



RIGHT TO LIFE IS CONSTITUTIONAL PROVISIONS FOR THE BASIC NECESSITIES TO SCHEDULED TRIBES

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ABSTRACT

In Indian Constitution specified the preamble, fundamental rights, and more explicit laid down the Directive Principles of State Policy to welfare for weaker section in the society. The important role of Judiciary and monitoring body of National and State level Commissions to protect the interest of the Scheduled Tribes in India. It also provides the basic necessities right to citizen of India i.e., Right to life and Personal Liberty which as specified under articles 21 of the Indian constitution. The Right to life is constitutional provision for the basic necessities right for all round development of Scheduled Tribes in the society.

According to Article 21, every Citizen of India is entitled to personal liberty except through the procedure prescribed by law but, procedure should not be unjust, unfair and unreasonable. This article assures every Citizen including scheduled tribes are free from exploitation, and protect their right to life. It ensure by state with under obligation of constitutional Norms to protect from the violation of fundamental right of any individual or especially from the scheduled tribes of the society. At present under the mask of Liberalization, Privatization and Globalization, the Welfare State is escaping from its responsibility to protection of Scheduled Tribes. The present research paper discussed the Right to life and Personal Liberty which as specified under articles 21 and there basic necessities rights for protections to the scheduled tribes particularly Indian constitution provisions.

Keyword: *Right to life, Right to Liberty, Basic necessities, Social Justice, Economic Justice.*

Introduction

Articles' 21 say that "No person shall be deprived of his life or personal liberty except according to procedure established by law". "According to Bhagwati, J., Articles 21embodies a Constitutional value of supreme importance in a democratic Society". Similarly, Iyer,J.,has Characterized articles 21 as "the procedural magna Carta protective of life and liberty"¹. This right has been held to be the heart of the Constitution, the most organic and progressive

provision in our living Constitution and the foundation of laws. Articles 21 can only be claimed only when before a person is deprived of his life or personal liberty by the state as defined in article 12, and violation of the right by private individual is not within the preview of articles 21².

Article 21 secures two rights namely “Right to life” and “Personal liberty” to all persons against the executive and legislative actions. But under this articles a personal life and personal liberty can be deprived through the procedure prescribed by law but, procedure should not be unjust, unfair and unreasonable.

In several Cases, the Supreme Court of India has interpreted the word “right to life and personal liberty. In the first time, the Supreme Court in A.K. Goplan v. Union of India³, interpreted the term personal liberty and observed that, the word ‘personal liberty was confined only to freedom from arrest, detention of physical liberty was confined only to freedom from arrest, detention of physical restraint. It also observed that, the term personal liberty Confined or limited to freedom from punitive and preventive detention.

Against the question of interpreting the word “personal liberty” Came up before the Supreme Court held that, the domiciliary visits of the policemen were an invasion on the petitioner’s personal liberty and an unauthorized intrusion into a person home and the disturbance caused to him is the violation of the personal liberty of the individual. Therefore, the police regulation authorizing visits was plainly violation of articles 21 as there was no law on which it could be justified and it must be struck down as unconstitutional⁴.

Again, the Supreme Court interpreted the term right to life in Sunil Batra v. Delhi Administration⁵ the Supreme Court reiterated with the approval the above observation and held that the right to life included the right to lead a healthy life so as to enjoy all faculties of the human body in their prime Conditions. It would even include the right to protection of a person’s tradition, Culture, heritage and all gives meaning to a man’s life. It includes the right to live in peace, to sleep in peace and the right to repose and health.

Right to life is constitutional provisions for the basic necessities to Scheduled tribes.

Articles 21 secured the right to life which has been used in a diverse manner .The court held that the declaring right to life included the “finer graces of human civilization”⁶, and virtually rendered this fundamental right repository of various human rights. It implies that the various rights has been included and recognized as Constitutional rights.

(I) Right to livelihood.



In articles 21 of the Constitution of India guarantees the most fundamental rights including the Right to life. In order, the fundamental right on which the Super Structures of other rights are built. The defining of the word life is a broad and expansive manner in the article 21 of the Indian constitution.

The court came to hold that the right to life included the right to livelihood is guaranteed by articles 21 of the Indian constitution⁷. Finally, the Supreme Court has ruled out that the word life in articles 21 includes the right to livelihood. The court also said that it does not means merely that life cannot be taken away or extinguished, for instance the imposition and execution of death sentence except to procedure established by law and it is one aspect of the right to life⁸.

In fact, the right to livelihood is an equally most important for human beings because the every human beings cannot survive without the means of livelihood. In order, the right to livelihood is not considered or treated as part of the constitutional right to life then it is easiest ways of depriving a person of his right to life, and it means that to deprive of his livelihood. In view of the fact that articles 39(a) and 41, the state need to secure the Citizens adequate right to livelihood from the Content of the right to life. In articles 21 does not embargo on the deprivation of life or personal liberty and matter on right to livelihood.

The Same view was taken by the Supreme Court and while rendering decision, the Court held that right to life includes right to livelihood. Therefore, the right to livelihood cannot hang on to the fancies of individuals in authority⁹. In LIC of India v.Consumer Education& Research Center¹⁰ it has been held after interpretation of “right to life and extend right to livelihood. In the case the court held that right to life under articles 21 does protect livelihood. But it’s added a rider that deprivation cannot be extended too far or projected or stretched to the avocation, business or trade injurious to public interest or has insidious effect on public moral or public order. The court held that regulation of video games or prohibition of some video games of pure chance or mixed chance and skill are not violative of articles 21 or nor is the procedure unreasonable, unfair, or unjust¹¹.

Similarly, the denial of right of succession to women of scheduled Tribes amount to deprivation of their right to livelihood under articles 21 of the constitution¹². Deprivation of livelihood must be through procedure prescribed by law which must be fair, just and reasonable and large interest of people, than the deprivation of right to livelihood under articles 21 is unsustainable.

In Chameli Sing v. State of Uttar Pradesh¹³, the Supreme Court was held that when the land of a landowner even though adversely affected, his right to livelihood is not violated. The court opined that, the state acquires land in exercise of its power of eminent domain for a public purpose. The landowner is paid Compensation in lieu of land, and therefore, the plea

of deprivation of right to livelihood under Art.21 is unsustainable. If anyone who try to deprived of right to livelihood without a just and fair procedure which was established by law than it can challenge in court under articles 21 of Indian constitution.

The same view was reflected while delivering the judgment and court was held that that the right to live as mentioned in article 21 includes right to livelihood¹⁴. It said that the right is not denied to a person who is already carrying on a profession of a medical practitioner or who is not permitted to simultaneously practice law.

Whereas the similar view has been taken in the case of Narendrav.state of Haryana¹⁵ court held that the articles 21 guarantees to all persons residing in India and right to lead dignified life which would include right to get adequate livelihood and work. No procedural law can deprive them of this right, unless such a law is enacted by competent legislature. It is not violative of any other fundamental rights especially articles 14 and 19(1) (g) of the Constitution of India.

In articles 21, 14, and 19 must be treated as a trinity of rights projecting a golden triangle. It is ensuring a healthy and effective life to all the residents in India including its citizens. However, right to livelihood under articles 21 cannot be interpreted so widely as to include within its ambit all sorts of claims relating to legal or contractual right of parties¹⁶.

(II) **Right to live with human Dignity.**

Thus it was held that the right to “live” is not merely confined to physical existence, but it includes within its ambit the right to live with human dignity¹⁷. Elaborating the same view, the court observed that the right to live is not restricted to mere animal existence; it means something’s more than just physical survival. The right to “live” is not confined to the Protection of any faculty or limb through which life is enjoyed or the soul Communicates with the outsidess world. It also includes that the right to live with human dignity”, and all that goes along with it. But namely, the bare necessities of life Such as the ourselves, in diverse forms, freely moving about and mixing and commingling with fellow human being¹⁸.

Even the scheduled tribes has right to live with human dignity. The court held that denial of electricity supply would be violative of right to life under articles 21 of the constitution of India¹⁹. Similarly, in the cases the supreme court held that non-payment of minimum wages to the workers employed in various Asiad Project in Delhi was a denial to them of their right to live with basic human dignity and violative of article 21 of the constitution²⁰.

In the various cases which came up before the Supreme Court was held that imprisonment of a poor person for no-payment of debts amounted to deprivation of his personal liberty²¹. The State of Andhra Pradesh Government was empowered to prohibit the contest as objectionable performance under section 3 of the Andhra Pradesh Objectionable

performance prohibition Act, 1956. It was grossly indecent scurrilous or absence or intended for blackmailing. It was held that right to live includes right to live with human dignity or decency. Therefore, holding of beauty contest is repugnant to dignity or decency of women and offends Art.21 of the Constitution”²².

Similarly, the another cases was the supreme court struck down a provision of Bombay Civil Service Rule, 1959, which as provided for payment of only a nominal subsistence allowance of Rs.1 per month to a suspended Government servant upon his conviction during the pendency of his appeals as unconstitutional on the ground that it was violative of articles 21 of the constitution”²³.

(III) Right against Sexual Harassment at workplace.

In the context the court was observed that the meaning and content of fundamental rights guaranteed in the constitution of India are of sufficient amplitude to encompass all facets of gender equality including prevention of Sexual harassment or abuse”²⁴. The sexual harassment of women has been held that the Supreme Court to be violative of the most cherished of the fundamental rights and the right to life contained in article 21 constitution of India.

In Vishakhav.State of Rajasthan”²⁵ ,the Supreme Court has declared that the sexual harassment in the workplace is a amounting to violation of right of gender equality and right to life and liberty which is clear violation of articles 14, 15 and 21 of the constitution. In order the Sexual harassment also violates the victim’s fundamental right under Articles 19(1) (g) to practice any profession or to carry out any occupation, trade or business.

Thus, article 32 is attracted”²⁶. The Supreme Court has itself laid down under articles 32 some directions for prevention of such harassment, in case of absence of any domestic law relating to sexual harassment in India. These directions are binding and enforceable and it required to be strictly observed in all work places until suitable legislation is enacted to occupy the field”²⁷.Therefore, the fundamental rights may be expanded by the Supreme Court so as to bring within their scope even government, Non-government organization and private parties.

(IV) Right against Rape.

The Right to life and the right to live with human dignity are two basics rights in India which have been guaranteed by a constitutional provision, and which has received the widest possible interpretation. Under articles 21 of the Constitutions many rights have been found i: e., right against rape. The rape has been held to Violation of a person’s fundamental guaranteed under article 21 of the Indian constitution. The “Right to life” means “the Right to

live with human dignity” .In other word that Right to life would, therefore, include the all aspect of life and make to life meaningful, complete and worth living²⁸.

The Supreme Court held that rape is thus not only a crime against women but it is crime against the entire society. The woman belongs to a class or group of society who are disadvantaged position on account of several social barriers and impediments but unfortunately they cannot enjoy equal status.

The women also have the right to life, and right to liberty it means that the right to be respected and reacted as equal citizens. The court has observed that the Rape is a crime not only against the person of a woman but it is a crime against the entire society. Therefore the rape is most hated crime and such as crime violated against basic human rights .But it also violative of the victim’s most cherished of the fundamental rights, namely, the right to life which includes right to live with human dignity contained in article 21²⁹.

The court also expressed the serious concern about the increase of serious crime against women in recent time. It was observed by the court that the defects in the present system are complaints handled roughly and not given very much attention. Sometime the victim more very often humiliated by police and found invariable bad experience in rape trials. It also experience by way of giving evidence in the tribunal court which has been negative and destructive because the victims considered that ordeal to be worse than rape itself. Undoubtedly, the court proceeding added, and it prolonged the psychological stress and suffer as a result of the rape itself³⁰.

(V) Right to Reputation.

The Reputation is an important part of human life, and it is of the finer graces of human civilization that makes life worth living. The supreme court held that reputation is an element of personal Security and is protected by the Constitution equally with the right to enjoyment of life, liberty and property enshrined in articles 21 of the constitution³¹.

(VI) Right to Shelter.

The articles 21 of the Indian Constitution make the right to Shelter is meaningful to the poor and state has to provide better facilities and opportunities to build houses. The court held that right to shelter to be a fundamental right which spring form the right to residence secured in articles 19(1)(e) and the right to life guaranteed by articles 21 of the constitution³².

While another cases upholding the importance of the right to decent environment and a reasonable accommodation. It was held that the right to life would take within it sweep and

the right to food, the right to clothing, the right to decent environment, and a reasonable accommodation to live. The difference between the need of an animal and a human being for provide shelter has to be kept point of view. The animal it is the bare protection of the body and for a human being it has to be suitable accommodation. Which had opportunities to grow in every aspect of physical, mental and intellectually and spiritually³³.

The Right to shelter is a fundamental right available to every citizen and article 21 of the Constitution as encompassing within its ambit, that the right to shelter make the right to life more meaningful. The court observed that any organized society, and the right to live as a human being is not ensured by meeting only the animal's needs of man. The right to live guaranteed in any civilized society. It implies the right to food, water decent environment, education, medical care and shelter which as all basic human rights know to any civilized society.

The civil, political, social and cultural rights enshrined in the Universal Declaration of Human Rights, Convention and under the constitution of India. It cannot be exercised without the basic human rights. But the shelter for human being and it is not a mere protection of his life and limbs. Every human being have suitable home, which had opportunities to grow physically, mentally, intellectually and spiritually.

Therefore, the Right to shelter includes adequate living peace, safe structure, clean surrounding, sufficient light, pure air, clean water, electricity, sanitation and other civic amenities like road etc. In order the right to shelter does not means a mere a right to a roof over one's head and right to the entire infrastructure necessary to enable them to live and develop as a human beings.

In point of view that right to shelter, the mandate of the constitution and the obligation under the Universal Declaration of Human Right. It was held that it is the duty of the state to provide housing facilities to Dalits and Tribes, to enable them to come into the mainstream of national life³⁴. The right to shelter is widely interpreted that, shelter is an aspect of right to life and it is duty born to state to provide the better r facilities and opportunities to the pavement dwellers for the erection of shelter over the heads to make the right to life meaningful and effective.

The court observed that No person has a right to encroach, and prevent the structure or otherwise on footpaths, public streets of any other place reserved for public purpose. It is a constitutional mandate to obligation of the state to provide the necessary facilities to them to carry on their business for their livelihood.

The court concluded that, the state removing of pavement dwellers from footpaths of public streets, without provide necessary facilities than it would be violation of the right to life under articles 21 of the constitution³⁵.

(VII) . Right to Social Security and Protection of family.

The right to life guaranteed in article 21 of the constitution of India and it is not merely a fundamental right; but it is a basic human right. Although right to life is basic and most fundamental of all the other rights, and the term of life has not been defined in the constitution. Right to social security and protection of family main aim is to promote individual welfare as well as Social welfare.

The Right to life covers within its ambit the right to social security and protection of family, and it turn to judiciary for its interpretation. The court observes that the right to social and right to economic justice is a fundamental right under article 21 of the constitution. The socio-economic right as basic aspirations for meaning right to life, and the right to social security and protections of family were integral part of right to life³⁶.

Similarly, it is also the duty to state is bound to protect the life and liberty of every citizen and it fails to do so, it will fail to perform its Constitutional as well as Statutory Obligations³⁷. The Court held that right to economic empowerment of poor, disadvantaged and oppressed dalits was a fundamental right to make their right of life and dignity of person meaningful³⁸.

In order the right to social security and protection of family integral part of human life and the security against sickness and disablement was fundamental right under articles 21 read with articles 39(e) of the constitution³⁹.It was further held that right to life and right to livelihood as a meaningful life, social security and disablement benefits are integral scheme of soci-economic justice to the peoples, middle class, lower middle class and all affordable peoples included right to life insurance policies of LIC of India, but that it must be within the paying capacity and means of the insured⁴⁰.

(VIII) Right to Health.

The Right to health included the right to live in a clean, hygienic and safe environment is a basic rights flowing from article 21 of the Constitution.

The right to life guaranteed under article21 includes within the ambit the right to health. The right to health is an integral part to right to life and the government has Constitutional obligation to provide the health facilities. Consequently, the state has also to bear the expenses for the government servant's treatment in service or after retirement from

service⁴¹. It also emphasized that a healthy body is the foundation of all human activities⁴². It lays down the note on improvement of public health as one of primary duties of state under articles 47 of directive Principle of State Policy of Indian Constitution.

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n the aspect of right to live with human dignity requires to state to provide better facilities and opportunities to reach at least minimum Standard of health, economic security and civilized living. The right to healthy is a fundamental right under articles 21 of the constitution as it is essential for making the life of the workman meaningful and purposeful with dignity of person. Right to life in article 21 includes protection of the health and strength of the worker. The expression of life in articles 21 and it does not mere animal's existence. The right to health includes right to livelihood, better standard of life, hygienic condition in workplace and leisure⁴³.

Another matter of Supreme Court held that right to health is a fundamental right of the workmen. The right is not available against the state and its instrumentalities but even private industries to ensure to the workmen to provide facilities and opportunities for health and vigour of the workman assured in the provision of part IV of the constitution which are integral part of right to equality under article 14 and right to invigorated life under article 21 which have fundamental rights to the workmen⁴⁴.

(IX) Right to Medical Care.

It was stated under articles 21 of the constitution that right to Medical care is a fundamental right and it is essential for making the life of human beings for meaningful and effective with the dignity of person. Sometime, the doctor are denial to provide the medical aide to an injured person in a government hospital on the ground of non availabilities of beds or legal formalities is amounted to be violation of right to life under articles 21 of the constitution .

It is duty of professional obligation of all doctors whether government or private sector to extend the medical aid to the injured persons immediately and to preserve life without waiting of legal formalities to be complied with by the police under Criminal Procedure Code. Article 21 of the Constitution casts the obligation on the state to preserve life. In other word, there was no law or state action can intervene to delay the discharge of this paramount obligation of the members of the medical profession.

The medical Council must send copies of this judgment to every medical collage affiliated to it⁴⁵. In another cases the Supreme Court further developed the right to emergency treatment, and preservation of human life is of paramount important. Failure on the part of a government hospital to provide timely medical treatment to a person in need of such treatment result in violation of his right to life guaranteed under articles 21 of the Constitution⁴⁶.

The primary duty of the welfare state to secure and providing medical facilities for the peoples is a constitutional mandate, because articles 21 impose an obligation on the state to provide constitutional safeguard rights i: e the right to life of every person. It has been reiterated, time and again, that there should be no impediment to providing emergency medical care. Every hospital is duty bound to accept accident victims and patients who are in critical condition.

But it cannot refuse treatment on the ground that the victim is not in a position to pay the fee or meet the expense⁴⁷. It is constitutional obligation to provide adequate medical services to peoples on account of financial Constraints.

(X) Right to get Pollution free water and Air.

The tribal peoples those who are living in mining area or any other area Because the constitution specified that right to live is fundamental right under articles 21 which includes ht right of enjoyment of pollution free water an air for full enjoyment of life .

If anything endangers or impairs that quality of life in violation derogation of laws than citizen including tribal propels has right to have recourse to under articles 32 of the constitution for removing the pollution of water or air which may be detrimental to the quality of life. It was held that enjoyment of pollution free from water and air which is included in the right to live under articles 21 of the Constitution⁴⁸.

(XI) Right to Clean Environment.

The Right Life is specified under Article 21 of the Constitution means a life of dignity to live in a proper environment free from dangers of diseases and infection. While maintenance of health, preservation of the sanitation and environment have been fall within the purview of articles 21, and it not adversely affects the life of citizen including scheduled tribes those who are reside in the mining area.

It is the Constitutional obligation of the government to protection and improvement of environment has been including in right to life under articles 21⁴⁹ and with referring to articles 47,48A and 51(g)⁵⁰.

The common Properties such as rivers; seashores, forests and the air were belonging to the government trusteeship for the free and unimpeded use of the general Public rather than permit to use for their private ownership or commercial purpose. It was held that the state government was committed breach of public trust by leasing the ecologically fragile land to the Motel Management⁵¹. The most important disturbance of the basic environment elements, namely air, water and Soil, which are necessary for “life”, would be hazardous to

“life” within the meaning of articles 21 of the constitution”⁵². So, the state cannot be destroyed the environment in the name of Urban development or any other project which as affected to tribal peoples or environment. Another landmark judgment was passed by the court held that it is an Constitutional Obligation of the government to protect and preserve the environment under articles 21 and articles 51A,⁵³”

(XII) Right against Noise Pollution.

Articles 21 of the Constitution guarantees life and personal liberty to all persons includes with it also guarantees right to persons to life with human dignity. However, in articles 21 that every persons has the right to live with a noise free atmosphere and which as cannot be defeated by exercise of right under articles 19 (1) (a) of the constitution”⁵⁴ The human life has charm and all the aspects of life which make the person’s life meaningful, complete and worth living.

Anyone who wishes to live in peace, comfort, and quiet within his house has a right to prevent the noise as pollutant reaching him. Nobody can claim a right to create noise by amplifying the sound of speech with the help of loudspeakers. No one can be compelled to listen or right to claim to trespass into aural aggression.

In order to violating the right of others to a peaceful, comfortable and pollution free life guaranteed by articles 21. Therefore, the articles 19 (1) (a) cannot be used to defeat the fundamental right guaranteed by articles 21.

(XIII) Right to know Included in right to live.

Right to know is basic rights of the Citizens including scheduled tribe are free country aspires in the broader horizon of the right to live under articles 21 of the constitution. Similarly, the holding right to life has reached new dimensions and it urgency to puts a greater responsibility those who take up the responsibility to inform. The court held that peoples at large have a right to know in order to be able to take part in a participatory development in the industrial live and democracy”⁵⁵. There is a strong link between articles 21 and right to know where secret Government decisions may affect health and livelihood”⁵⁶.

Conclusion.

The position of Scheduled tribes in India is said to be vulnerable. The ancient period the tribal people were isolated from the society and no specialties have been extended to them. Since the commencement of India has brought remarkable change in the lives of Scheduled

tribes in India. It provided social equality, economic upliftment and political Empowerment for welfare tribal people in India.

The commencement of the Indian Constitution abolishes kind of discrimination among the person and all are equal in eye of law which in terms has brought remarkable change in the lives Scheduled tribes in India. In Part III specified the fundamental rights and part IV available directive principal of state policy to provided social equality, economic equality political justice for development of these tribal people. Moreover the implementing agencies especially are there in India with notable successes in monitoring the protection of the Scheduled tribes.

The Scheduled tribes should provided protective measures in such a way that the many fold gaps be filled up Modern education and mass awareness to abolish all kind of discriminatory practices from the society so that human rights of this class be regarded and protected at all level.

Note

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