) Then only Indian judiciary will be able to protect the Socio-economic and cultural rights of scheduled caste and scheduled tribes.

REFERENCES

BOOKS

- 1) Constitution of India by V.N. Shukla.
- 2) Dalits and Human rights by Rakesh K. Sinha.
- 3) Cr.P.C (Bare Act) professional's publication
- 4) I.P.C. (Bare Act) professionals' publication

ARTICLES

- 1) "Conditions of Dalit in India" by Abanti Bose
- 2) "Human Rights Abuses of Dalits in India" by Bina B. Hanchinamani
- 3) Dalit Literature and Black Americans by Sanjay Kumar (AARF)
- 4) Constitutional Provisions For SC/ST'S by Jeetu Kanwar (Army Institute of law, Mohali)

CASE LAWS

- 1) Indira Sawhney Vs. Union of India, 13 December, 1999
- 2) State of Punjab Vs. Devindar Singh, 1 August, 2024
- 3) Subhash Mahajan Vs. State of Maharashtra, 20 March, 2018
- 4) Khuman Sing Vs. State of Madhya Pradesh, 27 August, 2019