



THE UNIQUENES OF PREAMBLE OF INDIAN CONSTITUTION

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ABSTRACT

The preamble to the Constitution of India is a well drafted document which states the philosophy of the constitution. It declares India to be a Sovereign, Socialist, Secular, Democratic, Republic and a Welfare state committed to secure justice, liberty and equality for the people for promoting fraternity, dignity the individual, and unity and integrity of the nation. The preamble is the key to the constitution. It states in nutshell the nature of Indian state and the objectives it is committed to secure for the people. Initially, the preamble was not regarded as a part of the constitution but since the Supreme Court judgment in the Kesava Nanda Bharati case, it stands accepted as a part of the constitution. it was amended by the 42nd Amendment (1976) when the words 'Secular' and 'Integrity' were added to it.

KEYWORDS

INTRODUCTION

The Constitution of India begins with a Preamble which specifies the nature of the Indian State and the objectives it is committed to secure. K.M. Munshi describes the Preamble as the political horoscope of the constitution which lists the basic features of the Constitution, its basic philosophy and the nature of Indian state. In the words of Pt. Thakur Dass Bhargava : "The Preamble is the most precious part of the constitution, it is the soul of the constitution, it is the key to the constitution. It is a key to open the mind of the makers of the constitution. it is a jewel set in the constitution. it is a superb prose poem, nay, it is perfection in itself. It is a proper yard-stick with which one can measure the worth of the constitution."

Preamble is the key to the letter and spirit of the constitution. the Preamble reads. We, the people of India having solemnly resolved to constitute India into a Sovereign, Socialist, Secular, Democratic Republic and to secure to all its citizens;

Justice, social, economic, political ; Liberty of thought, expression, belief, faith and worship ;

Equality of status and opportunity ; and to promote among them all ;Fraternity, assuring the dignity of the individual and the unity and integrity of the nation;

In our Constituent Assembly, this twenty sixth day of November 1949, do hereby Adopt Enact and Give to ourselves this constitution.

The words 'Socialist' 'Secular' and 'Integrity' were initially not there in the preamble. The were added by the 42nd Amendment (1976) of the Constitution.

PREAMBLE : FEATURES

The Preamble lays down the nature of Indian state and states the objectives which are to be achieved for all the citizens. Its features can be analysed in four parts;

The Source of Authority

Popular Sovereignty. The Preamble categorically accepts the principle of popular Sovereignty. It begins by the words: 'We the people of India'. These testify to the fact that the people are the ultimate source of all authority. The Government derives its power from the people. The constitution has its roots and derives its sovereignty from the people. In this respect, the Preamble of the Constitution of India is similar to the Pre-

amble of the US Constitution and the Preamble of the Charter of the United Nations.

The Preamble begins by the words 'We the people of India' and these five words signify the fact of sovereignty of the people of India.

Nature of State

The preamble refers to the five cardinal features of India as a state. It declares India to be a Sovereign, Socialist, Secular, Democratic, Republic.

India is a Sovereign State.

The preamble proclaims that India is a sovereign state. Such a proclamation was essential to denote the end of British rule over India. It testifies to the fact that India is no longer a dependency or colony or possession of British Crown. I also affirm the end of the dominion status that India technically got after the end of British Rule on 15th August, 1947. With the adoption of the constitution by the Constituent Assembly, this status ended and India emerged as a fully sovereign independent state. It proclaimed the result of the freedom struggle and affirmed that India was free internally and externally to take her own decisions and implement these for her people and territories.

Some critics, however, point out that the membership of 'Commonwealth of Nations limits the sovereign status of India in so far as this membership accepts the British King/Queen as the head of the Commonwealth. However, this view is not correct. The Commonwealth is no longer the British Commonwealth. Since 1949 it has been an association of sovereign equal friends who, because of their historical links, have preferred to join hands in the Commonwealth for the promotion of their national interests through cooperative efforts. India's membership of the Commonwealth is a voluntary act and a courtesy arrangement. British King/Queen as head of the Commonwealth has no place in the Indian Constitution. India owes no allegiance to him. "British King is a symbolic head of the Free Association of Commonwealth." (Nehru) Prof. Ramaswamy has rightly observed. "Indian membership of Commonwealth is a courtesy arrangement devoid of any constitutional significance."

Thus, Preamble proclaims the sovereign independent status of India. The word sovereign denotes both internal and external sovereignty of India. It means that the government is inde-

pendent in internal and external matters and is no more under the control of a foreign power.

India is a Socialist State.

In 1976, the preamble was amended to include the term 'Socialism'. Since then it continues to be a prime feature of the State in India. India is committed to secure Justice-social, economic and political, to all its people by ending all forms of exploitation and by securing equitable distribution of income, resources and wealth. This has to be secured by peaceful, constitutional and democratic means. The term 'India is a Socialist state' really means India is a democratic socialist state. It signifies the commitment to socio-economic justice which is to be secured by the state through the democratic process and organized planning. India stands for full democratic liberalization both in spheres of politics and economy for securing the goals of socialism. Even after adopting liberalization, privatization and competitive economic system, the Indian state remains committed to secure socialistic goals-Socio-economic equality and an egalitarian society. Securing of socialist objectives of development through democratic and liberal means continues to be a basic objective of India.

India is a Secular State.

By the 42nd Amendment, the term 'Secular' was incorporated in the Preamble. Its inclusion simply made the secular nature of the Indian Constitution more explicit. As a state India gives special status to no religion. There is no such thing as state religion of India. This makes it different from theocratic politics like the Islamic Republic of Pakistan and other Islamic countries. Positively, India adopts secularism by guaranteeing equal freedom to all religions. It stands for the right of freedom of all citizens. Explaining the meaning of secularism as adopted by India, Alexandrowics writes, "India as a secular state guarantees constitutionally, freedom of religion to all persons and does not assign a special position to any particular religion." Secularism is a part of the basic structure of the Indian Constitution.

India is a Democratic State.

The preamble declares India to be a Democratic State. The Constitution of India provides for a democratic system. The authority of the government rests upon the sovereignty of the people. The people enjoy equal political rights; Universal Adult Franchise, Right to contest elections, Right to hold public offices, Right to form associations and the Right to criticize and oppose the policies of the government. Freedom of expression and speech, freedom of press and freedom to assemble peaceably, have been guaranteed to all citizens. Right of information forms a part of the freedom of speech and expression. It is on the basis of these rights, that the people participate in the process of politics. They elect their government. For all its acts, the government is responsible before the people. The people can change their government through elections. The government enjoys limited powers. It always acts under the Constitution which represents the supreme will of the people. The representative and responsible character of the government symbolizes the self-rule of the people. People enjoy fundamental rights and freedoms which are granted and guaranteed by their constitution. The supreme Court of India acts as the guardian protector of both the constitution as well as of the fundamental rights enshrined in the Constitution. Elections are held regularly and these are free, fair and impartial.

India is a Republic.

The preamble declares India to be a Republic. Negatively, this means that India is not ruled by a monarch or a nominated head of state. Positively, it means that India has an elected head of state who wields power for a fixed term. Defining a Republic, Madison has observed, "It is a government which derives its powers directly or indirectly from the great body of the people, and is administered by persons holding their office during the pleasure of the people, for limited period or during good behavior." India meets this standard and hence is a Republic.

Objectives of the State

The preamble lists four cardinal objectives which are to be "secured for all its citizens". These are:

Justice. Indian Constitution seeks to secure Justice-social, economic and political, for all the citizens. One of the key ideals of the National liberation movement was to secure a new social order based on socio-economic-political justice. End of foreign rule was to serve as the means to secure justice through self-rule.

Social Justice means the absence of socially privileged classes in the society and no discrimination against any citizen on grounds of caste, creed, colour, religion, sex or place of birth. India accepts the securing of social justice as a goal. It stands for eliminating social exploitation in the name of caste or creed. For this purpose the Constitution grants the Right to Equality to all the citizens, makes untouchability a crime, and grants special protection to the weaker sections of society for securing their equality with others.

Economic Justice means no discrimination between man and man on the basis of income, wealth and economic values. It involves the concept of equitable distribution of wealth, i.e., economic equality, end of monopolistic control over means of production and distribution, decentralization of economic resources, and securing of adequate opportunities to all for earning their livelihoods and a welfare state.

Political Justice means equal, free and fair opportunities for all the people for participation in the political process. It stands for the grant of equal political rights to all the people without any discrimination on the basis of caste, colour, creed, religion, sex or place of birth. The Constitution of India provides for a liberal democratic political system in which all the people have the right to elect their representatives and the right to hold public offices.

Thus Justice-socio-economic and political is a major objective of the constitution.

Liberty. The Preamble declares liberty to be the second cardinal objective to be secured by the Indian State. It lists liberty of thought, expression, belief, faith and worship as the objective to be secured for all the people. The grant of Fundamental Rights (Part III) including the right to freedom is designed to secure this objective. Liberty is the vital necessity for the fullest development of mind of the individual. It is the condition of worth living. Liberty of faith and worship is designed to strengthen the spirit of secularism. Liberty, as such, is another cardinal objective of the constitution. Right to religious freedom is a fundamental right. The Constitution grants and guarantees the liberty of thought, expression, belief, faith and worship.

Equality. Realizing fully the importance of equality and the interrelationship between liberty and equality, the preamble makes equality the third major objective of the Constitution. It has been described in terms of its two variables; (i) Equality of status i.e. natural equality of all persons as equal and free citizens of India enjoying equality before law. (ii) Equality of opportunity i.e. adequate opportunities for all to develop. For securing the equality of status what is needed is equality before law and end of discrimination or restrictions based on grounds of religion, race, sex, colour, creed, caste, residence etc. The Indian Constitution grants and guarantees the fundamental Right of Equality to all.

Fraternity. The Preamble clearly states that another major objective is to promote among all the people-Fraternity a feeling of spiritual and psychological unity. It is designed to secure dignity of the individual and unity and integrity of the nation. Human dignity was regarded as a supreme value in our National Liberation Movement. Freedom struggle was governed by the objective of ending second rate treatment given to the people of India by the British rulers. For this, unity of the Nation was considered essential for fighting the inhuman British rule. The founding fathers of the constitution, therefore, spec-

ified in the Preamble that free India should promote Fraternity assuring human dignity as well as unity and integrity of the nation. The Universal Declaration of Human Rights (1948) declares that. "All human beings are born free and equal in dignity and rights." The Indian Constitution, in its Preamble accepts this as a major objective of state in India.

Thus Justice, Liberty, Equality and Fraternity are the Four Cardinal objectives of the Indian Constitution.

Date of Adoption and Enactment of the Constitution

In its final paragraph the Preamble specifies the important historical fact that the Constitution was adopted on 26 November, 1949. It was on this day that the Constitution received the signatures of the President of the Constituent Assembly and it was declared passed.

Self-made Constitution

The Constitution of India is an adopted, enacted and self-made constitution. It was adopted and enacted by the Constituent Assembly as the elected representative body acting on behalf of the people of India.

Evaluation of the Preamble. Some critics argue that the Indian Constitution is not an adopted and self constitution because it was never put before the people for an approval (Referendum). This logic of the critics is, however, rejected by most of the constitutional experts on the ground that the Constituent Assembly was fully representative of Indian public opinion and adoption and enactment of the constitution by it meant its adoption by the people. Adoption in a referendum is not an essential condition of constitution-making. Even the American constitution was not submitted to a popular referendum. As such the Constitution of India fully qualifies to be accepted as a self-made, adopted and enacted constitution of the people of India.

Summing up the features of the Preamble, former chief Justice of India, Sh.P.B. Gajendragadkar once observed, "It would, I think, be fairly accurate to say that the basic philosophy of the Constitution of India is to be found, in essence in the preamble itself. India is one country, and there is only one citizenship in India. India is committed to the ideal of the welfare state and must establish socio-economic justice. India is committed to democracy and respects individual liberty and India wants to give to all its citizens equality of status and opportunity, thereby attempting to create a mighty brotherhood of Indian citizens which would assist the Sovereign Democratic Republic (Plus Socialist and Secular) of India in reaching its proclaimed objectives. That, in substance, is the message of the Preamble."

The Preamble states the philosophical foundations of the Constitution of India and enumerates its objectives. In the words of C.J. Hidayatullah, "Preamble resembles the Declaration of Independence of the United States of America, but is really more than a declaration. It is the soul of our constitution and lays down the pattern of our political society which it states is Sovereign Democratic, Republic. It contains a solemn resolve which nothing but a revolution can after.

Conclusion

The Preamble is in fact, a key to the interpretation of the Constitution. It is a part of the Basic Structure of the Constitution in so far as it states the philosophy, the ideals and the objectives of the Constitution. It is through its Preamble that the constitution of India commits itself to a social revolution. The Preamble states the values which the constitution is committed to secure.

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