



SECULARISM AND INDIAN CONSTITUTION

Prof. Dr. Samir a.
Runja

Assistant Professor @ Sheth D.L. Law College, Bhuj-Kachchh-Gujarat.

ABSTRACT

The Constitution of India is nothing but Fundamental Document of India. The term Secularism is the part of the doctrine of Basic Structure. Particular term "Secular" can read in the Preamble of the Constitution of India and in the Article 25 (2) (a), but the term Secular is the basic need of our constitution. We the People of India ... also a part of Secularism. Indian Judiciary always prefers and highlighted the said term in their Judgments / orders. Secularism is a beleaguered doctrine everywhere. This research papers deals this Secular term in three part (1) Constitutional aspect of Secularism (3) Secular with Supreme Court of India. Researcher also cover the said term with society's response & responsibility. The Secular term also connected with the Political speeches during the election time and sometime debating also in the Parliament of India / Legislative assemblies of various states in India. Scholars' always define the term secular by own way. In the conclusion we can say that there is no any particular definition mentions of Secular in the Constitution of India, we have to follow in interpretation by Supreme Court of India.

KEYWORDS : Art 25 to 28 – Preamble – Secularism – Supreme Court of India – The Constitution of India.

INTRODUCTION

Recently we are hearing the word "Secular", "Secularism", "Atheist", "Communal" etc. These all words are spoken by Politicians, Industrialist, Teachers and Social Activist, but researcher thinks that they are not fully aware or not doing actual interpretation of these words in benefit of Indian Society and as per the constitution of India. They are vomiting the *Obiter Dicta* in the society.

Here researcher trying to explain some Constitutional, Socially, and Judicially approach of "Secularism". We should follow the *Salus populi suprema lex*, interpretation of Secularism should be in favor of society or we can say that interpretation should be *Pro bono Publico*.

"We the people of India" the sentence is familiar with us; we are reading this, we are hearing this and sometime we are writing also. But sometime we are not able to interpret this word properly or legally. This sentence is written in our constitution. Constitution of India is starting with this sentence, so this is the written in Preamble of constitution of India. Means this is the mirror, soul, shadow and part of constitution of India. Sometime we should asked that, "We the People means, rich or poor people? We the People are white, black, yellow or brown people? We the People (are) male or female?"

What mean of secularism (Focusing Point of Researcher on Secularism) what we can mean of term "Secularism"?

- (1) State has no religion?
- (2) Separation of Religion and State?
- (3) Religious' Religion?
- (4) State first second is Religion?
- (5) No need of Religion for state?
- (6) No priority to one Religion?
- (7) Can practice in any religious which you belief?
- (8) Can change religious of your choice?
- (9) Can choice to reject all the religious belief?
- (10) Respect to all the religious and their faith, traditions, holy books?

CONSTITUTIONAL ASPECT OF SECULARISM

"We the people of India" Researcher thinks that best secular character of constitution is this sentence because there is no any space to mention religious favor in this introductory sentence. Researcher would like to ask prima facial that constitution is Secular by birth or not ...? Researcher thinks that this question is not discussing deeply in recent scenario. If we are replaying that Constitution of

India is Secular by birth (26/11/1949) then why Secular word is added in 1974 ...? Why they did not add this word at that time. If we are replaying that Constitution of India was not secular by birth then we have to accept that we was not Secular till 1974. Is India Secular after only 1974 ...? Before that India was communal or what? This contradictory statements always worries researcher and so that's why researcher adopted this topic for research.

What was need for this word in 1974? There was any social demand? And why this word was not added at the time of birth of Constitution of India?

Ok... if we believe the need of Secular word after 1974 ... then why they not clearing the definition of Secular? There is no any definition of Secular in Constitution of India. "**Power corrupts; absolute power corrupts absolutely**" this maxim is also implies here.

Constitution of India Article No. 14,15,16,17,18,19 and 21 are always ask for Equality and Equal protection from the state. Golden Triangle of the Fundamental rights i.e. Article 14,19 & 21. Especially Article No. 25 to 28 and Article No. 29 & 30 are speaking about Secularism & rights of minorities. Researcher Thinks that all provision are under the umbrella of Secularism in India forever, then why this word only added and particularly in Preamble of India, not like as a Article.

II. JUDICIAL ASPECT OF SECULARISM

Kesavananda Bharati vs. State of Kerala, AIR 1973 SC 1461 - The theory of the *Basic Structure* of the Constitution was supported by seven judges of the thirteen-judge Bench that heard the case. Of those seven, four judges cited secularism as part of the basic structure of the Constitution:

Sikri C.J.: "Secular and federal character of the constitution"
Shelat and Grover JJ.: "Secular character of the State"
Reddy J.: "Liberty of thought, expression, belief, faith and worship"

In **Minerva Mills case**, the court struck down the validity of Clause (4) of Article 368, which was inserted by virtue of 42nd amendment in 1976 as it purported to destroy judicial review, which is considered as one of the basic features of the Constitution. Later Supreme Court of India held in a series of decisions that equality, judicial review, federalism, secular character, supremacy of the Constitution, democratic form of Government, separation of powers are some of the basic features of the Constitution.

In **S.R Bommai v. Union of India**, a nine judge bench of the apex court observed that the concept of "Secularism" was very much embedded in our constitutional philosophy. What was implicit earlier had been made explicit by the constitution (42nd amendment) in 1976.

IV CONCLUSION

FINDING :

- There is no any particular definition of Secularism mentioned in the Constitution of India.
- The Term Secular was mention in the Preamble of the Constitution of India i.e. term Secular is not a provision like Articles.
- There was no any actual (Social) requirement to add term Secular in 1976, without the term Secular, Constitution of India is Secular.
- Secular provisions are available in Article 14,19,21 & 25 to 30 of the Constitution of India.
- Indian Judiciary always interpreted the term Secularism.
- The state (India) has no official religion.
- The term Secularism always tries creating controversy in India.
- The term may be Political Product.
- The term Secular may be concern with Communal riots.
- We can say that Indian Secular means not Anti-Religious, Nastik.

RECOMMENDATION / SUGGESTION

- Should make the Commission on Secularism to clear the ground level position of Secularism in India.
- Should clear and add the definition of term Secular in The Constitution of India.
- Should Promote Education values with Secular philosophy (Primary level to Higher education including Medical & Technical Education also)
- Should step ahead for Uniform Civil Law.
- Reintroduce & re-debate on (Ex. M.P) Vidya's Bill in Parliament for a "Casteless, Religion less Society"
- Indian are 100% Secular, if they believing themselves or not. And we have to accept this boldly in the society.
- Should promote Indian film industries for their Secular work.

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