

# DOCTRINE OF EQUALITY

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## ART. 14

### GENERAL:

1. Equality of status and of opportunity is a constitutional goal enshrined in the preamble to the constitution. Arts. 14-18 provide for constitutional scheme to achieve that goal.
2. Art. 14 enacts general doctrine of equality. Arts. 15-18 provide for specific instances of doctrine of equality.

### EQUALITY BEFORE LAW: ART. 14

1. Equality before law is a necessary requirement of the rule of law. Inequality is inconsistent with the rule of law. Inequality is arbitrariness. Inequality and arbitrariness are but synonymous. Equality and arbitrariness are antithetic. They are sworn enemies.

2. A.14 imposes a -ve oblig. upon the State. It declares thus-

"The state  
shall not deny  
to any person -  
(i) equality before law  
(ii) equal protection of law  
within the T.O.I."

### 3. The State: Art. 12

- (i) The word 'the state' occurs in Art. 14. Here, the word "the state" is in the sense in which it has been def. U/A.12. Accordingly, the state includes the following -
  - (a) The Parliament and G.O.I.
  - (b) Legislatures and Govts. of each of the state
  - (c) Other local authorities
  - (d) Other authorities within the T.O.I or under the control of G.O.I.

### 3. "... Any person...":

- (i) Person includes the following -
  - (a) Artificial person
  - (b) Natural person (whether citizen or non-citizen)
- (ii) It is thus clear that protection of A. 14 is avail. to citizens as well as non-citizens.

### 4. Equal Justice:

- (i) A. 14 is based on the concept of equal justice. Accordingly, A. 14 requires the state not to deny equality before the law or equal protection of laws.
- (ii) Equality before law:
  - (a) The expression is of English origin.
  - (b) It is an aspect of concept of rule of law as propounded by Prof. Dicey.
  - (c) The expression means that - "no one is above the law and every person is subject to jurisd. of ordinary tribunal"
  - (d) Dr. Jennings is of the view that this expression is to some extent -ve. The expression suggests 'absence of privilege'.

### (iii) Equal Protection of laws:

- (a) The expression is of U.S. origin. The expression has been used under the U.S. Const. and also under the U.N. declaration of human rights. The expression suggests 'equal treatment in equal circumstances'. The expression demands equal subjection to law of all persons similarly situated.
- (b) State of W.B. Vs. Anwar Ali Sarkar, 1952 s.c. (per Patanjali Sh., C.J.)
  - (a) There is hardly any substantially difference betw. the two expressions. Both are based on rule of law and equal justice.
  - (b) Equality before the law is necessary corollary of equal protection of the laws.

- (c) It is difficult to imagine a situation in which violation of equal protection of law would not result to denial of equality before the law.
- (d) The essence of the concept of equality is that "likes should be treated alike and not that unlikes should be treated alike".
- (v) A.14 ensures equality before the law on substantive as well as procedural grounds.

DOCTRINE OF REASONABLE CLASSIFICATION :

- 1. A.14 does not guarantee absolute equality. Absolute equality is neither possible nor desirable. Requirements of an office or of a place may differ. Persons differ in their qualification, efficiency, character, integrity, leadership quality, experience and other relevant qualities. Accordingly, the idea of absolute justice is not tenable.
  - 2. A.14 permits reas. classification. However, it prohibits class legislation.
  - 3. Class legislation implies adverse distinction. Adverse dist. suggests arbitrarily taking out of few persons out of larger body of persons and conferment of rights and privileges on them and denying the same to the residue of persons in larger body of persons, when the two sets of persons are hardly diff. logically and reasonably.
4. In R.K. Dalmia Vs. Tendulkar, J. (per S.R. Das, J.) following two criterias for testing reasonableness of classif.
- (i) The classif. must be based on intelligible differentia
  - (ii) There must be a reasonable nexus between differentia and object sought to be achieved.

## NEW CONCEPT OF EQUALITY:

1. E.P. Royappa Vs. S.O.T.N, 1974 S.C. (per P.N. Bhagwati, J.)

- (i) Equality is a dynamic concept with many aspects and dimensions. It cannot be confined to constitutional and other doctrinaire limits.
- (ii) Equality and arbitrariness are antithetic. Both are sworn enemies. Equality relates to rule of law. Arbitrariness suggests whims and caprices of an absolute monarch.
- (iii) Inequality is inherent in arbitrariness. Therefore, every arbitrary act necessarily violates A.14.

2. Maneka Gandhi Vs. U.O.I, 1977 S.C. (per P.N. Bhagwati, J.)  
Held: A.14 strikes at arbitrariness.

3. R.D. Shetty Vs. International Airport Auth; (per P.N. Bhagwati, J.)  
Held:

- (i) A.14 is based on wider concept of equality. Doct. of reas. classif. is only a -ve aspect of doct. of equality. D.O.R.C. is neither a para phrase nor an object or end of A.14.