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CRITICAL ANALYSIS OF AN ARTICLE 39(b) OF THE INDIAN CONSTITUTION WITH SPECIAL REFERENCE TO THE ARTICLE 31C OF THE INDIAN CONSTITUTION.

INTRODUCTION

The Directive principles of the State Policy are incorporated in Part IV of the Constitution of India from 36-51. Article 39(b) falls under Part IV of the Indian constitution, outlining the Directive Principles of State Policy. Directly Principles of State Policy(DPSPs), unlike fundamental rights are not enforceable in court. However, they guide the state towards achieving just and equitable society. These principles embody the concept of 'welfare state'. Article 39(b) embodies this ideal, mandating the state to ensure an equitable distribution of material resources for the common good.

Article 39(b) in Constitution of India¹:-

That the ownership and control of the material resources of the community are so distributed as best to sub serve the common good.

The above statement can be simplified as:

Where resources within a community are not concentrated in the hands of a few, but rather distributed in a way that benefits everyone. The goal is to achieve the 'common good' meaning a society where everyone has the opportunity to thrive. It is a guiding principle for the government to create policies that bridge the gap between rich and poor, ultimately leading to a more just and prosperous society.

¹ Legislative Department
<https://liddashboard.legislative.gov.in> > ...PDF
THE CONSTITUTION OF INDIA.

The breakdown of Article 39(b) can be examined through the following case laws :

In *State of Karnataka v. Ranganatha Reddy*², Iyer, J., Observed thus:

“ And material resources of the community in the context of ordering the national economy embraces all the national wealth not merely net natural resources all the private and public resources of meeting materials needs not merely public possessions”.

From the above it can be concluded that the term ‘material resources of the community’ in the context managing the national economy includes all the wealth of the nation, not just natural resources. It encompasses both private and public resources used to meet material needs, not just assets owned by the government.

In *Sanjeev Coke Manufacturing company v. Bharat Coking Coal Ltd*³, it was observed that : “ When Article 39(b) refers to material resources of the community it does not refer only to resources owned by the community as a whole but it refers also to resources owned by individual members of the community. Resources of the community do not mean public resources only but include private resources as well”.

In the case *State of Tamil Nadu v. Abu kavur Bai*⁴, it was held that material resources as enshrined in Article 39(b) are wide enough to cover not only natural or physical resources but also movable or immovable properties, such as vehicles, tools, implements and the workshop etc. It was also held that the nationalisation of the transport would undoubtedly be a distribution for the common good of the people and would be clearly covered by clause (b) of Article 39.

In *Mafatlal Industries Ltd v. Union of India*⁵, the Supreme Court held that “the Material resources of the community” are not confined to the public resources but includes all resources, natural and man-made public and private owned”.

In *Sanjeev Coke Manufacturing company v. Bharat Coking Coal Ltd*⁶, it was observed that:

“ the word distribute is used in a wider sense so as to take in all manner and method of distribution such as distribution between regions, distribution between industries, distribution between classes and distribution between public, private and joint sectors. The distribution

² State of Karnataka v. Ranganatha Reddy, 1978 AIR 215; 1977 SCC(4) 471.

³ Sanjeev Coke Manufacturing Company v. Bharat Coking Coal Ltd, 1983 AIR 239; 1983SCR(1) 1000.

⁴ State of Tamil Nadu v. Abu kavur Bai, 1984 AIR 326; 1984 SCR (1)725.

⁵ Mafatlal Industries Ltd v. Union of India, (1997) 5 SCC 536 Para 77.

⁶ Sanjeev Coke Manufacturing Company v. Bharat Coking Coal Ltd, 1983 AIR 239; 1983SCR(1) 1000.

envisaged by Article 39(b) necessarily takes within its stride the transformation of wealth from private ownership into public ownership and is not confined to that which is already Public owned”.

In *State of Karnataka v. Ranganatha Reddy*⁷, Krishna Iyer, J., quoted that:

“The keyword is distributed and the genius of the article, if we may say so cannot but we given fully play as it fulfills the basic purpose of re-structuring the economic order. Each word in the article is a social mission. It embraces the entire material resources of the community. Its task is to distribute such resources. Its goal is so to undertake distribution as best to sub serve the common good. It reorganizes by such distribution the ownership and control”.

From the above observation made by the Iyer., J., it can be concluded that Article 39(b) shines in its focus on distribution. It emphasizes not just the existence of resources but their fair allocation for the ‘common good’. Every word carries weight encompassing all a community’s material wealth, public and private. The aim is to reorganise ownership and control through distribution, ensuring everyone benefits, not just a privileged few. This focus on equitable distribution is the heart of the Article’s Social Mission.

In *Kachchh Jal Sankat Nivaran Samiti v. State of Gujarat*⁸, it was observed that the expression ‘common good’ under Article 39(b) of the Constitution is not to be confined to one district only. It means common good of a whole State.

However, the implementation of Article 39(b) can clash with the fundamental rights, particularly Article 14, Article 19 or Article 31(repealed by the 44th Amendment Act of 1978). The Directive Principles of State Policy are non-justiciable in nature which means they are not legally enforceable by the courts in case of their violation. These have moral and political sanctions. In the case *State of Madras v. Champakam Dorairajan*⁹, the Supreme Court held that in case of any conflict between the fundamental rights and Directive Principles of the State Policy, the fundamental rights would prevail.

⁷ *State of Karnataka v. Ranganatha Reddy*, 1978 AIR 215; 1977 SCC(4) 471.

⁸ *Kachchh Jal Sankat Nivaran Samiti v. State of Gujarat*, AIR 2013 SC 2657.

⁹ *State of Madras v. Champakam Dorairajan*, 1951 AIR 226; 1951 SCR 525.

But there are certain cases where laws enacted to implement Directive principles outlined in Article 39(b) or Article 39(c)¹⁰ has overriding effect, even though it violates the Fundamental rights such as Article 14 or Article 19. This immunity was given under Article 31C which was inserted by the Constitution (twenty-fifth) Amendment Act, 1971.

Article 31C: Saving of Laws giving effect to certain directive principles:-

Notwithstanding anything contained in Article 13, no law giving effect to the policy of the state towards securing the principles specified in Clause (b) or Clause (c) of Article 39 shall be deemed to be void on the ground that it is inconsistent with, or takes away or abridges any of the rights conferred by Article 14, Article 19 and Article 31 and no law containing declaration that it is for giving effect to such policy shall be called in question in any Court on the ground that it does not give effect to such policy:

Provided that where such law is made by the Legislature of a State the provisions of this Article shall not apply thereto unless such law, having been reserved for the consideration of the president, has received his assent.

- Article 31C of the Indian Constitution provides immunity to certain laws from judicial scrutiny if they are enacted to give effect to Directive Principles of State Policy specified in Clause(b) or Clause (c) of Article 39. This provision essentially Shields laws aimed at promoting socio-economic justice and welfare from being invalidated on the grounds of inconsistency with infringement upon, fundamental rights guaranteed under Article 14, Article 19 or Article 31.

Summary of the Article 31C:

- Laws enacted to implement the principles outlined in Article 39(b) or Article 39(c) are not deemed void even if there inconsistent with or curtail fundamental rights under Article 14, Article 19 or Article 31.
- Protection from Judicial review: such laws cannot be challenged in any Court on the ground that they do not effectively implement the principles of Article 39(b) or 39(c). This provision aims to prevent judicial interference in matters relating to implementation of socio-economic policies.

¹⁰ Article 39(c) says: The State shall direct its policy towards securing that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment.

- Presidential assent for State laws: if such a law is enacted by State Legislature it must be reserved for the consideration of the President of India and receive his assent for Article 31C to apply. This ensure uniformity and consistency in the application of the provision across States.

In *Kesavananda Bharati Sripadagalvaru v. State of Kerala*¹¹, the Supreme Court held that second part (***no law containing declaration that it is for giving effect to such policy shall be called in question in any Court on the ground that it does not give effect to such policy***) of the Article 31C declared as invalid on the ground that judicial review is a basic feature of the Constitution and hence cannot be taken away. However, the first part of the Article 31C was held Constitutional and valid.

Later, the 42nd Constitutional Amendment Act of 1976 extended the scope of the first part of the Article 31C. The following words have been substituted “All or any directive principles laid down in the Part IV” in place of “directives contained in Article 39(b) or 39(c)”.

In *State of Tamil Nadu v Abu kavur Bai*¹², the court clearly made distinction between the 25th and 42nd Amendment thus:

"Whereas in the 25th Amendment, the protective umbrella given by the constitution was restricted to laws passed only to promote objects in Clause(b) and Clause (c) of Article 39, by virtue of the 42nd Amendment the limitations which were confined to Clauses(b) and (c) of Article 39 were taken away and the Article was given a much wider connotation by legislating that Acts or laws given affect to all or any of the principles laid down in Part IV of the Constitution would be protected by the umbrella contained in Article 31C and would be immune from challenge on the ground that they are violative of Article 14 or Article 19”.

In *Minerva Mills Ltd and Ors v. Union of India*¹³, the Supreme Court held that the extension of first part of the Article 31C by the 42nd Amendment Act was declared as unconstitutional and invalid.

Conclusion

In the words of Austin, the purpose of the Directive Principles is to fix certain social and economic goals for immediate attainment by bringing about a non-violent social

¹¹ Kesavananda Bharati Sripadagalvaru v. State of Kerala, AIR 1973 SC 1461; 1973(4) SCC 225.

¹² State of Tamil Nadu v. Abu kavur Bai, 1984 AIR 326; 1984 SCR (1)725.

¹³ Minerva Mills Ltd and Ors v. Union of India, 1980 AIR 1789; 1981 SCR (1) 206.

revolution. Through such as social revolution the Constitution seeks to fulfil the basic needs of the common man and to change the structure of our society. It aims at making the Indian masses free in the positive sense and to achieve the welfare State contemplated¹⁴. The Fundamental rights and Directive Principles are like two wheels of a Chariot, one know less important than the other, they are like a twin formula for achieving the Social Revolution, which is the ideal which the visionary founders of the Constitution set before themselves. In other words the Indian Constitution is founded on the bed-rock of the balance between Parts III and IV. To give absolute primacy to one over the other is to disturb the harmony of the Constitution. This harmony and the balance between fundamental rights and Directive Principles is an essential feature of the basic structure of the Constitution¹⁵. Article 39(b) & (c) represent complex interplay between Social Justice and individual rights while Article 31C has enabled crucial reforms, its application requires a nuanced approach. Courts must ensure a balance is struck, upholding social goals without sacrificing fundamental rights. Moving forward well-defined legislative frameworks and robust Judicial review can ensure social and economic reforms are both effective and fair.

¹⁴ Granville Austin, *The Constitution: Cornerstone of a Nation*, Oxford University Press, 1966.

¹⁵ *Minerva Mills Ltd and Ors v. Union of India*, 1980 AIR 1789; 1981 SCR (1) 206.