

RULE OF LAW AND CURRENT SCENARIO IN INDIA

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“Justice delayed is justice denied”

Introduction

The construct of Rule of Law is that the state is ruled, not by the ruler or the appointed representatives of the individuals however by the law. The Constitution of India is a rulebook for all its citizens . It provides also , that the constitution shall be the **most** supreme power within the land and also the legislature and the Government derive their authority from the constitution. The conception of Rule of Law is that the state is ruled, not by the ruler or the nominative representatives of the individuals however by the law. A county that enshrines the rule of law would be one whereby the motive of the country in the field of law is fulfilled, or the fundamental and core law from that all different law derives its authority is that the arbiter of the state. Also The monarch or the representatives of the republic area unit also ruled by the laws derived out of the kingship pattern and their powers area unit restricted by the law. The King isn't the law however the law is king. The origins of the Rule of Law theory are often copied back to the traditional Romans also throughout the formation of the primary republic; it's since been championed by many of the medieval thinkers in Europe like Sir Jack Hobbs, Locke, and Rousseau through the agreement theory. Indian philosophers like Chanakya have conjointly espoused the rule of law theory in their own manner, by maintaining that the King ought to be ruled by the word of law.

Dicey's theory has the 3 pillars which supported the construct that “a government must ought to be supported the principles of law and not of men”, these are explained :

‡ Supremacy Of Law:

This has perpetually been the fundamental understanding of the rule of law that propounds that the law rules over all folks as well as the persons administering the law. The lawmakers got to provide reasons that may be even below the law whereas physical exertion their powers to form and administer the law.

‡ Equality Before The Law:

While the principle of dominance of law sets in situ cheques and balances over the govt on creating and also administering the law, the principle of equality before the law seeks to make sure that the law is run and enforced in a very simply manner. it's not enough to possess a good law however the law should be applied in a very simply manner similarly. The law cannot discriminate between folks in matters of sex, religion, race etc. this idea of the rule of law has been written within the Indian Constitution below Article fourteen and therefore the Universal Declaration of Human Rights below the Preamble and Article seven.

‡ Pre-Dominance Of Legal Spirit:

In as well as this as a demand for the rule of law, Dicey's belief was that it had been skimpy to easily embody the on top of 2 principles within the constitution of the country or in its different laws for the state to be one within which the principles of rule of law ar being followed. There should be associate degree imposing authority and dangerous believed that also this authority may be found within the courts.

In trendy expression Rule of Law has return to be understood as a system that has safeguards against official whimsicality, prevents lawlessness and permits folks to arrange the legal consequences of their actions.

THE THEORETICAL VIEW OF RULE OF LAW IN REPUBLIC INDIA :

Indian adopted the Common law system of justice delivery that owes its origins to British jurisprudence, the premise of that is that the Rule of Law. dangerous magnificently maintained that the English person doesn't want law or any kind of written law to stay checks on the govt however that the Rule of Law and construct would be enough to make sure the absence of government whimsicality. whereas Republic of India conjointly accepts and follows the construct of construct, there ar formal and written laws to make sure compliance.

It provides that the constitution shall be the supreme power within the land and therefore the legislative and therefore the government derive their authority from the constitution. Any law that's created by the law-makers has got to be in conformity with the represent failing that it'll be declared invalid, this can be provided for below Article thirteen . Article twenty one provides an additional check against arbitrary government action by stating that not everybody shall be empty his life or liberty except in accordance with the procedure established by law.

Article fourteen ensures that every one voters ar equal which not everybody shall be discriminated on the premise of sex, religion, race or place of birth, finally, it ensures that there's a separation of power between the 3 wings of the govt and therefore the government and therefore the law-makers don't have any influence on the judiciary. By these ways, the constitution fulfills all the wants of Dicey's theory to be recognized as

a rustic following the Rule of Law. The Supreme Court of Indian has more strong this mechanism through its varied judgments

In Chief Settlement Commr; geographical region v. Om Prakash, it had been ascertained by the Supreme Court that, “In our constitutional system, the central and most characteristic feature is that the construct of rule of law which suggests, within the gift context, the authority of law courts to check all body action by the quality of lawfulness. {the administrative|the government} or executive action that doesn't meet the quality are going to be put aside if the aggrieved person brings the matter into notice.” within the case of Satvant Singh Sawhney v. D Ramarathanana , the Supreme Court has control that each government action, if it operates to the unfairness of anyone, should be supported by some legislative authority.

In Secretary, State of Mysore and Ors. v. Umadevi (3)and Ors ,a Constitution Bench of this Court has set down the law within the following terms: “Thus, it's clear that adherence to the rule of equality publically employment may be a basic feature of our Constitution and since the rule of law is that the core of our Constitution, a court would definitely be disabled from passing associate degree order upholding a violation of Article fourteen or in ordering the commanding of the requirement to go with the wants of Article fourteen scan with Article sixteen of the Constitution.”

Most magnificently within the case of Kesavananda Bharati v. State of Kerala , the Supreme Court control that the Rule of Law is a vital a part of the fundamental structure of the constitution and intrinsically can't be amended by any Act of Parliament, thereby showing however the law is superior to any or all different authority of men.

THE PRACTICAL VIEW OF RULE OF LAW IN REPUBLIC OF INDIA

Critiques have typically maintained that the Rule of Law in Republic of India is simply a theory with no usage. whereas it can't be denied that the country is one wherever corruption runs rampant and consistent with 2012 World Justice Project information, Republic of India fares well on openness of state and democratic controls, within the class restricted government powers, that evaluates the checks on government, Republic of India ranks thirty seventh of the ninety seven countries surveyed round the world, is initial among all 5 in its region and comes in second out of twenty three lower-middle-income countries. nevertheless the rule of law that exists on paper doesn't perpetually exist in observe. once it involves procedural effectiveness, Republic of India fares poorly. within the classes of the absence of corruption and order and security, Republic of India ranks 83rd and 96th globally.

In addition to the matter long-faced in Republic of India thanks to corruption within the legislating and justice delivery systems, there conjointly exists the matter of previous laws still being in situ. Republic of India doesn't adopt a 'sunset' clause in its laws and post-independence the Indian Independence Act only if all laws existing below the colonial rulers would still exist below the new system unless expressly revoked by the parliament.

While this did give the state with a firm basic system of laws, thereby preventing a scenario of lawlessness within the immediate aftermath of independence, a number of these laws were written to suit the surroundings of these time and that they become exhausting to interpret within the current surroundings. This results in ambiguity and endless judicial proceeding in an effort to interpret the provisions.

While these issues persist it's vital to notice that the constitutional mechanism has provided enough safeguards to endure that the Rule of Law in some type can perpetually

persist. one in all the foremost vital factors contributive to the upkeep of the Rule of Law is that the activity of the courts within the interpretation of the law.

Most magnificently within the case of Maneka Gandhi v. Union of India the court ensured that exercise of power in associate degree arbitrary manner by the govt wouldn't infringe the rights of the folks and in Kesavananda Bharati the court ensured that laws couldn't be created that basically go against the Rule of Law by language that the fundamental structure couldn't be broken.

Apart from the judgement, the constitutional mechanism in itself provides for the protection of the rule of law through the creation of observation agencies. whereas there are various scams that have return to light-weight within the previous few years, the very fact that has got to even be noted is that these scams have return to light-weight and therefore the justice delivery mechanism has been set in motion against the perpetrators.

The role of the Central Vigilance Commission and therefore the accountant and Auditor General within the exposure of those discrepancies is commendable and this shows however the law has provided for its own protection by setting up place multiple levels of safeguards that make sure that it'll be effective at some level. The committee of Republic of India, a constitutional body has conjointly been enterprise the task of guaranteeing free and truthful elections with some extent of potency.

CONCLUSION :-

As if we see today scenario there are lot of laws and the laws are also being flexible or we can say that are changing slightly as per today scenario. But there should not be power in one hand as the authority will only be the head to handle . The common people have also have the right to check the law . There should be a balanced system required

to be formed. The Crime Scenario should be solved at the depth and there should be an fear among them not repeat the same in future. But we can say as we are in developing mode country the law is able to correct the scenario of crimes and there should be a friendly situation between the citizens and the authority. As there will be law in public benefit and safety then the result of crime will decrease . And we can say that India as a law of land.

Bibliography :- <https://www.legalserviceindia.com/legal/article-719-rule-of-law.html>