



Constitutional Provisions for Tribal Development in India

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ABSTRACT

Constitutional provisions are living instruments to lit the light of the lamps for tribes. These are the backbone of Scheduled Tribes as well as for others backward classes. To walk for a handicraft person, walking stick is necessary, like this to stand for the tribes' people constitutional safeguards are essential. Constitutional framers made some provisions for the development of tribes' people. It was the credit of Dr. B.R. Ambedkar who had faced with several problems from birth to death of his life because of social evils practices. This paper is made an attempt to explore the constitutional provisions for tribal development in India.

KEYWORDS

Constitution, Amendment, Commission, Articles, Act.

Introduction:

In order to realise the objectives of equality and justice as laid down in the preamble itself, the constitution makes special provisions for the Scheduled Caste and Scheduled Tribes, the backward classes, the minorities and Anglo-Indian. Under Article 342 the president has the power to specify the tribes or tribal communities or parts or groups within them as Scheduled Tribes in relation to a state or Union Territory. In the case of state the president must consult to governor of the state. In 1999, a new Ministry of Tribal affair was created to provide a sharp focus to the welfare and development of the STs. The ministry should co-ordinate all activities relating to the STs. In order to safe-guard the interests of the STs, under 89th Constitutional Amendment Act of 2003, a separate National Commission set up. This act amended Article 338 and inserted a new article 338A in the constitution. The separate National Commission for STs came into existence in 2004. It consists of a chairperson, a vice-chairperson and three other members. They are appointed by the President of India by warrant under hand and seal. Under Sixth Scheduled, the constitution has provided the special provisions for the four north-eastern states of Assam, Meghalaya, Tripura and Mizoram. These four states constituted as autonomous district.

Constitutional Provisions for Tribal Development:

The constitutional provisions for STs can be categorised into five categories, viz.

- i. Educational and Cultural Rights (Articles 14, 15, 15(4), 16, 17, 29, 46 and 350.)
- ii. Social Rights (Articles 21, 21A, 23, 24, 16(4), 335)
- iii. Economic Rights (Articles 244, 244A and 275)
- iv. Political Rights (Articles 164, 330, 332, 243D and 243T, 338A, 341 & 342)
- v. Employment Rights (Articles 15(5), 16(4) and 16(4A).)

Educational and Cultural Rights (Articles 14, 15, 15(4), 16, 17, 29, 46 and 350):

Article 14:

Equality before law and equal protection law.

Article 15:

Prohibition of discrimination on the ground of religion, race, caste, sex or place of birth.

Article 15(4):

The State is permitted to make any special provision for the advancement of the SCs/ STs.

Article 15(5):

The state is empowered to make any special provision for the advancement of the SCs/STs regarding their admission to educational institutions (including STs) both in public or private, aided or unaided school by the state, except the minority educational institutions.

Article 16:

Equal opportunity in matters of public employment.

Article 17:

Abolition of Untouchability and prohibition of its practice.

Article 29:

Protection of language, script, and culture of minorities through educational institutions including STs.

Article 46:

Directive Principle of State Policy directed to the leaders in future to promote educational and economic interests of STs and protect them from social injustice and types of exploitation.

Article 350:

The Constitution also gives right to every person to submit a representation for the redress of grievance to any officer or authority of the Union or a State in any of the languages used in the Union or in the States as the case may be.

Social Rights (Articles 21, 21A, 23, 24, 16(4), and 335):

Article 21:

Protection of life and personal liberty (including STs).

Article 21A:

Right to elementary education (Including STs).

Article 23:

It prohibits the system of bonded labor in human being and forced labor.

Article 24:

It prohibits employment of children below the age of 14 years in factories and hazardous employment.

Article 16(4) and Art. 335:

Reservation of seats by ST in public services and in employment under the State. Under article 335, belonging to SCs/ STs can claims to services and posts.

Economic Rights (Articles 244, 244A and 275):

Article 244:

Article 244 in part X of the Constitution envisages a special system of administration for certain areas designated as 'scheduled areas' and 'tribal areas'.

Article 244A:

It deals with the formation of an autonomous state comprising certain tribal areas in Assam and creation of local legislature or council of ministers or both.

Article 275:

The union Government can provide the special grants for the welfare of STs.

Political Rights (Articles 164, 330, 332, 243D and 243T, 341 and 342):**Article 164:**

It empowers the State to establish special Ministry for welfare of the Scheduled Tribes in Bihar, Madhya Pradesh, and Orissa.

Article 330:

Reservation of seats for Scheduled Castes and Scheduled Tribes in the House of the people (Lok Sabha).

Article 332:

It deals with the reservation of seats for Scheduled Castes and Scheduled Tribes in the State Legislative Assembly.

Article 243D and 243T:

It deals with the reservation of seats in Panchayatiraj Institutions and Municipality for SCs/STs respectively.

Article 338A:

Under 89th Constitutional Amendment Act of 2003 a new article 338A is added to form a separate National Commission for STs. The separate National Commission for STs came into existence in 2004.

Article 342:

The president has the power to specify the tribes in relation to a State or Union Territory.

Employment Rights (Articles 15(4), 16(4) and 16(4A)):**Article 15(5):**

It provides reservations to scheduled tribes in the educational institutions.

Article 16(4) and 16(4A):

It provides reservations to scheduled tribes in the employment and promotions.

Fifth and Sixth Schedules of the Constitution:**Articles 244:**

The provisions relating to the administration and Control of the Scheduled Areas and Scheduled Tribes in any state, other than Assam, Meghalaya, Tripura and Mizoram are contained in the Fifth Schedule to the Constitution (Fifth Schedule).

Articles 244 and 275:

It deals with the provisions relating to the administration of tribal areas in the states of Assam, Meghalaya, Tripura and Mizoram (Sixth schedule). These four states have been constituted as autonomous district. It provides for autonomous districts and autonomous regions. The governor is empowered to organize and reorganize the autonomous district. He can increase or decrease their areas. Each autonomous district has a district council consisting of 30 members, of whom four are nominated by the governor and the remaining 26 are elected on the basis of adult franchise. The elected members are elected for five year and nominated members hold office during the pleasure of the governor.

The National Commission for Scheduled Tribes:

Like the National Commission for SCs, The National Commission for STs is also a Constitutional body in the sense that it is directly established by Article 338A of the Constitution. The

National Commission for SCs & STs Came into being consequent upon passing of 65th Constitutional Amendment Act of 1990. The Commission was established under Article 338 of the Constitution with the objective of monitoring all the safeguards provided for the SCs & STs under the constitution. Geographically and culturally, the STs are different from the SCs and their problems are different from those of SCs. In 1999, a new Ministry of Tribal affair was created to provide a sharp focus to the welfare and development of the STs. The ministry should co-ordinate all activities relating to the STs. In order to safe-guard the interests of the STs, under 89th Constitutional Amendment Act of 2003, a separate National Commission set up. This act amended Article 338 and inserted a new article 338A in the constitution. The separate National Commission for STs came into existence in 2004. It consists of a chairperson, a vice-chairperson and three other members. They are appointed by the President of India by warrant under hand and seal. Under Sixth Scheduled, the constitution has provided the special provisions for the four north-eastern states of Assam, Meghalaya, Tripura and Mizoram. The Commission presents an annual report to the President. The President places all such reports before the parliament, along with a memorandum explaining the action taken on the recommendations made by the Commission. The present also forwards any report of the Commission pertaining to a state governor. The governor places it before the state legislature along with a memorandum explaining the action taken on the recommendations of the commission.

Constitutional Amendment Acts for empowerment of STs: Fifty-First Constitutional Amendment Act, 1984:

51st Constitutional Amendment Act provided for the reservation of seats in the Lok Sabha for STs in Meghalaya, Arunachal Pradesh, Nagaland and Mizoram as well as in the Legislative Assemblies of Meghalaya and Nagaland.

Fifty-Seven Amendment Act, 1987:

57th Constitutional Amendment Act of 1987 provided the reserved seats for the STs in the Legislative Assemblies of the states of Arunachal Pradesh, Meghalaya, Mizoram and Nagaland.

Sixty-Fifth Amendment Act, 1990:

The Act provided for the establishment of a multi-member National Commission for SCs/STs in the place of a Special Officer for SCs/STs.

Seventy-Second Amendment Act, 1992:

This Act provided for reservation of seats for the STs in the Legislative Assemblies of Tripura.

Seventy-Seventh Amendment Act, 1995:

The Act provided for reservation in promotions in government jobs for SCs/STs.

Eighty-Second Amendment Act, 2000:

The Act provided for making of any provision in favour of the SCs/STs for relaxation in qualifying marks in any examination or lowering the standards of evaluation, for reservation in matters of promotion to the public services of the centre and the states.

Eight-Third Amendment Act, 2000:

The Act provided that no reservation in Panchayats need be made for SCs in Anunachal Pradesh. The total population of the state is tribal and there are no SCs.

Ninety-Third Amendment Act, 2005:

The Act empowered the state to make special provisions for the socially and educationally backward classes or the SCs or STs in educational institutions including private educational institutions (Whether aided or unaided by the state), except the minority educational institutions (Clause (5) in Article 15). The Supreme Court declared that reservation in private, unaided educational institutions was unconstitutional.

Conclusion:

The constitutional makers of India were very much concern about the tribes people for their upliftment in whole squares. By article 32 of Indian Constitution provided the right to constitutional remedies. All articles in favour of tribes are indicated the preservation and upliftment in socio-economic and political life. The makers of the constitution wanted to create an

egalitarian society with the help of these articles. Within the boundary of these provisions both central government and state government are established the several schools, colleges, hostels, and others. I think constitutional provisions are not only measures for tribes, social consciousness is more important.

REFERENCES

1. These are the constitution (Scheduled Castes) Order, 1950; the Constitution (Scheduled Castes) (Union Territories) order, 1950; Scheduled Castes and Scheduled Tribes Orders Act, in 1956 and again 1976. | 2. The constitution has used various expressions in various places for SCs/STs like 'Socially and economically backward classes of citizens' (Art. 15), 'backward class of citizens' (Art. 16), 'weaker section of the people' (Art. 46). | 3. The constitutional safeguards for the SCs/STs are explained in chapter 55. | 4. Article 338A was inserted by the 89th constitutional Amendment Act of 2003. The Act came into force on 19.02.2004. | 5. At present nine states of India have scheduled areas like Andhra Pradesh, Jharkhand, Chhattisgarh, Gujarat, Himachal Pradesh, Maharashtra, Orissa and Rajasthan. | 6. Sharma, Brijia kishore "Introduction to the Constitution of India", PHI Learning private Limited, p.376. |