



FACULTY OF JURIDICAL SCIENCES

Course : LLB , 1st Semester

Subject : CONSTITUTIONAL LAW I

Subject code :LLB 101

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Constitutional law - I

OBJECTIVE: The objective of this paper is to provide understanding of basic concepts of Indian Constitution and various organs created by the constitution including their functions.

UNIT – I

- **Salient features of the Indian Constitution.**
- **Preamble**
- **Definition of State (Art. 12)**
- **Doctrines of Ultra-vires, severability, eclipse, waiver (Art, 13)**

UNIT-II

- **Right to equality (Art. 14)**
- **Prohibition of discrimination, Rights to equality of opportunity (Art. 15-16)**
- **Right to freedom under Article 19: Freedom of association; Freedom of movement;**
- **Freedom of residence; Freedom of assembly; Freedom of association; Freedom of**
- **movement; Freedom of residence; Freedom of occupation, trade and business;**
- **Right to take out processions; Right of the State to impose reasonable restrictions**

UNIT – III

- **Protection in respect of Conviction under Article 20,**
- **Ex-post-facto law; Double jeopardy; Self-incrimination;**
- **Right of Life and Personal Liberty (Art. 21),**
- **Protection in respect of arrest and detention**
- **Right to freedom of religion (Articles 25-28)**

UNIT – IV

- **Cultural and Education Rights (Articles 29-30)**
- **Enforcement of Fundamental Right, Writ Jurisdiction of the Supreme Court and**
- **High Court (Article 32, 226)**
- **Right to property before and after the Constitution 42nd Amendment Act, 1976**
- **Abolition of Untouchability, Titles (Articles 17-18)**
- **Right against exploitation (Articles 23, 24)**

Suggested Readings:

1. **Austin Granville: Constitution of India: Cornerstone of a Nation; and Working A Democratic constitution**
2. **NarenderKumar : Constitutional Law of India.**
3. **Basu D. D : Shorter Constitution of India**
4. **Jain, M.P.: Constitutional Law of India,**
5. **Seervai, H.M. : Constitutional Law of India, Vols. I-III**
6. **Shukla, V.N. : Constitutional of India (ed. M.P.Singh)**
7. **B.R. Sharma : Constitutional Law and judicial Activism**
8. **M.C. Jain Kagzi : The constitution of India**
9. **B. Shiva Rao: The Framing of India's Constitution**

LECTURE 13

Affirmative action needs protective discrimination: While in the earlier cases, the Supreme Court understood the guarantee of equality in Art. 14 to mean absence of discrimination, in later cases, the courts have come to hold that in order that equality of opportunity may reach the backward classes and minority, the State must take affirmative action by giving them a preferential treatment or protective discrimination. To make Equality a living reality for the large masses of people, those who are unequal's cannot be treated by identical standards. It may be equality in law, but it would certainly not be real equality. It is necessary to take into account de facto inequalities which exist in the society and to take affirmative action by way of giving preferences to the socially economically disadvantaged persons. Such affirmative action though apparently discriminatory is calculated to produce equality by eliminating De Facto inequalities and placing the weaker sections of the society on a footing of equality. • When competing rights between the general and the reserved candidates require adjudication and adjustment with the rights of general candidates, the doctrine of violation of Art. 14 have no role to play, as some protective discrimination itself is a facet of Article 14 and it does not again deny equality to the reserved candidates. • The very concept of equality is valid classification for preferences in favour of disadvantaged classes of citizen to improve their conditions so as to enable them to raise their position of equality with other more fortunate classes of citizen. • Sawant, J.-It was held that the object of positive discrimination was empowerment of backward class adequate sharing of power.

⌘ Important Case:

Smt. Maneka Gandhi V. Union of India. AIR 1978 SC 597. Facts of the case: On July 4 1977, Smt. Maneka Gandhi received a letter from the Regional Passport Officer, Delhi, intimating her to surrender the passport (No. K. 869668) within 7 days from the date of receipt of the letter, as it was decided by the Government of India to impound her passport under Section 10(3) (c) of the Passport Act 1967 in the public Interest. The Petitioner sends a letter to the Regional Passport Officer asking the reasons and requesting her to provide a copy of the Statement of Reasons for making the order. On reply it was send by the Ministry of External Affairs, Government of India, on July 6, 1977 stating

that the Government has decided to impound the passport 1. In the interest of the Public and 2. Not to hand over her a copy of the statement of reasons. So, the Petitioner filed a petition. • Is Section 10(3) (c) of the Passport Act 1967, violates the Article 14 of the Indian Constitution? Under Section 10(3) (c) of the Passport Act, the Passport Authority impounded the passport of the petitioner “in the interest of general public”. Thus it confers unguided and unfettered power to the Passport Authority • It is violative of the Equality clause contained in Article 14.

Choose the correct option

- 1. S.C. held that those bodies which have been established either by Constitution or by any other statute would come under the category of other authorities.**
 - a Ujjambai Vs. State of U.P.
 - b. Electricity Board, Rajasthan vs. Mohan Lal
 - c. A. K. Gopalan vs. State of Madras
 - d. R.M.D.C. vs. Union of India
- 2. Which Aarticle of the Constitution of India related to the (1) Principle of Judicial Review (2)Doctrine of Eclipse(3)Doctrine of Severability (4)Doctrine of Waiver**
 - a.** Article 12
 - b. article 13
 - c article 14
 - d. article 15
- 3. For the enforcement of Fundamental Rights, the Supreme Court may issue a/an**
 - a. notification
 - b. ordinance
 - c. writ
 - d. Decree
- 4. Who is an exception to equality before law**
 - a. president
 - b. governor .
 - c. both
 - d. none.
- 5. Assertion (A) the principle of equality before law means that there should be equality of treatment under equal circumstances**
(R) all person are not qual by nature , attainment or circumstance
 - a. both A and R are ture and R is the correct explation of A
 - b.Both A and R are true but R is not the correct the explanation
 - c. A is true and R is false
 - d. A is false but R is true