



Meaning and Scope of Secularism Under the Indian Constitution

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KEYWORDS

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 I think that they are not fully aware or not doing actual interpretation of these words in benefit of Indian Society. They are vomiting the Obiter Dicta in the society.

Here I am 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 Public.

Let we start, who can or cannot call him "Secular"? What is the meaning of "Secular"??? we all are thinking that who can call him secular, who is Atheist or Nastik or not believing in god or all religious or respect all religious we know something like this but I think that who is most religious person also must called him secular because all the religious teach us respect to other religious, community, minorities and humanity i.e. Sarva Dharma Sambhav. But let me tell if I called secular myself that's enough for me or for my society...? The answer is big NOOOO !!!! because we should do some secular act by enlarge, then we will called secular, like Hon'ble Mr. GORA. That means we should be secular in society, not in our ghost. Am I right ... ?

Again we interpret Secular in hindi that DHARMNIRPEX, and we know verywell that in recent days Hon'ble Home Minister of India Mr. Rajnathsinh spoken in the parliament of India that Secular mean "PANTHNIRPEX" not DHARMANIRPEX, so now in 2015 we got another definition of secularism by the Parliamentary debate. But argue is that again he did not clear full definition of PANTHNIRPEX so again we can imagine that we want for PANTHNIRPEX. Here law says Respondent Superior.

Beyond this I think that before 800 to 1000 year, why all people was residing like brotherhood and at that time there was no Law & Order existing, we should think about at those days they had a Judiciary, Legislative & Executive pillar i.e. Religious Books and Religious personalities life style, and peoples belief in that time was very strong in those three pillars.

I think legal aspect of Secularism should be very clear and one. There should be no position of doubt for the interpretation of secularism specially when there is no any definition mentioned in the Constitution of India.

"Secular" word is always stand with three pillars like :-

- Religion and Individual (freedom of religion)
- Individual and State (citizenship)
- State and Religion (separation of state and religion)

But let me say that this three pillar is now stand with four pillar as below :-

- Religion and Individual (freedom of religion)
- Individual and State (citizenship)
- State and Religion (separation of state and religion)

Media and Individual or Religion or State ... ???!!!

The fourth pillar is now Juvenile but when he will be adult then situation should be the blank line is should be filled by Legislative, Judiciary, Executive & Social personalities. Here I am talking about media trial, they are doing their job because people like this and they are demanding that, we can say that on the basis of TRP. They are not forcing us to show this. But now society should spoke that they want to show that interpretation which is the beneficiary to society. After that medial will play their role.

Indian National flag is also secular. Three colors and wheel shows representation of various religious identities.

Now we discuss on the main Three pillars of secularism :-

1. CONSTITUTIONAL ASPECT OF SECULARISM ::

"We the people of India" I think the best secular character of constitution is this sentence because there is no any space to mention religious favor in this starter sentence. I would like to ask prima facial that constitution is Secular by birth or not ...? I think this question is not discussing deeply in recent scenario. If we are replaying that Constitution of India is Secular by birth then why Secular word is added in 1974 ...? Why they did not add this word at the time of constitution's birth. If we are replaying that Constitution of India was not secular by birth then we have to accept that we were not Secular till 1974. Is India is Secular after only 1974 ... ? Before that India was communal or what? This contradictory always worries me and so that's why I am familiar with this topic.

What was need for this word in 1974? Any social demand? And why this word is not added at the time of birth of Constitution of India? Why did not add as a Fundamental Right? 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, so what we can interpretation of this word, which type of interpretation can be done by our judiciary.

Let me tell that there is void or voidable contract with Secular & Indian Emergency. Because India, Indians, Indian culture and nature is Secular by birth; there was no any social demand or requirement to write the word Secular in Constitution of India.

Another research angle is to we are always hungry for alien countries decisions and philosophy on the same subject. So we imply some alien philosophy from US, UK, UAE, RSA etc.

to Indian Secularism. But we did not try our best research on the same topic. We have to interpretation of Secular word like "MAKE IN INDIA" not "ASSAMBLE IN INDIA".

Constitution of India Article No. 14,15,16,19 and 21 are always speaking about Equality and Equal protection. Especially Article No. 25 to 28 and Article No. 29 & 30 are speaking about Secularism & rights of minorities. Then I think these all provision are raining Secularism in India forever, then why this word only added and particularly in Preamble of India, not like as a Article.

Constitution of India also speaks about Uniform Civil Laws in the Directive Principles of State Policies so our constitution is by birth Secular.

My constitutional approach says that there is no need of this word in Preamble of Constitution of India; if it is then India is Secular and it is not then also India is Secular. If we want some secular specified provisions then should be added as an Article. Otherwise it should be harming the Indian Social Culture. Another bird eye view is we cannot damage the Basic Structure of Constitution of India but we can build or renovating the same.

"Power corrupts; absolute power corrupts absolutely" this maxim is also implies here.

2. 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"

More than a decade later in 1994, in the Bommai case, the Supreme Court added that secularism was a basic feature of the Constitution. The Preamble embodies the Republic's founding values, and whether or not it can be amended, it has provided a reference point to interpret the Constitution. The Articles of the Constitution as well as the spirit of the Preamble both underscore the spirit of socialism and secularism. In the Preamble, the people of India resolve to secure all citizens social, economic and political justice, and this resolution is made solemnly, and not by invoking any divine power.

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.

3. SOCIAL ASPECT OF SECULARISM ::

Let we join the social concept of Secularism, I think the social aspect is very important to aware the best interpretation of Secularism. I think that Secular words first relation is with society and second is with Judiciary & Law. Because in recent scenario people's most preferable belief is our Honorable Judiciary and Indian Judiciary always gives the Social Protection to the society as prescribed in the Constitution of India.

We have to thank & salute our film industries because they done their job to rain the Secular aspect to the society, they shows the films which massage brotherhood, all religious respect, protect our family & nation etc. shows in the best films to us. But we show that film at cinema and when we reached outside cinema we are forgetting all. Hindi films shows us best religious places, religious tradition and Secular charac-

ter of our society. They shows us that Dilipkumas play role a Hindu character, a Hindu actor play best Muslim role and they shows that they are entering in the religious places, singing the songs, Qwalis, Bhajans, doing Tilak, fake marriage ceremonies Hindu Fera, Muslim Nikah etc. in all these scenes we are enjoying the clapping in cinema. Our child is also fans of these actors and actress and they never ask their religious identity. We are not thinking this silly secular point of views.

There has been a tradition in India since long, shared by all communities, to take out religious processions on public streets. Such processions are specially arranged on most of the religions festivals referred to above. The law of India approves this right of the religious communities subject to the general laws for maintaining law and order and protecting public mobility. The leading judicial decisions on this right and its limits include *Mmizur Hasan v Muhammad Zaman* (1924)

"Etsi Deus Non Dassetur"... even if God didn't exist these norms would be binding on us. We have the basis of an independent ethic.

We also familiar with doctrine of DEVIDE AND RULE, this doctrine was implies on us by Britishers and they was secedes, because they was know the power of Secular character and in India if Hindu & Muslims forgetting this all intolerance them Indian became what they want.

Communal violence is another branch of intolerance, and we are lost our family members, our business and our relation with other communities. And after all the gives Socially, Politically & Economically damages to the our nation. So we pay for this Direct and In-Direct.

Dr. D.R. Ambedkar says that : "We will successes to implement the constitution if we will be a good human (Secular) vise-versa constitutional provisions should be a books only.

LAST PUNCH :-

- Promote Education values with Secular philosophy (Primary level to Higher education including Medical & Engineering also)
- Uniform Civil Law
- Should be fixed accountabilities of our Hon'ble M.P.s & M.L.A.s for their intolerance speeches.
- Reintroduce & re-debate on Vidya's Bill in Parliament for a "Casteless, Religionless Society"
- Indian are 100% Secular, if we are believing ourselves or not. Now we have to accept this boldly in the society.
- Should promote Indian film industries for their Secular Job.
- First we should identified ourselves as a Human (Secular), after that communal.

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