



Secularism Under Indian Constitution And Judicial Response Of Freedom Of Religion

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Abstract

India is a melting pot of religious traditions. . When it comes to secularism in India, it means that religion will have no influence on the country's public affairs. Religion is protected to a significant extent under the Constitution. As a result, the meaning of Articles 25 and 26 is not restricted to concerns of doctrine or religious belief. Moreover, it encompasses activities performed in the name of "religion," and thus provides protection for religious rituals and observances, ceremonies and modes of worship that are essential components of religious religion. In a democratic society, freedom is not unrestricted. Individual religious freedom should be measured in the same way that other individuals' religious freedom should be measured. As a result, one can only use his or her freedom in an equal manner with others. The Constitution of the United States is the supreme law of the land. Every individual in India is regulated by a fundamental norm, which is the Indian Constitution.

Keywords: secularism, Indian, constitution, judicial, freedom, religion, etc.

1. INTRODUCTION

India is a melting pot of religious traditions. Four of the world's eight major faiths have their origins in India, making it the country where four of the world's major religions originated. The ideals of secularism have been incorporated into the Indian constitution. When it comes to secularism in India, it means that religion will have no influence on the country's public affairs [15]. During the British government, India was not entirely a secular state; various religions were given significant weight in public life. It is impossible to tie down the concept of secularism to a specific, concrete proposition since it is a slippery concept. According to the Encyclopedia of Britannica, secularism is defined as "non-spiritual, meaning that it is not concerned with religion or spiritual problems." It is used in a more general sense "The term "temporal" refers to something that is distinct from, and not associated with religion or ecclesiastical things; it is contrasted to the term "spiritual" and "ecclesiastical."

2. CONSTITUTION PROVISIONS IN PROTECTION OF RELIGION

Religion is protected to a significant extent under the Constitution. As a result, the meaning of Articles 25 and 26 is not restricted to concerns of doctrine or religious belief. Moreover, it encompasses activities performed in the name of "religion," and thus provides protection for religious rituals and observances, ceremonies and modes of worship that are essential components of religious religion. In order for the courts to determine what constitutes an essential aspect of religions or religious practice, they must look to the doctrine of a particular religion, as well as actions that are seen as being a part of the religion by the community in question. In the issue of the National Anthem, the Supreme Court held that no one can be forced to sing the National Anthem "if he has real, sincere religious objection," as the court stated. In the present instance, three youngsters who belonged to the Christian community's "Jehovah's witnesses" were expelled from their school for refusing to sing the National Anthem during the opening ceremony. On the basis that their expulsion was a violation of their fundamental right under Article 25, they contested the legitimacy of their expulsion decision (1).

A circular issued by the Director of Public Instructions mandated that all pupils in school sing the National Anthem, which was made mandatory by a court order. They had dutifully stood up every morning at their school when the National Anthem was being performed, but they did not participate in the singing of the anthem itself. It was against the precepts of their religious religion for them to participate in any ceremonies other than those in which they were praying to Jehova, their God, and they refused to sing the National Anthem because they believed it was against their religious beliefs. They had a fundamental obligation under the Constitution, according to the Kerala High Court, to sing the National Anthem. As a result, it was determined that if the religious group's student refused to participate in the singing of the National Anthem, it would have a negative impact on the other students, and that the Head Mistress was within her rights not to allow them to attend class until they signed a written agreement stating that they will participate in the National Anthem singing at school. Under Article 25's Clause (2) (b), the state has the authority to pass legislation relating to social welfare and social reform. The state can thereby eliminate social practises and dogmas that are impeding the country's prosperity under the provisions of this clause. Such laws have no effect on the fundamental principles of any religion. It is stated in this article that, in the event of a conflict between the need for social welfare and reform and religious practise, religion must take a back seat. It is not permissible to practise social evils in the guise of religion.

In accordance with the principles of secularism, Article 44 of the Indian constitution compels the state to ensure for its citizens a uniform civil code throughout the territory

of India, irrespective of caste, creed, or religion (including Islam). The establishment of harmony and the establishment of a sense of brotherhood would be accomplished in this manner. According to a well-known case, *Sarla Mudgal v. Union of India*, the Supreme Court of India has directed Prime Minister Narsimha Rao to take a fresh look at Article 44 of the constitution, which enjoins the state to secure a uniform civil code. According to the Supreme Court, a uniform civil code is essential for both the protection of the oppressed and the promotion of national unity and integrity. In their separate but concurrent judgments on the question of the "Uniform Civil Code," the Division Bench of Kuldip Singh and R. M. Sahai, JJ stated that a number of governments have come and gone since 1950, but none have attempted to carry out the constitutional mandate set forth in Article 44 of the Constitution.

3. DENOMINATIONAL RIGHTS

The two sorts of denominational rights are intertwined and interdependent on one another.... For example, the right to enter the premises of a Hindu math is a religious right, whereas the right to manage and govern the math's property is a civil right. The right to administer religious affairs, to form and maintain religious and philanthropic institutions, to acquire and own property, and to manage that property in compliance with religious precepts and legal requirements essential religious acts, rites, and ceremonies are included in the category of "matters of religion," which are those that are regarded necessary for the practise of the religion. Concerning certain matters, the denominational right is unalienable. The way in which it is exercised is not governed by any state authority. But the question of whether a given matter is a religious religion can be brought in a court of law, and in the event of a dispute, the extent of a claim based on it can be determined by a judge. The absolute nature of denominational rights in matters of religion has been emphasised by the courts, despite the fact that it is mentioned in clause (b) of article 26, which, like the other clauses of the article, is subject to a substance clause pertaining to the requirements of public order and morality[15]. In accordance with clause (2) (a) of article 25, activities related with religious practise in the secular, economic, financial, and political spheres can be governed and controlled on the basis of the interpretational rule of harmonious construction. In the case of the *Durga Khawajasahib*, it has been recognised that the right to manage and administer the denominational property, both moveable and immovable, is a limited right. It is governed by both general property law and the law of public trust and endowment, which are both applicable to it.

An inquiry panel can look into the administration of a religious institution and the management of its assets, as well as search and seize the organisation's books of account. Its budget can be adjusted, and it can be provided with specific instructions on how to make better financial arrangements. It may be possible to adopt a specific law for trusts, endowments, and foundations. For example, if the property of a Hindu math

is not effectively managed by the mathadhipati, the property can be temporarily administered in line with the official orders given for the purpose of improving the management of the religious trust and endowment's property. Mathadhipati, or mahantship, in the context of a math encompasses both an office and property. A mathadhipati has some personal rights pertaining to religious affairs [13], and at the same time he has certain benefit proprietary rights in respect of the math's property. In terms of the first type of rights, he is free from state regulation and control, and he is free to practise his religion without interference from the state. His intellectual property rights are unassailable. Despite the fact that they can be governed by law and that they can be fairly curtailed in the interests of mathematics:

When it comes to religion, the Indian Constitution, in Article 26, enlightens society. Article 26 of the Constitution deals with the denominational aspect of religious freedom. The right of religious denominations to manage their own "matters of religion" is recognised, as is the right of religious denominations to establish and maintain religious and charitable institutions, as well as to own, acquire, and administer the property of religious and charitable institutions, trusts, endowments, desvasthanams, wakfs, and foundations. The restricted clause (2) of Article 25 applies to the denominational right in questions of religion, just as it does to the individual right to religious freedom.

Temple entry legislation cannot, in any way, be construed to confer on the state any police power or authority to destroy the distinctive character of a denominational temple. It can only confer the right to enter and the privilege to worship perceptually in the shape and manner dictated by the denominational faith, and nothing more. A person's entry into a temple does not entitle them to participate in the religious method of worship that is being observed in the temple. The right of access into a temple granted to an individual is not absolute or limitless in scope in nature. A Hindu's right of temple access into a Jain temple does not entitle him to place a Hindu idol within the temple's walls. A denominational temple is one in which no one has the authority to interfere with the worship conducted by the denominational members or to perform services that should only be performed by the archakas. Except on occasions of particular denominational worship, the denominational temples shall only be open to the general public on a limited basis [15]. It is not possible under the rules of temple admission legislation to prohibit education of persons who do not belong to a particular denomination from the denominational temple on the grounds that they are not the beneficiaries of the denominational foundation's charitable activities [12].

4. CONSTITUTIONAL AND JUDICIAL RESPONSE OF FREEDOM OF RELIGION

Secularism is a personal idea [13] that defies all attempts to reduce it to a specific, concrete doctrine or set of principles. "Anything that is distinct from, opposed to, or not connected with religion or ecclesiastical things, temporal as opposed to spiritual or ecclesiastical" is defined as "anything that is non-spiritual, having no concern with

religious or spiritual matters" according to the Encyclopedia of Britannica. "Anything that is distinct from, opposed to, or not connected with religion or ecclesiastical things" is defined as "anything that is distinct from Both Dr. Ambedkar and K.M. Gandhi were present in the Constituent Assembly. Several draught articles were submitted by Munshi, and a combination of the two was approved. One notable condition that was not adopted was one that prohibited the state from recognizing any religion as a state religion. However, certain ideas, such as those of Alladi Krishnaswamy Iyer, of a clause that would save social reform, were also adopted and are worth mentioning.

4.1 Secularism is protected by the Indian Constitution

The preamble of the constitution declares India to be a sovereign, socialist, secular, and democratic republic, which includes the concept of secularism. "We, the people of India, having solemnly resolved to establish India as a Sovereign Socialist, Secular, and Democratic Republic, and to secure to all its citizens Justice-social, economic, and political; Liberty of thought, expression, belief, faith, and workshop [14]; Equality of status and opportunity; and to promote among them all Fraternity, assuring the dignity of the human person," the Indian Constitution stated.

In 1951, Dr. B.R. Ambedkar, Chairman of the Drafting Committee, gave a speech on the Hindu Code Bill, which he had drafted. With the secular character of the state, there is no place for mysticism. Secularism is not anti-God; it regards all people equally, whether they are religious, agnostic, or atheist. It removes God from the realm of state affairs and ensures that no one will be discriminated against on the basis of their religious religion. Essentially, Dr. Ambedkar explains, the secular state means that this Parliament will not have the authority to impose a specific religion on the rest of the population. Secularism is a social ethics philosophy founded on the belief that ethical norms and action should be defined completely with reference to the present life and social well-being, rather than with reference to religion. The constitutional system makes it plain that pluralism ensures equality in the matter of religion to all individuals and groups, regardless of their religious beliefs, while underlining that there is no state religion. Preamble of the Constitution, read aloud with Arts and Letters this feature, as well as the concept of secularism incorporated in the constitutional structure, are emphasised in paragraphs 25 to 28. The concept of secularism is one side of the light to equality, which is woven as the primary golden thread in the fabric depicting the pattern of the Indian Constitution's scheme of rights and obligations.

5. RESTRICTIONS ON THE FREEDOM OF RELIGION

The right to "profess, practice, and promote religion" provided by article 25(1) are subject to the following restrictions:

- Public order, morals, health, and other regulations of part III;

- In the case of religious exercise, any law controlling or restricting any economic, financial, or other secular activity related with religious practise is defined as follows:
- Any law providing for social welfare or reforms, as well as the opening of religious institutions pertaining to a religion's public nature to all members of the public.

Article 25(1) is based on article 44 of the constitution of the Irish Free State, which states that "freedom of conscience, as well as the free profession and practise of religion, are guaranteed to every citizen, subject to public order and morality." But Article 25(1) enumerates the right to propagate religion, which is not explicitly stated in the constitution itself. The inclusion of a right to spread religion was deemed offensive by staunch Hindus, and an attempt was made in the constitution Assembly to have the phrase "propagate" removed from the document. It was ultimately unsuccessful, though, since certain interests were really adamant about it, and it had been agreed that it would be included in the Minority Report. The inclusion of the phrase "propagate" in article 25(1), according to Sir Alladi, was probably unnecessary, given that freedom of expression is already guaranteed under article 19 [14], but the phrase was introduced out of a sense of abundance of caution, he believes. Throughout the United States, the propagation of religion has been held to include the right of individuals to dedicate property by way of trust for the purpose of sustaining and propagating specific religious doctrines, and it has been held that it is the responsibility of courts to ensure that the property so dedicated is not diverted from its intended purpose of propagation. Although this freedom, like any other freedom, is not without constraints, they are set out in the Constitution itself and are subject to a number of restrictions. As stated in *Javed v. State of Haryana*, it was submitted on behalf of the petitioners that it is permissible to have four women get married for the purpose of procreation and that any restriction on this would be a violation of the right to freedom of religion enshrined in article 25 of the Indian Constitution.

6. CONCLUSION

India is a religiously diverse country, but it is also a secular state. India is neither a secular or anti-religious religion. The ideals of secularism have been incorporated into the Indian constitution. In India, secularism means that religion would have no role in the conduct of the country's public affairs, according to the Constitution. Religion is protected to a significant extent under the Constitution. As a result, the meaning of Articles 25 and 26 is not restricted to concerns of doctrine or religious belief. Moreover, it encompasses activities performed in the name of "religion," and thus provides protection for religious rituals and observances, ceremonies and modes of worship that are essential components of religious religion. In a democratic society, freedom is not unrestricted. Individual religious freedom should be measured in the same way that

other individuals' religious freedom should be measured. As a result, one can only use his or her freedom in an equal manner with others. The Constitution of the United States is the supreme law of the land. Every individual in India is regulated by a fundamental norm, which is the Indian Constitution.

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