

**RIGHT TO WORK IN INDIA: CONSTITUTIONAL ASPECT AND
APPLICABILITY IN CURRENT TIMES**- Prateek¹**ABSTRACT**

Our Constitution provides various fundamental rights to the citizens of this country, one such right is the Right to Work. Although it is not expressly provided in the Indian Constitution, the interpretation of Article 21 also includes this right under its purview. Work is one of the basic elements of one's life and one needs to earn a living to live. So, this Article is an initiative to make people aware of this right and to describe this right from every corner. It also talks about the enforcement of this right in this situation of the pandemic.

KEYWORDS

Right to Life, Fundamental Rights, DPSP, COVID-19

INTRODUCTION

Recently a piece of news came in April 2020 which became a matter of concern for many. The news was that "Only 30 lakh workers found job under MGNREGA scheme in April."² That was around 82% lower than the previous year when around 1.7 crore workers got employed under this scheme. This news started a new controversy on the "right to work" and many scholars expressed their views regarding this topic.

Work is an essential part of everyone's life and one must earn a living to be able to live. The 'right to work' hence is the most essential element of life to be able to live and to fulfil the necessities of life i.e., food, shelter, and clothes.

Article 23 of the Universal Declaration of Human Rights and Article 6 of the International Covenant on Economic, Social, and Cultural Rights recognizes the right to work which shows that due importance is given to this right at the international level.

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²<https://www.thehindu.com/news/national/coronavirus-lockdown-only-30-lakh-found-mgnrega-work-in-april/article31467548.ece>

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One question that arises here is whether this right to work is constitutionally protected in our country or not.

RIGHT TO WORK AND THE CONSTITUTION OF INDIA

The Indian Constitution does not explicitly mention the Right to work as a fundamental right and it is placed in Part IV of the Indian Constitution (Directive Principles of State Policy) under Article 41 which makes it the state's responsibility to ensure that all citizens have the right to an adequate means of livelihood. As we know that DPSPs are not enforceable in the court of law but, this is not true in the case of Article 41, this DPSP is partially enforceable in the court of law. This is somewhat different and through judicial interpretation, it is recognized under the wide ambit of Article 21 that is "Right to Life" which makes it enforceable in the court of law. Supreme Court in the case of *Olga Tellis and Ors. V. Bombay Municipal Corporation and Ors* (popularly known as *payment dweller's case*) recognized "Right to Work" as a fundamental right under the interpretation of the Right to life which not only means right to live but to live with dignity, liberty, and not merely as an animal and this was held in the cases of *Maneka Gandhi v. Union of India* and *D.K. Yadav v. J.M.A. Industries*. The Court, in this case, held that, which makes life possible to live, must be treated as an integral component of the right to life and if there is an obligation upon the State to secure the citizens an adequate means of livelihood and the right to work, it would be sheer pedantry to exclude the right to livelihood from the content of the right to life.

In the case of *State of Uttar Pradesh V. Charan Singh*, the Supreme Court held the State of UP liable for its unreasonable and arbitrary action of terminating the job of the respondent and depriving him of his livelihood for a long time.

Hence, we can say that in India, the "Right to Work" is an outcome of both DPSP (through the Constitution of India) and fundamental rights (through judicial interpretations).

However, the Supreme Court in *Delhi Development Horticulture Employees' Union v. Delhi Administration* held that although Article 21 also includes Right to Livelihood in its broader ambit but has so far not found it feasible to incorporate the Right to Livelihood as a fundamental right in Constitution.

This is because our country has not attained the capacity to guarantee it so far, and not because it is considered any less fundamental to life. Therefore, it is expressly placed under the heading of Directive Principles of State Policy in the Constitution and makes it the duty of the state to provide a livelihood to its citizens "within the limits of its economic capacity

and development". Thus, it is seen that the right to employment in India has got the jurisprudential interpretation under various provisions of the Constitution and emerged to be a right though it remains subject to the economic capacity and development of the State.

RIGHT TO WORK V. RIGHT TO DEMAND EMPLOYMENT FROM THE GOVERNMENT

It should be understood that this right does not make the state liable for not providing adequate means of livelihood or employment to the citizens. This right only states that no one should be deprived of his right to livelihood by unreasonable means. In other words, one cannot sue the state for not providing him employment because it is DPSP and not the fundamental rights which make it the duty of the state to provide adequate means of livelihood to all the citizens of the country and DPSP are not enforceable in the Court of Law. So in simple language, if one is deprived of his/her means of livelihood by unreasonable means then only he/she can approach the Court of law.

CRITICAL ANALYSIS OF RIGHT TO WORK IN CURRENT TIMES

In today's scenario when the whole world is trying to combat the present situation of COVID-19 and almost all the nations have called for the lockdown, it is the moral duty of the state to provide its citizens with the necessities of life and also Article 37 of the Constitution provides that the directive principles of the state policy, though not enforceable by any court, are nevertheless fundamental in the governance of the country.

But, we also know that this thing is not possible in this drastic situation because almost all the economic activities have been stopped due to lockdown and the state is not in a position to provide adequate means of livelihood to its citizens and because of this only 30 lakh workers found job under MGNREGA scheme in April. The MGNREGA scheme was initiated to enhance livelihood securities by providing at least 100 days of guaranteed employment in a year to the citizens and it was an initiative of the central government taken for fulfilling its duty provided under Article 41 of the Constitution of India, but this does not mean that an individual can make the state liable for not providing him the work in this current situation because it is just a moral duty of the state to obey DPSP while making the policies and the state is also not taking the Right of Livelihood of its citizen by using an unreasonable mean.

The state is also trying to combat this present situation by providing its citizens some necessities in the form of money and food. The government has also launched schemes like Pradhan Mantri Garib Kalyan Yojana to provide necessities to the poor and the most

vulnerable section of the society which shows that the government of this nation is concerned about its citizen.

CONCLUSION

The Constitution of India is founded on the concept of Justice, Equality, Fraternity, and Liberty and incorporates the principles of modern socialism. The primary objective of socialism is to offer food and maintenance of a minimum standard of life. It is expected that this will abridge the gap between the haves and have not-s. And this creates a duty of the state to provide two square meals a day and a minimum standard of living to its citizens although which is not enforceable in the court of law, but plays a vital role in the development of the state because the development of a state depends upon the development of its citizens and if the citizens are not in a position to satisfy their basic needs then one could not even think about the development of the state.

So, we can conclude that it is the moral duty of the state to provide its citizens with some means of livelihood, but declaring this as a right of the citizens is not possible as per the current status of our country because although the judiciary through judicial interpretations has included it in the wide ambit of Article 21 that whoever being deprived of his means of livelihood can approach the court but, declaring Right to work as a full-fledged right (means one can approach the court if he/she is not provided any sort of work) is not possible for a country like India which is burdened with a huge population and have only limited resources. Maybe in the future, this right will be treated as a full-fledged right under the Indian Constitution but till then it depends on the discretion of the state.