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BASIC PHILOSOPHY OF THE INDIAN CONSTITUTION

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Abstract:

The basic philosophy of the constitution means ideology of the constitution or fundamental basis of the constitution. In other words what are the fundamental assumption on which our constitution is based. What we call it in general features of the constitution. The following are the fundamental philosophies or ideologies of our constitution.

1. INDIA IS A SOVEREIGN, SOCIALIST, SECULAR DEMOCRATIC REPUBLIC

The framers of the constitution of India sets out two objectives in the preamble.

To constitute India in to a sovereign, socialist, secular, democratic republic. It is republic because head of the state is not a hereditary monarch. It is sovereign because the constitution does not recognize the legal supremacy of another country over India. It is socialistic because constitution aims at elimination of inequality in come and status and standards of life and may enable the country towards nationalization and state ownership. The word secular recognizes the freedom of religion and faith. B) To secure to citizens justice social, economic and political and liberty of thought, expression, faith and worship. Besides it also provides equality of status and opportunity. It also provides to promote among the people of India the feternity, assuring dignity of individual, the unity and integrity of a nation. So ultimate aim of the makers of the constitution was to have welfare state and uphold the supremacy of the people.

2. THE CONSTITUTION OF INDIA GUARANTEES, SOCIAL, ECONOMICAL, POLITICAL EQUALITY, EQUAL OPPORTUNITY, EQUALITY BEFORE LAW AND EQUAL PROTECTION OF LAW.

The article 14 says that equality before law “The state shall not deny to any person equality before law and equal protection of law within the territory of India”.

This article exposes the ideology that no person is above the law and absence of any special privileges in favour of any individual.

The underlying principle of this article is that all persons and all things in similar circumstance should be treated alike but not unlike. This subject is subject to reasonable classification of persons or things. The classification must be based on reasonable grounds.

3. ALL THE POWER OF CENTRE AND STATES ARE DERIVED FROM THE PEOPLE AND ULTIMATE SUPREMACY LIES IN THE HANDS OF PEOPLE.

All the legislative, executive and judicial powers of the states and union are derived from the supremacy of the people. The constitution recognizes people of the country are the supreme. The

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sovereignty lies in the hands of the people.

The constitution derives its validity from the supreme power of the people. It is the people of India who have solemnly resolved to constitute India in to sovereign democratic republic. The people of India will continue to be governed under the constitution so long as it is acceptable to them and its provisions are promote their aims and aspirations.

4. THERE SHOULD BE A FREEDOM OF SPEECH, THOUGHT, EXPRESSION, IN BELIEF, WORSHIPS, ASSOCIATION AND WORK SUBJECT TO REASONABLE RESTRICTIONS.

Article 19 of the constitution provides the following freedoms:

1. Freedom of speech and expression
2. Freedom of assembly
3. Freedom of association
4. Freedom of movement
5. Freedom of residence and settlement
6. Freedom of profession, occupation, trade or business.

At the same time the article 19 clauses 2 to 6 contained reasonable restrictions on the above freedoms. The state can put restrictions on the ground of public order, public interest and security of state. The reasonable restriction has to be determined in the objective manner and from the stand point of the interest of the general public and not from the point of the individuals. There must be reasonableness of restriction not of law.

5. CONSTITUTION OF INDIA PROVIDES SPECIAL PRIVILEGES TO WOMEN AND CHILDREN

Article 15 clause 3 which promises special provisions for women and children, has been widely resorted to in practice in framing policies by the government and courts. Articles 15 (3) provides that nothing in this article shall prevent the state from making any special promises for women and the children. For example the proposed reservation bill for reserving 33% of the seats in state legislature and parliament.

Again Article 24 says about the prohibition of employment of children in the factories: “No children below the age of 14 years shall be employed to work in any factory or mine and engaged in other hazardous employment”. This provision is in the interest of the health and protecting the young persons. There is also another article 45 which speaks about free and compulsory education of children until they complete 14 years. In Kerala education bill the Supreme Court held that the no doubt, requires states to provide free and compulsory education for all children but there is nothing to prevent the state from discharging that obligations through the government and aided schools.

6. PROMOTION OF RESERVATION FOR THE SCHEDULE CASTE AND SCHEDULE TRIBES:

Article 46 provides for the promotion of Educational and Economic interest of the Schedule Caste and Schedule Tribes and other Weaker Sections. The state shall promote with special care the educational and economic interest of the weaker sections of the people and in particular schedule caste and schedule tribes. And also protect them from social injustice and exploitation. Therefore the Central Government extended the reservation benefit for SC/STs for another 10 years. And also constituted National Commission for SC/STs. Besides the Central Government and our State Government constituted the commissions for the backward classes and minorities.

7. THE CONSTITUTION ALSO PROVIDES RESERVATION FOR THOSE WHO ARE CONOMICALLY AND SOCIALLY BACKWARD IN EMPLOYMENT AND EDUCATION PURPOSE.

Article 15 (4) says that “State can make any special provisions for the advancement of any socially and educationally backward classes of citizens or for a Schedule Caste and Schedule Tribes. And Article 16 (4) says about equality of opportunity in the matter of public employment. Article 16 (4) provides that “Nothing in this article shall prevent the state from making any provision for the reservation of appointments or posts in favour of backward classes of citizens which in the opinion of state is not

adequately representative in the services under the state.

The above two article expresses the philosophy of the constitution regarding the welfare of the economically and socially backward classes. The reservation should not exceed more than 50% of the available seats in education and employment purpose.

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