
INTERNATIONAL JOURNAL OF ADVANCED LEGAL RESEARCH

DPSP VIS A VIS FUNDAMENTAL RIGHTS- Adithya GD¹**ABSTRACT**

The part 3 and part 4 of our constitution consists of fundamental rights and DPSP which are very much differentiated in terms of their power, enforceability but united by some of the principles because at certain point they both co-exist with each other to bring a good governance for the society they both aim for the equal society and liberty of people if fundamental rights aim for the foster the social revolution by creating a society egalitarian to that extent that all of the citizens would be equally free from coercion or restrictions by the state and DPSP aims in making Indian masses free in positive sense and also if we take up judiciary's view on this they have also opened that both fundamental rights and DPSP have to operate as a complementary to each other the theory of harmonious construction in terms of application for DPSP and fundamental rights was evolved in the case of ***Re-Kerala education bill 1951*** to make sure there is a balance between these two because the Indian constitution is found upon the bedrock of balance between the part 3 and part 4 so giving primary over one another will definitely disturb the harmony and it is must to create a balance. This paper would be analyse how to strike the balance between them and in what way both fundamental rights and DPSP are relatable and also it would examine what would happen if both are implemented equally by not giving primary over one another.

Literature review

- ***“Constitution law of India” authored by PM. Bakshi*** this book at initial stage of research gave me more vivid and descriptive idea about the constitution of India, how it

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evolved over the of time, and also this book gave us the foundation or basis to go through the constitution and by reading this book , I got to know that what is meant by DPSP and fundamental rights, how do they go parallel and with the help of this book only I was able to frame the objectives for the project.

- **“Indian constitutional law “ Authored by MP . Jain ,** was very helpful during the basic level research of my project since this book has every concept crisp and very informative each of the provisions were containing lucid examples which helped greatly for my research and also from this book, I was able to know about the relationship between fundamental rights and DPSP and also the reasons for their criticize and another thing was the main/ key differences between the both of them and also conflict between fundamental rights and DPSP, also how they are implemented about its principles and also many of the case laws.
- **VN Shukla’s “ The constitution of India”** this book gave the initial ideas about the evolution of constitution of India from time to time and also how the policies are adopted by government in regarding these and the main thing is that every provisions has been explained very clearly with relevant case laws which gives us the clear understanding how did the principles evolved from the constitution we can know the intent of framers and in what perspective this constitution was prepared from this book.

CHAPTER 1

INTRODUCTION

The notion of concept of rights in the sense of modernity can be seen from the "1215 Magna carta of Great Britan"²and also there is an opinion among the scholars that the Indians were able to enjoy their rights during the ancient days only , which was mainly attributed to the "Dharma , Sastras" etc , but many also argued that it was just the guiding principle , and renowned scholar

² “Magna Carta, 1215, reprinted in 1 Stat. (Great Brit.) 1 (1225)”

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"ALTEKAR" told that these ancient rights instead of expressing the rights of the people they expressed that how a state should function and from this function the rights of the people can be known , and in terms of Indian modern rights sense can be attributed to "Kautilya" and his work "Arthashastra" because in his book he had already mentioned the 3 types they are; " Civil , economic & Legal right"

The reason why many of them attribute the origin of the concept of rights to the modern sense is that there was a considerable amount of distance i.e. from ancient to modern so this is the main reason all these are traced to the "Independence movement".

The proper assertion for the "Fundamental rights"³ began from the "INC" , the stress was 1st made during the time period of 1886 i.e. "Constitution of India bill" , and 2nd stress was made during the 1917 & 1919 that too their status equal to that of English men , and mainly of the civil right, and another attempt can be traced back to "Annie Besant's Commonwealth of India Bill"⁴ , subsequently in "Roundtable conference and 1935 act"⁵ , they stressed that these rights once given should not be drawn back under any scenario, due to this the method of explicit was not followed here instead it was written.

There is another confusion that whether the Fundamental rights are by nature declaratory or constructive , it means that the rights which existed through the life even though they are unrecognized they are natural rights , and contrary to that their existence was known based on only the enactment i.e. got recognition only after the enactment

The wider notion of foundation of the right of a person is the "Natural Law" and the notion of rights has been embracing the concept of "Natural law" from the time immemorial , and also it is important to note that this notion of "Natural law" has been widely accepted by "CJ Subba Rao" he states that " The concept of Fundamental rights is rooted in the idea of natural law" , this Natural law functions in the society , so as there is a change in society absolutely we can expect change in the "Natural law" as well . , for instance this concept has been dealt in the case of "Keshavananda V. State of Kerala"⁶ in very detail manner , the explanation given here is that they are the type of "rights which ensure a way of good life and are not inappropriate to the

³ "1 Indian Const. art. 19 (1950)."

⁴ "Annie Besant, Commonwealth of India Bill (1916)."

⁵ "Government of India Act, 1935."

⁶ "Keshavananda Bharati v. State of Kerala, 1973 AIR 1461 (India)."

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person", as a result of this the "Fundamental rights" are the natural rights and this is the sole reason for our constitution recognition which makes it a fully-fledged code .

The drawback of Natural rights theory is that they can be limited by putting up restrictions but cannot be abrogated , for example ; During the emergency times they are not available , and the noteworthy thing is that makers of the constitution allowed the restrictions , and in the decision of "ADM Jabalpur case"⁷ it was viewed from the perspective of the man made law i.e. "law made by state to protect the individual" , "Justice Ray held that they are social rights which are sanctioned by our constitution since it is sanctioned by our constitution nothing is above the constitution i.e. source of its power itself is the constitution" and another Judge "Justice Khanna holds that Right to life and Liberty are not the gifts of the constitution in the same way Fundamental rights are also not the gifts of the constitution".

DPSP :

India is a vast country changes which are taking place for its advancements are to be seen from not only polity aspects but also from the socio welfare aspects also mainly the leadership qualities and if we take DPSP it has all the qualities which are mentioned above.

DPSP is more like the leadership which has its own components , leadership in normal sense is that the group of persons who are influence by him are guided by him and there is a difference between a normal and creative one , and this DPSP falls under the category of creative why because it has so much of welfare policies that if it is implemented today to the full extent then it would take our country to the edge over others.

They may use the local or other resources from outside , these are the ideas which were influenced from the long full fledged freedom struggle which gave the basic notion of these principles to be enumerated in the document .

Unfortunately it is mentioned in the constitution that DPSP are not enforceable by courts. For instance if we take the example of the SC in USA their intent for the policies which direct them are well justified in the form of "federal structure" because they are involved in making the policies for the public and also it is considered as the integral of the political process of communities in large , and also it not merely interprets the statues as the Indian SC does, the

⁷ "A.D.M. Jabalpur v. Shivkant Shukla, AIR 1976 SC 1207 (India)."

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judges there are significantly very influential group of persons , and this nature of collicteivity have made them so powerful , as we talk about India which has still the influence of the Colonial systems which stays itself away from the society i.e. law and social mainstream is still dominant and if the policies has to be implemented by courts for the welfare it is of the dire need of changing in the intent of the law guardians and intrepreatores and SC should be free to embrace the "Societal assessment".

If we look at our DPSP we can break into 3 points mainly , they are the ideas taken from the west i.e. "liberal humanitarian tradition".The ideas which arose as a result of the problems and hard state faced by Indians.Most importantly is that the fusion of tradition & modern way of living and thinking.

These policies are not final , they can be changed as per the requirements , and if we take the "Art 39 a and Art 43"⁸ they are so much broad that they can be induced in any of the 3 points mentioned above.

The above mentioned 3 points shows that not the hurdles faced by the society in India , but also the ideals of the framers who wanted to bring the ideas related to humanitarian , which was the result of the problems faced by the west long before the India faced , and also these notions are not simply introduced they went past the various methods of trial and error then only they were introduced , the 2nd point talks about the hurdles faced in India and as a result of that many ideas were included and the 3rd point talks about the differentiate in the thinking i.e. ideology and how to implement that one , our "1ST PM Pandit Jawaharlal Nehru" in this regard made considerable attempts i.e. we can see the "industrialization” at that time , decentralization , ideas related to co operatives"

CHAPTER 2:

⁸ “^1 Article 39A of the Indian Constitution.

Article 43 of the Indian Constitution”

DPSP IN RELATION WITH FUNDAMENTAL RIGHTS;

DPSP in recent times has gained its pace and now it is being ensured by both union and the state , since they are very beneficial the political party are also stressing for their implementation , For example we can take the "ART 39 which states that there should be proper distribution of the material resources of the common good⁹" , and also if we examine it closely we can also see that this has been very must implemented in a very good manner i.e. related to land reforms , and in other areas like to check the monopoly , private industries regulated by government to what extent etc. . ,

As a result of the inequalities of the land system by that time majority of the states had passed the acts in relation to "Zamindari , Jagirdari" etc. , and to mention that , even the "Planning commission" ¹⁰had suggested this social welfare measure , and the important one is the fixation of the "LAND CEILING" i.e. "the max amount of the land that can be held by a person" , here we have to closely observe that in order to give importance to the "Directives the Fundamental right i.e. Art31" was diluted as it was like a big rock in the way of development of society.

DPSP faces the challenges from mainly 2 aspects they are;

"Capacity to legislate"

"Repugnancy"

So at the time of introduction of any legislation should be in compliance of the above mentioned points , and as far as the available information regarding DPSP there has not been any issue related to the 1st point and there has been some of the problems regarding the 2nd test , and we all know that "Art13 says that if any provisions are inconsistent with the provisions of the Fundamental rights then they are void" ¹¹, so there was a clear clash between the Fundamental rights and DPSP, another thing to note is that many a times SC has held that since they are promoting the welfare policies we must look at the broader picture of the society itself.

CASE LAWS;

⁹" ^ 1 Article 39 of the Constitution of India."

¹⁰"Planning Commission, Government of India "

¹¹" Article 13 of the Constitution of India. "

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- Here the 1st case regarding the relation between the Fundamental rights and DPSP "**State of Madras V. Sm . Champakam Dorairajan**".¹² , so here the issue was of the Government order which said that the fixation of the seats for the certain communities in Medical and engineering collages , and the contention was of that it was creating the divide for the sake of admission to the educational institutions based on caste , creed religion which is against "Article 29(2) of the Indian constitution"¹³

and also we can see here that "Article 46 of DPSP"¹⁴ propagates the upliftment of the backward classes i.e. education and also in terms of economy , and this Government order was in compliance to protect these interest of the backward classes which was prevalent in region of madras , and here in this particular case the court gave its opinion based on "Article 37 which declares that DPSP are not enforceable in the courts"¹⁵ means that they have no power to surpass the other provision in the Indian constitution especially the "Fundamental rights which are sacrosanct" and these DPSP has to be move as subsidiary to the "Fundamental rights".

The stance which court has taken in this particular case can be break down into 2 points ;

The 1st thing to note is that after math of the independence there was no time for SC to look into its power of policy formulating and it simply relied on the power structure left by colonials.

The 2nd thing is that the wordings in the "Article 13 and Article 37" are very much strait forward and give the readers the clear meaning that the DPSP is not superior to the Fundamental rights and has to move as subsidiary to it , no other option , so the court had to take no risk and it interpreted the plain meaning of the text and it was not an obligation for the court to create a new meaning or establish a new kind of relationship between them .

- In this case there was established relation by court with regard to equality and inequality , it is mainly related the issue of "Zamindari abolition" by the state , here it was contended that since the abolishment is against the fundamental rights it was violative in nature , and at the same time

¹²"AIR 1951 SC 226."

¹³"Article 29(2) of the Constitution of India "

¹⁴"Article 46 of the Directive Principles of State Policy (DPSP), Constitution of India."

¹⁵"Article 37 of the Constitution of India"

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it was referred to the court referred to the "Article 39 which propagates the distribution of material resources for the common good".

Here the court faced the problem of how to balance both of these advanced argument , and if we see normally the "Fundamental rights" are given upper hand not DPSP , and the court analysed it in such a manner that "If it was for the public good and public purpose can such legislation go above the Fundamental rights "?

And the opinion of the court was since it was for the purpose of the public this legislation is valid, The reason given was , the concentration of the land holdings among the few people will lead to mobilization of the resources within those and since the state is liable to distribute the resources equally i.e. "Equality for all" it is bound to look serving the greater interest of the common people rather than the few people , and land holdings among the few people i.e. Rich will get Rich , and these land holdings if equally distributed they will lead to sustainment of the communities and the poor will also get the resources.

The courts started to look into the concepts of the "Reasonableness and Public opinion" from the above mentioned case , and also they started to focus more on the DPSP .

Even though the wordings in the "Article 37 the courts started to give more stress on DPSP , and all this was due to the effort of the much acclaimed "Doctrine of Harmonious construction"¹⁶which propounds to find a balance between these two i.e. if there is any clash between the 2 provisions then they have to be read with in consonance with each other, which tells the balancing between the contention of the claims.

➤ **In Re: The Kerala Education Bill, ... vs Unknown on 22 May, 1958**

In this case the "Doctrine of Harmonious construction" was also made , so what happened in this case was that the schools in the Kerala did not take the fees from the primary school children and in turn they told that their loos would be compensated by the "Grants of the government" and the SC told that this was pure contravention of the "Article 30(1) of the Indian constitution"¹⁷ and it was contended that "Article 45 says that the state shall endeavour to provide within 10 years

¹⁶“Doctrine of Harmonious construction”

¹⁷"Article 30(1) of the Indian constitution"

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from the commencement of the constitution free and compulsory education"¹⁸and state can do this through government aided schools , and nothing would obstruct the "state" from doing this , and the court said that it would check both of the arguments made under this and told that there is no doubt that the "DPSP" ¹⁹should not be ignored to the entire and in turn proposed to embrace the "Principle of the harmonious construction" and it is the duty of the courts to give equal importance to both as much as possible and this is about the justifiable and not justifiable provision, , keeping this in mind the court went further in this case , and the important point is that if we read it carefully the court is saying that when it comes to the question of "DPSP and fundamental right" DPSP should not be ignored and it should be evaluated based on the above criteria , in this matter the court went ahead of extending this principle.

CHAPTER 2.1:

IN TERMS OF CHILD LABOUR ;

The children are not just the tools to yield for the profit of people they are the future of the nation and their rights , needs are to protect them not just in pen and paper.

The future of the country i.e. development in every spheres.

We all know that India is the signatory of "Deceleration of the rights of the child" It mainly aims to protect the interest of the child i.e. from employing them to do works , enforcement of punishments for "child labour" etc. , and many of the International organizations have also gone a long way in rectifying the condition of the children , one thing to note is that "Article 51 C"²⁰of our constitution has binding on this declaration.

Now if we talk about the position in India , it has been mentioned in both of the provisions i.e. "DPSP and Fundamental rights" under Article 24 and Article 39 ²¹, and there are many

¹⁸"Article 45 of the Constitution of India."

¹⁹"DPSP" Directive principles of state policy

²⁰"Article 51(c) of the Constitution of India"

²¹ "Article 24 and Article 39 of the Constitution of India.

legislations regarding the same also , for example "Child labour Act 1986"²² and the important point here is that during 1936 British had passed one act regarding the same and its stand was very clear to abolish the "Child labour" but the 1986 act just prohibits the "Child labour" and the reason is of "Economic necessity", now we can see here that how DPSP and Fundamental rights go hand in hand in terms of Child labour.

We all know the earlier position about DPSP they were not justifiable by the courts , but the court in order to give importance to the "directives" held that Parliament has the authority to bring changes in the constitution to give the equal status to DPSP on par with fundamental rights so that it could be easy for the states for its implementation , and the condition was that as far as basic structure is concerned it should not be harmed.

Now its been more like the "Judicial directives", earlier the makers did not make it mandatory for justification because the states had less resources , and now the situation has changed they cannot always tell, the same reason i.e. economic grounds for not implementing this , the state is "Judicially accountable" for not implementing such kind of "welfare scheme".

The notion of child labour not only comes under the "Art 23 and 24" but also comes under "Right to life" in terms of "dignified life" the children are 1stly humans and then labourer so they should be looked after with care and protection not with indecency , and in the case of "**Bandhua mukti morcha V. Union of India** Justice Bhagawathi made a remark that the Dignity of human must also the children of the small age against the atrocities and there must be a healthy environment for them to foster their all round development i.e. in the field of health , education , and considerable freedom and all these are the average facilities that must be given at any cost and these cant be denied at any cost".²³

In another case it was held that the wellness of the children s are very vital for the all round development and rapid growth of the communities as a whole and it is important to look after health i.e. mental , in terms of physique etc.

The hazardous work like construction and all are banned for the "children of age of 14years"

²²"Child Labour (Prohibition and Regulation) Act, 1986"

²³"Bandhua Mukti Morcha v. Union of India, (1984) 3 SCC 161 (India).".

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We can see here the overlap between the other provisions also , i.e. "Right to Education" ²⁴how it helps to mitigate the child labour and also how it corresponds to the directives i.e. by introduction of "Compulsory education there will be less chances of child labour because they will all be indulged in the education and it is the duty of the government to convey the benefits of the education and introduction of ""Poverty alleviation programmes" if all these are done then only the directives can be achieved , so this is how Fundamental rights and DPSP coincide in the matter child labour , because there is a clear overlap of so many articles.

CHAPTER 2.2:

RIGHT TO PROPERTY ABOLISHED;

“Art 31 RIGHT TO PROPERTY” ²⁵repealed by “CAA 44th 1978”²⁶So we all know the exploitative nature of those who were holding landings i.e. possession of lands they treated everyone as their slaves who were working in their lands no proper facilities were provided for them and they exhausted them too much which resulted in the widening gap between rich and poor and if this gap goes on widening there is no chance of all round development the poor will become more rich. And if we come to “ARTICLE 31” it was giving the absolute right against the deprivation of his property and “article 19 (1) (F)” ²⁷also takes the same it tells that every citizens right to property to acquire hold and dispose. All these dates back to the land reforms system introduced during the colonial time i.e. Zamindari system Jagirdari system “ryotwari and mahalwari”system all these systems were so exploitive in nature as a result of this the gap between the rich and poor got widened it was like “wealthy becoming more and more wealthy and poorest class still becoming poor without any chance for developments. And after the freedom i.e. 1947 the condition of India was not so good it was deteriorated due to the rule of Britishers and there was a lot of inequality and there was a dire need to make some socio economic reforms and “unequal distributor of land was also one of the factors led to inequality and the reforms were needed to be done under the “socialist ideology” another important thing is that “right to property” was an obstruction for “DPSP i.e. creation of welfare state and also the

²⁴"Right to Education"

²⁵“Art 31 RIGHT TO PROPERTY”

²⁶ “44th Amendment of the Constitution of India”

²⁷ “Article 19(1)(f) of the Constitution of India”

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idea of socialism if we take preamble it goes against the principles of justice i.e. social economic and political equality of status and opportunities how does equality comes into picture here is that during that time all these land owners held a lot of land and the workers who worked were treated in humanly and this status would not change any time and if this continues the situation wouldn't get any better important thing to note is that it was left to the land owners discretion to give up the land as it was in fundamental rights and they can easily approach the court if they are violated as a result of all these above mentioned circumstances in order to ensure people social justice economic justice and in order to create a welfare state i.e. ensuring to reduce inequalities in terms of income brought the "44th CAA in 1978". Here one can see that how the fundamental right was diluted in order to give importance to the principles enshrined in "DPSP" and also preamble.

CASE LAW:

"Land owners v state"²⁸ the issue in this case what was about the road widening i.e. it was a smaller road and later it was turned into state highway and contention here was no reimbursement or money was given in turn for land acquisition.

It was the duty of the concerned authorities to acquire the land through "due process of law" i.e. even though it was not under fundamental rights a legal procedure has to be followed.

Since now it's a "constitutional right" he plaintiffs can claim compensation and approach the court also in this regard i.e. "art 300A".²⁹

The point in this case is if the scenario was entirely different i.e. if this "right to property" was under fundamental rights then this whole case would have changed first of all the government would have got no rights to take lands as per their wish and if taken it was violation of fundamental rights even if government is taking lands for social welfare of the people then also under that scenario it would not been possible to do so it is like one persons personal interest

²⁸"Land owners v State"

²⁹ "Article 300A of the Constitution of India"

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affecting the welfare of the society as a whole as a result of all these consequences it was reduced to the status of constitutional right from fundamental rights.

CHAPTER 3:

Socialist angle:

INDIA BEING A "WELFARE STATE" it has its own responsibilities towards its citizens to give them a dignified social life, and also the security and the source to the power for these social measures are the DPSP, as we see preamble also we can know that preamble also mentions about this not only DPSP and preamble but also Fundamental rights and also it is an inalienable part of our constitution, it preaches to provide the rights like, "Right to education, Dignified life, Education, Liveable condition, and also to provide the children with the basic nutrients and protection for the development of the nation as a whole.

If we take the example of the "Labour class" they are not getting the average wages, the working conditions are not feasible for them, in this sphere the state has failed to provide the directives mentioned in the DPSP, this has to be improved in the coming days.

The "Preamble of the constitution" if we look at it carefully it propagates for the creating the "Socialist State" and it not only propagates but it is also the collection of the "SOCIAL SECURITY MEASURES" and these are further mentioned in detail in DPSP which has the same motive.

The SC is also of opinion that the ultimate motive of the "Socialism" is to ensure that all the people are equal, enjoying the decent life and these can be made into reality via DPSP, For example; "Article 39 which says that equal rights to adequate means of livelihood to every citizens, prevention of concentration of wealth, material sources distribution should take place equally", "Article 41 which provides for the education, right to work etc." ³⁰Like this many Articles in the DPSP promote the same.

³⁰"Article 41 of the Constitution of India. "

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One should note that being non justifiable by the courts , they are the foundation for many of the Social security measures , and also based on that many laws have been introduced also.

From the day of addition of DPSP in the constitution they are more a "snake but without its teeth" they are simply embedded as the principles nut with no power to be introduced , so from this we can get to know that the purpose intended to be pursued is not been to that extent .

The society depends upon the equilibrium of harmony between the humans , and human beings need protection in every sphere where he is unable to achieve the basic needs , as a result of this he needs some assistance from the society , and it is necessary for the society for the removal of inequality , and providing of the "Social security" , now we can know how vital the "Social security measures" ³¹are for survival of humans , for instance ; "Redistribution of the income to reduce the gap between the rich and poor" and during the death of the breadwinner of the family due to any accidents like factory , maternity , on duty etc.. all these are the result of immemorial disparity between the class , wealth and those who are no having wealth , dominant exploiting of people , and they did not only played their role in the ancient time but also dominant now also , as a result of this social security measures are very vital.

Term "Social and economic justice" if we look at it deeper it has a very wide understanding ,and this has been further elaborated by the term "Welfare state" which gives place for large number of schemes for example "Right to education , against child labour , insurance scheme", and also many acts like "Prevention of child labour , Factory Legislation , Workmen's Compensation Act"³² etc .. these concepts of SEP will automatically direct us to look towards the concept of "Welfare state" of which the structure is based in DPSP.

Supreme court in many instances has given importance to DPSP by saying that they the basic foundation on which Fundamental rights has been derived i.e.. they act in consonance with the DPSP and there has been an attempt to achieve this and so far as possible there has been some progress in this regard and also there has been a call to change the notion of "Welfare state" into

³¹Ibid (pg. 12)

³²“ACT NO. 8 OF 1923 1* [5th March, 1923.] A”

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"Social security state" why because what they can achieve without security provided i.e. welfare is not possible with security not being around, and simply sanctioning of the welfare without all these is a waste of time because what is the use if that is not reaching the people.

Now we can see in a judgment how beautifully the concept of SEP has been explained by Justice P.N Bhagwati , she explains that " Huge amount of men and women who are together make up our country's population are now majority living in a very poor condition , their way of living very inhumanly conditions , and mainly they are not having any belief over this SEP , Fundamental rights , their basic amenities have been neglected unless until they have been restored they will not rely on the concept of SEP , so the benefit of "Social security" must be sanctioned in harmony with that of the Fundamental rights , and if it will lead to establish a society based on the notion of SEP.

The notion of "Social security" is yet to be made as a fundamental rights , but the state should take burden to make it come into force , and it should achieve what it s intended to achieve.

If we look at "Article 41 It tells that state should be within the limits of its economic capacity and development, make effective provision for securing the Right to work , to education , and assistance in the scenario of the unemployment etc..

In the case of "P and T department v. Union of India (1988) (paragraph 9). It was held that the "Security of the job" is the part of "Right to work" ³³ which comes under the ambit of SEP.

"Article 43"³⁴ mandates the state that 'Social security' should be provided to all of the citizen in the country, and some of the previously mentioned example are the result of this mandate . In India it has been divided into 3 types they are in the form of , "Protective , Preventive, and finally in the form of promotional".

³³" P and T department v. Union of India (1988) (paragraph 9). "

³⁴"Article 43 of the Constitution of India. "

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If we take "Art 43 , it provides for the setting up of cottage industries" and implementation of the directive was one of the biggest achievement because this led to the Establishment of the cottage industries in rural level also which ensured the people of the rural that they have economic security , and also Establishment of the heavy industries .

For example we can take the "5 year plans", each of them had an objective to secure social , economic interest of the people.

CHAPTER 4

GHANDIAN AND INTELLECTUAL PRINCIPLES.

The type of political system that Gandhian principle advocate is that "De centralization" because the states which are big in terms of economy etc. they all gained through the economy exploitation of the people ,these states by nature they are very exploitative , dominant , all these factors has decreased the participation of the people which means now their role is very minimal , and also due to these modernised states which gave rise to the concepts of "Nuclear wars" etc. and heavy industries their pollutions are itself a burden to the population of "3rd world countries" and this threat is not at all the called as development and for it to be called as really a development 1st there should be providing of basic needs , and SEP should be available to the people this notion is called as the "Universe well being" in order to provide that , the "Panchayat raj system" was also bought which would automatically lead to independence in the field of economy , politics via De centralization which would establish the concept of "Equal participation in the democracy"

The another important aspect is that the introduction of the Village panchayats through the "73 and 74th amendment" ³⁵, from this the village structure was given importance which was in the dire need of the self governments. {Decentralization} .

LIBERAL INTELLECTUAL PRINCIPLES;

³⁵"Constitution (Seventy-Fourth Amendment) Act, 1992."

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By hearing this name only we can understand that they are speaking about the freedom about some of the aspects in the logical sense i.e. we wanted to move our country forward , at the time of the preparation of the constitution we were independent but at the same time stagnant so in order to march forward in terms of all round developments the directives were laid down and these are the “Liberal Intellectual Principles”.

So if we take “Article 44 of the Constitution” which speaks about the “Uniform Civil Code” we can call this as an unfulfilled dream of the framers of the constitution , for example if we take up the criminal or the civil law they don’t see whether he is a Hindu or a Muslim they will be remained same , if he has done any murder the punishment will be same for him , so more or less it will be same under civil law also but it has sub section which deals with the aspect of personal laws and as we know every religion had their own practices which were very inhuman i.e. Sati , Triple Talaq etc ., So the framers intended that if they want to remove all these malice they have do it as a whole because if they do it for a particular religion then it will look like they have targeted them , so the ideology was to remove all personal laws and bring a uniform civil code.

“Article 48”³⁶deals with as we all know it deals with the organization of agriculture and animal husbandry , so this provision has both intellectual and Gandhian principles , it mainly tells for the state that for the improvement of the cattle etc. because ours is an agrarian economy so it is of very much important to look for the advancement in the sphere of agriculture , animal husbandry that too they should the advanced techniques for the all round development , and this should be the aim of the state , and one should note that this principle is an old one as it was done to cater the needs of that time.

“Article 48(A)”³⁷which talks about the wildlife and nature is an intellectual principle , i.e. if we don’t protect our wildlife and if we don’t save our nature the ecosystem as a whole will be ruined .

³⁶“Article 48, Constitution of India.”

³⁷“Article 48A, Constitution of India.

“Article 50”³⁸ which gives the notion of the “Separation of Judiciary from executive” which is an Liberal intellectual principles if there is no provision like this there may be the problem of the introduction of the biased laws which may favour over one other and also it is like giving absolute power to one organ of the government which is also not good for the democracy.

“Article 51”³⁹ again its an liberal intellectual principle , basically the intention is that India cant remain all alone it needs the support of other nations also , we are in many of the important international groupings and summits , part of “UNO , Common wealth” we cant develop if we remain in isolation so we have to improve our foreign relations , so this article also promotes the same.

If any of the of groupings if they give any guidelines we have to follow them , and if WHO gives instructions to follow these measures then we have to follow them , and if entered into any treaty must abide by that.

CONCLUSION;

DPSP and Fundamental Rights are not one and same was the notion that we had earlier but as the time changes the law has to cop up with that changes , even though DPSP are very important as they have many of the provisions which deals with the welfare of the people the problem with this was of the non enforcement clause which made it like a snake without tooth , if it was implemented then the scenario would have been different , in the beginning even the courts held that nothing can overcome the fundamental rights and DPSP should run like a subsidiary to it , and now the perception has been changed with the time gone the courts have upheld the DPSP as they are very vital for the development and sometimes the court are of the opinion that they are complementary to each other , they should run parallel in hand , and if we take a closer look the preamble DPSP are somewhat similar in terms of their objectives , as a result of it in order to provide social justice the Fundamental right of Right to property was diluted and supremacy given to DPSP , and in the aspect of Child Labour also we can see the same , and if we take

³⁸“Article 50, Constitution of India”

³⁹“Article 51, Constitution of India”

Right to Education it was in DPSP in the 1st place and now it has been included in the Fundamental rights the thing is that fundamental rights are sacrosanct and if they are violated the people have power to approach the courts but it is not the same in case of DPSP they are left to the discretion of the states even though many welfare measures are there in DPSP they act as just the directives , but now the position is being changed by courts and governments also DPSP is being enforced by the courts in name of the welfare of the people , so from the discussion above we can conclude that with the evolvement of time there has been considerable changes in the aspect of DPSP and Fundamental rights.

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