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Implications And Relevance Of Secularism In India: An Analysis

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Abstract

The present paper throws light on the relevance and significance of Secularism in India. It emphasise the fact that constitutionally , India is a secular country which has no state religion. Secularism ensures that all citizens are governed equally without any religious bias. Secularism in India is important not only to provide peace and harmony within the country but also to provide a better and safer society for all.

Keywords : Sovereign, Secular, Article, Amendment, Preamble, Constitution

Introduction

“We, THE PEOPLE OF INDIA, having solemnly resolved to constitute India to a SOVEREIGN SOCIALIST SECULAR DEMOCRATIC REPUBLIC and to secure to all its citizens¹.....

These words mark the beginning of the world’s lengthiest constitution, officially known as the Constitution of India the Constitution was enacted on the 26th January 1950. At that time, the word “Secular” was not present in the preamble. It was only in 1976 that the word “Secular” was added along with several of the additions through the 42nd Constitutional Amendment Act² in 1976.

Meaning of Secularism

In the Webster’s Dictionary, the word secular is described as a ‘view of life, or any particular matter based on the premise that religious considerations should be ignored or purposefully excluded or as a system of social ethics. It is the rational approach to life and it refuses to give plea for religion³.

Secularism means that the State shall observe an attitude of neutrality and impartiality towards all religions. In a secular state, there is no official or state religion⁴. Thus, India guarantees freedom of religion, caste, sex, creed further, Right of freedom or religion has been ensured to all citizens through the constitution.

Constitutional Aspects of Secularism

The preamble to the Constitution from its inception proclaimed that its purpose is to secure to all its citizens Liberty of thought, expression, belief, faith and worship. The preamble does not control the meaning of the provision of the constitution. The word secular used in the preamble cannot override the clean provisions of Articles 25 to 30. The Supreme Court has stated that while Articles 25 and 26 granted religious freedom to minority religions like Islam, Christianity etc. they do not intend to deny the same guarantee to the Hindus⁵.

Several Articles of the Constitution traced the secularistic aspects.

1. Article 25(1)

Article 25 enacts that all persons are equally entitled to freedom of conscience and the right freely to profess, practice and propagate religion. Religious conversion cannot be done forcefully as it is punishable offence⁶. All religions are considered equal. People enjoy religious freedom. They can adopt or refrain from adopting any religion⁷.

2. Article 26

Every religious denomination of any section has the right.

- To establish and maintain institutions for religious and charitable purposes. • To manage its own affairs in matters of religion.
- To own and acquire movable and immovable property.
- To administer such property in accordance with law⁸.

3. Article 27

Article 27 provides an additional protection to religious activity by exempting funds appropriated towards the promotion or maintenance of any particular religion from the payment of taxes⁹.

4. Article 28

Freedom as to attendance at religious instruction or religious worship in certain educational institutions. No religious instruction shall be provided in any educational institution wholly maintained out of state funds¹⁰.

5. Article 29

Article 29 guarantees protection of interests of minorities.

Any section of the citizens residing in the territory of India or any part there of having a distinct language, script or culture of its own shall have the right to conserve the same. No citizen shall be denied admission into any educational institution maintained by the state or receiving aid out of state funds on grounds only of religion, race, caste, language or any of them¹¹.

Implications of Secularism in Light notable case laws in recent times.

1. Subramanin Swamy v. State of Tamil Nadu

The Supreme Court held that if the management of a temple is taken over by the state to remedy an evil. The management must be handed over to the person concerned immediately after the evil stands remedied. Taking over of the management must be for a limited period. Suppression of rights of administration cannot be of a permanent enduring nature. It can only be a temporary measure.

2. Rev. Stainslaus v State of Madhya Pradesh

It was canvassed before the Supreme Court that the right to propagate includes the right to convert. The contention was rejected¹². The MP and Orissa governments had passed legislation making it a penal offence to convert a person by means of force, fraud or allurement. Stainislaus, a missionary, challenged the validity of these acts and submitted that the Acts infringed his rights under Articles 25 and 26. The Supreme Court rejected his plea. The Court said that freedom of practice means one's right to worship in private or public. It also conveyed that the right to propagate one's religion gives one the right to convey his/her religious beliefs to another individual but not to convert a person to one's religion.

3. S.R. Bommai. V. Union of India

A none-judge bench of the Supreme Court declared that the concept of Secularism to basic feature of the constitution¹³. In this case, Supreme Court took a land mark decision, where the court discussed at length provisions of Article 356 of the Constitution of India and related issues. This case had huge impact on centre – state relations. The court observed that “Religious tolerance and equal treatment of all religious groups and protection of their life and property and other places of their worship are an essential part of Secularism enshrined in our Constituion¹⁴.”

4. Kesavananda Bharati.v. State of Kerala

In 24April 1973, in the Kesavananda Bharati v. State of Kerala judgment, the Supreme Court outlined that secularism is the basic structure doctrine of the Constitution¹⁵. The Court asserted its right to strike down amendments to the Constitution that were in Violation of the fundamental doctrines of the constitution Supremacy of the Constitution had been held to be a part of the basic structure and therefore it cannot be abrogated or destroyed by the constitutional amendments¹⁶.

Relevance of Secularism in India

Religious plurality in India make Secularism very important to be present in India. The unity and fraternity of the people of India, professing numerous faiths, has been sought to be achieved by enshrining the ideal of a ‘Secular State’, which means that the state protect all religions equally and does not itself uphold to any religion as the state religion. The question of Secularism is not one of Sentiments, but one of law¹⁷.

Secularism is an ideology to resort to pluralism to keep itself integrated. Secularistic ideology tries to keep the nation united on non religious fronts like financial development, better education etc.

Nowadays, the development of Hindutva ideology as a significant counter ideology has functioned as a trigger for the intensification of Secularism discussion in India.

The debate over the adoption of a Uniform Civil Code is exemplified by the contradiction between two constitutional rights. On one hand, the right to equality and non-discrimination is guaranteed under Article 25 and Article 28.

Enacting a Uniform Civil Code (Article 44) is only a directive Principle of State Policy and is not binding on the state. However, equality and multiculturalism are the rights given to the citizens and are justifiable. It is within Article 44 of the constitution that one needs to study the statements by the Supreme Court that suggests

the enactment of Uniform Civil Code.

Conclusion

One of the dimensions of the democracy can be called secularism because it essentially implies the extension of democratic principles of liberation and individualism in the realm of religion. D E Smith in his book India as a secular state defines the secular state as the state which guarantees individual and corporate freedom of religion deals with individuals as a citizen irrespective of his religion, is not constitutionally connected to a particular religion nor does it seek either to promote or interfere with the religion¹⁸

According to JawaharLal Nehru, secular state should be taken into mean a state where there is freedom of religion and conscience including freedom for those who may have no religion. Article 15 prohibits not only the state but also the private individuals from making discrimination on any of the aforesaid grounds the word secular appears only in the Preamble though secularism pervades the constitutional provisions. Secularism is at once an ideal and an inspiration, a goal as well process. It is made of aggregation rather than segregation of synthesis rather than separation of pluralism rather than dominance.¹⁹

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