May 2025

ವಕೀಲರ ವಾಹಿನಿ

ಕನ್ನಡ-ಇಂಗ್ಲೀಷ್ ಮಾಸ ಪತ್ರಿಕೆ

Vakeelara Vaahini

KANNADA & ENGLISH Monthly

JUDICIAL INDEPENDENCE & ACCOUNTABILITY
- K G RAGHAVAN

IMPORTANCE OF LAW EDUCATION IN INDIA
- Prof.(Dr.)ASHOK R. PATIL

ಮಹಿಳೆ ಮತ್ತು ಕಾನೂನು
- ಡಾ॥ ರೇವಯ್ಯ ಒಡೆಯರ್

ಸಮಾನತೆಯ ಹರಿಕಾರ ಡಾ. ಬಿ.ಆರ್.ಅಂಬೇಡ್ಕರ್
- ಡಿ.ವೈ. ಬಸಾಪುರ

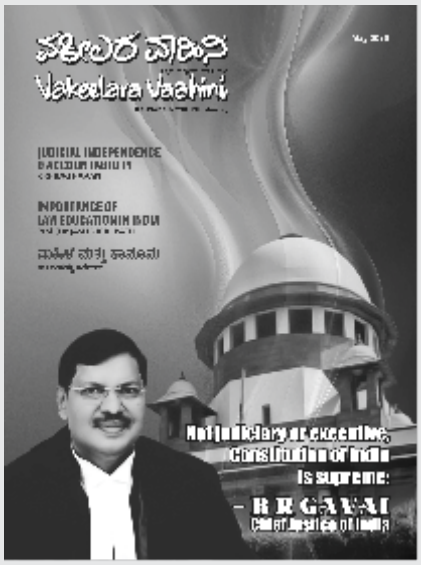
Not judiciary or executive, Constitution of India is supreme:

– B R GAVAI
Chief Justice of India

Vakeelara Vaahini
Bilingual Monthly Magazine
RNI: KARBIL/2022/86935

ವಕೀಲರ ವಾಹಿನಿ
ಕನ್ನಡ–ಇಂಗ್ಲೀಷ್ ಮಾಸ ಪತ್ರಿಕೆ

ಶ್ರೀ ವಿಶ್ವಾವಸು ನಾಮ ಸಂ,
ವೈಶಾಖ – ಜ್ಯೇಷ್ಠ ಮಾಸ
Volume 04 | Issue: 05
May 2025



Adv. S.N. PRASHANTH CHANDRA
Editor in Chief

Adv. Dr. D. M. HEGDE
Editor and Publisher
+91 88613 14104

Sub Editors:
Adv. CHANDRAKANTH PATIL. K.
Adv. VENKATESH MEGARAVALLI

ARTICLES ARE INVITED.
vakeelavaahini@gmail.com

INDEX / ಪರಿವಿಡಿ

ಕನ್ನಡ

01. ಸಂಪಾದಕೀಯ 04
02. ಸುಪ್ರೀಮ್ ಕೋರ್ಟಿನ 52ನೆಯ ಮುಖ್ಯ ನ್ಯಾಯಮೂರ್ತಿಯಾಗಿ ಭೂಷಣ ಗವಾಯಿ 14
03. ಕುಂಭಮೇಳ ಎನ್ನುವುದು ಮೌಢ್ಯವೆ? – ಸ್ಮಿತಾ ಹೆಗಡೆ 25
04. ಮಹಿಳೆ ಮತ್ತು ಕಾನೂನು – ಡಾ॥ ರೇವಯ್ಯ ಒಡೆಯರ್ 28
05. ಸಮಾನತೆಯ ಹರಿಕಾರ ಡಾ. ಬಿ.ಆರ್.ಅಂಬೇಡ್ಕರ್ – ಡಿ.ವೈ. ಬಸಾಪುರ 33

English

1. Misfortune tests the sincerity of friendship by K G Raghavan 5
2. A Blow for Constitutionalism by V. Sudhish Pai 07
3. BUYING CLIENT'S LITIGATION PROPERTY BY AN ADVOCATE- PROFESSIONAL MISCONDUCT? By K.L. Srinivasa 09
4. India's Evolving Competition Law Framework in a Globalised Digital Economy by Rohith Kashyap M S 11
5. IMPORTANCE OF LAW EDUCATION IN INDIA by Prof.(Dr.)Ashok R. Patil 13
6. Judiciary Watch by K.Suryanarayana Rao 15
7. Neither Article 200 nor 142 enables issue of any command to Governor or President of India - CONSTITUTIONAL REALITY By S.P. SHANKAR 16
8. JUDICIAL INDEPENDENCE & ACCOUNTABILITY by K G RAGHAVAN 20
9. The Bedrock of Indian Banking: Banking Regulation Act, 1949 by Vishnu V Madhusudan 26
10. TABLE RATIO 35

The views expressed in the above articles are that of the authors.

ಸಂಪಾದಕೀಯ

ಜನರೆಲ್ಲರೂ ಸೈನಿಕರಾಗಬೇಕಾದ ಕಾಲದಲ್ಲಿ...

"ರಜೆಯಲ್ಲಿ ಸಕುಟುಂಬ ಸಮೇತರಾಗಿ ಎಲ್ಲಿಗೆ ಪ್ರವಾಸ ಹೋಗುವ ಆಲೋಚನೆಯಲ್ಲಿದ್ದೀರಿ?" ಎಂದು ಎಪ್ರಿಲ್ ಕೊನೆಯ ವಾರದಲ್ಲಿ ಕೇಳಿದ ಗೆಳೆಯರಿಗೆ ದೇಶಾವರಿಯಾಗಿ ನಕ್ಕು ನಿಟ್ಟುಸಿರು ಬಿಟ್ಟರು ಲಾಯರು. ಅವರ ಮನೆಯಲ್ಲಿ ಈ ವರ್ಷವಾದರೂ ಕಾಶ್ಮೀರಕ್ಕಾಗಲೀ, ನೇಪಾಳಕ್ಕಾಗಲೀ ಒಂದು ವಾರದ ಮಟ್ಟಿಗಾದರೂ ಹೋಗಿ ಬರಲೇ ಬೇಕು ಎನ್ನುವ ಒತ್ತಾಯವಿತ್ತು. ಆದರೆ, ಬದಲಾದ ಪರಿಸ್ಥಿತಿಯಲ್ಲಿ ಉತ್ತರ ಭಾರತದ ಪ್ರವಾಸಕ್ಕೆ ಹೋಗುವ ಹುಮ್ಮಸ್ಸು ಉಳಿದಿಲ್ಲ. ಹಾಗಾಗಿ, ಹದಿನೈದು ದಿನಗಳ ಮಟ್ಟಿಗೆ ಊರಿಗೆ ಹೋಗುವುದು, ತೋಟ, ಗದ್ದೆ, ಮನೆ, ಮಠ, ಕೆರೆ, ಕೊಳ್ಳ ಹಳ್ಳಗಳಲ್ಲಿಯೇ ಬೇಸಿಗೆಯನ್ನು ಕಳೆಯುವುದು ಸೂಕ್ತವೆಂದು ಎಲ್ಲರೂ ಅರೆ ಮನಸ್ಸಿನಿಂದ ಊರಿಗೆ ಮುಖ ಮಾಡಿದರು.

ಇದು ಈ ವರ್ಷದ ಬೇಸಿಗೆ ರಜೆಯ ಮಜಾ ಕತೆ.

ಅಖಂಡ ಭಾರತದಲ್ಲಿ ಎಲ್ಲಿಗಾದರೂ ಹೋಗಿ ಬರೋಣವೆಂದರೆ ಮೊದಲಿನ ಹಾಗೆ ಸಲೀಸಾಗಿ ಹೋಗಿ ಬರಬಹುದಾದ ಉಮೇದಾಗಲೀ, ಪರಿಸ್ಥಿತಿಯಾಗಲೀ ಉಳಿದಂತೆ ಕಾಣುತ್ತಿಲ್ಲ. ಉತ್ತರದತ್ತ ಹೋಗಲಿಕ್ಕೆ ಯಾವತ್ತು ಎಲ್ಲಿಂದ ಉಗ್ರರು ಬಂದು ತಲೆ ಸೀಳುತ್ತಾರೋ, ಹೆಂಡತಿ ಮಕ್ಕಳೆದುರಿಗೇ ನರಕವನ್ನು ತೋರಿಸುತ್ತಾರೋ ಎನ್ನುವ ಆತಂಕದ ಕತ್ತಲು. ಪಾಪಿ ಪಾಕಿಸ್ತಾನ ತಾನು ಉದ್ಧಾರವಾಗುವುದಕ್ಕೆ ಪ್ರಯತ್ನಿಸುವುದರ ಬದಲಿಗೆ, ಭಾರತವನ್ನು ನಾಶಮಾಡುವ ಪ್ರಯತ್ನದಲ್ಲಿ ಸೋಲುತ್ತಿದೆ. ಆದರೂ ಆಗಾಗ ಅಷ್ಟಿಷ್ಟು ಭಾರತೀಯರನ್ನು ಬಲಿತೆಗೆದುಕೊಳ್ಳುವ ಉಗ್ರರ ಸಂತತಿ ಇನ್ನೂ ನಾಶವಾಗಿಲ್ಲ ಎನ್ನುವುದು ನಾಗರಿಕ ಜಗತ್ತಿನ ಅಸಹನೀಯ ಸಂಗತಿ.

ಭ್ರಷ್ಟಾಚಾರದಂತೆಯೇ ಭಯೋತ್ಪಾದನೆಯ ರಕ್ತಬೀಜಾಸುರರ ಸಂತತಿಯಂತೆ ಬೆಳೆಯುತ್ತಾ, ಬಲಿಯುತ್ತಾ ಇದೆ. ಇದು ಖಂಡನೀಯ. ಭಾರತವು ಜಗತ್ತಿನ ಶಕ್ತಿಶಾಲಿ ದೇಶವಾಗಿ ಬೆಳೆಯಲಿಕ್ಕೆ ಹೊರಗಿನಿಂದ ಅವೆಷ್ಟೆಲ್ಲಾ ವಿಘ್ನಗಳು.

ಇನ್ನು, ದೇಶದೊಳಗಿನ ವಿಷಜಂತುಗಳು ನಿರ್ನಾಮವಾದರೆ ಅದೆಷ್ಟೋ ನಿರಾತಂಕವಾಗಿರಬಹುದು ಎನ್ನುವ ಸತ್ಯವನ್ನು ಒಪ್ಪಿಕೊಳ್ಳಬೇಕಾಗಿರು ವುದೂ ಅನಿವಾರ್ಯ. ಅದಕ್ಕಾಗಿ ಜನರು ಜಾಗ್ರತರಾಗಿ ಬೀದಿ ಬೀದಿಗಳಲ್ಲಿ ವಿಷಜಂತುಗಳು ಮಿಸುಕಾಡದಂತೆ ಕಣ್ಣಿಡಬೇಕು. ಕಾವಲಾಗಬೇಕು. ಅಂತೂ, ಪ್ರಜೆಗಳೆಲ್ಲರೂ ಸೈನಿಕರಾಗಬೇಕಾದ ಕಾಲದಲ್ಲಿದ್ದೇವೆ.

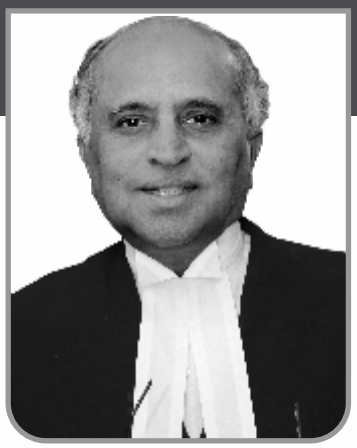
ಚರಿತ್ರೆಯನ್ನು ಗಮನಿಸಿದಾಗ ಮನುಷ್ಯರು ಚರಿತ್ರೆಯಿಂದ ಏನ್ನೂ ಕಲಿಯುವುದಿಲ್ಲ ಎನ್ನುವುದನ್ನು ತಿಳಿದಿದ್ದೇವೆ. ಸಹಸ್ರಾರು ವರ್ಷಗಳಿಂದಲೂ ಶಾಂತಿ ಸ್ಥಾಪನೆಗಾಗಿ ಯುದ್ಧ ನಡೆಯುತ್ತಿದೆ. ಶಾಂತಿ ಮಾತ್ರ ಸಿಗಲಿಲ್ಲ. ಯುದ್ಧ ಮುಗಿಯಲಿಲ್ಲ. ಮನುಷ್ಯನ ಏಳ್ಗೆಗಾಗಿ, ಸಾಮರಸ್ಯದ ಬದುಕಿಗಾಗಿ ಸ್ಥಾಪನೆಯಾದ ಮತಗಳಲ್ಲಿಯೇ ಪೈಪೋಟಿ ಶುರುವಾಗಿ
ಮನುಷ್ಯತ್ವವನ್ನು ಬಲಿ ಪಡೆಯುತ್ತಿರುವುದು ಜಗದ ಕ್ರೂರ ವ್ಯಂಗ್ಯ.

ಆದರೂ, ನಾಳೆಗಳಲ್ಲಿ ನೆಮ್ಮದಿ ಸಿಗಲಿದೆ ಎನ್ನುವ ಹುಸಿ
ಭರವಸೆಗೆ, ಬಣ್ಣದ ಬಟ್ಟೆ ತೊಡಿಸಿ, ಅದರ ಅಂದ ಚಂದವನ್ನು
ನಂಬಿದಂತೆ ನಟಿಸುವುದನ್ನು ರೂಢಿಸಿಕೊಂಡ ಕಣ್ಣುಗಳಿಗೆ...

ನಮಸ್ಕಾರ.

ಡಾ. ಡಿ. ಎಂ. ಹೆಗಡೆ
ಸಂಪಾದಕ ಮತ್ತು ಪ್ರಕಾಶಕ

Misfortune tests the sincerity of friendship



K G RAGHAVAN
Senior Advocate
President, Bharathiya
Vidya Bhavana, Bengaluru

Very often we find ourselves at a crossroad in life where we need to make tough decisions. Decisions may range from men to matters. Whom to befriend? How far to go in our negotiations? How much to give up? When to take a call to break or conclude? We are continuously in these challenging situations both in our personal and professional life. Some decisions may be crucial-a make or break situation. Even in these tough situations there is wise counsel coming from sources which can act as guiding factors. One such is a story from the Panchatantra.

Four men from a town decided to seek higher learning. After several years of study, they completed their education and decided to return home. Along the way, they encountered a large funeral procession. One of them consulted his book and said, **"महाजनो येन गतः स पन्थाः"** (Mahajano yena gata? sa panthah), meaning "The path followed by great men is the right one." He advised, "In times of doubt, seek guidance from the elderly and the learned, and follow their counsel."

Realising that they were all either relatives or friends of the deceased, another consulted his book and and made a profound statement about the nature of the persons in the funeral procession:

उत्सवे व्यसने चैव दुर्भिक्षे शत्रु संकटे।
राजद्वारे श्मशाने च यः तिष्ठति सः बान्धवः||
Utsave vyasane chaiva durbhikshe shatru samkate|
Raajadwaare smashaane cha yastishthati sa baandhavah||

"Whoever is with you either during festive or joyous occasions; or sad times; or famine or when enemies haunt you or when you visit the royal palace i.e. during prosperous times or at the funeral ground that person is a true friend or relative."

In other words, the caution is against trusting "fair weather friends". Oprah Winfrey said well, ***"Lots of people want to ride with you in the limo, but what you want is someone who will take the bus with you when the limo breaks down."*** Therefore one should never let down a friend or a relative especially in times of distress. That is the quality of a noble soul who is profoundly referred to as "BHANDAVA".

Aesop's fables too has a story of "The Bear and the Two Travellers"

Two travelers were journeying together when a bear suddenly appeared. Before the bear noticed them, one of the travelers swiftly made for a tree at the side of the road, climbed up into the branches, and hid. The other, less nimble than his companion, couldn't escape and threw himself to the ground, pretending to be dead. The bear approached and sniffed all around him, but the traveler remained perfectly still and held his breath, knowing that a bear would not touch a dead body. After inspecting him, the bear left. Once the coast was clear, the traveler on the tree descended and asked, "What did the bear whisper to you when he put his mouth to your ear?" The other traveler replied, **"He told me never again to travel with a friend who abandons you at the first sign of danger."**

Misfortune tests the sincerity of friendship.

Having thus evaluated the character and intentions of the people in the funeral procession, the four men continued on their way. Along their journey, they came across a river they needed to cross. Spotting a floating leaf, they decided it was the best option to

take them across. They climbed onto the leaf but soon realized that their combined weight was too much for it, and they were on the verge of drowning. In a moment of panic, one of them consulted his book once more and said:

सर्वनाशो समुत्पन्ने अर्धम् त्यजति पण्डितः |
अर्धेन कुरुते कार्यं सर्वनाशो न जायते ||
Sarvanaasho Samutpanne Ardham Tyajati Panditah||
Ardhena Kurute Kaaryam Sarvanaasho Na Jaayate||

"A wise and learned person when confronted by a situation where he would lose everything, will give up or sacrifice half of his possessions. By using the remaining half wisely, he will save himself from total annihilation."

Thus saying the four off boarded one of them and saved themselves. The lesson is that one should not be obstinate in times of distress and intelligently discern how to save themselves. When there is risk of losing all, sacrifice a part to save the balance. That is the message.

There is a nice fable of the Lion, the Bear and the Fox.

A lion and a bear were fighting for possession of a kid, which they had both seized at the same moment. The battle was long and fierce, and eventually, both of them were exhausted, lying on the ground, severely wounded and gasping for breath. All the while, a fox had been prowling nearby, watching the fight unfold. When he saw the two combatants too weak to move, he swiftly slipped in, seized the kid, and ran off with it. The lion and the bear looked on helplessly, and one said to the other, "Behold the fruits of our strife and contention! That villain, the fox, carries away the prize, while we, through our own quarrel, have robbed ourselves of the strength to reclaim it."

I read an interesting and illuminating comment about this Aesop's fable and shall not do justice to it except by reproducing it.

"When people go to law about an uncertain title, and have spent their whole estate in the contest, nothing is more common than for some little pettifogging attorney to step in and secure it to himself. The very name of law seems to imply equity and justice, and that is the bait which has drawn in many to their ruin. Others are excited by their passions, and care not if they destroy themselves, so they do but see their enemy perish with them. But, if we lay aside prejudice and folly, and think calmly of the matter, we shall find that going to law is not the best way of deciding differences about property; trust the sensible neighbours or elders and settle than, at a vast expense of money, time, and trouble, to run through the tedious, frivolous forms, with which, by the artifice of greedy lawyers, a court of judicature is contrived to be attended. It has been said that if mankind would lead moral virtuous lives, there would be no occasion for divines: if they would but live temperately and soberly, that they would never want physicians: both assertions, though true in the main, are yet expressed in too great a latitude. But one may venture to affirm, that if men preserved a strict regard to justice and honesty in their dealings with each other, and upon any mistake or misapprehension were always ready to refer the matter to disinterested umpires, of acknowledged judgment and integrity, they never would have the least occasion for lawyers. When people have gone to law, it is rarely to be found but one or both parties was either stupidly obstinate, or rashly inconsiderate, For, if the case should happen to be so intricate that a man of common sense could not distinguish who had the best title, how easy would it be to have the opinion of the best counsel in the land, and agree to determine it by that? If it should appear dubious even after that, how much better would it be to divide the thing in dispute, rather than go to law, and hazard the losing not only of the whole, but costs and damages into the bargain?" ★

A Blow for Constitutionalism

V. Sudhish Pai
Senior Advocate
vsudhishpai@gmail.com

The recent judgment -*State of Tamil Nadu v Governor of Tamil Nadu* is hailed as historic and path-breaking; it is also denounced in some quarters. Certain constitutional fundamentals should not be lost sight of. Our Constitution has adopted a parliamentary system of government. The constitutional position regarding exercise of powers by the President and the Governor is settled and clear. They have to exercise their powers and discharge their functions on the basis of Ministerial advice except where it is constitutionally defined otherwise. This holds good even in the matter of assent to Bills. Articles 74 and 163 are all pervasive. The Constituent Assembly Debates and the judgments underscore this position. What obtains is limited government. Judicial review is constitutionally entrenched. No power is inherently unreviewable and unfettered and unreviewable discretion is a contradiction in terms.

The Supreme Court declared the law long ago in 1974 in *Samsher Singh v State of Punjab* quoting deSmith that refusal of assent would be unconstitutional. The only sequitur is that refusal of assent is justiciable. The passing observation in some earlier judgements that assent is not justiciable is not really the ratio. Some recent decisions of the Supreme Court have been more heartening. In *State of Telangana v Governor of Telangana,* it was observed that the expression "as soon as possible" in the proviso to Article 200 has a significant constitutional content. In *State of Punjab v Governor of Punjab,* the Court considered the matter in greater detail and comprehensively enunciated the legal position.

The law has been carried further in *State of Tamil Nadu v Governor of Tamil Nadu* which is to be acclaimed as momentous. The first proviso to Art 200 relates to withholding assent. When the Governor opts to withhold assent he has to follow the procedure laid down therein 'as soon as possible'. The words 'shall declare' in the substantive part of Art 200/201 leave no scope for inaction for the Governor or the President. Neither pocket veto nor absolute veto finds a place in the scheme and mechanism envisaged under these provisions. As a general rule the Governor cannot reserve a Bill for the consideration of the President once it is presented to him in the second round after the legislature considers his message and again passes the Bill except when the Bill presented in the second round is materially different from the one presented first. Reasons have to be furnished for withholding assent. A lack of reasons or even insufficiency thereof may do violence to the concept of 'limited government' on which the edifice of our Constitution has been built. The Court rightly spoke of discharge of its duties rather than exercise of its powers by constitutional authorities.

It is settled that every power must be exercised reasonably and that also means within a reasonable time even

in the absence of any time limit prescribed by law. The Court laid down timelines regarding exercise of power under Arts 200 and 201, not to fundamentally change the procedure and mechanism stipulated by these provisions but only to lay down a determinable judicial standard for ascertaining the reasonableness of the exercise of power. This cannot be faulted. Also, the judgment has not at all said that there would be deemed assent if the timelines are breached or for any other reason. The observations in paras 237 to 241 are unmistakable. It is only in the present case in its very special circumstances that the Court in exercise of powers under Art 142 declared that the Bills are deemed to have been assented to by the Governor on the date when they were presented to him after being reconsidered. In any event Art 200 expressly mandates that he shall assent when the Bills are reconsidered and passed by the legislature and again presented to him. The only course of action open to him in that circumstance is to assent. The only sequitur in the context was deemed assent. It is against this background the Court held there was deemed assent. This can invite no criticism.

The Court held that the power of judicial review is implicit unless expressly excluded by the Constitution. Withholding of assent or reservation of Bills for the consideration of the President by the Governor in exercise of his discretion which is subject to the limits defined by the Constitution, would be justiciable on the touchstone of judicially determinable standards. The different situations and circumstances where the action of the Governor/President under Art 200/201 is justiciable have been clearly delineated and the grounds of judicial review stated. The myth about non- justiciability has been exploded.

It is misconceived to see the present judgment as a victory or setback for one or the other. It is a triumph for constitutionalism and the rule of law. It is equally uninformed to view this as judicial over-reach or amending the Constitution. It is pure and simple constitutional enunciation for which purpose the Court exists. It is in keeping with the constitutional ethos across the spectrum: to refuse assent is now unconstitutional. The Constitution does not conceive of two parallel centres of power: the elected government and the unelected Head of State. The Constitution envisages

that Bills duly passed by the competent legislature are promptly assented and become Acts. That is just what the judgment has sought to ensure. When a Bill duly passed by the legislature is not promptly assented it will mean that the will of the people is neutralised and the policies and programmes of a democratically elected government are put on hold. That will be harmful to democracy and federalism and the larger public good and effectually make a mockery of the Constitution and constitutionalism. Over the years a mélange of Presidential/Gubernatorial powers have been subject of judicial review, directions have been issued and actions set aside. It is in that background that the Court decided the matter. It has not really expounded any new law; it has only applied and amplified and taken the law further. This is indeed welcome. It is in this light the judgment is to be seen and understood.

Every interpretation is in its context. The constitutional underpinning in this case is that in a democracy a Bill which is passed by the legislature cannot be stifled or rendered nugatory. The question of its constitutionality or otherwise is for the courts once it becomes a law after assent is given. What the Court has done in this case is only imbuing the gaps and silences in the Constitution with substantive content by infusing them with a meaning which enhances the rule of law and promotes a constitutional culture.

However, the judgments are not without their problems and flaws. Criticism is warranted not for taking the law further, but for some imprecise propositions loosely worded and against the settled legal position and which can have the potential of opening the Pandora's box and making the legal landscape dismal and cloudy.

The foundational premise of our constitutional scheme of a parliamentary democracy is that the President/Governor is to act on the aid and advice of the Council of Ministers. The exceptions to this are provided in the Constitution itself or by constitutional conventions like appointment of Prime Minister/Chief Minister, dismissal of a Ministry that has lost the confidence of the legislature but refuses to resign, dissolution of the House when the Ministry has lost the confidence, invoking Art 356, or those that have been judicially carved out because of the very nature of the case not being amenable to Ministerial advice. It has been clearly and consistently laid down earlier that Art 200 does not belong to such exceptions. It belongs to the species of power where the Governor is bound to act on the aid and advice of the Council of Ministers. Therefore, the observation *"that M.P. Special Police Establishment* case was a step forward from the general rule laid down by the larger Bench in *Samsher Singh* only allowing for a very limited scope of discretion for the Governor in certain exceptional situations like 'peril to democracy or democratic principles', and that accordingly the Governor would be duty bound to give careful deference to the aid and advice of the State Council of Ministers and only in the limited of

exceptional circumstances may he deviate from such advice tendered to him" cannot be said to represent the correct law. These statements are too broad and imprecise, and indeed per incuriam. For, it is not that the Governor is to give careful deference to the aid and advice of the Council of Ministers, that aid and advice is binding on him. *M.P. Special Police Establishment* was a case of sanction for prosecuting a Minister; *Nabam Rebia* concerned summoning of the legislature. Those cases did not concern Art 200 and assent. To hold that a Governor need not act as per the advice of the Council of Ministers and can withhold assent for such reasons as 'peril to democracy or democratic principles' will give unguided power to the Governor lending itself to abuse. This was never envisaged by the Constitution and its founders or the line of earlier decisions. This is a cause for serious concern. It may, however, be right to say that the tone and tenor of the entire judgment is to give effect to the democratic underpinnings and the will of the elected representatives. Can it, therefore, be said that these statements have come unwittingly? That is a little difficult. Otherwise this cannot be said to lay down the correct law, though it does not affect the final decision.

There is another slippery area. It has been held that the first proviso to Art 200 attaches to the option of withholding assent and in case the Governor opts to withhold assent he is under an obligation to follow the procedure laid down therein 'as soon as possible', that is, return the Bill to the legislature. But earlier cases have held, and it flows from the plain meaning of withhold, that in case he withholds assent the Bill falls through unless the procedure indicated in the first proviso is followed. A Bill that has lapsed or died cannot be sent back to the legislature for reconsideration. The correct position is that the Governor acts under Art 200 on the aid and advice of the Council of Ministers except where the second proviso is attracted. The real purport of the provision is that if the Governor is not inclined to grant assent because he entertains any doubt or for whatever reason, then he has to necessarily act under the first proviso and return the Bill to the legislature for reconsideration. This, it is submitted, would be the correct understanding and enunciation of the position. It is not that the assent is withheld and the Bill returned.

While the issue of refusal to assent or reservation of a Bill for the consideration of the President has been rightly held to be justiciable, it is a little difficult to appreciate how the challenge can be entertained directly in the Supreme Court as it is not a case of violation of fundamental rights; and Art 32 under which provision one can approach the Supreme Court directly can be invoked for protection of fundamental rights. The grounds of challenge to withholding assent or reserving a Bill for the consideration of the President as set out in the judgment are alien to a challenge re: infringement or protection of fundamental rights.

Even so, the judgment is another impressive contribution of the Court and a blow for constitutionalism. ★

BUYING CLIENT'S LITIGATION PROPERTY BY AN ADVOCATE

PROFESSIONAL MISCONDUCT?

K.L. Srinivasa B.A.L, LL.B., LL.M.
Advocate and Mediator

An Advocate is a privileged member of the society. He has specialised knowledge in the field of law. Even though an Advocate is an agent of his client, his status is different from that of any other ordinary agents, because of the expert knowledge he possesses in the field of law. Legal profession is service oriented and cannot be treated as business or profit making profession. Utmost care and caution is necessary for an Advocate to protect the interest of his client. Advocates are bound by Code of Conduct and Rules framed by the Bar Council of India. An Advocate has duty towards Court, Client, Opponent and in general to the Society. Every Advocate is an Officer of the Court and his responsibilities are numerous.

Many a times Advocate/s get a chance to know their clients' personal matters and may also enter into commercial transactions with their clients. It is always debatable question that what kind of transactions they can enter into with their clients. Rule 22 of Standards of Professional Conduct and Etiquette (made by the Bar Council of India under Sec 49(1)(c) of the Advocates Act, 1961) therefore provides a bar for an Advocate prohibiting him to enter into certain transactions in respect of property/ies belonging to his client/s. Further, Rules 31 and 32 also imposes certain restrictions on Advocates for entering into any type transactions with their clients.

" Rule 22. An Advocate shall not, directly or indirectly, bid for or purchase, either in his own name or in any other name, for his own benefit or for the benefit of any person, any property sold in the execution of a decree or order in any suit, appeal or other proceeding in which he was in any way professionally engaged. This prohibition, however, does not prevent an Advocate from bidding for or purchasing for his client any property which his client may himself legally bid for or purchase provided the Advocate is expressly authorised in writing in this behalf."

"Rule 22-A: An Advocate shall not directly or indirectly bid in court auction or acquire by way of sale, gift, exchange or any other mode of transfer either in his own name or in any other name for his own benefit or for the benefit of any other person any property which is subject matter of any suit, appeal or other proceedings, in which he is in any way professionally engaged."

"Rule 31. An Advocate shall not enter into arrangements whereby funds in his hands are converted into loans."

"Rule 32. An Advocate shall not lend money to his client, for the purpose of any action or legal proceedings in which he is engaged by such client.

Explanation—An Advocate shall not be held guilty of a breach of this rule, if in the course of a pending, suit or proceedings, and without any arrangement with the client in respect of the same, the Advocate feels compelled by reason of the rule of the Court to make a payment to the Court on account of the client for the progress of the suit or proceeding."

Further, under **Section 16** of the **Indian Contract Act, 1872,** any transaction where an Advocate exploits their dominant position to gain an unfair advantage over their client may be considered **undue influence** and can be set aside.

An advocate generally cannot buy their client's property. This restriction is primarily based on the following reasons:

- **Conflict of Interest:** The advocate-client relationship is built on trust and the duty to act in the client's best interests. 1 Buying the client's property could create a conflict of interest, as the advocate might prioritize their own financial gain over the client's interests.
- **Potential for Exploitation:** The power imbalance in the advocate-client relationship could be exploited if the advocate were to purchase the client's property. The client might feel pressured or coerced into selling at a lower price.
- **Damage to Professional Reputation:** Such a transaction could severely damage the advocate's reputation and erode public trust in the legal profession.

Exceptions

While the general rule prohibits advocates from buying client property, there might be limited exceptions under specific circumstances:

- **Full Disclosure and Informed Consent:** If the advocate fully discloses their interest in buying the property to the client and obtains their informed consent, the transaction might be permissible.
- **Arm's Length Transaction:** The transaction must be conducted at arm's length, meaning, it must be fair and at market value, without any undue influence or pressure on the client.
- **Court Approval:** In some cases, court approval might be required to ensure the fairness and transparency of the transaction.

According to Standards of Professional Conduct and Etiquette to be Observed by Advocates (made by the Bar Council of India under Section 49(1)(c) of the Advocates Act, 1961):

"An Advocate shall, at all times, conduct himself in a manner befitting his status as an officer of the Court, a privileged member of the community, and a gentleman, bearing in mind that what may be lawful and normal for a person who is not a member of the Bar, or for a member of the Bar in his non-professional capacity may still be improper for an advocate.

Without prejudice to the generality of the foregoing obligation, an advocate shall fearlessly uphold the interests of his client, and in his conduct conform to the rules hereinafter mentioned both in letter and in spirit. The rules hereinafter mentioned contain cannons of conduct and etiquette adopted as general guides; yet specific mention thereof shall not be construed as a denial of the existence of others equally imperative though not specifically mentioned.

In India, an **Advocate** is a legal professional who is qualified to represent clients in courts of law, provide legal advice, and assist in legal matters. Advocates play a crucial role in the justice system, ensuring that individuals and organizations receive fair representation and access to justice.

1. **Roles and Responsibilities:**
   - Represent clients in courts (civil, criminal, and constitutional matters).
   - Draft legal documents such as contracts, wills, and petitions.
   - Provide legal advice and opinions.
   - Appear before tribunals, quasi-judicial bodies, and other legal forums.
   - Mediate and negotiate settlements.
2. **Governing Body:**
   - The **Bar Council of India (BCI)** regulates the legal profession and sets standards for legal education and practice.
   - Each state has its own **State Bar Council** for enrolment and disciplinary matters.
3. **Ethical Obligations:**
   - Advocates must adhere to the **Advocates Act, 1961,** and the **Bar Council of India Rules.**
   - They must maintain client confidentiality and avoid conflicts of interest.
   - They are expected to uphold the dignity of the legal profession.

In the case of **Kaushal Kishore Awasthi Vs. Balwant Singh Thakur** (decided on 11th December, 2017 by the Hon'ble Supreme Court of India), it was held that: "Disciplinary proceedings cannot be initiated against an Advocate if the subject matter of the dispute, i.e., property of the client, is unconnected with any legal proceedings." Therefore, following are the key points to understand this situation:

Fiduciary Duty of Advocates

Lawyers have a legal and ethical obligation to act in their client's best interests, which includes not taking advantage of their client's vulnerability during legal proceedings.

Conflict of Interest

When an advocate buys property involved in a case they are handling, it creates a direct conflict of interest, as their personal financial gain could influence their legal advice to the client.

Professional Conduct Rules:

The Bar Council of India, which governs the legal profession in India, has strict rules prohibiting advocates from engaging in such conduct, considering it a breach of professional ethics.

Section 35 of the Advocates Act:

This section deals with the punishment of advocates for professional misconduct, allowing the State Bar Council to investigate and take disciplinary action against an advocate found guilty of such behaviour.

Rules on Advocate's Duty Towards the Client

The Bar Council of India has established specific rules regarding an advocate's conduct, explicitly stating that buying property involved in a case from their client is prohibited.

Conclusion

Rules made by the Bar Council of India and judicial precedents discourage advocates from purchasing their client's property which is connected with litigation, as it could lead to conflicts of interest and ethical violations. If such a transaction occurs, it could be challenged in Court and potentially may be set aside by the Court.

★

ಹೈಕೋರ್ಟಿನಲ್ಲಿ ಶ್ರೀ ರಾಮನವಮಿ ಹಾಗೂ ವಸಂತೋತ್ಸವ

ಬೆಂಗಳೂರು ವಕೀಲರ ಸಂಘದ ಉಚ್ಚನ್ಯಾಯಾಲಯ ವಿಭಾಗ ಹಾಗೂ ಗೆಳೆಯರ ಬಳಗದ ವತಿಯಿಂದ ಭಕ್ತಿಯಿಂದ ಶ್ರೀ ರಾಮನವಮಿ ಹಾಗೂ ವಸಂತೋತ್ಸವ ಕಾರ್ಯಕ್ರಮ ಆಚರಿಸಲಾಯಿತು. ಹಿರಿಯ ವಕೀಲರಾದ ರವೀಂದ್ರ ನಾಥ್ ಕಾಮತ್ ಅವರ ಪ್ರಾಯೋಜಕತ್ವದಲ್ಲಿ ಸಂಗೀತ ಕಾರ್ಯಕ್ರಮ, ಹಾಗೂ ರಾಜಾರಾಮ್ ಅವರ ಪ್ರಾಯೋಜಕತ್ವದಲ್ಲಿ ಪ್ರಸಾದ ವಿನಿಯೋಗ ನಡೆಯಿತು. ವಕೀಲರಾದ ನರಸಿಂಹರಾಜು ಹಾಗೂ ಸುಬ್ರಹ್ಮಣ್ಯ ಅವರು ಹೂವಿನ ಸೇವೆ ನೆರವೇರಿಸಿದ್ದರು. ಕಾರ್ಯಕ್ರಮದಲ್ಲಿ ಬೆಂಗಳೂರು ವಕೀಲರ ಸಂಘದ ಅಧ್ಯಕ್ಷ ವಿವೇಕ್ ಸುಬ್ಬಾರೆಡ್ಡಿ, ಪ್ರದಾನ ಕಾರ್ಯದರ್ಶಿ ಪ್ರವೀಣ್ ಗೌಡ ಉಪಾಧ್ಯಕ್ಷ ಗಿರೀಶ್ ಕುಮಾರ್ ಖಜಾಂಚಿಗಳಾದ ಶ್ವೇತಾ ರವಿಶಂಕರ್ ಜೊತೆಗೆ ಕಾರ್ಯಕಾರಿ ಸಮಿತಿ ಸದಸ್ಯರು ಹಾಗೂ ವಕೀಲ ಮಿತ್ರರು ಉಪಸ್ಥಿತರಿದ್ದರು.

ನ್ಯೂಸ್

India's Evolving Competition Law Framework in a Globalised Digital Economy

Rohith Kashyap M S
Advocate

Introduction

In today's globalised world, national economies are no longer isolated, they are part of an increasingly interconnected system shaped by global forces, evolving market structures, cross-border trade, and multinational business strategies. This greater integration not only fosters national and international competition but also leads to more options, higher-quality goods and services, and greater innovation for consumers. It creates an obligation on firms to improve efficiency, adopt innovation, and streamline their operations. The positive impact of global competition is evident in how it drives local firms to develop better products and offer better services, resulting in higher value for customers.

Globalisation has not only interconnected national economies but also internationalised the nature of firms' anti-competitive actions. Despite this, competition law enforcement remains primarily a domestic issue. As competition frameworks evolve worldwide, the likelihood of a firm's activity being subject to multiple sets of competition laws or controlled by several authorities increases, underscoring the global nature of competition law enforcement.

As a consequence, multiple regulatory bodies might evaluate and interfere in the same firm's operations or transactions, making separate, and often divergent, conclusions and remedies. For instance, even though the applicable laws are effectively the same, the exact same behaviour might have distinct outcomes in different jurisdictions, resulting in varying assessments of its legality. Even if the consequences of a behaviour are the same in different jurisdictions, the statutory standards used to determine its legality may differ, resulting in different outcomes. Furthermore, regardless of whether governments reach comparable findings about the legality of a certain activity or transactions, there is a danger that they will apply different or conflicting remedies.

Indian Competition Law Regime

Staying relevant with these advancements has become vital to India, one of the world's fastest-growing economies. India's journey towards regulating competition started in a completely different economic setting. The Monopolies and Restrictive Trade Practices (MRTP) Act was passed in 1969, when the Indian economy remained closed off from the global economy and was extensively controlled, and centered around state planning. The primary goal of the MRTP Act was to avoid economic concentration and to take action against monopolistic and restrictive trade practices in the market. Although this achieved its function throughout the first few decades of post-independence growth, legislation ran its course and grew progressively out of date as India's economic goals changed.

India acknowledged the limitations of the MRTP Act and replaced it with a more contemporary framework the Competition Act of 2002 in reaction to the liberalisation, privatisation, and globalisation of the 1990s. The Act, which marked a dramatic change in market regulation, sought to uphold free trade, safeguard consumer interests, and encourage and maintain competition. In order to enforce the Act, stop anti-competitive behaviour, and encourage fair competition across industries, it also created the Competition Commission of India (CCI), a specialist regulatory agency.

The Global Efforts for Fostering Competition

Over 130 jurisdictions have established competition laws. Why? Due to the fact that in a globalised world economy, unethical actions in one jurisdiction can adversely impact markets and customers in another. Cartelisation of markets, abuse of dominant position, and anti-competitive M&A activities across jurisdictional lines. That is why governments require tools to guarantee that there is fair competition in the market, innovate ethically, and ultimately safeguard consumers' rights and interests.

India is no exception to this global phenomenon. With a rapidly growing digital economy and more cross-border investment, the dangers of anti-competitive behaviour, whether domestically or internationally, are significant. The CCI's powers are not just critical, they are indispensable in maintaining free and fair markets, ensuring that smaller firms aren't pushed out of the market by bigger and incumbent firms, while ensuring consumer interests aren't compromised by a lack of choice or high costs.

The CCI has evolved into a crucial institution in regulating competition in the market. Its objectives are to review M&A transactions, prohibit anti-competitive agreements, investigate cartelisation of markets, and prevent abuse of dominant position. It has not only evolved but also adopted contemporary tools, including settlement and commitment systems, in order to manage

disputes more effectively. These are not just tools, they are global standards that demonstrate India's commitment to align with contemporary times.

In 2023, the Indian competition law framework saw substantial improvements. The Competition Act was amended to streamline processes, clarify turnover and merger criteria, and give the CCI additional powers. These reforms aim to make enforcement more efficient, effective, and reactive.

Relevance of Sections 19 and 20 of the Competition Act

Sections 19 and 20 of the Competition Act play an important role in the regulatory action of the CCI. These are not only legislative provisions, but also, they are the glasses that allow the CCI to examine market conduct.

Section 19 empowers the CCI to investigate anti-competitive behaviour and the abuse of dominant position. It investigates whether corporate activities and actions undermine competition in India. This review is guided by certain elements listed in the legislation, which include entry barriers, effects on technological advancement, and consumer rights.

Section 20 addresses mergers and acquisitions, particularly those that occur below the regulatory oversight. Even if a transaction was not initially identified, the CCI may review it within a year whenever there is a concern that it would harm market competition.

Competition Law Enforcement beyond borders

One of the most notable changes in competition law enforcement has been the rising realisation that anti-competitive behaviour could originate in any jurisdiction across the globe and yet impact Indian markets and consumers. This is where the notion of extraterritorial jurisdiction steps in. Sections 3 and 4 of the Competition Act allow the CCI to take action against firms based outside of India if their actions have an impact on the Indian market.

The "effects doctrine" is applied in both the USA and Europe. It underscores a basic fact: in the digital era, boundaries can no longer protect against bad activity. Algorithms can be modified in Silicon Valley to affect pricing in Bengaluru. Data may be stored in Singapore but denied access in Chennai. As markets grow increasingly interconnected, authorities must be able to respond.

But it's not simply concerning stricter enforcement. It also involves diplomacy, International comity, an established practice of legal cooperation between jurisdictions, which is developing into an enhanced rule-based structure. Conflicting regulatory rulings and enforcement overlap become less likely when regulators improve their cross-border coordination.

International Comity and Cooperation

India is becoming more involved in global competition issues. The CCI has been involved in international platforms such as the International Competition Network and UNCTAD. While India is yet to establish official cooperation treaties, such as those between the United States and the European Union, the framework is being established.

This partnership is essential. Consider a worldwide Information Technology corporation being probed concurrently in the EU, the USA and India. In the absence of coordination and cooperation, this could result in inconsistent outcomes or, worse, enforcement gaps. Countries have to collaborate and cooperate to maintain fair markets and market competition through constructive comity, which occurs when one country calls for another to take action.

Challenges Posed by Digital Markets

Arguably, nowhere is the need for revised competition regulations more pressing than in the digital industry. Tech behemoths are transforming trade, establishing ecosystems that control everything from purchasing to browsing. India has begun taking efforts to take reprisal measures.

The government's Digital Competition Law Committee has recommended proactive restrictions on digital gatekeepers, modelled after the EU's Digital Markets Act. The CCI, too, is becoming more concerned with issues like self-preferencing, access to data, and platform neutrality. These are not trivial challenges, but tackling them is critical to keeping the digital economy accessible and competitive.

What's Next in the Competition Framework

Naturally, challenges continue to exist. Collaborating with sectoral regulators, particularly in areas such as telecom and banking, necessitates cautious exchange of information. The CCI also requires more resources and capability to stay relevant in the constantly changing markets.

However, the way forward is clear, India is no longer only a follower; it is a rising force in the global competition debate. By integrating robust domestic enforcement with genuine international participation, India can safeguard its consumers, help its firms, and contribute to a more equitable global economy.

Conclusion

India's competition law is essential for regulating market competition, encouraging innovation, and protecting the interests of consumers both locally and globally in a world economy that is growing increasingly interconnected by the day. The CCI has rendered the legal framework an innovative tool against monopolistic behaviour, as changing digital marketplaces reshape conventional limits. Going ahead, it will be crucial to reflect local circumstances, improve collaboration with international authorities, and match domestic laws with international norms. A proactive, flexible, and internationally aware strategy will guarantee consumer value, fair competition, and investor trust. ★

IMPORTANCE OF LAW EDUCATION IN INDIA

Prof.(Dr.)Ashok R. Patil
Vice Chancellor
National University of Study and Research in Law (NUSRL), Ranchi, Jharkhand

Accredited Mediator
Asian Law Institute Fellow (Singapore)
Endeavour Leadership Fellow (Australia)
Legal Education Innovation Awardee (MILAT-SILF)
International MacJennet Awardee
Chief Editor, International Journal of Consumer Law & Practice (SCOPUS)

Law education is growingly assuming great significance with new challenges emerging with the passage of time. Legal education in any given society assumes a pivotal place as law regulates and deals with rights and duties. Law and legal education remain crucial to the well-being of any given society. It has been so since ages. Law concerns people's life, liberty and property. Therefore, legal education has a great impact upon how a society grows amidst challenges that require innovative thinking and timely response. Law education in India after independence has changed, and has changed substantially. With the introduction of five-year undergraduate course, legal education became more pervasive with emergence of National Law Universities, Private Law school and Law departments in "traditional University". In recent past, legal education is also being imparted in schools.

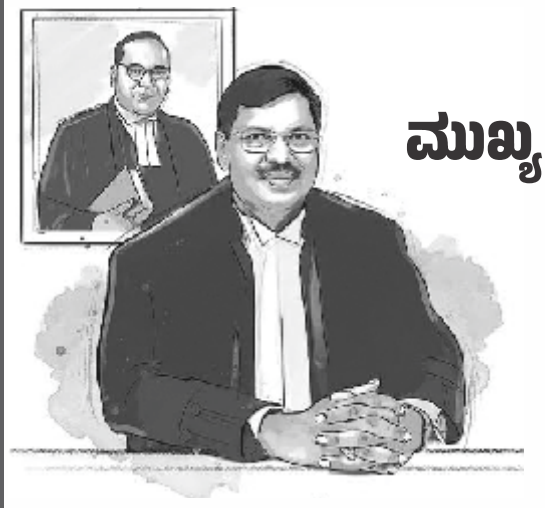
Legal education today is a far cry from what it used to be some decades ago. With the change in the social and economic milieu, law and therefore legal education has evolved responding to the felt necessities of the prevailing times. Legal education today is not confined to the age-old areas of law. The spectrum of legal education has only become wider and this requires many a reflective moment as to how to further improve legal education so that it remains in sync with contemporary times and responsive to the emerging future. Julius Stone notably wrote that legal education is the high art of speaking to the future. It matters therefore how we prepare the present generation of students and learners about the nuances of law and challenges that law as a discipline will face in the years to come. Legal education empowers the students of today to be legal professionals of tomorrow.

With advent of AI and technological advancements that have taken place in recent times, the importance of law in ensuring a just society becomes even more onerous. This also necessitates upskilling of legal professionals. In recent past, there has been another importance development. There has been a growing tilt towards clinical legal education which has a significant impact upon the way law may become of tool of social justice and a tool of redressal of the marginalised people. Law is no longer a confined to its age-old theoretical and archaic landscape. It has moved further. It has significantly influenced the lives of people, though there are miles to go.

The ever-widening expanse of law education today is not only about criminal law, property law, constitutional law or family law; it is also about corporate law, business law, consumer law, intellectual property law, space law, sports law and so on. The list is a long one. This shows how with passing years, law has been able to be responsive to the need to regulate the rights and liabilities in different sphere of law.

Law is not only about citizens. It is also about people who occupy places of authority and responsibility. There are institutions entrusted under the constitution and the law to safeguard the rights of the people and there well-being. Therefore, it matters law education is taken seriously and the legal education imparted is able to produce legal professional who would be constitutionally aware and legally sensitive to towards the plight and suffering of the teeming millions. The importance of legal education also lies in the making of judges Justice Krishna Iyer, professors like Upendra Baxi, and lawyers like Palkivala.

Legal education has to be significantly transformative touching every stratum of the society. In India, in the preceding seven decades or so, law has evolved, and so has legal education, though there is a need for reflection and action to help the coming generation of legal professional to be prepared to meet with the challenges of a new world. Legal education today is going through a period of reflection among the



ನ್ಯೂಸ್

ಸುಪ್ರೀಮ್ ಕೋರ್ಟಿನ 52ನೆಯ ಮುಖ್ಯ ನ್ಯಾಯಮೂರ್ತಿಯಾಗಿ ಭೂಷಣ ಗವಾಯಿ

ನ್ಯಾಯಮೂರ್ತಿ ಭೂಷಣ ಆರ್. ಗವಾಯಿ ಅವರು ಸರ್ವೋಚ್ಚ ನ್ಯಾಯಾಲಯದ 52ನೆಯ ಮುಖ್ಯನ್ಯಾಯಮೂರ್ತಿಯಾಗಿ ದಿನಾಂಕ 14.05.2025 ರಂದು ಪ್ರಮಾಣ ವಚನ ಸ್ವೀಕರಿಸಿದ್ದಾರೆ.

ಇವರು ಭಾರತದ ಮೊದಲ ಬೌದ್ಧ ಧರ್ಮೀಯ ಹಾಗೂ 20210ರಲ್ಲಿ ನಿವೃತ್ತರಾದ ನ್ಯಾಯಮೂರ್ತಿ ಕೆ. ಜಿ. ಬಾಲಕೃಷ್ಣ ಅವರ ನಂತರ ಈ ಸ್ಥಾನವನ್ನಲಂಕರಿಸಿದ ಎರಡನೆಯ ದಲಿತ ಮುಖ್ಯನ್ಯಾಯಮೂರ್ತಿಯಾಗಿದ್ದಾರೆ. ಇವರು 2025ರ ನವೆಂಬರ್ 23ರ ವರಗೆ ಅಧಿಕಾರದಲ್ಲಿ ಇರಲಿದ್ದಾರೆ.

★

academician, judges and the jurists. The outcome is bound to reshape the contours and content of legal education in India. It will have notable impact upon the law, legal education, institutions and people at large in the long run.

See from another perspective, a quality legal education remains crucial to the well-being of any democratic society as it infuses the basic principles of rule of law in the society. It inculcates respect for basic rights of people. It is a well-known fact that people educated in law played an important role in gaining freedom as well as in the framing of the constitution, and subsequently to the growth of constitutional democracy in India. Constitutional history of India archives many a instance of judicial and juristic craft and courage that have been instrumental in the making of a vibrant and functioning rule of law society that we all are part of. In the preceding decades, there have been occasions when judges and lawyers played crucial role in safeguarding the basic rights of the people and preserved the basic values that form the foundation of our legal system in particular and of the society at large. Parliament and the courts have played epochal roles uplifting the teeming millions from the clutches of poverty, exploitation and marginalisation, it is also axiomatic, given the prevailing times, there is ample scope for further improvement as the society becomes more and more complex amidst challenges of myriad manifestations.

As we prepare for the challenges of twenty first century, legal education stands to play a prominent role in giving direction to the working of law in the years to come. Therefore, it is important that while underscoring it significance, legal education is so designed that it continues to be relevant and significant.

All said, it may well be said that legal education is important as it is crucial to ensuring access to justice both from the perspective of individuals and the institutions. A quality legal education helps create an environment where the constitutional ideal of just and equitable society may be realised into reality. It therefore further helps in economic growth and social progress. Law education fundamentally prepares skilled legal professionals that are prepared to deal with, and provide redressal, to the people in need of protection of their rights. At a very basic level, law education contributes to creating awareness about rights and duties among the citizenry, and helps in bringing about a social order.

★

Psychological Impact and Social Stigma: Ground for Divorce

Although conviction of a person for murder is not a ground for divorce under the Hindu Marriage Act, 1955, the Punjab and Haryana High Court granted divorce to a man whose wife was awarded life imprisonment. The Sonipet Family Court had dismissed the man's petition seeking his marriage be dissolved on the ground of cruelty after holding the husband had failed to prove cruelty. The husband challenged the Family Court's judgement before the High Court. While allowing the appeal and ordering the dissolution of marriage, the DB of the High Court comprising Justice Sudhir Singh and Justice Harsh Bunger held that staying with the wife convicted of murder was bound to cause fear in the mind of the husband regarding his safety. The Court observed that the husband has also to bear the burden of humiliation in the

Society. It was also noted that the wife's incarnation due to conviction under Section 302 of the IPC resulted in deprivation of the conjugal rights and mental agony in the mind of the other spouse which tantamounts to cruelty. While ordering dissolution of marriage, the High Court held that such cruelty should continue unless such marriage was severed.

Consensual Sex Vs Rape Allegation

The Delhi High Court granted bail to a man accused of rape after his consensual relationship had gone sour. Acting on the man's bail plea the Court observed that the case fell in the same gene in which the man and the women developed 'sexual proximity" in the same workplace, but after about a year the relationship turned sour and the allegations of force and rape followed. The Court saw no use of keeping the man arrested for a long time since the charges have already been framed and the veracity of the allegations should be tried during the trial which was likely to take some time.

In this judgement Justice Neena Bansal Krishna distinguished the offence of rape and consensual sex between two adults. The learned Judge observed that while it was the duty of the legislative and the executive to enact and implement laws for the safety and well being of women in the workspace. The Court had a "Onerous duty" to be a "watch-dog" and prevent its abuse. In the present times, many a time, close proximity in the workspace results in consensual relationships which on turning sour get reported as crimes.

Maoist Ambush Case: Threatening National Security

Maoist ambushes are a grave threat to national security, Chhattisgarh High Court has said, while upholding the life imprisonment of four men convicted for a 2014 ambush that resulted in deaths of 15 security personnel and 4 civilians. A road opening party of CRPF and State Police was targeted by 150-200 Maoists on March 11, 2014. The insurgents inflicted heavy casualties and looted 6 AK 47 rifles, an insas LMG, 8 insas rifles and 2 SLRs. Some suspects were arrested during investigations and 4 of them were sentenced to life imprisonment by the NIA Court on February 12, 2024. They filed an appeal before the High Court. A Division Bench comprising of Justice Ramesh Sinha and Justice Ravindra Kumar Agarwal held that these attackers are not involved in an isolated criminal act but part of larger, well orchestrated insurgency aimed at destabilising the State and undermining democratic institutions. The Court highlighted the pre-planned nature of the ambush, the use of sophisticated tactics and weaponry with the intent to inflict maximum casualties. The Court also observed that the ambush was the result of highly organised and politically motivated, making the appellants far more dangerous than common criminals.

Visually Impaired Candidates in Judicial Exams

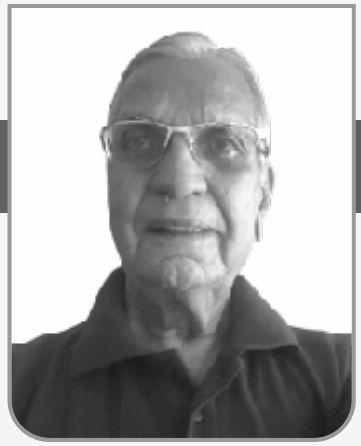
In a landmark verdict aimed at protecting the rights of differently abled persons and making the judiciary more accommodative and inclusive, the Supreme Court ruled that visually impaired persons cannot be barred from becoming judges and quashed a Madhya Pradesh Law that prohibited such persons from appearing in the judicial exams. It stated that disability is no barrier to excel in the legal profession. A bench of Justice J. B. Pardiwala and Justice R. Mahadevan eld that clinical assessment of disability by the medical experts cannot be the basis to deny benefits under rights of Persons with Disabilities Act and reasonable accommodation must be provided to them as a prerequisite to assess their eligibility. Visually impaired candidates cannot be said to be "not suitable" for judicial services and they are eligible to participate in selection. The amendment made to rule 6 –A of Madhya Pradesh Judicial Services (Recruitment and Condition of Service) Rules, 1994, falls foul of the Constitution and hence struck down to the extent that it does not include Visually impaired persons who are educationally qualified for the post to apply. Justice Mahadevan who penned the verdict said Louis Braille, who was himself blind invented the "Braille script". He pointed out that worked, the visually impaired needed is not pity, but accommodation and directed that a separate cut-off was to be maintained for Visually impaired candidates; 11 High Court, Jammu and Kashmir, Calcutta, Jharkhand, Sikkim, Uttarakhand, Manipur, Meghalaya, Allahabad, Karnataka, Bombay and Tripura do not provide for any reservation or concession in the recruitment of judges.

K.Suryanarayana Rao
Advocate
9845529448

★

Neither Article 200 nor 142 enables issue of any command to Governor or President of India

CONSTITUTIONAL REALITY



S.P. SHANKAR
Sr. Advocate

Relevant portion of the Preamble of Constitution of India, reads :

"Equality of Status and Opportunity and to promote among them all;

Fraternity, Assuring the Dignity of the Individual and being **the integrity of the nation".**

This is held to be basic feature of Constitution of India. Further in Keshavananda Bharti it is indicated that whenever there is doubt in regard to interpretation of any of the Articles, one should look to the Preamble of the Constitution of India.

Three organs of democracy viz. legislature, executive and judiciary are **CO-EQUALS.** None is superior to or inferior than the other. They are entitled to **equal dignity and respect.** Their Unity and integrity are sine-qua non for governance of the Nation. This is also the basic feature of the Constitution of India and forms **Grund Norm ;**

Concept of Separation of Power, in terms of Article 50, is derived from Constitutional Reality namely **equality of status and of opportunity.** It is settled law that separation of power is one of the basic features of Constitution of India. Legislature, Executive and the Judiciary are to function within the function set out in the Constitution of India, to bring about Fraternity and promote integrity amongst three organs viz. Legislature, Executive and Judiciary. There shall not be any disharmony nor shall it be created by any one of the three organs.

People of India have given unto themselves, an elaborate compendium of essential provisions for governing the Republic of Inda, on Democratic Principles, assuring equality in status and opportunity and the like, as set out in the Preamble. Process of interpretation and judicial pronouncements have both streamlined and ordained, in a most appropriate manner, the way of Governance by People of India. One of the aspects slated for discussion in this Article, is the Duty of the State Legislature to submit the Bills passed by it for Assent of the Governeor, in terms of Article 200 and the duty of His Excellency the Governor to accord/withhold consent and return the Bill for fresh consideration. Governor has also the choice to make a reference to the President of India. This is a procedural aspect contained in Article 200. There is no inhibition/prohibition found in Article 200 to make a reference to the President once again in the event of the Legislature resubmitting the bill, duly passed for consent. This is the result of purposive construction of Article 200 and it is a mere procedural aspect.

In the case of Tamil Nadu Vs Lt Governor, of State of Madras in Writ Petition (CIVIL) NO. 1239 OF 2023 dated 8-4-2025, a piquant situation arose and decision rendered therein, has created a flutter.

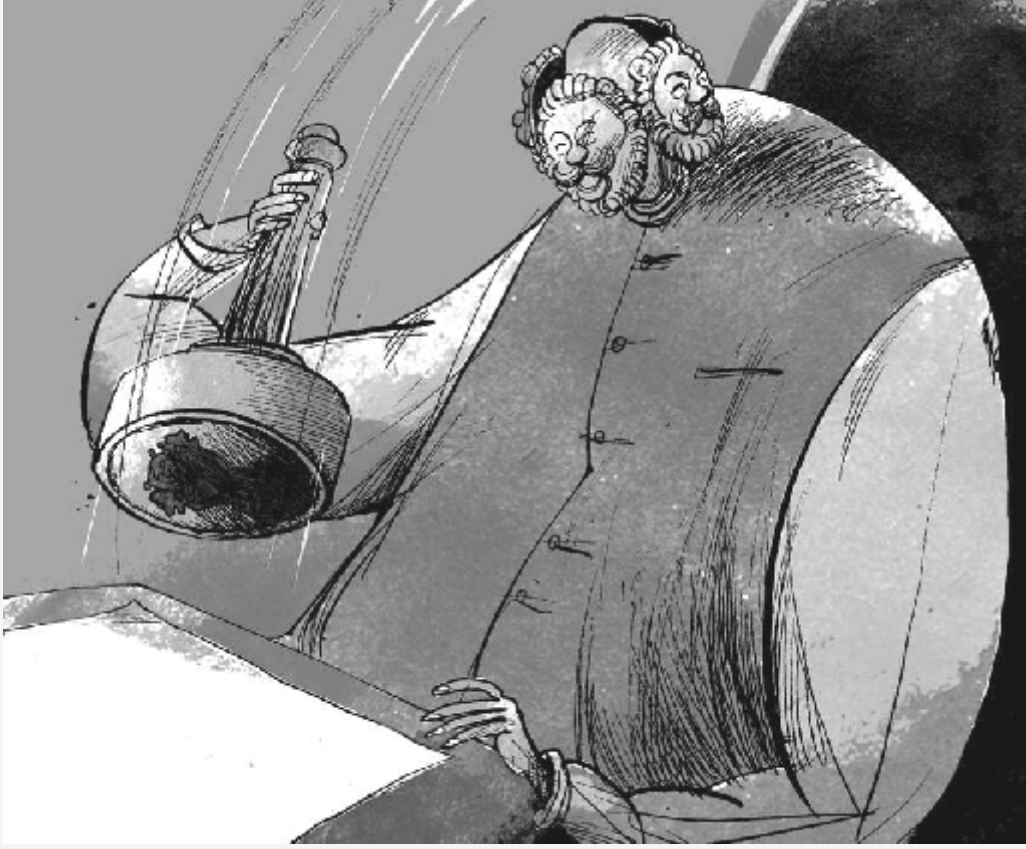
What was once a bright and colourful cluster of lovely feathers, has now become a heap of torn and twisted, collection of feathers, broken and bleached. Eternity cannot retrieve what is lost in the process of exercise of power conferred by Constitution, in the guise of interpretative process.

Role of the State Legislature in the matter of passing Laws, Bills and the like by it has to be circumscribed and brought within the Provins of certain Articles. Executive head, being His Excellency the Governor of the State, has say on the Bill, reserved for assent of the Governor, do matter.

Certain rights and obligations and certain provisions of the Constitution can never be destroyed, even by process of amendment under Article 368. These indestructible aspects form the basic structure of the Constitution. They are not capable of being destroyed or diluted in any manner.

It was Mr A.R. Cornellious, Hon'ble Chief Justice of Supreme Court of Pakistan, who propounded the law to say that "In the guise of interpretation, the court shall not affect or destroy the fundamental aspects of the Constitution". Following the dicta of the above statement of law, Justice Mudholkar in the year 1965, adapted the above statement in Sajjan Singh, to hold that "basic features of the Constitution of India cannot be altered at any cost, even by process of amendment of the Constitution under Article 368". It became the lot of 13 Judges in Kesavananda Bharthi, duly assisted by the great patriot and Senior Advocate Sri N.A Palkiwala, that basic structure of the Constitution are inviolable and would be immune from any amendment to it even under Article 368 of Constitution of India. What are the basic features/structure of the Constitution have been neatly catalogued and formulated over the years. One of them is Separation of Judiciary from Executive, in the public service of the State, and the Judiciary.

Article 50 mandates Separation of power between the Executive and the Judiciary. None is aware of the fact that Article 50 cannot be enforced independently but would enable synthesising the Directive Principles with Fundamental Rights like Articles 13, 14, 19, 21 and Preamble of the Constitution, to achieve Constitutional mandate and ethos. In Ram Jawayya Thakur, (5 Judges) Hon'ble Supreme Court observed that in India Separation of Power is not observed absolutely. In all humility, this observation of Constitution Bench can be taken as a confession of inability /failure/unpreparedness of the State, to enforce Article 50 and not a statement of law of a binding nature. In the case of reservation provided by

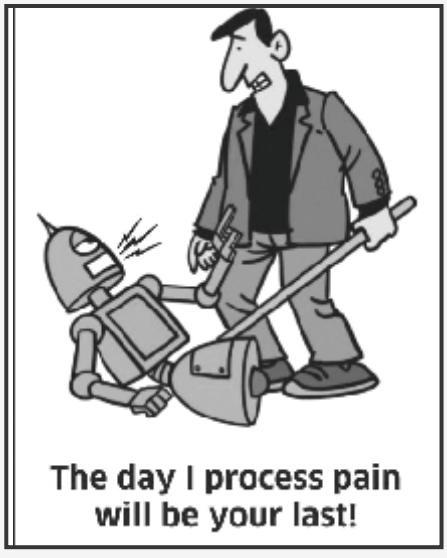


State of Bihar upto 65% for appointment to post of Judges in the State Judiciary, Government order was struck down only on the premise that State has no role in the matter of reservation in the appointment of Judges and the same is opposed to the basic feature of the Constitution of Separation of power. Lucidity and clarity with which Separation of power, in terms of Article 50, is elucidated by Supreme Court, holding that Separation of power is a basic structure of the Constitution, makes it re-readable and rewarding.

Equality of Status and opportunity, assured in the Preamble, is ABSOLUTE. It is a Grund Norm. It is generic and all pervasive. Specie is Separation of power. It is trite to say that Art 50, in Part IV, originates from the Preamble. No wing or pillar of Democracy, is subordinate to the other. They have equal status and opportunity. They are co-equals ordained in the Preamble to promote and bring about fraternity and assure integrity among three wings with sustained respect for each other.

In Coelho V/s State of Tamil Nadu, bench of 7 Judges has categorically held that Separation of power, which is also known as Doctrine of Checks and Balances, is an inviolable basic structure of the Constitution. In the case of NJAC Separation of power and accountability of the Judiciary are diluted in a manner that several lose ends are left for discussion and have remained unattended. It is time Parliament enforces accountability in the Judiciary.

Recently, just before the retirement of Hon'ble Chief Justice Mr Justice Chandra Chood, a bench of 9



Judges has held that a provision of law or Statute or any administrative action or any fiat issued by the State, cannot be struck down on the premise that the same is opposed to basic feature of the Constitution. "Liable to be struck down" is different from "preserving indestructible features /structures of the Constitution of India", as they stand apart and serve different purposes.

Overarching of over Reach

Notwithstanding that the Hon'ble Supreme Court has laid down emphatically, that the three wings of Democracy viz Legislature, Executive and the Judiciary shall not entrench upon the area of assigned work of the other, shall have equal status and respect for each other, and shall promote and bring about fraternity and preserve integrity of status of the other wings/organs, Supreme court has virtually legislating, without any authority under the Constitution and it insisting on such Pseudo legislative to be complied. Supreme court has found itself doing certain things beyond its status as an adjudicatory body and causing embracement to the Nation initially. An issue arose as to who shall have the "Custody of the Constitution", fictionally. Constitution of India is a product of work by about 13 Committees which had formed in turn 219 committees, while the Apex Committee was Drafting committee headed by Dr. B.R. Ambedkar. Separation of power inspired by the Preamble sets out mutual territories. Yet, Supreme court is seem to have supervised sports activities, controlled BCCI, monitored work of Special Investigating Teams, run the management of several organisation and more importantly manned and headed almost all Constitutional Institutions. There are over hundred enactments which enables and accommodates rehabilitation of retired Constitutional dignitaries. In one of the cases Supreme court has held that Execution cases shall not lost more than 3 to 4 months at any rate 6 months and decree shall be executed on the day of judgment. It is further observed by the said judgment that till the law is made by the Legislature what is ordered by the Judiciary shall be obeyed and implemented by the State Judiciary across the Nation. legislating is an acquired habit/syndrome on the part of the Judiciary destroying the concept of Separation of Power. This has led to great influence in the mind of the litigant who rests to supreme court under Article 32 without justification. This is the overarching influence on the judicial over reach.

In S.R. Bommai V/s union of India, Hon'ble bench of 9 Judges has dealt with Articles 25 and 256 conjointly to hold that State has no Religion and

state shall not indulge in promoting or despising or creating disharmony amongst the people of India on the ground of religion and further that the state is irreligious and if any indulge is shown on aspect of religion, a case is made out for invoking Article 356. Inspite of this binding decision States are making law which are religion centric with a view to promote enmity amongst various religion of the nation. No action is taken by any courts so far. Elect roll offence is committed by offering freebies at the cost of the tax payer evoking no response or reaction from the courts while demotion of unauthorized buildings illegally occupied by a section of people enables the courts to issue orders of stay in the wee hours of the day. Tax payers' money to an extent of 32 corers is spent for maintenance of wakf properties. It is undeniable that there is no entry in any one of the three lists which authorises the State which is religion centric. Even Article 248 does not authorise making any law on religion or which is religion centric. Yet, Wakf Act is in statute book which is a product of Parliament without authorisation. Money collected by Muzarai institution is diverted for other purposes which act is unauthorised. These are few of the instances where overarching or over reach by the Judiciary are manifesting now and then.

PARADIGM SHIFT -COUNTER PRODUCTIVE

In an attempt to enhance the image of the Institution and make the Institution more utilitarian, innovative measures are taken to deliver justice, unmindful of the means to do so. It is in the above background courts have become over active and giving instant justice and venturing upon several other modes of delivering justice, albeit the means have no identity in the Constitutional scheme and ethos. This may be counter productive.

GOVERNOR /PRESIDENT; ALLEGIANCE TO CONSTITUTION

Oath of office to be taken by President /Governor is worded and termed specifically in Articles 69 and 159 of Constitution of India. Oath of office by High Court Judges, is indicated in Article 219 R/w III schedule. The two formats referred to above are totally dissimilar. Governor as well as President are to abide by, follow the tenets of Constitution in spirit and their allegiance to the Constitution shall remain undiluted. Oath of office of Judges, is on aspects of prejudice and favour and not allegiance to Constitution. Governor is the Executive head of the State. He is responsible for all acts of Legislature and the Executive. President is the Supreme authority of the Nation. President has enormous responsibility, power and duty, concerning the whole Nation, including appointment of Judges. Governor/President do not take command from any one as they are Supreme Commanders in their domain. This aspect is a constitutional reality and would assist the dignity of the Individual as well that of Legislature, Executive and Judiciary qua Unity and integrity of Nation. Belittling and disrespecting each other is forbidden. An elected Chief Minister cannot call Governor of the State a mere postman from a public flatform.

ACCOUNTABILITY:;:SKEWED

Constitution of India is Supreme Lex is undisputed and undeniable. Equally, Separation of power and creation of borders/territory for exercise of powers by the three wings of Democratic Republic of India, Legislature, Executive and Judiciary is clearly defined and one wing shall not interfere with the other or arrogate to itself the power of the other pillar of Democracy. It is forbidden. Doctrine of Checks and Balances and accountability are part of Constitutionalism and Constitutional philosophy. Whenever there is doubt in regard to interpretation of any Article in the Constitution, one has to read the Preamble and interpret the provisions of the Constitution in the manner suited to uphold Constitutional ethos, achieve Constitutional integrity and avoid creation of Constitutional aberrations /turbulence. There is a clear aspect of checks and balances in that, Legislature, in regard to Legislature and an elected member has a fixed term of office and cannot perpetuate himself or herself in office. He /she has to contest again and get elected upon demonstration of the good work done in his/her constituency. He/she is accountable to the voters. Executive has equally stringent disciplinary norms and it is bound by Conduct Rules. There cannot be perpetuation in holding the office by the Executive, in disregard of conduct. It is only the Judiciary that enjoys immunity from being accountable to the People of India. People of India alone are the Sovereign, the rest are accountable to people India. In reality, Judiciary has assumed immunity on its own, dehors any law, in this behalf and has consistently avoided on insisting that the Judiciary is not accountable. Judiciary has created its own platform called Collegium to appoint itself. This is peculiar to Indian Judiciary. **Accountability is thus skewed.**

Raging issue

On 8-4-2025, Hon'ble Justice J.R. Pardiwala and Hon'ble Justice R Mahadevan disposed of W.P. 1239/2023 filed by State of T.N. against the Governor of T.N. dwelling on Article 220 of Constitution of India.

In the decision dated 8-4-2025, the following is the quintessence of the decision

No "absolute veto" on bills for Governor

Justice Pardiwala held that once a state legislature passes a Bill, the Governor's role under Article 200 of the Constitution is limited to three clear options: granting assent, withholding assent, or reserving the Bill for the President's consider-

ation.

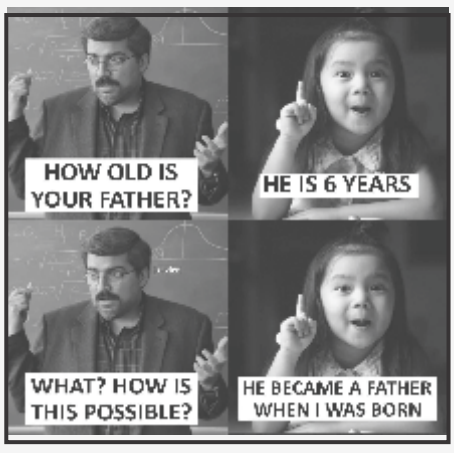
He further explained that the first proviso to Article 200—which allows the Governor to return a Bill for reconsideration—operates in conjunction with the power to withhold assent. This means that when a Governor returns a Bill, it is considered part of the process of withholding assent. Once the legislature re-passes the Bill, with or without amendments, the Governor is constitutionally bound to grant assent. He cannot reserve the Bill for the President's consideration at this stage.

The Tamil Nadu government had submitted that Governor Ravi did just that—reserved Bills for the President after the state legislature had re-enacted them.

Justice Pardiwala affirmed that the Court's earlier decision in State of Punjab v Principal Secretary to the Governor of Punjab (2023) laid down the correct position. That judgement, authored by former Chief Justice D.Y. Chandrachud, with Justice Pardiwala also on the bench, held that Governors cannot "thwart the normal course of lawmaking by State Legislatures." The Court strongly rejected the notion that an unelected Governor could wield an effective veto over democratically elected legislatures. The bench in today's decision also reiterated that the constitutional scheme does not make place for the idea of an "absolute veto" or a "pocket veto".

Granting assent to ensure "complete justice"

Governor Ravi had withheld assent on 10 Bills passed by the state legislature. After the legislature re-enacted these Bills, the Governor chose to reserve them for the President's consideration. The bench took strong exception to this. Justice Pardiwala observed that such reservation was both "illegal" and "erroneous in law". Referring to the first proviso of Article 200, the Court pointed to the "clear embargo" placed on the Governor to grant assent to a re-presented bill.



The Court found that the Governor had allowed the Bills to remain pending for an unjustifiably long period and had acted in a manner that was "not bona fide." They also noted the Tamil Nadu Governor's "scant respect" of the State of Punjab judgement. In light of this, in an important and perhaps controversial move, the Court held that they had "no choice" but to declare that the ten Bills are deemed to have received the Governor's assent on the very date they were presented to him the second time.

Justice Pardiwala justified his by invoking the Court's discretionary powers under Article 142 of the Constitution, which allows the Court to pass any orders necessary to do "complete justice".

Article 142 does not authorise the deduction that sanction is deemed to be accorded. This is misreading and misapplying of Article 142

Alternatively, one has to see whether doctrine of Ipso Jure would apply to fact situation. The doctrine would mean that consequences should follow faithfully and lawfully from a fact situation. In the present case nothing can follow lawfully or faithfully to infer deemed sanction as Article 142 is addressed to interpretation of Law made by Parliament but not to provisions of Constitution of India.

ANALYSIS

Courts are not authorised to add or delete from Article 200 as it amounts to amending Article 200, without recourse to Article 368. What cannot be done under Article 368 is sought to be done by the Hon'ble Apex Court in State of T.N. Case. What cannot be done directly shall never be allowed to done indirectly.

Serious error abound in the judgement dated 8-4-2025. To perpetuate a mistake is no act of judicial heroism of the Judiciary. To correct such mistakes is the compulsion of judicial consensus. Time is precious and shall not be lost, failing which even erroneous decisions cause influence and demote fraternity and denude Constitutional integrity amongst the three organs of Democratic Republic of India.

Article 142 is sought to be availed to construe a deeming provision to say that delay beyond three months in according COSNENT OR refusing to accord consent would amount to deemed consent. Interpretation of Constitution, in particular the Preamble R/w Article 32 does not authorise this. Constitution is not a mere Statute, enacted under Article 246. It is a product of hard work of Constituent Assembly. Article 200 is an essential feature of Constitution of India and it has a specific role in achieving constitutional integrity.

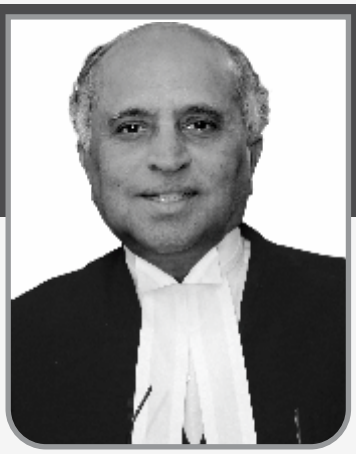
In the guise of interpretation or doing substantial justice under Article 142, Supreme court could not have declared the Law that delay amounts to deemed sanction. Supreme court has committed a supreme error.

In lighter vein, delay on the part of President of India to appoint persons recommended by "Collegium" (a self created device by the Supreme Court to garner power of appointment of Judges), does not authorise any assumption or deemed appointment of judges and or when a judgment is reserved and there is delay, there cannot be a presumption or assumption that by default, parties can claim that there is a deemed judgment in its/their favour. Constitution of India and or its provisions cannot be belittled or diluted.

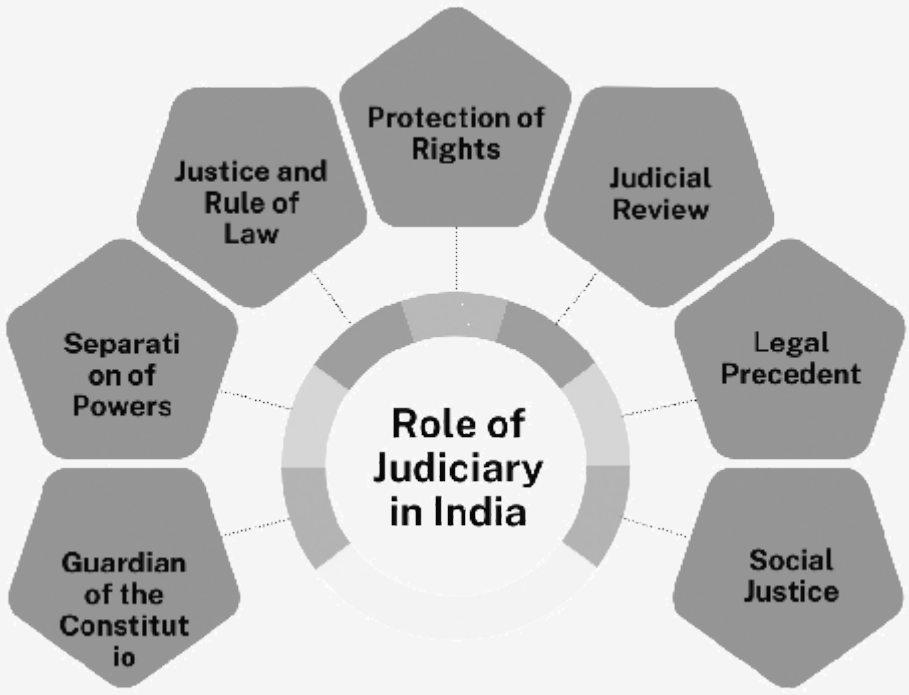
Avoidable abrasions and turbulence are created by this judgment without the aid and assistance of any provision of Constitution of India and the decision requires to be revisited and directions issued thereon to be undone or matter referred to Larger Bench, suo moto. President can also seek reference under Article 143 of Constitution of India.

Constitutional integrity is facing its "watershed" moment. No price is huge, no effort is burdensome to overcome the situation. Constitution is Supreme. By unauthorised and unjustified fiction of deeming, essential/ basic or fundamental features shall not be altered. ★

JUDICIAL INDEPENDENCE & ACCOUNTABILITY



K G RAGHAVAN
Senior Advocate
President, Bharathiya Vidya Bhavana, Bengaluru



14th March 2025 was a firey day in the annals of Indian Judiciary. The event which has unfolded since then has provoked debate, healthy but unrestrained, from all quarters, legal, and non legal.

The subject has two components. Firstly the "Independence" and secondly, "Accountability" of the Judiciary, an indispensable institution in a democratic set up. Neither of the two is subordinate to the other. They have to work in tandem. The term "Independence" in the context of the judiciary has many hues and colours. It mainly connotes independence from interference by the political and executive arms of the administration. The Constitution of India insulates the higher judiciary from incursions, directly and indirectly, by these two wings of administration of the polity. The Constitution does so in three ways. Firstly, in the matter of appointment of judges to the higher judiciary namely the High Court and Supreme Court, Article 124 and Article 217 mandates that requirement of a consultative process amongst the constitutional functionaries mentioned therein. Secondly, in the in the matter of removal an elaborate impeachment process is provided. Thirdly, conditions of service is regulated by a parliamentary statute. The salary of a Judge is a charge on the consolidated fund of India and not subject to budgetary control.

The march of the law/Independence of the judiciary:

Question arose as to whether "consultation" – in Article 124/217 connotes "concurrence", meaning thereby whether the concurrence of the judicial functionaries named therein is a must. Additionally, will the Chief Justice of India have primacy in the consultative process. These two Articles were interpreted by three Constitution bench judgments of the Hon'ble Supreme Court popularly known as the First , Second and Third judges case. The First judges case was overruled by the Second and the Third which arose out of a presidential reference reaffirmed the correctness of the Second Judges case. The second and the third judges wrested primacy in the judiciary in the matter of the appointment of judges. In other words, judges ought to appoint judges was the mandate. Then came the Memorandum of Procedure in consonance with the aforesaid two judgments.

The first judges case arose out of a challenge to the action of the Union of India in the matter of transfer of judges from one high court to another. In that case, Justice Bhagwati as he then was, said,

'The concept of independence of judiciary is a noble concept which inspires the constitutional scheme and constitutes the foundation on which rests the edifice of our democratic polity. … it is the judiciary which is entrusted with the task of keeping every organ of the State within the limits of the law and thereby making the rule of law meaningful and effective."

Adverting to the intent of the Constitution makers on this subject, he said,

" It was felt that the concept of independence of the judiciary was not limited only to the independence from executive pressure or influence, but it was a much wider concept, which took within its sweep, independence from many other pressures and prejudices."

Justice Pathak, as he then was, observed on the concept of independence of judiciary,

"While the administration of justice drew its legal sanction from the Constitution, its credibility rested in the faith of people. Indispensable to such faith was the 'independence of the judiciary'. An independent and impartial judiciary, it was felt, gives character and

content to the constitutional milieu."

Justice E. S. Venkatramaiah, as he then was opined,

"Independence of the judiciary was one of the central values on which the Constitution was based. In all countries where rule of law prevails, the power to adjudicate upon all disputes between man and man, and a man and the State, and a State and another State, and State and the Centre, was entrusted to a judicial body, it was natural that such body should be assigned a status free from capricious or whimsical interference from outside so that it could act without fear and in consonance with judicial conscience."

The second judges case categorically held, that the opinion of the judiciary symbolised by the view of the Chief Justice of India and formed in the manner indicated, has primacy and that no appointment of any judge to the Supreme Court or any High Court can be made, unless it is in conformity with the opinion of the Chief Justice of India. In other words it was held that consultation meant concurrence.

In the third judges case the law declared in the second judges case was affirmed. In other words judges appointing judges was accepted as the correct constitutional position. The NJAC judgment reaffirmed the view in the Second and Third judges case.

In the context of appointment of judges, it is apposite to refer to the contrary view expressed by Sri T. T. Krishnamachari in the Constituent Assembly to the following effect.

"The independence of the judiciary should be maintained and that the judiciary should not feel that they are subject to favours that the Executive might grant to them from time to time and which would naturally influence their decision in any matter they have to take where the interest of the Executive of the time being happens to be concerned. At the same time, Sir, I think it should be made clear that it is not the intention of this House or of the Framers of the Constitution that they want to create specially favoured bodies which in themselves become an ***imperium in imperio,*** *completely independent of the Executive and the legislature and operating as a sort of superior body to the general body politic."*

The delicate balance between maintaining the independence of judiciary vis a vis appointment of judges and creating a situation of imperium in imperio was explained by Dr.B.R.Ambedkar, in the course of the debates in the Constituent Assembly thus:

"How are judges of the Supreme Court to be appointed? The first proposal is that the judges of the Supreme Court should be appointed with the concurrence of the Chief Justice. That is one view. The other view is that the appointments made by the President should be subject to the confirmation of two thirds vote by Parliament; and the third sugges-

tion is that they should be appointed in consultation with the Council of States....There can be no difference of opinion in this House that our judiciary must both be independent of the executive and must also be competent in itself. And the question is how these objects could be secured."

Dr.Ambedkar then refers to the system of appointment of judges in the superior courts both in England and the United States. Referring particularly to the practice in the United States of confirmation of appointment by the Senate, he continues,

"It seems to me, in the circumstances in which we live today, where the sense of responsibility has not grown to the same extent to which we find it in the United States, it would be dangerous to leave the appointments to be made by the President, without any kind of reservation or limitation, that is to say, merely on the advice of the executive of the day. Similarly, it seems to me that to make every appointment which the executive wishes to make subject to the concurrence of the Legislature is also not a very suitable provision. Apart from its being cumbrous, it involves the possibility of the appointment being influenced by political pressure and political considerations. The draft article therefore steers the middle course."

On the question of concurrence of the Chief Justice in the matter of appointment as opposed to consultation, he said,

"With regard to the question of the concurrence of the Chief Justice, it seems to me that those who advocate that proposition seem to rely implicitly both on the impartiality of the Chief Justice and the soundness of his judgment. I personally feel no doubt that the Chief Justice is a very eminent person. But after all, the Chief Justice is a man with all the failings, all the sentiments and all the prejudices which we as common people have; and I think to allow the Chief Justice practically a veto upon the appointment of judges is really to transfer the authority to the Chief Justice which we are not prepared to vest in the President or the Government of the day. I think therefore that this is also a dangerous proposition."

Obviously Dr. Ambedkar could not visualise the turn of events over the decades to come, even in the United States. Today as we debate this important issue in India, in the United States the SCOTUS is openly being accused of being partisan depending upon the political party which nominated the particular judge and deciding cases on the basis of the ideology of that party. If the Constitution makers had visualised this turn of events, possibly they also would have had a second thought as to the interference of the political body as being undesirable. Thankfully, that course was abandoned in India at the

very inception. So that option is a non-starter in India. In this context in book titled "Debates on Judicial Appointment" one of the leading jurists said

" But when politicians talk thus, or act thus without talking it is precisely the time to watch them most carefully. There usual plan is to invade the constitution stealthily, and then wait to what happens. If nothing happens they go on more boldly; if there is a protest they reply hotly that the Constitution is worn out and absurd and that progress is impossible under the dead hand. This is the time to watch them especially…Their one and only object, now and always, is to get more power into their hands that it may be used freely for their advantage and to the damage of everyone else. Beware of all politicians at all times, but beware of them most sharply when they talk of reforming and improving the Constitution."

That the executive should not interfere with the independence of the judiciary is axiomatic. That appointment of a particular person as a judge is integrally connected with the preservation of independence of the institution is self-evident. Obviously you cannot have a committed judge to make up for an independent body. So that option of appointment of a judge by the executive is again not an option at all.

Would you then trust the view of the Chief Justice singly as the deciding factor in the matter of appointment? What role then does the executive government have to play? That an institutional decision (in the instant case the collegium) is superior in quality to individual decision of the Chief Justice is without cavil. In fact the collegium system is the fall out of the judgment of the Supreme Court in the Second Judges case.

It is in this background that the Memorandum of Procedure as formulated by the Central Government and accepted by the Supreme Court gains credence. It seems to maintain a just balance between the participatory role of the judiciary and the executive which contemplates 8 steps in the matter of appointment of a judge to the higher judiciary.

No system for the appointment of judges is flawless. Each has its merits and demerits. The wisdom is to identify the core or the basic issue which in the instant case is to insulate the judiciary from political interference through the executive wing of the Government. As the idiom goes, "Do not miss the Forest for the Trees." The collegium system has been criticized for appointing "bad judges". Is this generalization correct? In my view not. Individual failings of men who are involved in the actual functioning of the executive, the legislature and the judiciary, do not necessarily lead to the inference of the system which selects them and assigns to them their role is defective. In other words do not throw a baby out with the bath water.

Another criticism against the functioning of the collegium system

is the opaqueness of the deliberations within the collegium. This is a vexed issue. A delicate balance has to be maintained between confidentiality and transparency. Deliberations within the collegium as to the suitability of a particular person to be appointed as a judge, necessarily has wide ranging ramifications vis a vis both the institution and the individual. From the point of view of the institution, it is better to obfuscate the details of the merit and demerits of the individual since the respectability of the institution depends largely on the respectability of the individual being considered for appointment as a judge. Trust is the foundation of a judicial body. It is assumed that judges are the most trusted lot amongst the three wings of functioning of the governance system as envisaged in the Constitution. If that is the unfailing faith that the Constitution has reposed in the higher judiciary, a valid assumption to make, there is no reason why the objective assessment of the collegium should be doubted. **"Trust we must in the judges."** That is the mantra. If we don't, then we should abandon the democratic form of government.

Now let's examine from the point of view of the person whose name was considered for elevation by the collegium and not recommended. If the deliberations are disclosed as to why the person was found unfit, it will irretrievably damage the reputation of that person which is the **"most unkindest cut of all".** Yet another reason why the deliberations should not be disclosed in its veritable details.

Therefore, it is my view is that the present system of judges appointing judges is most suited in the Indian environment and with the modifications to the extent of disclosure of the deliberations of the collegium as now adopted, the same augurs well towards the maintenance of the independence of the judiciary in the matter of appointments. The modifications are always work in progress.

If this was an Oxford type debate, I would seek the affirmation of this august body to retain the collegium system and the principle that judges appoint judges.

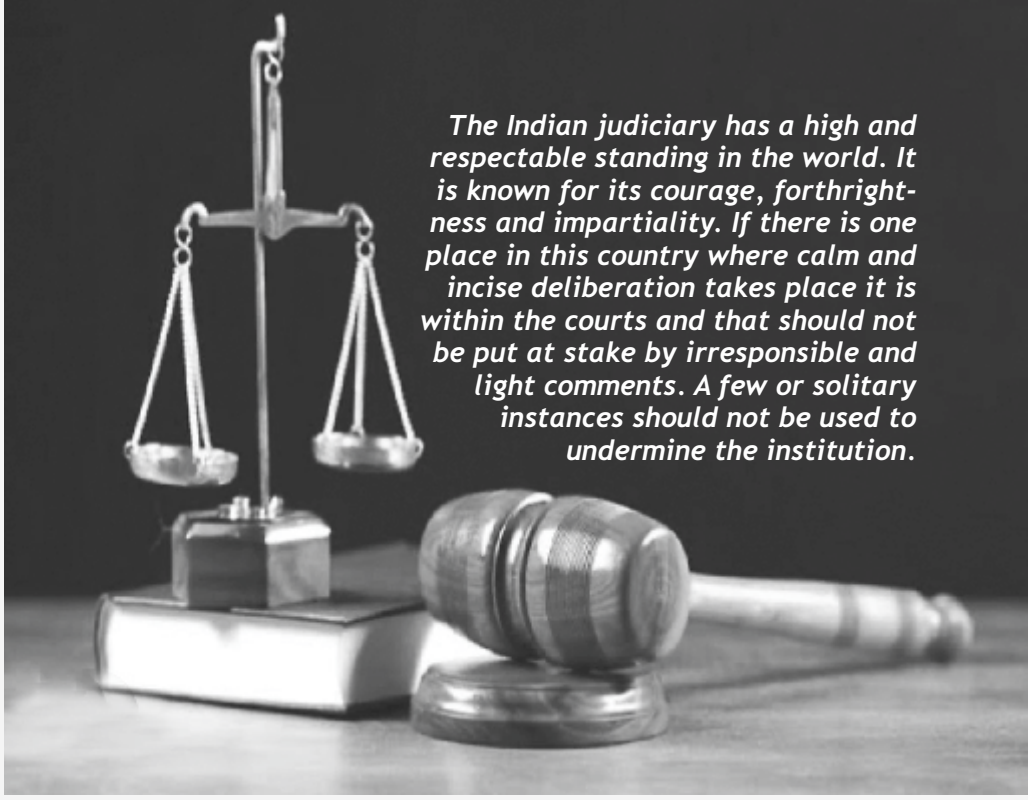
Accountability :

Judges as appointees have one or more of the human failings. I commenced by saying that the incursions into the independence of the judiciary is by two sources, viz., Executive and Legislature. But there is a third source, and equally dangerous one namely, from within. The danger to the independence of the judicial system comes from all directions. The most dangerous is the attacks that come from within. The Indian judiciary have suffered and sustained these attacks. The brutal attack on the judiciary from within came on the 12th January 2018 when four judges of Indian Supreme Court held the infamous press conference to air in public their grievance against the then Chief Justice of India. These judges have done yeoman disservice to the reputation of the institution by venting their grievance in public.

They forsook the larger interest of the institution for petty causes. This intrigue within the judiciary is in fact very poignantly referred to by H M Seervai in his treatise on the Constitutional Law of India. He quotes Justice Jackson who said " Judges are more often bribed by their ambition and loyalty rather than by money." Be that as it may, the scathing remarks made by judges against the judiciary after their retirement is yet another glaring example of betrayal by those from whom loyalty was expected both when in office and after demitting the office.

How should a stray misconduct of a judge of superior court be dealt with. That's the moot question. How accountable should the judiciary be to the public in the matter of their dealing with an errant judge. Should the judiciary be bound by the same standards as applicable to the executive which largely comprises of appointees through a statutory process, for example, Union and State public Service Commissions. While dealing with an errant judge how much "sunlight" is called for and considered enough? These questions have erupted time and again and have lead to scathing attack on the judiciary as a whole. Attempts have been made irresponsibly from again within and without about the lack of trust in the whole judicial system because of a single or a stray incident of an errant judge ignoring again the oft quoted idiom " Single swallow does not make a summer."

Quis custodiet ipsos custodes?- who is there to watch the watchmen themselves is a nagging question which troubled even the Romans. It is not capable of an easy answer. Accountability of a particular judge and independence of the institution are closely intertwined. Misdemeanour by a judge is not akin to an act of misdemeanour by a public servant as popularly understood. Any act of misdemeanour by a judge of the high judiciary has great ramifications on the credibility of the institution itself. Therefore a judge owes a greater sense of answerabilty and commitment towards his job than the holder of any other public office. It is in recognition of this unique position that a judge of the higher judiciary holds, that the Constitution has made



The Indian judiciary has a high and respectable standing in the world. It is known for its courage, forthrightness and impartiality. If there is one place in this country where calm and incise deliberation takes place it is within the courts and that should not be put at stake by irresponsible and light comments. A few or solitary instances should not be used to undermine the institution.

a special provision for impeachment of a judge. That power has been vested with the highest law making body of the country and the exercise of such power is circumscribed by several stringent requirements including the provisions Judges (Inquiry) Act, 1968. There is a criticism that in the last 75 years of the coming into force of the Constitution there has not been a single case of impeachment except an attempted one in the case of Justice K Ramaswami of the Supreme Court. The criticism in my view is without justification. It is as it should be. The power of impeachment is useful more as a deterrent than in its actual use. Hiss but don't bite is the rule. There is an inhouse mechanism for enquiry as laid down in Ramaswami's case. The mechanism involves the top most functionaries of the judiciary. It is assumed that the power of enquiring into an allegation of misdemeanour by a judge is vested in the high functionaries of the system, it will be fair and proper. There is an element of confidentiality too. That the independence of the judiciary on the one hand and the requirement of fair investigation are both important is without any question. The balance to be maintained between the two is a delicate one. The most devastating for both is the irresponsible and hazardous publicity and debate that follows from sections of the public criticising the judiciary. "The judiciary has betrayed the trust of the people" proclaims one section. "The judicial system has been exposed" cries the other. "The public have lost confidence in the judiciary" laments the third. Protests, seminars and interviews galore within a few minutes of the misdemeanour being reported by various eminent personalities from the Bar and Bench and the Associations. Friends, this unrestrained reaction lacking in sobriety and deliberation as to the larger ramification of this type of reaction is highly regrettable. It is true that in some cases sunlight as opposed to secrecy is the best disinfectant and the remedy for darkness is sunlight and more sunlight. But too much exposure to sunlight burns and burns severally. It can result in sunstroke.

But every such rule has its own limitations. Even an ordinary departmental enquiry has its own limitation in terms of disclosure or transparency. It is more demanding in the case of a judge since as I said above, judge represents an institution i.e. the court and the majesty of the law is represented by the courts. Therefore, I plead, My Lords the former judges of the judicial system, do not berate the system in public on the basis of unjustified, unverified self formed conclusions. I plead to my fellow colleagues in the profession, not to sensationalize issues arising out of allegations against a judge

through public interviews and statements carried on 9 'o' clock news. To the fourth estate the Press both print and media, I plead with them to exhibit restraint and not conduct a trial which will harm the institution. Notwithstanding that the pen is mightier than the sword, there are severe limitations on the veracity of press reports and the damage that per chance a wrong report can cause to the standing of the institution would be irreparable. Do not forget, my friends in the press, that the Indian Judiciary has been the watchdog of press freedom and individual liberty. A point in stance, is the release from custody of Mr. Arnab Goswami of republic TV by even taking his case out of turn when many others were languishing in jail for a longer period. Circulation and TRP should not be the guiding factors for the press and TV when it concerns sensationalizing the Judiciary.

There is another angle to be debate on accountability. Unlike in the past, today the judges are engaged in a lot of non judicial work on the administrative side e.g. approval of tenders, appointment of staff, transfers etc. The standards and procedure that one needs to adopt in the matter of investigation into an act of misdemeanour of judge while exercising such functions should be different consistent with the rules of confidentiality. Therefore, a time has possibly come to differentiate between the conduct of a judge in the discharge of his or her judicial functions and in discharge of administrative duties.

The Indian judiciary has a high and respectable standing in the world. It is known for its courage, forthrightness and impartiality. If there is one place in this country where calm and incise deliberation takes place it is within the courts and that should not be put at stake by irresponsible and light comments. A few or solitary instances should not be used to undermine the institution. It is time to revive a debate on the appointment of Judicial ombudsman in line with the Judicial Standards and Accountability Bill, 2010.

This debate on the accountability of a judge of a superior Court is not peculiar to India. Allegations of financial impropriety against Justice Clarence Thomas and Justice Samuel Alito of the US Supreme Court have raised serious issues even the United States. But the criticism has been guarded ensuring that the status of the court is not diminished in any manner whatsoever. So too scandals in the White House involving Presidents like Andrew Jackson (Petticoat Affair), Ulysses Grant (The Whiskey Ring), Warren G Harding (The Teapot Dome Scandal), Richard Nixon (Watergate Scandal), Ronald Reagan (Iran Contra Affair) and Bill Clinton (Monica Lewinsky Affair) have also made headline news without shaking confidence in the White House. There is lesson to be learnt.

Let me conclude with the words of Justice Albie Sachs of the South African Constitutional Court

"If respect for judiciary is to be regarded as integral to maintenance of the rule of law, such respect will be spontaneous, enduring and real to the degree that it is earned rather to the extent that it is commanded." ★

ಮುಖ್ಯಮಂತ್ರಿಗೆ ಸನ್ಮಾನ

ನ್ಯೂಸ್

"ವಕೀಲರ ರಕ್ಷಣಾ ಕಾಯ್ದೆ"ಯನ್ನು ಜಾರಿಗೊಳಿಸಿದ ಮುಖ್ಯಮಂತ್ರಿ ಸಿದ್ದರಾಮಯ್ಯ ಅವರನ್ನು ದಿನಾಂಕ 29/04/2025ರಂದು ಬೆಂಗಳೂರು ವಕೀಲರ ಸಂಘದ ವಾರ್ಷಿಕ ದಿನಾಚರಣೆ ಸಂದರ್ಭದಲ್ಲಿ, ಸಿಟಿ ಸಿವಿಲ್ ಕೋರ್ಟಿನ ಸಭಾಂಗಣದಲ್ಲಿ ಆಯೋಜಿಸಿದ್ದ ಅದ್ಧೂರಿ ಸಮಾರಂಭದಲ್ಲಿ ಸನ್ಮಾನಿಸಲಾಯಿತು.

ಈ ಕಾರ್ಯಕ್ರಮದಲ್ಲಿ ಕಾನೂನು ಸಚಿವ

ಡಾ. ಹೆಚ್. ಕೆ. ಪಾಟೀಲ, ಮುಖ್ಯಮಂತ್ರಿಯವರ ಕಾನೂನು ಸಲಹೆಗಾರ ಎ. ಎಸ್. ಪೊನ್ನಣ್ಣ, ಅಡ್ವೋಕೆಟ್ ಜನರಲ್, ಕೆ. ಶಶಿಕಿರಣ ಶೆಟ್ಟಿ, ಬೆಂಗಳೂರು ವಕೀಲರ ಸಂಘದ ಅಧ್ಯಕ್ಷ ವಿವೇಕ್ ಸುಬ್ಬಾ ರೆಡ್ಡಿ, ಉಪಾಧ್ಯಕ್ಷ ಗಿರೀಶ್ ಕುಮಾರ್, ಕಾರ್ಯದರ್ಶಿ ಪ್ರವೀಣ ಗೌಡ, ಖಜಾಂಚಿ ಶ್ವೇತಾ ರವಿಶಂಕರಹಾಗೂ ಎಲ್ಲಾ ಪದಾಧಿಕಾರಿಗಳು ಸಹಸ್ರಾರು ವಕೀಲರು ಭಾಗವಹಿಸಿ ಕಾರ್ಯಕ್ರಮವನ್ನು ಯಶಸ್ವಿಗೊಳಿಸಿದರು. ★

ಕುಂಭಮೇಳ -ಮೌಢ್ಯವೆ?

-ಸ್ಮಿತಾ ಹೆಗಡೆ
sonusmita@gmail.com

ಕುಂಭಮೇಳ ಒಂದು ಮೌಢ್ಯವೇ?

ಈ ಪ್ರಶ್ನೆ ಬಹಳ ಜನರನ್ನು ಕಾಡುತ್ತಿದೆಯಂತೆ. ಈ ವರ್ಷ ನಡೆದ ಮಹಾಕುಂಭ ಮೇಳದಲ್ಲಿ ಭಾಗವಹಿಸಿದ್ದ ನಲವತ್ತೈವತ್ತು ಕೋಟಿ ಜನರದ್ದು ಮೌಢ್ಯವೆ? ಮಹಾಕುಂಬ ಮೇಳದ ಮಹತ್ವವನ್ನು ನಂಬುವ ನೂರಾರು ಕೋಟಿ ಜನರದ್ದು ಮೌಢ್ಯವೆ? ಯಾರ ಮಾಢ್ಯ? ಯಾವುದು ಮೌಢ್ಯ? ಎನ್ನುವುದನ್ನೆಲ್ಲ ಒಂದಿಷ್ಟು ಐತಿಹ್ಯಗಳಿಂದ ತಿಳಿದುಕೊಳ್ಳಲಿಕ್ಕೆ ಪ್ರಯತ್ನಿಸೋಣ.

ಗಂಗಾ ನದಿಯು ಎಲ್ಲಿ ಉದ್ಭವಿಸುತ್ತದೆ?_

ಗಂಗೋತ್ರಿಯಲ್ಲಿಯೋ_ ಅಥವಾ ಗೋಮುಖದಲ್ಲಿಯೋ..? ಅವೆರಡರಲ್ಲಿಯೂ ಅಲ್ಲ. ಉತ್ತರಖಂಡ ರಾಜ್ಯದ ಶ್ರೀ ಕ್ಷೇತ್ರ ಬದರಿನಾಥದಿಂದ ಮೇಲೆ ಸಾತೋಪತ್ ಹಿಮಾನಿ ಎನ್ನುವ ಸ್ಥಳದಿಂದ ಎರಡು ಪುಟ್ಟ ಪುಟ್ಟ ನದಿಗಳು ಉಗಮವಾಗುತ್ತದೆ. ವಿಷ್ಣುಗಂಗಾ ಮತ್ತು ದೌಲಿಗಂಗಾ. ಈ ಎರಡು ನದಿಗಳು ಹರಿದು ಮುಂದೆ ಬಂದು ಒಂದರೊಳಗೊಂದು ಸಂಗಮವಾಗುತ್ತದೆ, ಇದು ಮೊತ್ತ ಮೊದಲ ಸಂಗಮ ಕ್ಷೇತ್ರ ವಿಷ್ಣು ಪ್ರಯಾಗ.

ಎರಡು ನದಿಗಳು ಸಂಗಮವಾದಾಗ ಯಾವ ನದಿಯ ಆಳ ಹೆಚ್ಚಾಗಿರುತ್ತದೆಯೋ ಆ ನದಿಯ ಹೆಸರಿನಿಂದ ಮುಂದಿನ ನದಿಯನ್ನು ಗುರುತಿಸುತ್ತಾರೆ. ಎರಡು ನದಿಗಳ ಆಳ ಸಮ ಸಮವಾಗಿದ್ದರೆ ಮುಂದಿನ ಹರಿವಿಗೆ ಹೊಸ ಹೆಸರನ್ನು ಇಡುತ್ತಾರೆ. ವಿಷ್ಣು ಪ್ರಯಾಗದಲ್ಲಿ ವಿಷ್ಣುಗಂಗಾ ಮತ್ತು ದೌಲಿಗಂಗಾ ಈ ಎರಡು ನದಿಗಳ ಆಳ ಹೆಚ್ಚುಕಡಿಮೆ ಸಮ ಸಮವಾಗಿರುವುದರಿಂದ ಮುಂದೆ ಈ ನದಿಯನ್ನು ಅಲಕಾನಂದ ಎಂದು ಕರೆಯುತ್ತಾರೆ.

ಅಲಕಾನಂದ ನದಿಯು ಮುಂದೆ ಹರಿದು ಬರುವಾಗ ನಂದಾಕಿನಿ ನದಿ ಎಡ ಬಾಗದ ಕಡೆಯಿಂದ ಹರಿದು ಬಂದು ಅಲಕಾನಂದ ನದಿಯೊಳಗೆ ಲೀನವಾಗಿ ಬಿಡುತ್ತಾಳೆ ಆ ಜಾಗ ನಂದಪ್ರಯಾಗ.

ಅಲಕಾನಂದ ನದಿಯು ನಂದಾಕಿನಿ ನದಿಯೊಡನೆ ಕೂಡಿಕೊಂಡು ಮುಂದೆ ಹರಿದು ಬರುವಾಗ ಅಲಕಾನಂದ ನದಿಯ ಮಡಿಲಿಗೆ ಪಿಂಡಾರ ನದಿ ಬಂದು ಸೇರುತ್ತಾಳೆ. ಈ ಜಾಗವನ್ನು ಕರ್ಣ ಪ್ರಯಾಗ ಎಂದು ಹೆಸರಿಸಿದ್ದಾರೆ.

ಈ ಅಲಕಾನಂದ ನದಿ ಮುಂದೆ ಹರಿದು ಸಾಗುವಾಗ ಕೇದಾರನಾಥದಲ್ಲಿ ಉಗಮವಾಗಿ ಬಹಳ ಗಂಭೀರವಾಗಿ ಹರಿದು ಬಂದು ಅಲಕಾನಂದೆಯಲ್ಲಿ ಲೀನವಾಗುವುದು ಮಂದಾಕಿನಿ. ಅಲಕಾನಂದ ಮತ್ತು ಮಂದಾಕಿನಿಯ ಸಂಗಮ ಸ್ಥಳ ರುದ್ರ ಪ್ರಯಾಗ ಎಂದು ಪ್ರಸಿದ್ಧವಾಗಿದೆ

1) ನಂದಾಕಿನಿ 2) ಪಿಂಡಾರ ಮತ್ತು 3) ಮಂದಾಕಿನಿ ಈ ಮೂರು ನದಿಗಳ ಆಳ ಅಲಕಾನಂದ ನದಿಯ ಆಳಕ್ಕಿಂತ ಕಡಿಮೆ ಇರುವುದರಿಂದ ಈ ನದಿಗಳು ಅಲಕಾನಂದ ನದಿಯೊಡನೆ ಸಂಗಮವಾದ ತಕ್ಷಣ ಅವುಗಳು ತಮ್ಮ ಅಸ್ತಿತ್ವವನ್ನು ಕಳೆದುಕೊಳ್ಳುತ್ತವೆ ಮತ್ತು ಮುಂದೆ ಅವುಗಳನ್ನು ಅಲಕಾನಂದ ಎಂದೇ ಗುರುತಿಸುತ್ತಾರೆ.

2) ಉತ್ತರಖಂಡದ ಮತ್ತೊಂದು ಭಾಗ ಉತ್ತರಕಾಶಿಯಲ್ಲಿರುವ ಗಂಗೋತ್ರಿಯ ಗೋಮುಖದಿಂದ ಭಾಗೀರಥಿ ನದಿ ಉದ್ಭವಿಸಿ ಅಲಕಾನಂದ ಇರುವಡೆಗೆ ಧಾವಿಸಿ ಬರುತ್ತಾಳೆ. ಹೀಗೆ ದಾವಿಸಿ ಬಂದ *ಭಾಗೀರಥಿ ನದಿ* ಮತ್ತು *ಅಲಕಾನಂದ ನದಿ* ಒಂದರೊಳಗೊಂದು ಸಂಗಮ ವಾಗುವ ಕ್ಷೇತ್ರವೇ ದೇವ ಪ್ರಯಾಗ.

ದೇವ ಪ್ರಯಾಗದಲ್ಲಿ ಸಂಗಮವಾಗುವ ಭಾಗೀರಥಿ ಮತ್ತು ಅಲಕಾನಂದ ನದಿಗಳ ಆಳ

ಆಚಾರ ವಿಚಾರ

ಸಮವಾಗಿರುವುದರಿಂದ ದೇವ ಪ್ರಯಾಗದಲ್ಲಿ ಅಲಕಾನಂದ ಮತ್ತು ಭಾಗೀರಥಿ ನದಿಗಳು ತಮ್ಮ ಅಸ್ತಿತ್ವವನ್ನು ಕಳೆದುಕೊಂಡು ಮುಂದೆ ಗಂಗಾ ನದಿಯಾಗಿ ಹರಿಯುತ್ತದೆ.

ಈ ಐದು ಕ್ಷೇತ್ರಗಳನ್ನು ಅಂದರೆ 1) ವಿಷ್ಣು ಪ್ರಯಾಗ 2)ನಂದ ಪ್ರಯಾಗ 3) ಕರ್ಣ ಪ್ರಯಾಗ 4) ರುದ್ರ ಪ್ರಯಾಗ ಮತ್ತು 5) ದೇವ ಪ್ರಯಾಗಗಳನ್ನು ಕೂಡಿಸಿ ಪಂಚ ಪ್ರಯಾಗ ಎಂದೇ ಗುರುತಿಸುತ್ತಾರೆ.

ಹೀಗೆ ಹಲವು ನದಿಗಳು ಕೂಡಿ ಗಂಗಾ ನದಿಯಾಗಿ ಗಿರಿ ಪರ್ವತಗಳ ಸಾಲಿನಿಂದ ಗಂಗೆ ಹೃಷಿಕೇಶಕ್ಕೆ ಇಳಿದು ಬರುತ್ತಾಳೆ. ಹೃಷಿಕೇಶ, ಹರಿದ್ವಾರವನ್ನು ಹಾದು ಮುಂದೆ ಬರುವ ಗಂಗಾ ಮಾತೆ ಯಮುನೋತ್ರಿಯಲ್ಲಿ ಉದ್ಭವಿಸುವ ಯಮುನಾ ನದಿ ಜೊತೆ ಸಂಗಮವಾಗುವ ಜಾಗ ಪ್ರಯಾಗಗಳಲ್ಲಿ ಅತ್ಯುನ್ನತವಾದ ಕ್ಷೇತ್ರ ಪ್ರಯಾಗಗಳಲ್ಲೇ ರಾಜ.. ಪ್ರಯಾಗರಾಜ್.

ಗಿರಿ ಕಂದರಗಳ ನಡುವೆ ಉಗಮವಾಗಿ ಗಂಗಾ ನದಿಯಾಗಿ ಹರಿದು ಬರುವ ಈ ನೀರಿನಲ್ಲಿ ಬ್ಯಾಕ್ಟೀರಿಯೋಫೇಜ್ ಅಂದರೆ ಬ್ಯಾಕ್ಟೀರಿಯಾ ಭಕ್ಷಕನಿರುತ್ತಾನೆ. ಇದೇ ಕಾರಣದಿಂದಾಗಿ ಗಂಗಾನದಿಯ ನೀರು ಬಹಳ ಪರಿಶುದ್ಧವಾಗಿರುತ್ತದೆ. ಈ ಗಂಗೆಯ ನೀರನ್ನು ಶೇಖರಿಸಿ ತಂದು ಮನೆಯಲ್ಲಿಟ್ಟುಕೊಂಡರೆ ವರ್ಷಗಳು ಕಳೆದರೂ ನೀರು ಕೆಡುವುದಿಲ್ಲ. ಇಂತಹ ಪರಿಶುದ್ಧವಾದ ಮತ್ತು ಅಮೃತ ಸಮಾನವಾದ ಗಂಗೆಯಲ್ಲಿ ಮಿಂದು, ಗಂಗಾ ಪಾನ ಮಾಡುವ ನಮ್ಮ ಸಾಧು ಸಂತರ ಜೊತೆ ಸೇರಿ ನಾವು ಮಾಡುವ ದಿವ್ಯ ಸ್ನಾನವೇ ಭವ್ಯ ಕುಂಭ ಸ್ನಾನ.

ಅದುವೇ ಮಹಾಕುಂಭದ ಸಂಭ್ರಮ.

ಅದು ನಮ್ಮ ದೇಹದ ಹೊರಗಿನ ಮತ್ತು ಒಳಗಿನ ಮಲಿನವನ್ನು ಸಂಪೂರ್ಣವಾಗಿ ತೊಳೆದು ಹಾಕುವ ಒಂದು ವಿಧಾನ..! ಕುಂಭಮೇಳದಲ್ಲಿ ಭಾಗವಹಿಸುವುದು ಅದೆಷ್ಟೋ ಕೋಟಿ ಜನರ ಜೀವನದ ಒಂದು ಸಾಧನೆ. ಸಂಭ್ರಮ. ಸಂತೋಷ. ಸಾರ್ಥಕ್ಯ. ಕೋಟಿ ಕೋಟಿ ಜನರು ಒಂದೆಡೆಗೆ ಸೇರಿದ್ದರೂ, ಒಂದಿಷ್ಟೂ ಹಿಂಸೆ ಇಲ್ಲ. ಯಾರಿಗೂ ತೊಂದರೆ ಇಲ್ಲ. ಎಲ್ಲರೂ ಎಲ್ಲರಿಗಾಗಿ ಎಲ್ಲರೊಂದಿಗೆ ಇರುವ ಸಾಧ್ಯತೆಯನ್ನು ಸಾಧಿಸಿ ತೋರಿಸಿದ ದಿಗಳು. ಶತಮಾನಗಳಿಂದ ನಡೆದು ಬರುತ್ತಿರುವ ಈ ಜನಸಂಭ್ರಮಕ್ಕೆ ಸಾಕ್ಷಿಯಾದವರೇ ಪುಣ್ಯಾತ್ಮರು.

ಈ ಎಲ್ಲಾ ವಿಷಯಗಳನ್ನು ತಿಳಿದುಕೊಳ್ಳದೇ ಇರುವವರು ಕುಂಭಮೇಳ ಎನ್ನುವುದೊಂದು ಮೌಢ್ಯ ಎನ್ನುತ್ತಾರೆ. ಉಳಿದವರ ದಾರಿ ತಪ್ಪಿಸಲು ಪ್ರಯತ್ನಿಸುತ್ತಾರೆ. ಅವರದ್ದು ಅಶುದ್ಧ ಮನಸ್ಸುಗಳ ಅಪ್ರಭುದ್ಧ ಪ್ರಲಾಪ. ★

The Bedrock of Indian Banking: Banking Regulation Act, 1949

Vishnu V Madhusudan
School of Law, Christ University

The Banking Regulation Act, 1949, stands as a monumental piece of legislation that fundamentally reshaped and continues to govern the landscape of the banking sector in India. Enacted initially as the Banking Companies Act, 1949, it underwent a name change in 1966, but its core principles and objectives have remained central to ensure the stability, soundness, and orderly growth of the Indian banking system. This comprehensive legislation emerged from the need to consolidate and amend the law relating to banking companies, which were previously governed under the Indian Companies Act, 1913. Recognizing the unique nature and crucial role of banking in the nation's economy, the Act provided a dedicated framework for their regulation and supervision.

Fostering Sound Banking Practices: The Act's Objectives

The objectives of the Banking Regulation Act, 1949, are multifaceted, all geared towards fostering a robust and reliable banking ecosystem.

- **Licensing and Establishment:** Firstly, the Act aimed to provide a framework for the licensing and establishment of banking companies, ensuring that only entities meeting certain financial and managerial standards could operate as banks. This provision was crucial in preventing the proliferation of unsound banking practices and protecting the interests of depositors.
- **Regulation of Banking Activities:** Secondly, the Act sought to regulate the business of banking, defining permissible activities and setting restrictions on non-banking ventures to ensure that banks focused on their core financial intermediation role.
- **RBI's Control:** Thirdly, a key objective was to empower the Reserve Bank of India (RBI) with comprehensive supervisory and regulatory powers over banking companies. This included the authority to conduct inspections, issue directives, control advances, and oversee the management, thereby enabling proactive intervention to maintain financial stability.
- **Depositors' Safeguard:** Furthermore, the Act aimed to safeguard the interests of depositors by ensuring the maintenance of adequate capital reserves, regulating dividend payments, and providing mechanisms for the resolution of banking crises.

Ultimately, the overarching goal was to develop the banking sector on sound and progressive lines, aligning it with the broader economic policies and priorities of the nation.

The Working Mechanism: Key Provisions of the Act

The Banking Regulation Act, 1949, is replete with significant provisions that have shaped the functioning of banks in India.

- **Section 5(b)** provides a crucial definition of 'banking' as "accepting, for the purpose of lending or investment, of deposits of money from the public, repayable on demand or otherwise, and withdrawable by cheque, draft, order or otherwise." This definition clearly demarcates the core business of banking institutions.
- **Section 6** outlines the permissible forms of business that banking companies can engage in, primarily focusing on financial intermediation and related services, while **Section 8** prohibits them from directly or indirectly engaging in trading activities, ensuring a focus on their financial role and preventing undue risk exposure.
- **Chapter II** of the Act lays down the regulations concerning the management of banking companies, including qualifications and disqualifications for directors, under **Section 10;** the requirement for a whole-time chairman under **Section 10B,** and the composition of the board of directors under Section 10A. These provisions aim to ensure professional and competent governance of banks.

Further, the Act addresses

the crucial aspect of capital adequacy.

- **Section 11** mandates minimum paid-up capital and reserves for banks to commence and carry on business in India, varying based on their place of incorporation and business scope. This provision is fundamental to ensuring the financial resilience of banks.
- **Sections 18 and 24** stipulate the maintenance of cash reserves and a certain percentage of assets in liquid form (Statutory Liquidity Ratio - SLR), respectively, to ensure liquidity and the ability to meet depositors' obligations.
- **Section 22** is a cornerstone of the regulatory framework, requiring banking companies to obtain a license from the RBI to carry on banking business in India, granting the RBI the power to scrutinize and authorize the entry of new players into the market and **Section 23** empowers the RBI to regulate the opening of new branches and the transfer of existing places of business, facilitating planned and orderly expansion of banking services.
- **Sections 35 and 35A** vest extensive powers in the RBI to inspect banking companies and issue directions, enabling proactive supervision and intervention in the interest of depositors and the banking system.

These are just a few of the many significant provisions that collectively provide a comprehensive framework for the regulation and supervision of banking in India.

Milestones and Missed Marks: Evaluating the Act

Over the years, the Banking Regulation Act, 1949, has largely fulfilled its intended purpose of establishing a stable, sound, and well-regulated banking system in India. The Act has provided the RBI with the necessary teeth to oversee the functioning of banks, ensuring adherence to prudential norms, safeguarding depositors' interests, and maintaining financial stability. The licensing regime under Section 22 has prevented the entry of fly-by-operators, while the capital adequacy requirements have bolstered the resilience of the banking sector. The RBI's supervisory powers, particularly under Sections 35 and 35A, have been instrumental in identifying and addressing potential vulnerabilities in banks, leading to timely corrective actions. The restrictions on non-banking activities have ensured that banks remain focused on their core functions. The planned expansion of banking services through branch licensing has contributed to financial inclusion.

While the Indian banking sector has faced challenges from time to time, such as the issue of non-performing assets (NPAs), the framework provided by the Act has enabled the RBI and the government to take measures for resolution and reform. Amendments to the Act over the years have also adapted it to the evolving needs of the financial landscape, including the growth of digital banking and the need for stronger corporate governance. Thus, despite ongoing challenges, the Act has served as a robust foundation for the development and regulation of the Indian banking system.

In ***Rustom Cavasjee Cooper vs. Union of India*** **(1970),** the Supreme Court examined the constitutional validity of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1969, which nationalized major banks. The case highlights the judiciary's role in scrutinizing legislative actions affecting the banking sector and ensuring they align with constitutional principles. It underscored the importance of fair compensation when the state intervenes in the ownership and control of banking institutions. This case serves as a critical point in the history of banking regulation in India, demonstrating the interplay between legislative intent, regulatory frameworks (like the Banking Regulation Act), and the constitutional rights of individuals and entities involved in the banking system. While the case primarily dealt with the nationalization act, it also touched upon the scope of permissible banking business under Section 6 of the Banking Regulation Act.

Conclusion

Overall, the Banking Regulation Act, 1949, is a foundational piece of legislation that has been instrumental in shaping the Indian banking system. Its objectives of regulating entry, overseeing business conduct, empowering the RBI for supervision, and protecting depositors' interests have been largely achieved over the decades. The Act's significant provisions, ranging from defining banking to licensing, capital requirements, and supervisory powers, provide a comprehensive framework for the orderly growth and stability of the sector. While challenges persist, the Act has proven to be adaptable through amendments and has served as a crucial tool for the RBI and the government in navigating the evolving banking and financial sector. Thus, the Banking Regulation Act, 1949, remains the bedrock of the Indian financial system, ensuring its resilience and its crucial role in the nation's economic development. ★

"Incorporate ancient Indian legal and philosophical traditions into law school curriculum"

- Justice Pankaj Mithal

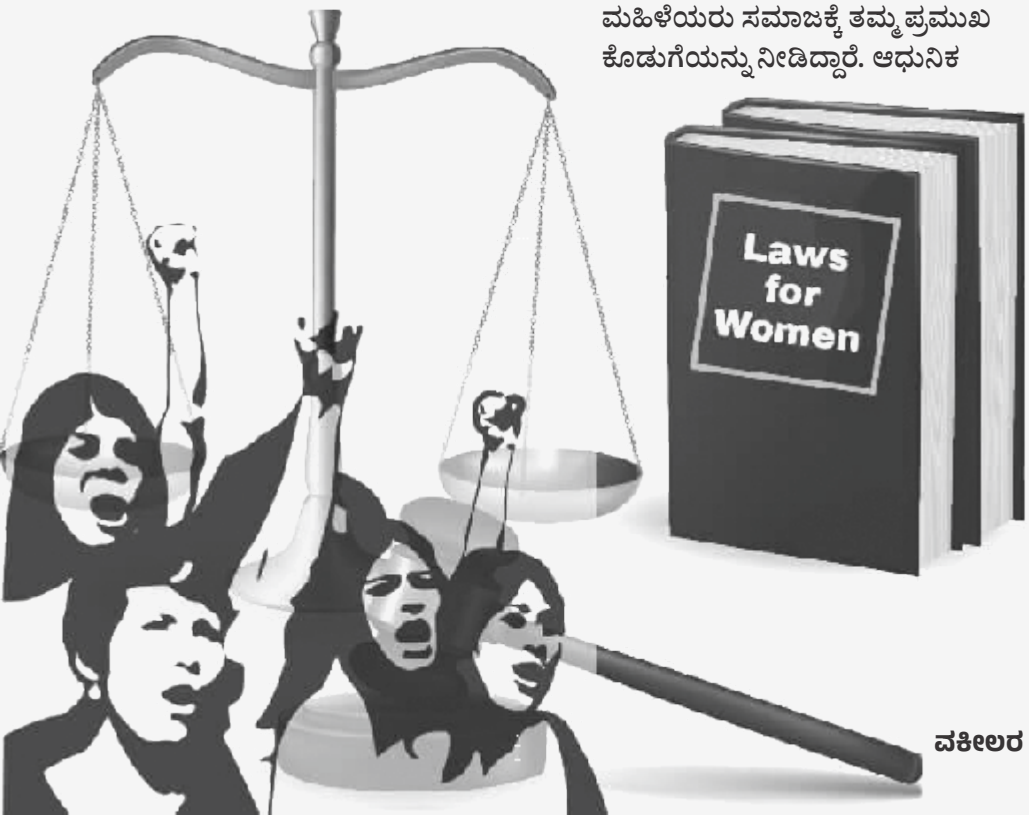
ಮಹಿಳೆ ಮತ್ತು ಕಾನೂನು

ಡಾ॥ ರೇವಯ್ಯ ಒಡೆಯರ್
ಮುಖ್ಯಸ್ಥರು
ಕರ್ನಾಟಕ ಕಾನೂನು ಮತ್ತು ಸಂಸದೀಯ
ಸುಧಾರಣಾ ಸಂಸ್ಥೆ, ಬೆಂಗಳೂರು–01.

ಮಹಿಳೆಯರು ಮತ್ತು ಅವರ ಕಾನೂನುಗಳ ಕುರಿತು ಲೇಖನ ಬರೆಯುವಾಗ ಲೇಖಕ ನೋಡುವ ವಿಧಾನವೇ ಬೇರೆ ಇರುತ್ತದೆ. ಸಮಾಜದಲ್ಲಿ ಮಹಿಳೆಯರು ಉತ್ತಮ ಸ್ಥಾನವನ್ನು ಹೊಂದಿದ್ದಾರೆ ಎನ್ನುವ ದೃಷ್ಟಿಕೋನ ಪುರುಷನದು. ಏಕೆಂದರೆ ಸೌಂದರ್ಯಾನುಭವ ಮಾತ್ರ ಲೇಖಕನಿಗಿರುತ್ತದೆ. ಆದರೆ ಅವರ 'ನೊಂದ ನೋವು ನೋಯದವರೆತ್ತ ಬಲ್ಲರು' ಎನ್ನುವ ಅಕ್ಕ ಮಹಾದೇವಿಯ ವಚನದಂತೆ ಮಹಿಳೆಯರ ಕಷ್ಟಗಳ ಅರಿವು ಇರದು. ಶಿಕ್ಷಣ, ಉದ್ಯೋಗ, ರಾಜಕೀಯ, ತಾಂತ್ರಿಕ, ಕ್ರೀಡೆ ಮತ್ತು ಬಾಹ್ಯಾಕಾಶವೂ ಸೇರಿದಂತೆ ಪ್ರತಿಯೊಂದು ಕ್ಷೇತ್ರದಲ್ಲಿ ಮಹಿಳೆಯರು ತಮ್ಮ ಗುರಿಗಳನ್ನು ತಲುಪಲು ಸವಾಲುಗಳನ್ನು ಮೆಟ್ಟಿ ನಿಂತಿದ್ದಾರೆ. ಮಹಿಳೆಯರ ಈ ಯಶಸ್ವಿ ಪಯಣವನ್ನು ಇನ್ನೂ ವೇಗಗೊಳಿಸಬೇಕಷ್ಟೆ.

'ಒಂದು ಹಕ್ಕಿ ಒಂದೇ ರೆಕ್ಕೆಯಿಂದ ಹಾರಲು ಸಾಧ್ಯವಿಲ್ಲದಂತೆಯೇ, ಮಹಿಳೆಯರನ್ನು ಬಿಟ್ಟು ದೇಶವು ಮುಂದೆ ಸಾಗಲು ಸಾಧ್ಯವಿಲ್ಲ' ಎಂದು ಸ್ವಾಮಿ ವಿವೇಕಾನಂದರು ಹೇಳಿದ್ದಾರೆ. ಅವರ ನುಡಿಯಂತೆ ಭಾರತದ ಸಂಸ್ಕೃತಿ ಮತ್ತು ಪ್ರಗತಿ ಮಹಿಳೆಯರನ್ನು ಹೊರತು ಪಡಿಸಿ ಇಲ್ಲವೇ ಇಲ್ಲ. ಭಾರತದಲ್ಲಿ ಸಂಸ್ಕೃತಿ, ಸಂಸ್ಕಾರಗಳು, ಜಾತ್ಯತೀತತೆ, ಭಾಷೆ, ಆಚರಣೆ ವೈವಿಧ್ಯಮಯ. ಈ ಎಲ್ಲಾ ವೈಶಿಷ್ಟ್ಯಗಳನ್ನು ಮುಂದಕ್ಕೆ ತೆಗೆದುಕೊಂಡು ಹೋಗುವ ಪಾತ್ರ ಪುರುಷನಿಗಿಂತ ಮಹಿಳೆಯರದ್ದೇ ಹೆಚ್ಚಾಗಿದೆ. ಪ್ರಾಚೀನ ಕಾಲದಲ್ಲಿ ಮಹಿಳೆಯರನ್ನು ಹೇಗೆ ನಡೆಸಿಕೊಳ್ಳಲಾಗುತ್ತಿತ್ತು ಮತ್ತು ಮಹಿಳೆ ರಾಷ್ಟ್ರದ ನಾಯಕಿಯಾಗಿದ್ದಾಗ ಹೇಗೆ ನಡೆಸಿಕೊಳ್ಳಲಾಗಿದೆ. ಸಾಮಾಜಿಕ, ರಾಜಕೀಯವಾಗಿ, ಮುಖ್ಯವಾಗಿ ಸ್ಟೀರಿಯೊಟೈಪ್‌ಗಳ ಸಮಾಜದಲ್ಲಿ ಮಹಿಳೆಯ ಪಾತ್ರ ಕಾಲದಿಂದ ಕಾಲಕ್ಕೆ ಹೇಗೆ ಬದಲಾಗಿದೆ ಎಂಬುದನ್ನು ಗಮನಿಸಿದಾಗ ಮಹಿಳಾ ಸಬಲೀಕರಣದ ನೋಟ ತಿಳಿಯುತ್ತದೆ.

ಪ್ರಾಚೀನ ಕಾಲದಲ್ಲಿ, ಮನೆಯಲ್ಲಿ ಕೆಲಸ ಮಾಡಿದರೂ ಸಹ, ಸ್ತ್ರೀಗೆ ಶಿಕ್ಷಣ ಪಡೆಯಲು ಅವಕಾಶವಿರಲಿಲ್ಲ. ಸತಿಸಹಗಮನ ಪದ್ಧತಿಯನ್ನು ಆಚರಿಸಲಾಗಿದೆ. ಯಾವುದೇ ಮಹಿಳೆ ಹೊರಗೆ ಹೋಗಿ ಕೆಲಸ ಮಾಡಲು ಅವಕಾಶವಿರಲಿಲ್ಲ. ಆದರೆ ಈಗ ಆಧುನಿಕ ಕಾಲದಲ್ಲಿ ಮಹಿಳೆಯರು ಪ್ರತಿಯೊಂದು ಕ್ಷೇತ್ರವನ್ನು ಮುನ್ನಡೆಸುವುದನ್ನು ನಾವು ನೋಡುತ್ತೇವೆ. ಮಹಿಳೆಯರು ರಾಷ್ಟ್ರ ನಿರ್ಮಾಣ, ರಕ್ಷಣಾ ಪಡೆಗಳು, ರಾಜಕೀಯ ಇತ್ಯಾದಿಗಳಲ್ಲಿ ತಮ್ಮ ಕೊಡುಗೆಗಳನ್ನು ನೀಡಿದ್ದಾರೆ. ಮಹಿಳೆಗೆ ನಿರ್ಬೀಡೆಯಿಂದ ಕೆಲಸ ಮಾಡಲು ಅವಕಾಶವಿದ್ದರೂ ಕೆಲಸದ ಸ್ಥಳಗಳಲ್ಲಿ ಅನೇಕ ಸವಾಲುಗಳನ್ನು ಎದುರಿಸುತ್ತಿರುವ ಸಂದರ್ಭಗಳು ಮಹಿಳೆಯರು ಸಮಾಜಕ್ಕೆ ತಮ್ಮ ಪ್ರಮುಖ ಕೊಡುಗೆಯನ್ನು ನೀಡಿದ್ದಾರೆ. ಆಧುನಿಕ ಕಾಲದಲ್ಲಿ ಮಹಿಳೆಯರ ಸಮಸ್ಯೆಗಳು ಸಂಕೀರ್ಣವಾಗಿವೆ. ಅವುಗಳಿಗೆ ಕಾನೂನು ಮಾತ್ರ ಪರಿಹಾರದ ಮಾರ್ಗವಾಗಿದೆ. ಮಹಿಳೆಯರನ್ನು ಸಬಲೀಕರಣಗೊಳಿಸಲು ಸರ್ಕಾರವು ಮಾಡಿದ ಕೆಲವು ಕಾನೂನುಗಳು ಮತ್ತು ಯೋಜನೆಗಳನ್ನು ಅವಗಹನಿಸಬಹುದು. ಭಾರತೀಯ ಸಂವಿಧಾನವು ತನ್ನ ಪ್ರಸ್ತಾವನೆ, ಮೂಲಭೂತ ಹಕ್ಕುಗಳು, ಮೂಲಭೂತ ಕರ್ತವ್ಯಗಳು ಮತ್ತು ನಿರ್ದೇಶನ ತತ್ವಗಳಲ್ಲಿ. ಸಂವಿಧಾನವು ಮಹಿಳೆಯರಿಗೆ ಸಮಾನತೆಯನ್ನು ನೀಡುವುದಲ್ಲದೆ, ಮಹಿಳೆಯರ ಪರವಾಗಿ ಸಕಾರಾತ್ಮಕ ತಾರತಮ್ಯ ನಿವಾರಣೆಯ ಕ್ರಮಗಳನ್ನುಅಳವಡಿಸಿಕೊಳ್ಳಲು ರಾಜ್ಯಕ್ಕೆ ಅಧಿಕಾರ ನೀಡುತ್ತದೆ. ದೈಹಿಕವಾಗಿ ಅಥವಾ ಭಾವನಾತ್ಮಕವಾಗಿ ಇನ್ನೊಬ್ಬ ವ್ಯಕ್ತಿಗೆ ಹಾನಿ ಮಾಡುವ ಯಾವುದೇ ಕೃತ್ಯವು ಅಪರಾಧವಾಗಿದೆ. ಕೊಲೆ, ವಂಚನೆ ಇತ್ಯಾದಿಗಳಂತಹ ಸಮಾಜದ ಇತರ ಸದಸ್ಯರು ಎದುರಿಸುವ ಅಪರಾಧಗಳಂತೆಯೇ ಮಹಿಳೆಯೂ ಎದುರಿಸುತ್ತಾಳೆ. ಆದರೆ ಮಹಿಳೆಯರ ವಿರುದ್ಧ ನಿರ್ದಿಷ್ಟವಾಗಿ ನಿರ್ದೇಶಿಸಲ್ಪಟ್ಟ ಅಪರಾಧಗಳನ್ನು ಮಾತ್ರ ಮಹಿಳೆಯರ ವಿರುದ್ಧದ ಅಪರಾಧಗಳು ಎಂದು ಪರಿಗಣಿಸಲಾಗುತ್ತದೆ.



14 ನೇ ವಯಸ್ಸಿನಲ್ಲಿ ಹುಡುಗಿ ಮದುವೆಯಾಗುವ ಅಥವಾ ಮನೆಯಲ್ಲಿ ಮಾತ್ರ ಕೆಲಸ ಮಾಡುವ ಸಮಯ ಇದಲ್ಲ, ಆದರೆ ನಾವು ಇತಿಹಾಸ ನಿರ್ಮಿಸಿದ ಸುನೀತಾ ವಿಲಿಯಮ್ಸ್, ಕಲ್ಪನಾ ಚಾವ್ಲಾ, ಕಿರಣ್ ಬೇಡಿ, ಬಚೇಂದ್ರಿ ಪಾಲ್, ಅವರಂತಹ ಅಸಂಖ್ಯಾತ ಸಾಧಕ ಮಹಿಳೆಯರ ಯುಗಕ್ಕೆ ಸಾಗಿಬಂದಿದ್ದೇವೆ. ಪುರಾಣ ಕಾಲದಿಂದಲೂ

ಮಹಿಳೆಯನ್ನು 'ಶಕ್ತಿ' ಎಂದು ಪರಿಗಣಿಸಲಾಗುತ್ತದೆ - ಆದಿಸ್ವರೂಪದ ವಿಶ್ವ ಶಕ್ತಿ, ವಿಶ್ವದ ತಾಯಿ. ಅವಳನ್ನು ಅತ್ಯಂತ ಶಕ್ತಿಶಾಲಿ ಎಂದು ಹಿಂದೂ ಧರ್ಮಗ್ರಂಥಗಳೂ 'ಹೆಣ್ಮಕ್ಕಳೇ ಸ್ಟ್ರಾಂಗ್ ಗುರು' ಎಂಬಂತಹ ಸಿನೆಮಾ ಹಾಡುಗಳೂ ತಿಳಿಸುತ್ತವೆ. ಪುರುಷನು ಮನೆಯನ್ನು ನಿರ್ಮಿಸುತ್ತಾನೆ ಆದರೆ ಮಹಿಳೆ ಅದನ್ನು ಗೃಹವನ್ನಾಗಿಸಿ ಗೃಹಿಣಿಯಾಗುತ್ತಾಳೆ, ಪುರುಷನ್ನು ಗೃಹಸ್ಥನನ್ನಾಗಿಸುತ್ತಾಳೆ. ಒಂದೇ ಜನ್ಮದಲ್ಲಿ ಮಗಳು, ಹೆಂಡತಿ, ತಾಯಿ, ಅಜ್ಜಿ, ಅಕ್ಕ, ತಂಗಿ ಇತ್ಯಾದಿ ವಿಭಿನ್ನ ಪಾತ್ರಗಳನ್ನು ನಿರ್ವಹಿಸುತ್ತಾ ಅವಳು ತನ್ನ ಕುಟುಂಬಕ್ಕೆ ಮಾತ್ರವಲ್ಲದೆ ಇಡೀ ದೇಶಕ್ಕೆ ಮತ್ತು ವಿಶ್ವಕ್ಕೂ ಸೇವೆ ಸಲ್ಲಿಸುತ್ತಾಳೆ. ಪುರುಷ ಶಿಕ್ಷಣ ಪಡೆದರೆ ಅವನು ತನ್ನ ಕುಟುಂಬವನ್ನು ನಡೆಸುತ್ತಾನೆ, ಆದರೆ ಮಹಿಳೆ ಶಿಕ್ಷಣ ಪಡೆದರೆ ಅವಳು ಒಂದು ಪೀಳಿಗೆಯನ್ನು ನಡೆಸುತ್ತಾಳೆ. ಹೀಗಾಗಿ ಮಹಿಳೆಯರನ್ನು ಗೌರವಿಸಬೇಕು. ಪ್ರಾಚೀನ ಕಾಲದಿಂದಲೂ, ಮಹಿಳೆಯನ್ನು "ಯತ್ರ ನಾರ್ಯಂತು ಪೂಜ್ಯಂತೆ ರಮಂತೇ ತತ್ರ ದೇವತಾ" ಎಂದು ದೇವತೆಯಾಗಿ ಗೌರವಿಸಲಾಗುತ್ತದೆ.

"ಕಾನೂನಿನ ದೃಷ್ಟಿಯಲ್ಲಿ ಎಲ್ಲರೂ ಸಮಾನರು." ಭಾರತದ ಸಂವಿಧಾನದ 14 ನೇ ವಿಧಿಯು ಮಹಿಳೆಯರಿಗೆ ಪುರುಷರಿಗೆ ಸಮಾನವಾದ ಹಕ್ಕುಗಳನ್ನು ನೀಡುತ್ತದೆ. ಮಹಿಳೆಯರಿಗೆ ಕಿರುಕುಳ ನಾವು ಪ್ರತಿದಿನ ಕೇಳುವ ಸಾಮಾನ್ಯ ವಿಷಯ. ಮನೆಯಿಂದ ಹೊರಗೆ ಕಾಲಿಡುವುದರಿಂದ ಅವಳಿಗೆ ಅಸುರಕ್ಷಿತ ಭಾವನೆ ಉಂಟಾಗುತ್ತದೆ, ಅದು ಉದ್ಯಾನವನವಾಗಿರಬಹುದು, ರಸ್ತೆಯಾಗಿರಬಹುದು, ಪ್ರಯಾಣದಲ್ಲಾಗಿರಬಹುದು, ಕೆಲಸದ ಸ್ಥಳವಾಗಿರಬಹುದು. ಇವುಗಳಲ್ಲಿ ಎಲ್ಲಿಯಾದರೂ ಕಿರುಕುಳ ಉಂಟಾದರೆ ಅದು ನೈತಿಕತೆಯ ಸೋಲು, ಭಾರತೀಯತೆಯ ಅವಮಾನ, ಅನಾಗರೀಕ ವರ್ತನೆ. ಆದರೆ ಈ ಆಘಾತಕಾರಿ ಕೃತ್ಯ ಲೈಂಗಿಕ ಕಿರುಕುಳವು ಮೂಲಭೂತ ಹಕ್ಕನ್ನು ಅನುಭವಿಸದಂತೆ ಅವರನ್ನು ವಂಚಿಸುತ್ತದೆ. ಮಹಿಳೆಯರಿಗೆ ಲೈಂಗಿಕ ಕಿರುಕುಳ ಮನೆಯಲ್ಲಿ ಅಥವಾ ಕೆಲಸದ ಸ್ಥಳದಲ್ಲಿ ಎಲ್ಲಿಯೂ ಘಟಿಸಬಾರದು. ಅದು ಅಭದ್ರತೆ, ಅನೈತಿಕತೆ, ಆತ್ಮವಿಶ್ವಾಸದ ನಷ್ಟದ ಭಾವನೆಯನ್ನು ತುಂಬುತ್ತದೆ. ಅವರ ಕೆಲಸದ ಸ್ಥಳಗಳಲ್ಲಿ ಲೈಂಗಿಕ ಕಿರುಕುಳದ ಪ್ರಕರಣ ಕೆಲಸದಲ್ಲಿ ಭಾಗವಹಿಸುವುದನ್ನು ನಿರುತ್ಸಾಹಗೊಳಿಸುತ್ತದೆ. ಬಾಲಕಿಯರು ಲೈಂಗಿಕ ಕಿರುಕುಳದ ಭಯದಿಂದ ಶಾಲೆಯಿಂದ ಹೊರಗುಳಿಯುತ್ತಾರೆ. ಲೈಂಗಿಕ ಕಿರುಕುಳ ಪ್ರತಿಯೊಬ್ಬ ತಂದೆಗೂ ಕಳವಳಕಾರಿ ವಿಷಯವಾಗಿರುವುದರಿಂದ ತಮ್ಮ ಮಗಳನ್ನು ಶಾಲೆ ಕಾಲೇಜಿಗೆ ಕಳುಹಿಸಲು ಹಿಂದೇಟು ಹಾಕುತ್ತಾರೆ.

ವಿಶಾಖ ಮತ್ತು ಇತರರು vs ರಾಜಸ್ಥಾನ ಪ್ರಕರಣದಲ್ಲಿ ನ್ಯಾಯಾಲಯವು "ಅಂತರರಾಷ್ಟ್ರೀಯ ಸಂಪ್ರದಾಯಗಳು ಮತ್ತು ರೂಢಿಗಳು ಲಿಂಗ ಸಮಾನತೆಯ ಖಾತರಿ, ಸಂವಿಧಾನದ 14, 15, 19(1)(g) ಮತ್ತು 21ನೇ ವಿಧಿಗಳಲ್ಲಿ ಮಾನವ ಘನತೆಯೊಂದಿಗೆ ಕೆಲಸಮಾಡುವ ಹಕ್ಕು ಮತ್ತು ಅದರಲ್ಲಿ ಸೂಚಿಸಲಾದ ಲೈಂಗಿಕ ಕಿರುಕುಳದ ವಿರುದ್ಧದ ರಕ್ಷಣೆಗಳ ವ್ಯಾಖ್ಯಾನದ ಉದ್ದೇಶಕ್ಕಾಗಿ ಮಹತ್ವದ್ದಾಗಿದೆ" ಎಂದು ನಿರ್ಧರಿಸಿತು. 1997ರಲ್ಲಿ ಲೈಂಗಿಕ ಕಿರುಕುಳದ ಸಮಸ್ಯೆಯನ್ನು ಪರಿಹರಿಸಲು ಇದು ಪ್ರಾಮುಖ ಆಗಿತ್ತು. ಪರಿಣಾಮವಾಗಿ ಭಾರತದಲ್ಲಿ "ಕೆಲಸದ ಸ್ಥಳದಲ್ಲಿ ಮಹಿಳೆಯರ ಮೇಲಿನ ಲೈಂಗಿಕ ಕಿರುಕುಳ (ತಡೆಗಟ್ಟುವಿಕೆ, ನಿಷೇಧ ಮತ್ತು ಪರಿಹಾರ) ಕಾಯ್ದೆ, 2013" ಸೆಪ್ಟೆಂಬರ್ 3, 2013ರಂದು ಜಾರಿಗೆ ಬಂದಿತು. ಇತ್ತೀಚಿನ ದಿನಗಳಲ್ಲಿ ಸಾರ್ವಜನಿಕ ಅಥವಾ ಖಾಸಗಿಯಾಗಿ ಎಲ್ಲಾ ಕೆಲಸದ ಸ್ಥಳಗಳಲ್ಲಿ ಮಹಿಳೆಯರು ಲೈಂಗಿಕ ಕಿರುಕುಳದಿಂದ ರಕ್ಷಿಸಲ್ಪಡುವುದನ್ನು ಈ ಕಾಯ್ದೆ ಖಚಿತಪಡಿಸುತ್ತದೆ. ಇದು ಅವರ ಲಿಂಗ ಸಮಾನತೆ, ಜೀವನ ಸ್ವಾತಂತ್ರ್ಯದ ಹಕ್ಕು ಮತ್ತು ಕೆಲಸದ ಸಂದರ್ಭ-ಸ್ಥಳಗಳಲ್ಲಿ ಸಮಾನತೆಯನ್ನು ನೀಡುವುದನ್ನು ಖಾತ್ರಿಪಡಿಸಿಕೊಳ್ಳುತ್ತದೆ. ಕೆಲಸದ ಸ್ಥಳದಲ್ಲಿ ಸುರಕ್ಷತೆಯ ಪ್ರಜ್ಞೆಯು ಮಹಿಳೆಯರ ಕೆಲಸದಲ್ಲಿ ಭಾಗವಹಿಸುವಿಕೆಯನ್ನು ಸುಧಾರಿಸುತ್ತದೆ, ಇದರ ಪರಿಣಾಮವಾಗಿ ಅವರ ಆರ್ಥಿಕ ಸಬಲೀಕರಣ ಮತ್ತು ಅಂತರ್ಗತ ಬೆಳವಣಿಗೆ ಕಂಡುಬರುತ್ತದೆ. ಈ ಅಧಿನಿಯಮದೊಂದಿಗೆ ಕೇಂದ್ರ ಸರ್ಕಾರವು ಮಹಿಳೆಯರಿಗಾಗಿ ಅನೇಕ ಯೋಜನೆಗಳನ್ನು ಪ್ರಾರಂಭಿಸಿದೆ. ಅವುಗಳಲ್ಲಿ ಬೇಟಿ ಬಚಾವೋ ಬೇಟಿ ಪಢಾವೋ, ಕನ್ಯಾಕೋಶ್, ಪ್ರಧಾನ ಮಂತ್ರಿ ಮಾತೃವಂದನಾ ಯೋಜನೆ, ಮಹಿಳಾ ಆಸಿಡ್ ಸಂತ್ರಸ್ತರ ಪರಿಹಾರ ಮತ್ತು ಪುನರ್ವಸತಿ ಯೋಜನೆ ಇತ್ಯಾದಿ. ಸರ್ಕಾರವು ಮಹಿಳೆಯರಿಗೆ ಒದಗಿಸುವ ವಿವಿಧ ಅವಕಾಶಗಳಿಂದಾಗಿ ಮಹಿಳೆ ಮನೆಯಿಂದ ಕೆಲಸಕ್ಕೆ ಮುಕ್ತವಾಗಿ ಹೊರಡುತ್ತಾಳೆ. ಅದರಿಂದ ಕುಟುಂಬಕ್ಕೆ ಆರ್ಥಿಕ ಶಕ್ತಿ ಮತ್ತು ದೇಶಕ್ಕೆ ಕೊಡುಗೆ ಹೆಚ್ಚಾಗುತ್ತದೆ. ರಾಷ್ಟ್ರವು ಪ್ರಗತಿಯತ್ತ ಸಾಗುತ್ತಿದೆ.

ವಿಶ್ವಸಂಸ್ಥೆಯ ಇತ್ತೀಚಿನ ವರದಿಯ ಪ್ರಕಾರ, ಭಾರತದಲ್ಲಿ ವ್ಯವಸ್ಥಿತ ಲಿಂಗತಾರತಮ್ಯದ ಪರಿಣಾಮವಾಗಿ ಭಾರತದ ಜನಸಂಖ್ಯೆಯಿಂದ 50 ಮಿಲಿಯನ್ ಬಾಲಕಿಯರು ಮತ್ತು ಮಹಿಳೆಯರು

ಕಾಣೆಯಾಗಿದ್ದಾರೆ. ಪ್ರಪಂಚದ ಹೆಚ್ಚಿನ ದೇಶಗಳಲ್ಲಿ, ಪ್ರತಿ 100 ಪುರುಷರಿಗೆ ಸರಿಸುಮಾರು 105 ಸ್ತ್ರೀಯರಿದ್ದಾರೆ. ಭಾರತದ ಜನಸಂಖ್ಯೆಯಲ್ಲಿ ಪ್ರತಿ 100 ಪುರುಷರಿಗೆ 93 ಕ್ಕಿಂತ ಕಡಿಮೆ ಮಹಿಳೆಯರಿದ್ದಾರೆ. ವಿಶ್ವಸಂಸ್ಥೆಯ ಪ್ರಕಾರ, ಭಾರತದಲ್ಲಿ ಪ್ರತಿದಿನ ಸುಮಾರು 2,000 ಗರ್ಭಾವಸ್ಥೆಯ ಹೆಣ್ಣು ಮಕ್ಕಳನ್ನು ಅಕ್ರಮವಾಗಿ ಗರ್ಭಪಾತ ಮಾಡಲಾಗುತ್ತದೆ. ನಾಟಿ ವಿಧಾನ ಗರ್ಭಸ್ಥ ಶಿಶು ಹತ್ಯೆಯೇ ಉದ್ದೇಶ. ಆದರೆ ಗರ್ಭವತಿಗೂ ಜೀವ ಹಾನಿಯಾಗುವಂತಹ ಅಪಾಯ ಸಂಭವಿಸಿದೆ. ಇದಲ್ಲದೆ, ಆಸ್ಪತ್ರೆಗಳಲ್ಲಿಯೇ ಬಾಣಂತಿಯರ ಸಾವು ಸಮಸ್ಯೆ ಉದ್ಭವಿಸಿದೆ. ಇದು ಬಾಣಂತಿಯರು ಯಾವ ವಿಶ್ವಾಸವಿಟ್ಟುಕೊಂಡು ಆಸ್ಪತ್ರೆಗೆ ದಾಖಲಾಗಬೇಕೆನ್ನುವ ಪ್ರಶ್ನೆ ಹುಟ್ಟುಹಾಕಿದೆ. ಇಲ್ಲಿ ಕಾನೂನಿನ ಕೊರತೆಯೋ? ವೈದ್ಯಕೀಯ ಚಿಕಿತ್ಸೆ ಲೋಪವೋ? ಔಷಧಿಯ

ಲೋಪವೋ? ವ್ಯವಸ್ಥೆ ಮತ್ತು ಸೌಲಭ್ಯದ ಲೋಪವೋ? ಬಾಣಂತಿಯರ ಆರೈಕೆಯ ಲೋಪವೋ? ಬಿಗಿ ಮಾಡದ ಆಡಳಿತಾಂಗದ ಲೋಪವೋ? ಕಠಿಣ ಕಾನೂನು ಜಾರಿ ಮಾಡ ಶಾಸಕಾಂಗದ ಲೋಪವೋ? ಯಾವುದರ ಲೋಪವಾದರೂ ಸಾವು ಮಾತ್ರ ಬಾಣಂತಿಯದು. ಶಿಶು ಉಳಿದು ಬಾಣಂತಿ ಸತ್ತರೂ ನಷ್ಟ, ಶಿಶು ಸತ್ತು ಬಾಣಂತಿ ಉಳಿದರೂ ತಪ್ಪು, ಇಬ್ಬರೂ ಉಳಿಯಬೇಕು. ಹೀಗಾಗಿ ಬಾಣಂತಿಯ ಮತ್ತು ಶಿಶು ರಕ್ಷಣೆ ಮಾತ್ರ ತುರ್ತು ಅಗತ್ಯ. ಇದೊಂದು ಪ್ರಾದೇಶಿಕ ಅಥವಾ ಒಂದು ವಲಯದ ಸಮಸ್ಯೆಯಾಗಿರುವುದರಿಂದ ಇಲ್ಲಿರುವುದು ಕಾನೂನಿನ ಸಮಸ್ಯೆಯಲ್ಲ ಆಡಳಿತ ಮತ್ತು ವೈದಕೀಯ ವ್ಯವಸ್ಥೆಯ ಲೋಪ. ಅವೈಜ್ಞಾನಿಕ ಎನ್ನುವಂತಹ ನಾಟಿ ವಿಧಾನಗಳ ಮೂಲಕ ಗರ್ಭಪಾತ ಮಾಡುತ್ತಿರುವ ಅನೇಕ ಪ್ರಕರಣಗಳು ಮಂಡ್ಯ ಜಿಲ್ಲೆಯಿಂದ ವರದಿಯಾದವು.

ಸ್ತ್ರೀ ಶಿಶು ಹತ್ಯೆಕಾಯ್ದೆ 1870 ಹೆಣ್ಣು ಶಿಶು ಹತ್ಯೆಯನ್ನು ತಡೆಯುತ್ತದೆ (ಬ್ರಿಟಿಷ್ ಭಾರತದಲ್ಲಿ ಅಂಗೀಕರಿಸಲಾದ ಕಾಯ್ದೆ) ಅಲ್ಟ್ರಾಸೌಂಡ್ ಪರೀಕ್ಷೆಯ ಮೇಲೆ ನಿಷೇಧ 1996 ಪ್ರಸವಪೂರ್ವ ಲಿಂಗನಿರ್ಣಯವನ್ನು ನಿಷೇಧಿಸುತ್ತದೆ.

ಹೆಣ್ಣು ಭ್ರೂಣಹತ್ಯೆಯನ್ನು ತಡೆಯಲು ಹಲವು ಕಾನೂನುಗಳನ್ನು ಜಾರಿಗೆ ತರಲಾಗಿದೆ. ವೈದ್ಯಕೀಯ ಗರ್ಭಧಾರಣೆಯ ಮುಕ್ತಾಯ ಕಾಯ್ದೆ, 1971, ಮಹಿಳೆಯರ ಅಸಭ್ಯ ಪ್ರಾತಿನಿಧ್ಯ (ನಿಷೇಧ) ಕಾಯ್ದೆ-1986, ಗರ್ಭಧಾರಣೆ ಪೂರ್ವ ಮತ್ತು ಪ್ರಸವ ಪೂರ್ವ ರೋಗನಿರ್ಣಯತಂತ್ರಗಳು (ದುರುಪಯೋಗದ ನಿಯಂತ್ರಣ ಮತ್ತು ತಡೆಗಟ್ಟುವಿಕೆ) ಕಾಯ್ದೆ, 1994 ಈ ಮೊದಲಾದ ಕಾನೂನುಗಳು. ತಂತ್ರಜ್ಞಾನದ ದುರುಪಯೋಗದ ಮೂಲಕ ದೇಶದಲ್ಲಿ ಹೆಣ್ಣುಭ್ರೂಣ ಹತ್ಯೆಯ ಪದ್ಧತಿಯನ್ನು ತಡೆಯಲು, ಹೆಣ್ಣುಭ್ರೂಣ ಹತ್ಯೆಯ ಸಮಸ್ಯೆಗಳನ್ನು ನಿಭಾಯಿಸಲು ಕಠಿಣ ಕಾನೂನುಗಳಾಗಿವೆ.

ಕೋವಿಡ್-19 ಪೆಂಡಾಮಿಕ್ ಕೊರೊನಾ ವೈರಸ್ ಕಾಯಿಲೆಯು SARS-CoV-2 ವೈರಸ್ಸಿಂದ ಉಂಟಾಗುವ ಸಾಂಕ್ರಾಮಿಕ ಕಾಯಿಲೆಯಾಗಿತ್ತು. ಇದು ಪ್ರಪಂಚದಾದ್ಯಂತ ಜನರಿಗೆ ಉಸಿರುಗಟ್ಟಿಸುವಂತಹ ಕಾಯಿಲೆಯಾಗಿತ್ತು. ಭಾರತ ಸರ್ಕಾರವು ಮುನ್ನೆಚ್ಚರಿಕೆ ಕ್ರಮವಾಗಿ ರಾಷ್ಟ್ರವ್ಯಾಪಿ ಲಾಕ್ಡೌನ್ ವಿಧಿಸಿತು. ಅನೇಕ ಜೀವಗಳನ್ನು ಬಲಿತೆಗೆದುಕೊಂಡಿತು. ಇಡೀ ದೇಶವು ಮನೆಯಲ್ಲಿಯೇ ಇದ್ದು ಕೆಲಸದಿಂದ ವಿರಾಮ ಹೊಂದಿದ್ದಾಗ ಪ್ರತಿಯೊಂದು ಕುಟುಂಬದಿಂದ ಲಾಕ್ಡೌನ್ ಇಲ್ಲದ ಅಥವಾ ಕೆಲಸದಿಂದ ಹೊರಗುಳಿಯದ ಏಕೈಕ ವ್ಯಕ್ತಿ ಮಹಿಳೆಯಾಗಿದ್ದಳು. ಅವಳು ಮನೆಯಲ್ಲಿಯೇ ಕೆಲಸ ಮಾಡುತ್ತಿದ್ದಳು ಮತ್ತು ಎಲ್ಲಿಯೂ ಲಾಕ್ಡೌನ್ ಅನುಭವ ಅನಿಸುತ್ತಿರಲಿಲ್ಲ. ಅಷ್ಟೆ ಅಲ್ಲ ಅವಳ ಕೆಲಸಗಳು ಮೂರುಪಟ್ಟಾದವು. ಹಕ್ಕು ಎಂದರೆ ಮೂಲಭೂತವಾಗಿ ಒಂದು ಹಕ್ಕು ಅಥವಾ ಸಮರ್ಥನೀಯ ಹಕ್ಕು. ಇದು ನಾಗರಿಕರಾಗಿ, ವ್ಯಕ್ತಿಗಳಾಗಿ ಮತ್ತು ಮನುಷ್ಯರಾಗಿ ನಮಗೆ ಅರ್ಹವಾದದ್ದನ್ನು ದಕ್ಕುವಂತೆ ಮಾಡುತ್ತದೆ. ಘನತೆಯಿಂದ ಸಂತೋಷದ ಜೀವನವನ್ನು ನಡೆಸಲು ಹಕ್ಕು ನಮಗೆ ಸಹಾಯ ಮಾಡುತ್ತದೆ. ಭಾರತೀಯ ಸಂವಿಧಾನವು ಪ್ರತಿಯೊಬ್ಬ ನಾಗರಿಕರಿಗೂ ಸಮಾನ ಹಕ್ಕುಗಳನ್ನು ಒದಗಿಸುತ್ತದೆ. ಈ ಹಕ್ಕುಗಳನ್ನು ಮೂಲಭೂತ ಹಕ್ಕುಗಳು ಎಂದು ಕರೆಯಲಾಗುತ್ತದೆ. ಮೂಲಭೂತ ಹಕ್ಕುಗಳು ಸಮಾನತೆ ಜಾರಿ ಮಾಡಲಿವೆ. ಈ ಹಕ್ಕುಗಳನ್ನು ಲಿಂಗ ತಾರತಮ್ಯ ಮಾಡದೆ ಸರ್ಕಾರ ಒದಗಿಸುತ್ತದೆ.

ಲಿಂಗ ಸಮಾನತೆಯ ಆಧಾರದ ಮೇಲೆ, ಭಾರತದಲ್ಲಿ ಭಾರತೀಯ ಮಹಿಳೆ ಹೊಂದಿರುವ ಕೆಲವು ಹಕ್ಕುಗಳು ಇಲ್ಲಿವೆ: ಮಹಿಳೆಯರಿಗೆ ಸಮಾನ ವೇತನದ ಹಕ್ಕು, ಮಹಿಳೆಯರಿಗೆ ಘನತೆ ಮತ್ತು ಸಭ್ಯತೆಯ ಹಕ್ಕು, ಮಹಿಳೆಯರಿಗೆ ಕೆಲಸದ ಸ್ಥಳದಲ್ಲಿ ಕಿರುಕುಳದ ವಿರುದ್ಧಹಕ್ಕು, ಮಹಿಳೆಯರಿಗೆ ಕೌಟುಂಬಿಕ ಹಿಂಸಾಚಾರದ ವಿರುದ್ಧ ಹಕ್ಕು, ಲೈಂಗಿಕ ದೌರ್ಜನ್ಯಕ್ಕೊಳಗಾದ ಮಹಿಳೆಯರು ತಮ್ಮ ಗುರುತನ್ನು ಮುಚ್ಚಿಡುವ ಹಕ್ಕನ್ನು ಹೊಂದಿದ್ದಾರೆ.

ಮಹಿಳೆಯರಿಗೆ ಉಚಿತ ಕಾನೂನು ನೆರವು ಪಡೆಯುವ ಹಕ್ಕು, ಮಹಿಳೆಯರನ್ನು ರಾತ್ರಿ ವೇಳೆ ಬಂಧಿಸದಿರಲು ಹಕ್ಕು, ಮಹಿಳೆಯರಿಗೆ ವರ್ಚುವಲ್ ದೂರುಗಳನ್ನು ನೋಂದಾಯಿಸುವ ಹಕ್ಕು, ಮಹಿಳೆಯರಿಗೆ ಅಸಭ್ಯ ವರ್ತನೆ ವಿರುದ್ಧ ಹಕ್ಕು, ಮಹಿಳೆಯರಿಗೆ ಶೂನ್ಯ ಎಫ್ಐಆರ್ ಹಕ್ಕು ಈ ಮೊದಲಾದ ಹಕ್ಕುಗಳಿವೆ. ಒಂದು ಗುಂಪು ಅಥವಾ ವ್ಯಕ್ತಿಯೊಬ್ಬರು ಎಲೆಕ್ಟ್ರಾನಿಕ್ ಸಂಪರ್ಕ ಮಾಧ್ಯಮಗಳ ಬಳಸಿಕೊಂಡು, ಪದೇಪದೇ ಮಹಿಳೆಯರನ್ನು ನಿಂದಿಸುವುದು, ಕಿರುಕುಳ ನೀಡುವುದು ಅಪರಾಧವಾಗಿದೆ. ಸೈಬರ್ನ ಲೋಕದಲ್ಲಿ ಮಹಿಳೆಯರನ್ನು ತೊಡಗಿಸಿ ಮಹಿಳೆಯರಿಗೆ ತೊಂದರೆ ನೀಡುವುದು ಪುರುಷಲೋಕ ಮಾಡುತ್ತಿರುವ ವ್ಯವಸ್ಥಿತ ಜಾಲವಾಗಿದೆ. ಇದನ್ನು ನಿರ್ಬಂಧಿಸದಿದ್ದರೆ ಅಪಾಯಕ್ಕೆ ಸಿಲುಕುವುದು ಮಹಿಳೆ. ತನ್ನನ್ನೇ ಬಳಸಿಕೊಂಡು ತನ್ನವರಿಗೆ ಅಪಾಯ ಉಂಟುಮಾಡುತ್ತಿದ್ದೇನೆ ಎನ್ನುವ ಅರಿವು ಮಹಿಳೆಯರಿಗೆ ಇದ್ದರೆ ಅಪರಾಧಗಳು ಕಡಿಮೆಯಾದವು. ಇಂತಹ ಪುರುಷ ಮತ್ತು ಮಹಿಳೆಯರನ್ನು ತಹಬಂಧಿಗೆ ತರಲು ಇರುವ ಕಾನೂನು "ದಿ ಇನ್ಫರ್ಮೇಶನ್ ಟೆಕ್ನಾಲಾಜಿ ಅಧಿನಿಯಮ 2020 ಇದರ ಮೂಲಕ ವೈಯಕ್ತಿಕ ಖಾಸಗಿ ಮಾಹಿತಿಯ ಸೋರಿಕೆ ತಡೆಯಬಹುದು. ಭಾರತೀಯ ನ್ಯಾಯ ಸುರಕ್ಷಾ ಸಂಹಿತೆಯು ಪ್ರಬಲವಾಗಿ ಸಹಾಯ ಮಾಡುತ್ತಿದೆ. ವೈಯಕ್ತಿಕ ಖಾಸಗಿ ವಿಷಯಗಳು ವದಂತಿಗಳು, ತಪ್ಪು ನಿರೂಪಣೆಗಳು ಅಶ್ಲೀಲ ಚಿತ್ರ ಮತ್ತು ಕಥೆಗಳು ಮಹಿಳೆಯರ ಘನತೆಯನ್ನು ಕುಂದಿಸುತ್ತಿವೆ. ಇದು ಸಮಾಜದಲ್ಲಿ ಅವ್ಯವಸ್ಥೆಯನ್ನು ಸೃಷ್ಟಿಸುತ್ತದೆ. ತಂತ್ರಜ್ಞಾನದ ಬೆಳವಣಿಗೆಯೊಂದಿಗೆ ದಿನದಿಂದ ದಿನಕ್ಕೆ ಹಲವಾರು ಅಪರಾಧಗಳು ಹೆಚ್ಚಾಗುತ್ತಿರುವುದನ್ನು ನಾವು ನೋಡುತ್ತೇವೆ. ಈ ಅಪರಾಧಗಳು ಹೆಚ್ಚಾಗಿ ಮಹಿಳೆಯರ ವಿರುದ್ಧ ನಡೆಯುತ್ತವೆ. ಸಾಮಾಜಿಕ ಮಾಧ್ಯಮದಂತಹ ವಿವಿಧ ಸೈಬರ್ ವೇದಿಕೆಗಳು ಸೈಬರ್ ಬೆದರಿಕೆ ನಡೆಯಲು ಅವಕಾಶ ಮಾಡಿಕೊಡುತ್ತವೆ. ವಿಶ್ವಸಂಸ್ಥೆಯ ವರದಿಯ ಪ್ರಕಾರ, ವಿಶ್ವದ ಸುಮಾರು 60% ಮಹಿಳೆಯರು ಸೈಬರ್ ಹಿಂಸೆಗೆ ಬಲಿಯಾಗುತ್ತಾರೆ.

ಮಹಿಳಾ ಸಬಲೀಕರಣಕ್ಕಾಗಿ ಮಹಿಳೆಗೆ ಶಿಕ್ಷಣ, ಆರೋಗ್ಯ, ಉದ್ಯೋಗ ಮುಂತಾದ ಮೂಲಭೂತ ಹಕ್ಕುಗಳ ಜೊತೆಗೆ ತನಗಾಗಿ ಮತ್ತು ಸಮಾಜಕ್ಕಾಗಿ ಸ್ವತಂತ್ರ ನಿರ್ಧಾರಗಳನ್ನು ತೆಗೆದುಕೊಳ್ಳಲು, ಯಾವುದೇ ವಿಷಯದಲ್ಲಿ ಸ್ವತಂತ್ರ ಆಯ್ಕೆ ಮಾಡಲು ಅಧಿಕಾರ ನೀಡುವುದು, ಮಹಿಳೆಯರ ಸ್ವಾಭಿಮಾನವನ್ನು ಉತ್ತೇಜಿಸುವುದನ್ನು 'ಮಹಿಳಾ ಸಬಲೀಕರಣ' ಎಂದು ಪರಿಗಣಿಸಲಾಗುತ್ತದೆ. ಪ್ರತಿಯೊಂದು ಕ್ಷೇತ್ರದಲ್ಲೂ ಮಹಿಳೆಯರ ಕೊಡುಗೆಯನ್ನು ಹೆಚ್ಚಿಸಲು ಕಾನೂನು ರಚನೆ, ಕಾನೂನು ಪಾಲನೆಯನ್ನು ಖಚಿತ ಪಡಿಸಿಕೊಳ್ಳಲು ಮಹಿಳಾ ಸಬಲೀಕರಣ ಅಗತ್ಯ. ಮಹಿಳೆಯರು ಶಿಕ್ಷಣ, ಉದ್ಯೋಗಾವಕಾಶಗಳನ್ನು ಪಡೆಯಲು ಮುಂದೆ ಬರಲು ಪ್ರೋತ್ಸಾಹಿಸಬೇಕು. ಸಮಾಜದಲ್ಲಿ ಅವರು ಹೊಂದಿರುವ ಸ್ಥಾನದ ಬಗ್ಗೆ ಅವರು ತಿಳಿದಿರಬೇಕು. ಸುಪ್ರೀಂಕೋರ್ಟ್ನ ಮಹಿಳಾ ವಕೀಲರು ಆಯೋಜಿಸಿದ್ದ ಕಾರ್ಯಕ್ರಮವೊಂದರಲ್ಲಿ ಭಾರತದ ಸಿಜೆಐ

ಆಗಿದ್ದ ಸಿ.ವಿ.ರಮಣ ಹೇಳಿದ್ದರು. "ಸಾವಿರಾರು ವರ್ಷಗಳ ದಬ್ಬಾಳಿಕೆ ಸಾಕು. ನ್ಯಾಯಾಂಗದಲ್ಲಿ ನಮಗೆ 50% ಮಹಿಳೆಯರ ಪ್ರಾತಿನಿಧ್ಯ ಸಿಗುವ ಸಮಯ ಬಂದಿದೆ. ಇದು ನಿಮ್ಮ ಹಕ್ಕು. ಇದು ದಾನದ ವಿಷಯವಲ್ಲ," (ಸುಪ್ರೀಂಕೋರ್ಟ್ ಮತ್ತು ಹೈಕೋರ್ಟ್ಗಳನ್ನು ಒಳಗೊಂಡ ಭಾರತದ ಉನ್ನತ ನ್ಯಾಯಾಂಗವು ಪ್ರಸ್ತುತ ಮಹಿಳೆಯರಿಗೆ ಮೀಸಲಾತಿಯ ನೀತಿಯನ್ನು ಹೊಂದಿಲ್ಲ.) ಸುಪ್ರೀಂಕೋರ್ಟ್ನಲ್ಲಿ ಇದುವರೆಗೆ ಪ್ರಥಮ ಮಹಿಳಾ ನ್ಯಾಯಾಧೀಶರಾದ ಫಾತಿಮಾ ಬೀವಿಯರವರಿಂದ ಈಗಿನ ಬಿ.ವಿ.ನಾಗರತ್ನರವರೆಗೆ 11 ಮಹಿಳೆಯರು ನ್ಯಾಯಾಧೀಶರಾಗಿ ಕಾರ್ಯನಿರ್ವಹಿಸಿದ್ದಾರೆ.

ನ್ಯಾಯಾಂಗ, ರಾಜಕೀಯದಲ್ಲಿ ಮಹಿಳೆಯರಿಗೆ ಯಾವುದೇ ಪಾತ್ರವಿಲ್ಲದ ಕಾಲವಿತ್ತು, ಆದರೆ ಈಗ ನಿರಂತರ ಪ್ರಯತ್ನಗಳು ಮತ್ತು ಧೈರ್ಯದಿಂದಾಗಿ ಮಹಿಳೆ ಈಗ ಕೊಡುಗೆ ನೀಡುವುದಲ್ಲದೆ, ಅತ್ಯುನ್ನತ ನ್ಯಾಯಾಲಯದಲ್ಲಿ ನ್ಯಾಯಾಧೀಶೆಯಾಗಿ ನೇಮಕವಾಗಿ ಕಾರ್ಯನಿರ್ವಹಿಸುತ್ತಿದ್ದಾಳೆ. ಮಹಿಳಾ ಸಬಲೀಕರಣದಂತಹ ವಿಷಯಗಳು ಜಾಗತಿಕ ಚಳವಳಿಯ ಒಂದು ಭಾಗವನ್ನು ಪಡೆದುಕೊಂಡಿವೆ. ಅಂತರ ರಾಷ್ಟ್ರೀಯ ಮಹಿಳಾ ದಿನಾಚರಣೆಯಂತಹ ದಿನಗಳು ಸಹ ವೇಗವನ್ನು ನೀಡುತ್ತಿವೆ. ಮಹಿಳಾ ಸಬಲೀಕರಣಕ್ಕಾಗಿ ರಾಷ್ಟ್ರೀಯ ನೀತಿ (2001) ಸಹ ಜಾರಿಯಾಗಿದೆ. ಮಹಿಳೆಯರ ಪ್ರಗತಿ, ಅಭಿವೃದ್ಧಿ ಮತ್ತು ಸಬಲೀಕರಣಗೊಳಿಸುವುದು ಈ ನೀತಿಯ ಗುರಿಯಾಗಿದೆ.

ಮಹಿಳೆ ತನ್ನ ಸ್ವಮೌಲ್ಯ, ತನ್ನ ಸಾಮರ್ಥ್ಯವನ್ನು ಅರಿತುಕೊಳ್ಳುವಂತೆ ಮಾಡುವುದು. ಮಹಿಳೆ ಸಂವಿಧಾನದಡಿಯಲ್ಲಿ ನೀಡಲಾದ ಎಲ್ಲಾ ಹಕ್ಕುಗಳನ್ನು ಅನುಭವಿಸಬೇಕು.

ಭಾರತದಲ್ಲಿ ಮಹಿಳಾ ಸಬಲೀಕರಣಕ್ಕಾಗಿ ನಿರ್ದಿಷ್ಟ ಕಾನೂನುಗಳಾದ ಸಮಾನ ವೇತನ ಕಾಯ್ದೆ, 1976. ವರದಕ್ಷಿಣೆ ನಿಷೇಧ ಕಾಯ್ದೆ, 1961. ಅನೈತಿಕ ಸಂಚಾರ (ತಡೆಗಟ್ಟುವಿಕೆ) ಕಾಯ್ದೆ, 1956. ಮಾತೃತ್ವ ಭತ್ಯೆ ಕಾಯ್ದೆ, 1961. ವೈದ್ಯಕೀಯ ಗರ್ಭಧಾರಣೆಯ ಮುಕ್ತಾಯ ಕಾಯ್ದೆ, 1971. ಸತಿ ಸಹಗಮನ (ತಡೆಗಟ್ಟುವಿಕೆ) ಕಾಯ್ದೆ, 1987. ಬಾಲ್ಯ ವಿವಾಹ ನಿಷೇಧ ಕಾಯ್ದೆ, 2006. ಗರ್ಭಧಾರಣೆ ಪೂರ್ವ ಮತ್ತು ಪ್ರಸವಪೂರ್ವರೋಗ ನಿರ್ಣಯತಂತ್ರಗಳು (ದುರುಪಯೋಗದ ನಿಯಂತ್ರಣ ಮತ್ತು ತಡೆಗಟ್ಟುವಿಕೆ) ಕಾಯ್ದೆ, 1994. ಕೆಲಸದ ಸ್ಥಳದಲ್ಲಿ ಮಹಿಳೆಯರ ಮೇಲಿನ ಲೈಂಗಿಕ ಕಿರುಕುಳ (ತಡೆಗಟ್ಟುವಿಕೆ, ರಕ್ಷಣೆಮತ್ತು) ಕಾಯ್ದೆ, 2013 – ಈ ಮೊದಲಾದ ಕಾನೂನುಗಳ ಪರಿಣಾಕಾರಿ ಜಾರಿ ಅಗತ್ಯ. ವರದಕ್ಷಿಣೆ ನಿಷೇಧ ಕಾಯ್ದೆ 1961 ಮಧುಮಗ ವರದಕ್ಷಿಣೆ ತೆಗೆದುಕೊಳ್ಳುವುದನ್ನು ನಿಷೇಧಿಸುತ್ತದೆ, ತೆಗೆದುಕೊಂಡರೆ ಜೈಲು ಶಿಕ್ಷೆಯಾಗುತ್ತದೆ. ಹಿಂದೂ ವಿವಾಹ ಕಾಯ್ದೆ 1955 ಹಿಂದೂಗಳಿಗೆ ಮದುವೆ ಮತ್ತು ವಿಚ್ಛೇದನದ ನಿಯಮಗಳು, ಹಿಂದೂ ದತ್ತು ಮತ್ತು ನಿರ್ವಹಣೆ ಕಾಯ್ದೆ 1956 ಮಕ್ಕಳನ್ನು ದತ್ತು ತೆಗೆದುಕೊಳ್ಳುವ ಕಾನೂನುಗಳು ಮಹಿಳಾ ಕೇಂದ್ರಿತ ಕಾನೂನುಗಳಾಗಿ ಅವರ ಬಾಧ್ಯತೆಗಳ ಸಂರಕ್ಷಣೆಗೆ ಕಾರಣವಾಗಿವೆ.

ಹಿಂದಿನ ಭಾರತೀಯ ದಂಡ ಸಂಹಿತೆ (ಐಪಿಸಿ) ಅಥವಾ ಪ್ರಸ್ತುತದ ಭಾರತೀಯ ನ್ಯಾಯ ಸಂಹಿತೆ ಅಡಿಯಲ್ಲಿ ಮಹಿಳೆಯರ ಪರವಾಗಿ ಅನೇಕ ಸೆಕ್ಷನ್ ಜಾರಿಯಲ್ಲಿವೆ. ಅತ್ಯಾಚಾರ, ನಿರ್ದಿಷ್ಟ ಉದ್ದೇಶಗಳಿಗಾಗಿ ಅಪಹರಣ ಮತ್ತು ಅಪಹರಣ, ವರದಕ್ಷಿಣೆಗಾಗಿ ಕೊಲೆ, ವರದಕ್ಷಿಣೆ ಸಾವುಗಳು ಅಥವಾ ಅವುಗಳ ಪ್ರಯತ್ನಗಳು, ಹಿಂಸೆ – ಮಾನಸಿಕ ಮತ್ತು ದೈಹಿಕ ಎರಡೂ, ಕಿರುಕುಳ, ಲೈಂಗಿಕ ಕಿರುಕುಳ, ಬಾಲಕಿಯರ ಕಳ್ಳ ಸಾಗಣಿಕೆ ಇವುಗಳೊಂದಿಗೆ ಮಹಿಳೆಯರ ಮೇಲಿನ ಅಪರಾಧಗಳು ದಿನದಿಂದ ದಿನಕ್ಕೆ ಹೆಚ್ಚುತ್ತಿವೆ. ಈ ಅಪರಾಧಗಳು ಜನರಲ್ಲಿ ಅಭದ್ರತೆಯ ಭಾವನೆಯನ್ನು ಸೃಷ್ಟಿಸುತ್ತವೆ. ಭದ್ರತಾ ಸಮಸ್ಯೆಗಳಿಂದಾಗಿ ಮಹಿಳೆಯರು ರಾತ್ರಿಯಲ್ಲಿ ಒಂಟಿಯಾಗಿ ಹೊರಗೆ ಹೋಗಲು ಸಾಧ್ಯವಿಲ್ಲ. ಅಪರಾಧಗಳು ಒಂದು ಸಮಸ್ಯೆ ಮಾತ್ರವಲ್ಲ, ಅಪರಾಧದ ಬಗ್ಗೆ ಯೋಚಿಸುವಾಗಲೂ ವ್ಯಕ್ತಿಯನ್ನು ನಡುಗಿಸುವ ಕೆಲವು ಕಠಿಣ ಕಾನೂನುಗಳನ್ನು ಸರ್ಕಾರ ಮಾಡಬೇಕಾಗಿದೆ. ಆದರೆ ದುರದೃಷ್ಟವಶಾತ್ ಅಪರಾಧ ನಡೆದು ಬಾದಿತಳು ಮರಣವಾದ ನಂತರ ಅಪರಾಧಿಗಳನ್ನು ಶಿಕ್ಷೆಗೆ ಒಳಪಡಿಸಬೇಕಾಗುತ್ತದೆ.

ಪುರುಷರು ಅಥವಾ ಮಹಿಳೆಯರ ಬಗ್ಗೆ ಮಾತನಾಡುವಾಗ ಆರೋಗ್ಯವು ಸಾಮಾನ್ಯ ಸಮಸ್ಯೆಯಾಗಿದೆ. ಆರೋಗ್ಯವು ಒಬ್ಬ ವ್ಯಕ್ತಿಯನ್ನು ಕೆಲಸ ಮಾಡಲು ಸಮರ್ಥನನ್ನಾಗಿ ಮಾಡುತ್ತದೆ. ತನ್ನ ಕಾರ್ಯನಿರ್ವಹಣೆಯ ಫಲಿತಾಂಶಗಳು ಆರೋಗ್ಯಕರವಾಗಿರಲು ತಾನು ಮೊದಲು ಆರೋಗ್ಯವಾಗಿರಬೇಕು. ಮಹಿಳೆ ಮನೆಯಲ್ಲಿ ಮತ್ತು ಹೊಲಗಳಲ್ಲಿಯೂ ಕೆಲಸ ಮಾಡಬೇಕಾಗುತ್ತದೆ. ಕೆಲಸ ಮಾಡುವ ಮಹಿಳೆಯಾಗಿದ್ದು, ತನ್ನ ಕುಟುಂಬ ಮತ್ತು ಕೆಲಸವನ್ನು ನೋಡಿಕೊಳ್ಳುದರಲ್ಲಿ ಕೆಲಸವು ಹೊರೆಯಾಗುತ್ತದೆ, ಇದರ ಪರಿಣಾಮವಾಗಿ ಸ್ವಯಂ ಆರೈಕೆಗಾಗಿ ಸಮಯದ ಕೊರತೆ ಉಂಟಾಗುತ್ತದೆ. 40 ವರ್ಷ ವಯಸ್ಸಾದ ನಂತರ ಮಹಿಳೆಗೆ ವಿಶೇಷ ಆರೈಕೆಯ ಅಗತ್ಯವಿರುತ್ತದೆ ಏಕೆಂದರೆ ಹೆಚ್ಚಿನ ಬಾರಿ ಇದು ಕಂಡುಬರುತ್ತದೆ. ಏಕೆಂದರೆ ಅನೇಕ ಮಹಿಳೆಯರು ಸ್ನಾಯು ನೋವು, ಹೃದಯಕ್ಕೆ ಸಂಬಂಧಿಸಿದ ಆರೋಗ್ಯ ಸಮಸ್ಯೆಗಳಿಂದ ಬಳಲುತ್ತಿದ್ದಾರೆ. WHO ಪ್ರಕಾರ, ಮಹಿಳೆಯರು ಉತ್ತಮಗುಣ ಮಟ್ಟದ ಆರೋಗ್ಯವನ್ನು ಪಡೆಯುವಲ್ಲಿ ಅಡ್ಡಿಯಾಗಿರುವ ಅಂಶಗಳನ್ನು ಸಾಮಾಜಿಕ-ಸಾಂಸ್ಕೃತಿಕ ಅಂಶಗಳನ್ನು ತಿಳಿಸಿದೆ. ಅವುಗಳಲ್ಲಿ ಪುರುಷರು ಮತ್ತು ಮಹಿಳೆಯರ ನಡುವಿನ ಅಸಮಾನ ಅಧಿಕಾರ ಸಂಬಂಧಗಳು; ಶಿಕ್ಷಣ ಮತ್ತು ಸಂಬಳದ ಉದ್ಯೋಗಾವಕಾಶಗಳನ್ನು ಕಡಿಮೆ ಮಾಡುವ ಸಾಮಾಜಿಕ ರೂಢಿಗಳು; ಮಹಿಳೆಯರ ಸಂತಾನೋತ್ಪತ್ತಿ ಪಾತ್ರಗಳ ಮೇಲೆ ವಿಶೇಷಗಮನ; ದೈಹಿಕ, ಲೈಂಗಿಕ ಮತ್ತು ಭಾವನಾತ್ಮಕ ಒತ್ತಡ ಮೊದಲಾದವು ಅಡಚಣೆಗೆ ಕಾರಣವಾಗಿವೆ. ಅರಿವಿನ ಕೊರತೆಯು ಗಂಭೀರ ಆರೋಗ್ಯ ಸಮಸ್ಯೆಗಳಿಗೆ ಕಾರಣವಾಗುತ್ತದೆ, ಅವುಗಳೆಂದರೆ: ಪ್ರತಿವರ್ಷ 100,000 ಕ್ಕೂ ಹೆಚ್ಚು ಭಾರತೀಯ ಮಹಿಳೆಯರು ಗರ್ಭಧಾರಣೆಗೆ ಸಂಬಂಧಿಸಿದ ಕಾರಣಗಳಿಂದ ಸಾಯುತ್ತಾರೆ. ಭಾರತದಲ್ಲಿ ಹೆಚ್ಚಿನ ತಾಯಂದಿರ ಮರಣ ಅನುಪಾತವಿದೆ–2000ರಿಂದ 2020ರ ಅವಧಿಯಲ್ಲಿ 100,000 ಜನನಗಳಿಗೆ ಸರಿಸುಮಾರು 339-223 ಸಾವುಗಳು (ಶೇ. 34%) ಸಂಭವಿಸಿವೆ. ಇದು ಸರಾಸರಿ ವಾರ್ಷಿಕ ಶೇ.2.1ಕ್ಕೆ ಇಳಿಸಬೇಕಿದೆ. ಸುಸ್ಥಿರ ಅಭಿವೃದ್ಧಿ ಗುರಿಗಳ ಸಾಧಿಸಲು ವಾರ್ಷಿಕ 6.4ರಲ್ಲಿ 1/3ಕ್ಕೆ ಇಳಿಸುವ ಗುರಿ ಹೊಂದಿದೆ. ವಿಶ್ವ ಆರೋಗ್ಯ ಸಂಸ್ಥೆ (WHO) ಮತ್ತು ವಿಶ್ವ ಸಂಸ್ಥೆಯ ಮಕ್ಕಳ ನಿಧಿ (UNICEF) ಅಂದಾಜಿನ ಪ್ರಕಾರ ಭಾರತದ ತಾಯಂದಿರ ಮರಣ ಅನುಪಾತವು ಚೀನಾ, ಶ್ರೀಲಂಕಾ ಮತ್ತು ಅಫಘನಿಸ್ತಾನದ ಅನುಪಾತಗಳಿಗಿಂತ ಕಡಿಮೆಯಾಗಿದೆ. ಆದರೆ ಪಾಕಿಸ್ತಾನ ಮತ್ತು ಬಾಂಗ್ಲಾ ದೇಶಗಳಿಗಿಂತ ಹೆಚ್ಚಾಗಿದೆ. (WHO, 2020). ಕೆಲವೇ ಗರ್ಭಿಣಿಯರು ಪ್ರಸವ ಪೂರ್ವ ಆರೈಕೆಯನ್ನು ಪಡೆಯುತ್ತಾರೆ. ಏಕೆಂದರೆ ಅವರಲ್ಲಿ ಅನೇಕ ಮಹಿಳೆಯರು ಇದನ್ನು ಅನಗತ್ಯವೆಂದು ಭಾವಿಸುತ್ತಾರೆ. ಸುಲಭವಾಗಿ ಚಿಕಿತ್ಸೆ ನೀಡಬಹುದಾದ

ಸಮಸ್ಯೆಗೆ ಸಂಬಂಧಿಸಿದ ರಕ್ತಹೀನತೆಯು ಐದು ತಾಯಂದಿರ ಮರಣಗಳಲ್ಲಿ ಒಂದು ಮಹಿಳೆಯರಲ್ಲಿ ಪತ್ತೆಯಾಗುತ್ತದೆ. ಭಾರತದಲ್ಲಿ ಶೇ. 50ರಿಂದ 90ರಷ್ಟು ಗರ್ಭಿಣಿಯರು ರಕ್ತಹೀನತೆಯಿಂದ ಬಳಲುತ್ತಿದ್ದಾರೆ ಎಂದು ಅಧ್ಯಯನಗಳು ತಿಳಿದಿದೆ. ಭಾರತದಲ್ಲಿನ ಎಲ್ಲಾ ತಾಯಂದಿರ ಸಾವುಗಳಲ್ಲಿ ಶೇ. 20 ರಷ್ಟು ತೀವ್ರ ರಕ್ತಹೀನತೆಯಿಂದಾಗಿ ಸಂಭವಿಸುತ್ತವೆ. ಪ್ರತಿ 5 ನಿಮಿಷಕ್ಕೆ ಒಬ್ಬ ಮಹಿಳೆಯ ವಿರುದ್ಧ ಹಿಂಸಾತ್ಮಕ ಅಪರಾಧ ವರದಿಯಾಗುತ್ತದೆ. ವರದಕ್ಷಿಣೆ ಸಾವುಗಳು ಹೆಚ್ಚುತ್ತಿವೆ. ಭಾರತೀಯ ಮಕ್ಕಳಲ್ಲಿ ಅರ್ಧಕ್ಕಿಂತ ಹೆಚ್ಚು ಜನರು ಅಪೌಷ್ಟಿಕತೆಯಿಂದ ಬಳಲುತ್ತಿದ್ದಾರೆ. ಈ ಸಮಸ್ಯೆ ನಿವಾರಿಸಲು ಕಠಿಣ ಕಾನೂನು ಬೇಕಾಗಬಹುದು.

ಮಾನವ ಹಕ್ಕುಗಳು ಮಾನವ ನಡವಳಿಕೆಯ ಕೆಲವು ಮಾನದಂಡಗಳಿಗೆ ನೈತಿಕತತ್ವಗಳು ಅಥವಾ ರೂಢಿಗಳಾಗಿವೆ ಮತ್ತು ಅವುಗಳನ್ನು ಪುರಸಭೆ ಮತ್ತು ಅಂತರ ರಾಷ್ಟ್ರೀಯ ಕಾನೂನಿನಲ್ಲಿ ನಿಯಮಿತವಾಗಿ ರಕ್ಷಿಸಲಾಗುತ್ತದೆ. ಮಾನವ ಹಕ್ಕುಗಳು ಕಾನೂನಿನಿಂದ ನೀಡಲಾದ ಹಕ್ಕುಗಳಿಗೆ ಅನುಗುಣವಾಗಿ ಕೆಲಸ ಮಾಡುವ ವ್ಯಕ್ತಿಗೆ ಮೂಲಭೂತ ಸಾಮರ್ಥ್ಯಗಳನ್ನು ನೀಡುತ್ತವೆ. ಮಾನವ ಹಕ್ಕುಗಳು ಅವರ ಲಿಂಗ, ಜಾತಿ, ಧರ್ಮ ಇತ್ಯಾದಿಗಳನ್ನು ಲೆಕ್ಕಿಸದೆ ಪ್ರತಿಯೊಬ್ಬರಲ್ಲಿ ಅಂತರ್ಗತವಾಗಿರುತ್ತವೆ. ಮೂಲಭೂತ ಮಾನವ ಹಕ್ಕುಗಳಾದ ಜೀವನ ಮತ್ತು ಸ್ವಾತಂತ್ರ್ಯದ ಹಕ್ಕು, ಗುಲಾಮಗಿರಿ ಮತ್ತು ಶೋಷಣೆಯ ವಿರುದ್ಧ ಸ್ವಾತಂತ್ರ್ಯ, ಅಭಿಪ್ರಾಯ ಮತ್ತು ಅಭಿವ್ಯಕ್ತಿ ಸ್ವಾತಂತ್ರ್ಯ, ಕೆಲಸ ಮಾಡುವ ಹಕ್ಕು ಶಿಕ್ಷಣ ಇನ್ನೂ ಅನೇಕ ಹಕ್ಕುಗಳು ಆಗಿವೆ. ಮಾನವ ಹಕ್ಕುಗಳು ಮಹಿಳೆಯರಿಗೆ ದೈಹಿಕ ಮತ್ತು ಮಾನಸಿಕ ಆರೋಗ್ಯದ ಅತ್ಯುನ್ನತ ಮಟ್ಟವನ್ನು ಆನಂದಿಸಲು; ಶಿಕ್ಷಣ ಪಡೆಯಲು; ಆಸ್ತಿಯನ್ನು ಹೊಂದಲು; ಮತದಾನ ಮಾಡಲು; ಮತ್ತು ಸಮಾನ ವೇತನವನ್ನು ಗಳಿಸಲು ಸ್ವಾತಂತ್ರ್ಯವನ್ನು ನೀಡುತ್ತವೆ.

ಮಹಿಳೆಯರ ವಿರುದ್ಧದ ಎಲ್ಲಾ ರೀತಿಯ ತಾರತಮ್ಯ ನಿರ್ಮೂಲನೆ ಕುರಿತ ಸಮಾವೇಶ (CEDAW) (1979) ಲಿಂಗ ಆಧಾರಿತ ತಾರತಮ್ಯವನ್ನು ಪರಿಹರಿಸುವ ಮತ್ತು ಮಹಿಳೆಯರ ಹಕ್ಕುಗಳಿಗೆ ನಿರ್ದಿಷ್ಟ ರಕ್ಷಣೆ ನೀಡುವ ಪ್ರಮುಖ ಅಂತರ ರಾಷ್ಟ್ರೀಯ ಒಪ್ಪಂದವಾಗಿದೆ. ಅಂತೆಯೇ ಭಾರತೀಯ ಸಂವಿಧಾನವು ಮಹಿಳೆಯರಿಗೆ ಹಕ್ಕುಗಳನ್ನು ಒದಗಿಸಿದೆ. ಅಲ್ಲದೆ ಅವರ ಅಭಿವೃದ್ಧಿಗಾಗಿ ಅನೇಕ ಕಲ್ಯಾಣ ಕಾರ್ಯಕ್ರಮಗಳನ್ನು/ಯೋಜನೆಗಳನ್ನು ರೂಪಿಸಿದೆ. ಹೆಣ್ಣು ಮಕ್ಕಳ ಶಿಕ್ಷಣಕ್ಕೆ ಅನುಕೂಲಕರವಾದ ಕಾನೂನುಗಳು, ಮಹಿಳೆಯರ ಹಕ್ಕುಗಳನ್ನು ರಕ್ಷಿಸುವ ಕಾನೂನುಗಳು, ಮಗಳಿಗೆ ಸಮಾನ ಆಸ್ತಿಹಂಚಿಕೆಗೆ ಅನುಕೂಲಕರವಾದ ಕಾನೂನುಗಳು, ಹೆಣ್ಣುಮಕ್ಕಳಿಗಾಗಿ ಇತರ ಯೋಜನೆಗಳು, ಹೆಣ್ಣುಭ್ರೂಣಹತ್ಯೆಯನ್ನು ನಿವಾರಿಸಲು ಭಾರತದಲ್ಲಿ ಕಾನೂನುಗಳನ್ನು ಅಂಗೀಕರಿಸಲಾಗಿದೆ.

ಮಹಿಳೆಯರ ರಾಜಕೀಯ ಭಾಗವಹಿಸುವಿಕೆಯು ಮತದಾನದ ಹಕ್ಕನ್ನು ಮಾತ್ರವಲ್ಲದೆ ಮತದಾನದ ಭಾಗವಾಗುವ ಹಕ್ಕನ್ನು ಸಹ ಒಳಗೊಂಡಿದೆ. ಭಾರತದಲ್ಲಿ ಮಹಿಳೆಯರು ರಾಣಿ ಲಕ್ಷ್ಮಿಬಾಯಿ, ರಜಿಯಾ ಸುಲ್ತಾನ್ ರಾಣಿಯರಂತಹ ಆಡಳಿತಗಾರರಾಗಿದ್ದರು. ಈಗ ರಾಜಕೀಯ ಭಾಗವಹಿಸುವಿಕೆಯಲ್ಲಿ ಮಹಿಳೆಯರ ಉತ್ತಮ ಬೆಳವಣಿಗೆಯನ್ನು ನಾವು ಹೊಂದಿದ್ದೇವೆ. ಜೂನ್ 2009ರಲ್ಲಿ, ಲೋಕಸಭೆಯ ಮೊದಲ ಸಭಾಧ್ಯಕ್ಷೆ ಆಗಲು ಮಹಿಳೆಯನ್ನು ನಾಮನಿರ್ದೇಶನ ಮಾಡಿತು ಮತ್ತು ಭಾರತದ ಮೊದಲ ಮಹಿಳಾ ಅಧ್ಯಕ್ಷೆ ಪ್ರತಿಭಾ ಸಿಂಗ್ ಪಾಟೀಲ್, ಈಗ ದ್ರೌಪದಿ ಮುರ್ಮು ಸೇರಿದಂತೆ ಅನೇಕ ಮಹಿಳೆಯರು ಉನ್ನತ ಸ್ಥಾನ ಅಲಂಕರಿಸಿದ್ದಾರೆ. ಸಂಸತ್ತಿನಲ್ಲಿ ಮಹಿಳೆಯರ ಪ್ರಾತಿನಿಧ್ಯದ ವಿಷಯದಲ್ಲಿ ಭಾರತವು ಕೆಳಗಿನಿಂದ 20ನೇ ಸ್ಥಾನದಲ್ಲಿದೆ. ಭಾರತದ ಸಂವಿಧಾನವು ರಾಜಕೀಯದಲ್ಲಿ ಭಾಗವಹಿಸುವ ಹಕ್ಕನ್ನು ಮಹಿಳೆಯರಿಗೆ ನೀಡುತ್ತದೆ. ಐತಿಹಾಸಿಕವಾಗಿ ನಾವು ಸ್ವಾತಂತ್ರ್ಯದ ನಂತರದ ಮೊದಲ ಸಭೆಯಲ್ಲಿ ಬಹಳ ಕಡಿಮೆ ಮಹಿಳೆಯರು (ಸುಮಾರು 2%) ಇದ್ದರು. ಮಹಿಳಾ ಸದಸ್ಯರಲ್ಲಿ ನಂತರ ಸಮಾಜ ಕಲ್ಯಾಣ ಸಚಿವರಾದ ಮಸುಮಾ ಬೇಗಂ, ಹಿರಿಯ ಸಮಾಜ ಸೇವಕಿ ರೇಣುಕಾರೇ; ಹಿರಿಯ ಗಾಂಧಿವಾದಿ ದುರ್ಗಾಬಾಯಿ, ಮೊದಲ ದುಂಡು ಮೇಜಿನ ಸಮ್ಮೇಳನಕ್ಕೆ ಪ್ರತಿನಿಧಿಯಾಗಿ ನೇಮಕಗೊಂಡ ರಾಧಾಬಾಯಿ ಸುಬ್ಬರಾಯನ್ ಮೊದಲಾದವರ ಸೇವೆ ಸ್ಮರಣೀಯ. 1947 ರಲ್ಲಿ ರಾಜಕುಮಾರಿ ಅಮೃತಾ ಕೌರ್ ಕೇಂದ್ರ ಆರೋಗ್ಯ ಸಚಿವರಾದರು. 1959 ರಲ್ಲಿ ಸುಚೇತಾ ಕೃಪಲಾನಿ, ವಿಜಯಲಕ್ಷ್ಮೀ ಪಂಡಿತ್ (1953 ರಲ್ಲಿ ವಿಶ್ವಸಂಸ್ಥೆಯ ಸಾಮಾನ್ಯ ಸಭೆಯ ಅಧ್ಯಕ್ಷ) ಇಂದಿರಾ ಗಾಂಧಿ, ಸೋನಿಯಾ ಗಾಂಧಿ, ಸುಷ್ಮಾಸ್ವರಾಜ್, ಶೀಲಾ ದಿಕ್ಷಿತ್, ಸಮೃತಿ ಇರಾನಿ, ಶೋಭಾ ಕರಂದ್ಲಾಜೆ, ಪ್ರಿಯಾಂಕಾ ಗಾಂಧಿ, ಅತಿಶಿ, ಲಕ್ಷ್ಮೀ ಹೆಬ್ಬಾಳ್ಕರ್ ಮುಂತಾದವರನ್ನು ಹೆಸರಿಸಬಹುದು.

ಮಹಿಳೆಯರು ಇನ್ನೂ ರಾಜಕೀಯ ಭಾಗವಹಿಸುವಿಕೆಯಲ್ಲಿ ಲೈಂಗಿಕ ಹಿಂಸೆ, ತಾರತಮ್ಯ, ಅನಕ್ಷರತೆ ಮೊದಲಾದ ಸಮಸ್ಯೆಗಳನ್ನು ಎದುರಿಸುತ್ತಾರೆ. ಮಹಿಳೆಯರ ರಾಜಕೀಯ ಭಾಗವಹಿಸುವಿಕೆಗೆ ಯುನಿಸೆಫ್ ಕೆಲ ಕಾರಣಗಳನ್ನು ಉಲ್ಲೇಖಿಸುತ್ತದೆ. ಮಹಿಳೆಯರ ರಾಜಕೀಯ ಭಾಗವಹಿಸುವಿಕೆಯು ಸಮಾಜಗಳನ್ನು ಬದಲಾಯಿಸುವ ಸಾಮರ್ಥ್ಯವನ್ನು ಹೊಂದಿದೆ. ಇದು ಮಹಿಳೆಯರು ಮತ್ತು ಮಕ್ಕಳ ಫಲಿತಾಂಶಗಳ ಮೇಲೆ, ವಿಶೇಷವಾಗಿ ಸಮುದಾಯ ಸಂಪನ್ಮೂಲಗಳ ವಿತರಣೆಯಲ್ಲಿ ಪರಿಣಾಮ ಬೀರಬಹುದು. ಲಿಂಗ ತಾರತಮ್ಯದ ಸಮಸ್ಯೆಯ ಚರ್ಚೆಯು ಇನ್ನೂ ಜಗತ್ತಿನಲ್ಲಿ ಚಾಲ್ತಿಯಲ್ಲಿದೆ. ಇದು ಒಂದು ಅಥವಾ ಎರಡು ದೇಶಗಳ ಬಗ್ಗೆ ಅಲ್ಲ, ಬದಲಾಗಿ ಇಡೀ ಪ್ರಪಂಚದ ಬಗ್ಗೆ.

ಭಾರತದಂತಹ ದೇಶದಲ್ಲಿ ಮಹಿಳೆಯನ್ನು ಲಕ್ಷ್ಮಿಯಂತೆ ಪೂಜಿಸಲಾಗುತ್ತದೆ, ಅದೇ ಸಮಯದಲ್ಲಿ ಅವಳನ್ನು ಪ್ರಾಣಿಯಂತೆ ನಡೆಸಿಕೊಳ್ಳುವುದು ಸರಿಯಲ್ಲ, ಸಮಾಜದ ದ್ವಂದ್ವ ನೀತಿ ಕೊನೆಗೊಳ್ಳಬೇಕು. ಸರ್ಕಾರವು ವಿವಿಧ ಯೋಜನೆಗಳ ಮೂಲಕ ಮಹಿಳೆಯರನ್ನು ಸಬಲೀಕರಣಗೊಳಿಸಿದರೂ ಕೆಲವೆಡೆ ಹಿಂದೆ ಉಳಿದಿದ್ದಾರೆ. ಮಹಿಳೆ ಎಲ್ಲ ಕಡೆ ತನ್ನ ಮನೆ ಮತ್ತು ಬಂಧುಗಳ ಜೊತೆ ಇದ್ದೇನೆ ಎಂದು ಭಾವಿಸುವಂತೆ ಮಾಡುವುದು ನಮ್ಮ ಕರ್ತವ್ಯ. ರಾಜಕೀಯ ಪಕ್ಷಗಳು ಮಹಿಳೆಯರ ಭಾಗವಹಿಸುವಿಕೆಯನ್ನು ಹೆಚ್ಚಿಸಲು ಮುಂದೆ ಬರಬೇಕು. ಮಹಿಳೆಯರ ಮೇಲಿನ ಅಪರಾಧಗಳ ಕುರಿತು ಕಠಿಣ ಕಾನೂನುಗಳನ್ನು ರೂಪಿಸಬೇಕು. ಶಾಸನ ಸಭೆಗಳಲ್ಲಿ ಭಾರತೀಯ ಮಹಿಳೆಯರಿಗೆ 33% ಸ್ಥಾನಗಳನ್ನು ಕಾಯ್ದಿರಿಸುವ ಸಂವಿಧಾನದ ತಿದ್ದುಪಡಿ ವಿಧೇಯಕ ಮಹಿಳಾ ಮೀಸಲಾತಿ ತುರ್ತಾಗಿ ಜಾರಿಯಾಗಬೇಕು. ಮಹಿಳಾ ನಾಯಕತ್ವ ಮತ್ತು ಸಂವಹನ ಕೌಶಲ್ಯಗಳನ್ನು ಹೆಚ್ಚಿಸಬೇಕಾಗಿದೆ. ಗೃಹ ಸೇವೆಗಳಿಗಾಗಿ ಮಹಿಳೆ ಮನೆಯಲ್ಲಿಯೇ ಇರದೆ ಹೊರಬಂದು ಕಾರ್ಯನಿರ್ವಹಿಸುತ್ತಾ ವೈಯಕ್ತಿಕ, ಕೌಟುಂಬಿಕವಾಗಿ ಆರ್ಥಿಕ ಸಬಲೀಕರಣಗೊಂಡು ರಾಜ್ಯ ಮತ್ತು ದೇಶದ ಪ್ರಗತಿಗೆ ಹೆಚ್ಚಿನ ಮಟ್ಟದಲ್ಲಿ ಕಾರಣಳಾಗಬೇಕು. ಅದಕ್ಕೆ ಪೂರಕ ವಾತಾವರಣವನ್ನು ಸಮಾಜ ಒದಗಿಸಬೇಕಾಗಿದೆ. ★

ಸಮಾನತೆಯ ಹರಿಕಾರ ಡಾ. ಬಿ.ಆರ್.ಅಂಬೇಡ್ಕರ್

ಡಿ.ವೈ. ಬಸಾಪುರ
ನಿವೃತ್ತ ಜಿಲ್ಲಾ ನ್ಯಾಯಾಧೀಶರು,
ಅಧ್ಯಕ್ಷರು, ಜಿಲ್ಲಾ ಗ್ರಾಹಕರ ವ್ಯಾಜ್ಯಗಳ
ಪರಿಹಾರ ಆಯೋಗ, ಬಾಗಲಕೋಟ.

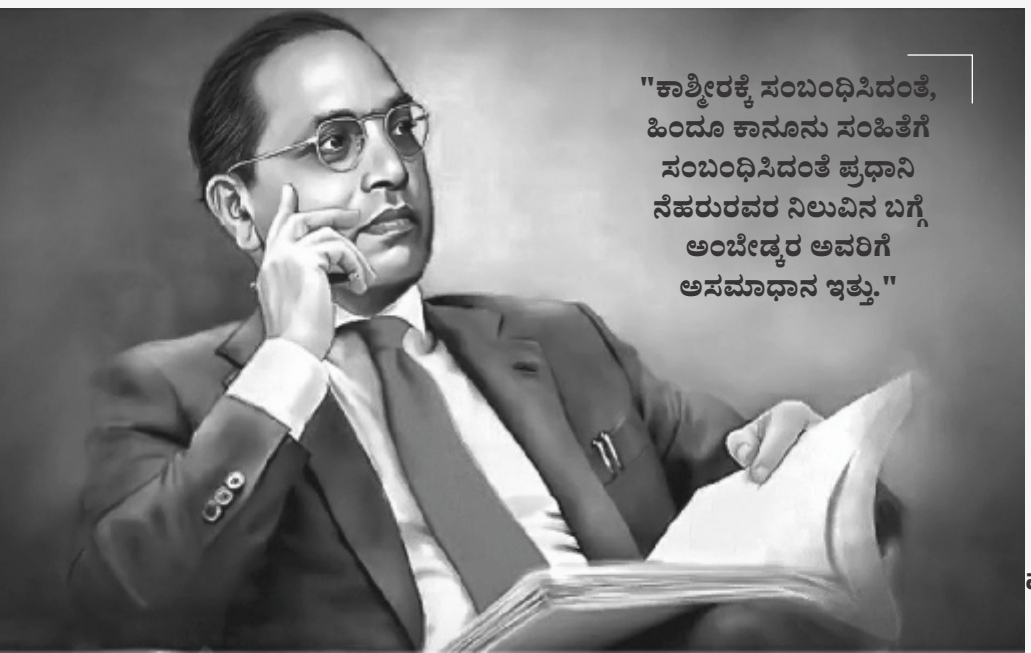
ಅಶ್ಪೃಷ್ಯತೆಯ ಹೋರಾಟ:

೧೯೨೭ ರಿಂದ ೩೨ ರವರೆಗೆ ಅಶ್ಪೃಷ್ಯರಿಗೆ ದೇವಾಲಯ ಪ್ರವೇಶದ ಹಕ್ಕು, ಸಾರ್ವಜನಿಕ ಕೆರೆ ಬಾವಿಗಳಿಂದ ನೀರು ಸೇದುವ ಹಕ್ಕುಗಳಿಗಾಗಿ ಅಹಿಂಸಾತ್ಮಕ ಆಂದೋಲನದ ಮುಂದಾಳತ್ವ ವಹಿಸಿದರು. ನಾಶಿಕದಲ್ಲಿ ಕಾಳರಾಮನ ದೇವಸ್ಥಾನ ಹಾಗೂ ಮಹಾಡದ ಚೌಡಾರ್ ಕೆರೆಯ ವಿಷಯವಾಗಿ ಅಶ್ಪೃಷ್ಯರನ್ನು ಹೊರಗಿಟ್ಟಿರುವ ವಿರುದ್ಧ ಮಾಡಿದ ಆಂದೋಲನಗಳು ಗಮನಾರ್ಹವಾಗಿವೆ. ಸದರಿ ಚಳುವಳಿಗಳಿಗೆ ಸವರ್ನಿಯರು ಪ್ರಬಲ ವಿರೋಧ ವ್ಯಕ್ತ ಪಡಿಸಿ ಹಿಂಸಾತ್ಮಕವಾಗಿ ಪ್ರತಿಕ್ರಿಯಿಸಿದರು. ನ್ಯಾಯಾಲಯದ ಕಟ್ಟೆ ಹತ್ತಿದ ಚೌಡಾರ್ ಕೆರೆಯ ಚಳುವಳಿಯು ಅನೇಕ ವರ್ಷಗಳ ನಂತರ ಕೆಳ ವರ್ಗಗಳ ಪರವಾಗಿ ತೀರ್ಪು ಹೊರಬಂದಿತು. ದಲಿತರಿಗೆ ಪ್ರತ್ಯೇಕ ಚುನಾವಣಾ ಕ್ಷೇತ್ರಕ್ಕಾಗಿ ಪಟ್ಟು ಹಿಡಿದರು. ಹೀಗಾಗಿ ಸವರ್ನಿಯರು ಅತ್ಯಂತ ದ್ವೇಷಿಸುವ ವ್ಯಕ್ತಿ ಅಂಬೇಡ್ಕರ್ ಆದರು. ೧೯೩೨ ರಲ್ಲಿ ಬ್ರಿಟಿಷರು ಜಾರಿಗೆ ತಂದ ಕೋಮುವಾರು ಕಾನುನಿನಲ್ಲಿ ಅಶ್ಪೃಷ್ಯರಿಗೆ ಪ್ರತ್ಯೇಕ ಕ್ಷೇತ್ರವನ್ನಾಗಿ ನಿಗದಿಪಡಿಸಲಾಯಿತು. ಇದಕ್ಕೆ ಪ್ರತಿ ಭಟನೆಯಾಗಿ ಗಾಂಧಿ ಆಮರಣಾಂತ ಉಪವಾಸ ಕೈಕೊಂಡ ಫಲವಾಗಿ ಕಾಂಗ್ರೇಸ್ ಮತ್ತು ಹಿಂದೂ ಮುಖಂಡರೊಂದಿಗೆ ಚರ್ಚಿಸಿ ಪ್ರತ್ಯೇಕ ಕ್ಷೇತ್ರ ಹಾಗು ಕೋಟಾ ಬೇಡಿಕೆಯನ್ನು ಅಂಬೇಡ್ಕರ್ ಕೈಬಿಟ್ಟರು. ಇದಕ್ಕೆ ಪ್ರತಿಯಾಗಿ, ಕಾಂಗ್ರೇಸ್ ಪಕ್ಷವು ಅಶ್ಪೃಷ್ಯರಿಗೆ ಪ್ರಾತಿನಿಧ್ಯವನ್ನು ಹೆಚ್ಚು ಮಾಡಲು ಒಪ್ಪಿಕೊಂಡಿತು. ಜಾತಿ ಪದ್ದತಿಯ ಪುನರ್ವಿಮಷಿ ನಡೆಸಲು ಹಿಂದೂಗಳ ಅನಾಶಕ್ತಿಯಿಂದ, ರಾಜಕೀಯ ವಿಷಯಗಳಲ್ಲಿ ಗಾಂಧಿಯವರ ಅಭಿಪ್ರಾಯಗಳಿಗೆ ಮನೆಯೇ ಬೇಕಾಗಿ ಬಂದದ್ದು ಅಂಬೇಡ್ಕರ ಅವರನ್ನು ಅಸಮಾಧಾನಕ್ಕೀಡುಮಾಡಿತು. ಹಿಂದೂ ಧರ್ಮದಲ್ಲಿ ಅಶ್ಪೃಷ್ಯರ ಏಳಿಗೆ ಅಸಾಧ್ಯವಾದರಿಂದ ಬೇರೆ ಧರ್ಮಕ್ಕೆ ಮತಾಂತರಗೊಳ್ಳಬೇಕು ಎಂಬ ಆಲೋಚನೆ ಮಾಡತೊಡಗಿದರು.

ವಿದೇಶದಿಂದ ಮರಳಿ ಭಾರತಕ್ಕೆ ಬಂದು ಮುಂಬೈಯಲ್ಲಿ ವಕೀಲ ವೃತ್ತಿ ಪ್ರಾರಂಭಿಸಿದರು. ಅಶ್ಪೃಷ್ಯ ಹಾಗೂ ಕೆಳ ವರ್ಗಗಳಲ್ಲಿ ಶೋಷಿತರಿಗೆ ವಿದ್ಯೆ ಮತ್ತು ಸಂತಿ ಅರಿವು ಮೂಡಿಸುವುದು, ಅವರ ಜೀವನ ಮಟ್ಟವನ್ನು ಸುಧಾರಿಸುವುದು ಹಾಗೂ ಕುಂದು-ಕೊರತೆಗಳನ್ನು ಹೇಳಿಕೊಳ್ಳಲು ಧ್ವನಿ ಕೊಡುವ ಉದ್ದೇಶದಿಂದ ಬಹಿಷ್ಕೃತ ಹಿತಾಕಾರಣೀ ಸಭಾ ಎಂಬ ದಲಿತ ವರ್ಗದ ಕಲ್ಯಾಣ ಸಂಸ್ಥೆಯನ್ನು ಹುಟ್ಟು ಹಾಕಿದರು.

ಸಂವಿಧಾನ ಶಿಲ್ಪಿ:

ಭಾರತ ಸ್ವತಂತ್ರ್ಯವಾದ ಮೇಲೆ ಸಂಸತ್ತಿನ ಸದಸ್ಯರಾಗಿದ್ದ ಅಂಬೆಡ್ಕರರನ್ನು ಪ್ರಧಾನಿ ಜವಾಹರಲಾಲ್ ನೇಹರು ತಮ್ಮ ಮಂತ್ರಿ ಮಂಡಲದಲ್ಲಿ ಕಾನೂನು ಸಚಿವರಾಗುವಂತೆ ಆಹ್ವಾನಿಸಿದರು. ಸಂವಿಧಾನವನ್ನು ತಯಾರು ಮಾಡುವ ಕಾರ್ಯಕ್ಕೆ ಕರುಡು ಸಮೀತಿ ನೇಮಿಸಿ ಅಂಬೇಡ್ಕರರನ್ನು ಅಧ್ಯಕ್ಷರನ್ನಾಗಿ ಸಂಸತ್ತು ಚುನಾಯಿಸಿತು. ಸಂವಿಧಾನದ ಕರಡನ್ನು ಸಿದ್ಧ ಮಾಡಲು ಅನಾರೋಗ್ಯವಿದ್ದಾಗ್ಯೂ ಬಹುತೇಕ ಒಬ್ಬಂಟಿಯಾಗಿ ಎರಡು ವರ್ಷ ದುಡಿದ ಅಂಬೇಡ್ಕರ್ ಸಂವಿಧಾನದ ಹಸ್ತ ಪ್ರತಿಯನ್ನು ಬೆಳ್ಳಿ ತಟ್ಟೆಯಲ್ಲಿಟ್ಟು ನೇಹರುರವರ ಸಮ್ಮುಖದಲ್ಲಿ ಲೋಕಾರ್ಪಣೆ ಮಾಡಿದರು. ಸಂಸತ್ತಿನ ವ್ಯವಸ್ಥೆಯಲ್ಲಿ ಇದನ್ನು ಅವರು ಸಮರ್ಥವಾಗಿ ಮಂಡಿಸಿದ್ದರಿಂದ ಕೇಲವು ತಿದ್ದುಪಡಿಗಳೊಂದಿಗೆ ಸಂಸತ್ತಿನ ಅಂಗೀಕಾರ ಪಡೆಯಿತು. ಅಂದಿನಿಂದ ಅಂಬೇಡ್ಕರ್ ಅವರು ಭಾರತದ ಸಂವಿಧಾನ ಶಿಲ್ಪಿ ಎಂದೇ ಪ್ರಸಿದ್ಧರಾದರು. ೧೯೫೧ರಲ್ಲಿ ಮಹತ್ವದ ಕಾಯ್ದೆಗಳ ಜಾರಿ ಕುರಿತು ಭಿನ್ನಾಭಿಪ್ರಾಯ ಉಂಟಾಗಿದ್ದರಿಂದ ಅಸಮಾಧಾನಗೊಂಡು ತಮ್ಮ ಸಚಿವ ಸ್ಥಾನಕ್ಕೆ ರಾಜೀನಾಮೆ ನೀಡಿದರು. ೧೯೫೨ರ ಮಹಾ ಚುನಾವಣೆಯಲ್ಲಿ, ಮರುವರ್ಷ ನಡೆದ ಉಪಚುನಾವಣೆಯಲ್ಲಿ ಲೋಕಸಭೆಗೆ ಸ್ಪರ್ಧಿಸಿ ಸೋಲು ಅನುಭವಿಸಿದರು. ನಂತರ ಮುಂಬೈ ರಾಜ್ಯದ ೧೭ ಚುನಾಯಿತ ಪ್ರತಿನಿಧಿಗಳಲ್ಲಿ ಒಬ್ಬರಾಗಿ ರಾಜ್ಯಸಭೆಯನ್ನು ಪ್ರವೇಶಿಸಿದರು.



ಪ್ರಜಾಪ್ರಭುತ್ವದ ಕಲ್ಪನೆ:

ಅಂಬೇಡ್ಕರ್ ಅವರ ಪ್ರಜಾಪ್ರಭುತ್ವದ ಕಲ್ಪನೆ ತೀರಾ ವಿಭಿನ್ನ ವಿಶಿಷ್ಟವಾದುದು. ಸಮಾಜವನ್ನು ಆದರ್ಶ ಸಮಾಜವನ್ನಾಗಿ ಸುಖಿ

ರಾಜ್ಯವನ್ನಾಗಿ ಬದಲಾಯಿಸಿ ಸ್ವಾತಂತ್ರ್ಯ ಸಮಾನತೆ ಮತ್ತು ಭ್ರಾತೃತ್ವಗಳನ್ನು ಒಟ್ಟಿಗೆ ಸಾಧಿಸಬಲ್ಲದೆಂಬಂತೆ ಪ್ರಜಾಪ್ರಭುತ್ವವನ್ನು ಅಂಬೇಡ್ಕರ ಕಲ್ಪಿಸಿಕೊಂಡಿದ್ದರು. ಪ್ರಜಾಪ್ರಭುತ್ವವೆಂದರೆ ಸರ್ಕಾರದ ಒಂದು ರೂಪವೆಂದು ಪ್ರಾಚೀನತೆಯಿಂದ ಆಧುನಿಕತೆವರೆಗೂ ಕಲ್ಪಿಸಿಕೊಳ್ಳಲಾಗಿದೆ. ಆದರೆ ಪ್ರಜಾಪ್ರಭುತ್ವವು ಸರ್ಕಾರದ ಒಂದು ರೂಪವಲ್ಲ, ಅದು ಪ್ರಮುಖವಾಗಿ ಸಹಬಾಳ್ವೆಯ ಸೊಗಸು ಮತ್ತು ಅನುಭವವನ್ನು ಪರಸ್ಪರ ದಟ್ಟೈಸುವ ಒಂದು ಜೋಡಣೆ. ಮೂಲಭೂತವಾಗಿ ಅದು ಸಹವರ್ತಿಗಳೆಡೆಗೆ ತೊರುವ ಗೌರವಾಧಾರ ಭಾವನೆ ಎಂದು ಹೇಳಿದ್ದಾರೆ. ಪ್ರಜಾಪ್ರಭುತ್ವವು ಒಂದು ಮನೋಭಾವ ಸಹವರ್ತಿಗಳಿಗೆ ಗೌರವ ಮತ್ತು ಸಮಾನತೆ ಸಾಮಾಜಿಕ ಅಡೆತಡೆಗಳಿಂದ ಮುಕ್ತ ಸಮಾಜ, ಅದು ಶ್ರೇಣೀಕೃತವಲ್ಲದ ವಿಂಗಡಣೆ ಮತ್ತು ಪ್ರತ್ಯೇಕಗಳಿಲ್ಲದ ಸಮಾಜ ಅದು ಭಾರತೀಯ ಸಮಾಜ ಮತ್ತು ಅದರ ಜಾತಿಗಳ ವ್ಯವಸ್ಥೆಗೆ ತೀಕ್ಷ್ಣವಾಗಿ ಅನ್ವಯಿಸುತ್ತದೆ. ಸಹಕಾರ, ಸಮಾನತೆ ಸಮುದಾಯ ಮತ್ತು ಸ್ವಾತಂತ್ರ್ಯ ಒಳಗೊಂಡಿದೆ. ಸಂಪನ್ಮೂಲಗಳ ಹಂಚಿಕೆಯಲ್ಲಿ ವ್ಯಕ್ತಿಗಳ ಸಮಾನ ಮೌಲ್ಯವನ್ನು ವಿವರಿಸುವ ಆರ್ಥಿಕ ಪ್ರಜಾಪ್ರಭುತ್ವ ಎನ್ನುವ ಪದವನ್ನು ಬಳಸಿದ್ದಾರೆ. ಒಟ್ಟಿನಲ್ಲಿ ಅಂಬೇಡ್ಕರ್ ಅವರ ಪ್ರಜಾಪ್ರಭುತ್ವವು ಮೂರು ಭಾಗಗಳನ್ನು ಹೊಂದಿದೆ. ಅಂದರೆ ಔಪಚಾರಿಕ ಪ್ರಜಾಪ್ರಭುತ್ವ ರಾಜಕೀಯ ಪ್ರಜಾಪ್ರಭುತ್ವ, ಸಾಮಾಜಿಕ ಸಮಾನತೆಗೆ ಅನ್ವಯಿಸುವ ಸಾಮಾಜಿಕ ಪ್ರಜಾಪ್ರಭುತ್ವ ಮತ್ತು ಸಮಾಜವಾದಿ ಆರ್ಥಿಕತೆವುಳ್ಳ ಆರ್ಥಿಕ ಪ್ರಜಾಪ್ರಭುತ್ವ. ಅಂಬೇಡ್ಕರ್ ಅವರು ಮೂಲಭೂತವಾಗಿ ಒಬ್ಬ ಉದಾರವಾದಿಯಾಗಿದ್ದರು. ಖಾಸಗಿ ಉದ್ದಿಮೆಯ ಮೇಲೆ ಆಧರಿಸಿದ ಆರ್ಥಿಕತೆ ಪ್ರಜಾಪ್ರಭುತ್ವ ತತ್ವಗಳಿಗೆ ವಿರುದ್ಧವಾದದ್ದು ಎಂದು ಅವರು ಸ್ಪಷ್ಟ ಅಭಿಪ್ರಾಯ ಹೊಂದಿದ್ದರು. ಖಾಸಗಿ ಉದ್ದಿಮೆಯು ಅದರ ಮೂಲದಲ್ಲಿ ಸಂಪತ್ತು ಮತ್ತು ತನ್ಮೂಲಕ ಅಧಿಕಾರವನ್ನು ಖಾಸಗಿ ವ್ಯಕ್ತಿಗಳ ಕೈಯಲ್ಲಿ ಕೇಂದ್ರೀಕರಿಸುತ್ತದೆ. ಇದು ಅನಿವಾರ್ಯವಾಗಿ ಬದುಕಿರಲು ದುಡಿಯಲೇ ಬೇಕಾದ ಜನರ ಹಕ್ಕುಗಳನ್ನು ಮೊಟಕುಗೊಳಿಸುತ್ತದೆ. ಮಾಲಿಕ ತಪ್ಪು ಮಾಡಿದ್ದರು ಕೆಲಸಗಾರ ಪ್ರಶ್ನಿಸಲಾಗದು ಒಂದು ವೇಳೆ ಪ್ರಶ್ನಿಸಿದರೆ ತಮ್ಮ ಕೆಲಸ ಕಳೆದುಕೊಳ್ಳಬಹುದು.

ಚಳುವಳಿಯನ್ನು ಮುನ್ನಡೆಸುವವರಿಲ್ಲದ್ದರಿಂದ ಅಸಮಾಧಾನ:

ತಮ್ಮ ಜೀವಿತ ಅವಧಿಯಲ್ಲಿಯೇ ಶೋಷಿತ ಸಮುದಾಯದಿಂದ ಚಳುವಳಿಯನ್ನು ಮುನ್ನಡೆಸುವವರೆಂದು ಅಂಬೇಡ್ಕರ್ ಬಯಸಿದ್ದರು. ಆದರೆ ಆ ಸಂದರ್ಭದಲ್ಲಿ ಅಂತಹವರಾರು ಕಾಣುತ್ತಿಲ್ಲವೆಂಬ ಅಸಮಾಧಾನವಿತ್ತು. ಅವರ ಅನುಯಾಯಿಗಳು ತಮ್ಮ ತಮ್ಮಲ್ಲಿಯೇ ನಾಯಕತ್ವ ಮತ್ತು ಅಧಿಕಾರಕ್ಕಾಗಿ ಕಚ್ಚಾಡುತ್ತಿದ್ದರು. ದೇಶಕ್ಕೆ ಸಂಬಂದಪಟ್ಟಂತೆ ಯಾರಾದರೊಬ್ಬರು ತಮ್ಮ ವೈಯಕ್ತಿಕ ಅಭಿಪ್ರಾಯಗಳನ್ನು ಮಂಡಿಸುವುದು ತುಂಬಾ ಕಷ್ಟ. ಪೂರ್ವಾಗ್ರಹ ಪೀಡಿತ ಜಾತಿ ಎಂಬ ರೋಗವನ್ನು ಹೊದ್ದುಕೊಂಡಿರುವ ಜನರೇ ತುಂಬಿರುವ ಈ ದೇಶದಲ್ಲಿ ತನ್ನಂಥವರು ಜನಿಸುವುದು ಮಹಾಪಾಪ ಎಂದು ಭಾವಿಸಿದ್ದರು. ಹೀಗೆ ಮುಂದುವರೆದರೆ ಈ ದೇಶ ಇನ್ನೇಲ್ಲಿಗೆ ಹೋಗಿ ಮುಳುಗುತ್ತದೆಯೋ ಎಂದು ಅಂಬೇಡ್ಕರರು ನಿಟ್ಟುಸಿರು ಬಿಡುತ್ತಾರೆ. ಕಾಶ್ಮೀರಕ್ಕೆ ಸಂಬಂಧಿಸಿದಂತೆ, ಹಿಂದೂ ಕಾನೂನು ಸಂಹಿತೆಗೆ ಸಂಬಂಧಿಸಿದಂತೆ ಪ್ರಧಾನಿ ನೆಹರುರವರ ನಿಲುವಿನ ಬಗ್ಗೆ ಅಂಬೇಡ್ಕರ ಅವರಿಗೆ ಅಸಮಾಧಾನ ಇತ್ತು. ಅದೇನೇ ಇರಲಿ ತಮ್ಮ ವಿರುದ್ಧ ಟೀಕೆಗಳ ಸುರಿಮಳೆಯೇ ಸುರಿದರೂ ಜನ ಮೆಚ್ಚುವಂತ ಕಾರ್ಯಗಳನ್ನು ಮಾಡಿದ್ದೇನೆ, ತಾವು ಸಾಯುವವರೆಗೂ ಅಂತಹ ಕಾರ್ಯಗಳನ್ನು ಮಾಡುತ್ತಲೇ ಇರುತ್ತೇನೆ ಎನ್ನುತ್ತಾ ಇದ್ದಕ್ಕಿದ್ದಂತೆ ಗದ್ಗದಿತರಾಗಿ, ಕಣ್ಣಾಲಿಗಳು ನೀರು ತುಂಬಿಕೊಂಡು ಗಳಗಳನೇ ಅಳುತ್ತಾರೆ. ತಮ್ಮ ಜೀವನ ಪರ್ಯಂತ ಶತ್ರುಗಳ ಜೊತೆ ಕಾದಾಡುತ್ತ ಸಮಸ್ಯೆಗಳನ್ನು ಎದುರಿಸುತ್ತಾ ನಿರಂತರ ನೋವನ್ನು ಅನುಭವಿಸುತ್ತಾ ಹೊರಾಟದ ರಥವನ್ನು ಮುಂದುವರೆಸಿದ್ದರು. ಏನೇ ಅಡೆತಡೆ ಬರಲಿ ರಥದ ಮಾರ್ಗದಲ್ಲಿ ಎಂಥಹದ್ದೇ ಏರುಪೇರುಗಳಾಗಲಿ, ತೊಂದರೆಗಳಾಗಲಿ ಹೋರಾಟದ ರಥ ಮುನ್ನಡೆಯಲೇಬೇಕೆಂಬ ಹೆಬ್ಬಯಕೆ ಹೊಂದಿದ್ದರು. ಅವರ ಅನಾರೋಗ್ಯದ ಸಂದರ್ಭದಲ್ಲಿ ತಮ್ಮ ಶಿಶ್ಯನಾದ ನಾನಕ್ ಚಂದನಿಗೆ ತಮ್ಮ ಕೊನೆಯ ಸಂದೇಶವನ್ನು ಅವರ ಜನರಿಗೆ ನೀಡುವುದೇನೆಂದರೆ, ಅಕಸ್ಮಾತ್ ಆ ರಥವನ್ನು ಶೋಷಿತ ಜನರು ಮತ್ತು ಅವರ ಸಹಪಾಠಿಗಳು ಮುನ್ನಡೆಸಲು ಸಾಧ್ಯವಾಗದಿದ್ದರೆ ಅದು ಎಲ್ಲಿದೆಯೋ ಅದನ್ನು ಅಲ್ಲಿಯೇ ಇರಲು ಬಿಡಬೇಕು ಯಾವುದೇ ಸಂದರ್ಭದಲ್ಲಿಯೂ ಯಾವುದೇ ಕಾರಣಕ್ಕೂ ರಥವನ್ನು ಹಿಂದೆ ಸರಿಯಲು ಬಿಡಬಾರದೆಂದು ನೋವಿನಿಂದ ನುಡಿದಿದ್ದರು. ★

TABLE RATIO

Judge(s) Parties Citation Provision of law	Facts	RATIO
P S Narasimha, J. & Manoj Misra, J. Adavya Projects Pvt. Ltd. V. M/S Vishal Structurals Pvt. Ltd. & Ors 2025 INSC 507 Sec 11, 16, 21 ACA *Relied On* – State of Goa v. Praveen Enterprises. (2012) 12 SCC 581 ONGC v. Discovery Enterprises (2022) 8 SCC 42 Cox & Kings Ltd. v. SAP India (P) Ltd., (2024) 4 SCC 1	The Applnt & 1st Respt entered into an agreement & formed an LLP, the 2nd Respt. Cl 8 LLP provided that 3rd Respt shall be designated as the CEO of LLP. He was also the director of the 1st Respt. Cl 40 LLP agreement provided for dispute resolution through arbitration. Disputes arose between the parties with respect to reconciliation of accounts of LLP. Subsequently, the Applnt issued a notice invoking arbitration only to 1st Respt through its Director, 3rd Respt. The Applnt filed a Sec 11 appln for appointment of arbitrator, impleading only 1st Respt as a party. The High Court (HC) appointed a sole arbitrator. The Applnt filed its statement of claim, it impleaded 2nd & 3rd Respt. At the time of filing, the prayer clause was restricted to 1st Respt. 1st – 3rd Respt then filed an appln u/s 16 Arbitration & Conciliation Act, 1996 (ACA), raising objections inter alia on Arbitral Tribunal's (AT) jurisdiction & that the arbitration is not maintainable against 2nd & 3rd Respt as they were not parties to the notice invoking arbitration under Sec 21 or the appln for appointment of arbitrator under Sec 11. Applnt also preferred an appln u/s 23(3) ACA to amend the statement of claim & brought on record 2nd & 3rd Respt. The AT allowed the appln u/s 16 & held that the arbitral proceedings against 2nd & 3rd Respt are not maintainable. The reasoning of the AT is that in the absence of the notice invoking arbitration being served on 2nd & 3rd Respt, as well as considering that the HC did not refer them to arbitration while allowing the Sec 11 appln, the arbitral tribunal cannot exercise jurisdiction over them. The appeal under Sec 37(2)(a) ACA against the AT's order was dismissed by HC. The HC held that since the Sec 21 notice & the Sec 11 appln do not raise any disputes against 2nd & 3rd Respt, & they are not included as parties therein, the Applnt cannot be permitted to subsequently raise disputes against them in the statement of claim. The issues arising are whether the service of notice invoking arbitration under Sec 21 ACA on a person & joinder of such person in the appln u/s 11 for appointment of	Para 12) There is nothing in the wording of the provision of Sec 21 or the scheme of the ACA to indicate that merely because such notice was not served on 2nd & 3rd Respt, they cannot be impleaded as parties to the arbitral proceedings. Non-service of the notice under Sec 21 do not automatically bar their impleadment as parties to the arbitration proceedings. (Para 16) Sec 11 appln can be preferred by a party when the procedure for appointment stipulated in the arbitration agreement fails. While deciding such an appln u/s 11(6), the HC or the SC, as the case may be, undertakes a limited examination as per Sec 11(6A). The court's jurisdiction is confined to a prima facie examination, without conducting a mini-trial or laborious & contested inquiry, into the existence of the arbitration agreement. It has to only see whether the requirements of a written agreement u/s 7 of the ACA are satisfied. The court must leave it to the AT to "rule" on & adjudicate the existence & validity of the arbitration agreement. The approach of the AT & the HC is not correct. The AT should have inquired into whether 2nd & 3rd Respt are parties to the arbitration agreement to determine whether they could have been impleaded in the statement of claim. (Para 36 – 39) Non-signatories are parties to the arbitration agreement if the conduct of the signatories & non-signatories indicates mutual intention that the latter be bound by the arbitration agreement. Dispute resolution clause is between the partners on the one hand & LLP & its administrator on the other hand, when such disputes pertain to the LLP Agreement. Arbitration agreement covers the present disputes as this directly affects the rights & liabilities of the Applnt & 1st Respt, who are the partners. It also includes disputes that may arise between the partners & the LLP (2nd Respt), & the partners & the administrators of the LLP, i.e., 3rd Respt. By way of its conduct, 2nd & 3rd Respt have undertaken to be bound by the LLP Agreement. The AT has the power to implead them as parties to the arbitration proceedings while exercising its jurisdiction under Sec 16 of the ACA & as per kompetenz-kompetenz principle. Para 40 – Conclusion – I. A notice invoking arbitration under Sec 21 ACA is mandatory as it fixes the date of commencement of arbitration, which is essential

TABLE RATIO

Judge(s) Parties Citation Provision of law	Facts	RATIO
	arbitrator are prerequisites for an AT to exercise jurisdiction over him, & further, when can an AT implead a person to the arbitration proceedings.	for determining limitation periods & the applicable law, & it is a prerequisite to filing an appln u/s 11. However, merely because such a notice was not issued to certain persons who are parties to the arbitration agreement does not denude the AT of its jurisdiction to implead them as parties during the AT proceedings. II. The purpose of an appln u/s 11 is for the court to appoint an arbitrator, so as to enable dispute resolution through arbitration when the appointment procedure in the agreement fails. The court only undertakes a limited & prima facie examination into the existence of the arbitration agreement & its parties at this stage. Merely because a court does not refer a certain party to arbitration in its order does not denude the jurisdiction of the AT from impleading them during the arbitral proceedings as the referral court's view does not finally determine this issue. III. The relevant consideration to determine whether a person can be made a party before the AT is if such a person is a party to the arbitration agreement. The AT must determine this jurisdictional issue in an appln u/s 16 by examining whether a nonsignatory is a party to the arbitration agreement as per Sec 7 of the ACA. IV. In the facts of the present appeal, 2nd & 3rd Respt are parties to the arbitration agreement in Clause 40 LLP Agreement despite being nonsignatories. Their conduct is in accordance with & in pursuance of the terms of LLP Agreement, & hence, they can be made parties to the arbitral proceedings. Appeal allowed. HC order set aside. 2nd & 3rd Respt be impleaded as parties before the AT & the proceedings must be continued from the stage of AT's order dated 15.02.2024.
N. V. Anjaria, CJ & K.V. Aravind, J N. H. Gowda V. Mr. Rangarama NC: 2025:KHC:15329-DB	The Applnt & 1st & 2nd Respts are partners in 3rd Applnt firm. The schedule premises is owned by the Applnt & his family members. The appellant developed the said family properties. Disputes arose between the partners with regard to maintenance of accounts & affairs of the firm. The Applnt issued a notice under Sec 43 of the Partnership Act, 1932, expressing intention to dissolve the firm contending that the partnership was "at will." Arbitration clause was invoked by the Applnt. 1st & 2nd Respts similarly	The issue is, "Whether the partnership firm is "at will" or otherwise in order to apply Section 43 of the partnership Act?" Whether the partnership is "at will" or otherwise is also an arbitrable dispute. Hence, the point framed for consideration is left open to be agitated by the parties before the arbitrator. The interim arrangement by the CC appears to be impractical & creates an imbalance in the interests of both parties. If arrangement is allowed to continue, it would lead to further litigation. Appeals are allowed in-part. The orders of CC stands modified. Receiver is appointed for

TABLE RATIO

Judge(s) Parties Citation Provision of law	Facts	RATIO
	expressed willingness to resolve the dispute under ACA. The appellant & respnt Nos.1 & 2 preferred separate applications under Sec 9 of the ACA. The Commercial Court (CC) by interim arrangement permitted both rival parties to carry on & participate in the day-to-day affairs of the partnership firm, without conferring exclusive right on either party.	maintaining the accounts of 3rd Respt. The above interim arrangement shall continue during the pendency of the arbitration proceedings before the arbitrator.
Krishna S. Dixit J Sagir Ahmed Vs The BBMP & others. WP 18428 of 2021 decided on 19th October 2022. *Relied On* - Prem Singh vs. Birbal (2006) 5 SCC 353 Shree Chamundi Mopeds Ltd vs. Church of South India Trust Association, AIR 1992 SC 1439	After acquisition by the authorities, the Ptnr purchased the remainder land through a registered sale deed. The case revolves around a dispute concerning agricultural land, parts of which were acquired by the Railways & the BDA, while the remaining portions were purchased by the Ptnr & other private Respts. The khata for Ptnr's property was transferred in January 2013, but later rescinded in 2021 u/s.114 of KMC Act 1976, following a review petition filed by private Respts. Separately, the Ptnr's appln for land conversion u/s.95 of KLR Act 1964 was allowed in December 2012, after the payment of prescribed fees. This conversion order was subsequently set aside by the KAT on the grounds of alleged suppression of material facts. The Ptnr challenged two orders through two WPs. 1. He contested the order passed by the JC, BBMP. 2. The Ptnr challenged the KAT order, which had set aside the DC Order & remitted the matter for fresh consideration.	Both WPs were partially allowed for the following reasons: **On Rescinding of Khata:** The khata could not have been cancelled in its entirety, particularly because the private Respts had claims over only small portions of the land, whereas the Ptnr held a registered sale deed for the larger extent. Registered documents carry a presumptive value, & the Ptnr's ownership based on such a deed was not effectively challenged by the others. The declaratory decree obtained by the Ptnr in the civil court remained valid & binding, even though it was under appeal, as the mere pendency of an appeal or grant of stay does not nullify the existence or legal effect of the decree. Accordingly, the khata in the Ptnr's name be restored within a period of 60 days, while also ensuring that the possession & access of the private Respts to their respective portions of land would remain undisturbed. **On Cancellation of Conversion Order:** The limited land holdings of the private Respts did not justify the cancellation of the entire land conversion order. The KAT's approach in setting aside the conversion in its entirety, rather than restricting its decision to the specific grievances of the private Respts, was erroneous. A sweeping cancellation lacked justification, particularly when other statutory authorities had already acted on the assumption of lawful conversion. The original conversion order is restored, with protection granted to the portions of land already acquired by the Railways, the BDA, & the areas claimed by the private Respts.

TABLE RATIO

Judge(s) Parties Citation Provision of law	Facts	RATIO
J.B. Pardiwala,J. & R. Mahadevan, J. The Correspondence R.B.A.N.M.S. Educational Vs. B Gunashekar 2025 INSC 490 *Relied on -* Rambhau Namdeo Gajre Vs. Narayan Bapuji Dhotra & Anr. Suraj Lamp & Industries (P) Ltd. Vs. State of Haryana & Another Cosmos Co. Operative Bank Ltd Vs. Central Bank of India & Ors K. Basavarajappa Vs. Tax Recovery Commissioner, Bangalore & Others Jharkhand State Housing Board Vs. Didar Singh & Another T. Arivandandam Vs. T.V. Satyapal & Another	The Respts filed a suit seeking permanent injunction against the Applnt, alleging that the Applnt was attempting to alienate the property based on an agreement to sell involving third parties. The Respts claimed to have paid Rs. 75,00,000/ in cash towards a sale consideration of Rs. 9,00,00,000/. The Applnt, established as a public charitable trust, has been in continuous possession of the suit schedule property since 1905, The institution used the land for educational purposes, including colleges & sports facilities. The Applnt filed an appln under O.VII, R.11(a)&(d), CPC seeking rejection of the plaint on grounds that the Respts, being only agreement holders, had no title or interest in the suit property. The trial court rejected the application. The HC, in revision, initially remanded it for reconsideration, but upon reexamination, the trial court again rejected the application. The HC upheld rejection, leading to the present appeal before the SC.	O.VII, R.11, CPC acts as a crucial filter intended to eliminate fictitious or legally barred suits at the threshold. The agreement to sell relied upon by the Respts was found not to be with the Applnt. It was neither registered nor did it create any legal interest or title in the suit property; the purported vendors who executed the agreement were not even made parties to the suit. Adding to the suspicious nature of the transaction, the alleged cash payment of Rs. 75 lakhs was unsupported by proper documentation & appeared to be in violation of S.269 ST of the IT Act. Examining the plaint, the Respts had no legal right or title to the property. They were not in possession of the property & had filed a suit merely for injunction without seeking a declaration, despite the existence of a disputed title. The plaint did not disclose any genuine cause of action & was clearly barred by law. HCK & the Trial Court had failed to recognize the fatal defects present in the plaint. The litigation initiated by the Respts was characterized as champertous, inequitable, unconscionable, & extortionate, warranting intervention at the threshold itself. The appeal is allowed. The judgments of the HCK & the Trial Court are set aside. The appln filed u/O.VII, R.11(a)&(d), CPC was allowed, resulting in the rejection of the plaint. Additionally, the Court issued directions concerning cash transactions exceeding Rs. 2 lakhs, mandating intimation to the IT authorities & enforcement action u/s.271 D where necessary. The Court also cautioned the Respts against any future misuse of judicial processes.

By Adv Vishnu Praneeth & Amritha Navada

SOUNDARYA EDUCATIONAL TRUST

SOUNDARYA COLLEGE OF LAW

Affiliated to KSLU, Hubballi | Approved by BCI, New Delhi

Soundarya Nagar, Sidedahalli, Nagasandra Post, Bengaluru, Karnataka - 560073

COURSES OFFERED

- B.A., LL.B (5 YEAR)
- B.COM., LL.B (5 YEAR)
- LL.B (3 YEAR)
- Certificate Course On Human Rights.

30

HIGHLIGHTS OF THE INSTITUTION

- Outcome Based Education
- Add-on Programmes
- Wi-Fi Enabled Campus
- State of The Art Infrastructure
- National Moot Court Competitions
- Legal Aid and Awareness Programmes
- Qualified and Experienced Faculty Members
- Well-Equipped Library With Computer Labs
- Cafeteria
- Language Lab
- Placement Training and Internships
- Value Added Programmes
- Amphitheatre
- Aquatic Centre
- Sports Facilities and Gym
- Online Student information
- Scholarships and Fees Financing
- Life Skills through Personality Enhancement Programmes
- Transportation
- NSS Activities

Contact Us

080 2951 0260 | +91 77609 33289

law.info@soundaryainstitutions.in

Soundaryanagara, Sidedahalli, Nagasandra Post, Bengaluru - 560073.

www.soundaryalaw.edu.in

Follow Us on:

Scan For Location

Owned, Published and Printed by Dr. D. M. HEGDE, Published at # 1230, 23rd Cross, 30th Main, BSK 2nd Stage, BENGALURU–70
Printed at Jayashree Printers & Publishers Bangalore-560 062. Editor : Dr. D. M. HEGDE,

VAKEELARA VAAHINI Kannada-English Monthly May 2025 RNI: KARBIL/2022/86935

To,

If undelivered kindly return to :

1230, 23rd Cross, 30th Main,
BSK 2nd Stage, BENGALURU–70
Mob.: +91 88613 14104
E-mail: vakeelavaahini@gmail.com