

Text

1. Introduction:

The term Preamble refers to the introduction or preface to the constitution. Preamble to the Constitution of India is a brief introductory statement that sets out the purpose and principles of the document, and it indicates the source from which the document derives its authority. The American constitution was the first to begin with a preamble. Many countries including India followed this practice. The preamble to the Indian constitution is based on the 'Objectives Resolution' drafted and moved by Pandit Jawaharlal Nehru on 13th of December 1946 and adopted by the constituent Assembly on 22nd January 1947. The preamble to the constitution states:

“We, the people of India, have solemnly resolved to constitute India into a sovereign, Socialist, Secular, and Democratic Republic and to secure all its citizens”.

Justice: Social, Economic and political;

Liberty of thought, expression, belief, faith, and worship;

Equality of status and of opportunity and to promote among them all;

Fraternity assuring dignity of the individual and the unity and integrity of the Nation;

In our Constituent Assembly this twenty-sixth day of November, 1949 do hereby Adopt, Enact and give to ourselves this Constitution'

Preamble in short is the opening words of the constitution, which set out the objectives of the constitution. The expressions Socialist, Secular, unity were inserted by the Constitution (42nd Amendment) Act, 1976.

2. Main Features of the Preamble:

Dr. P.B. Gajendragadkar, a former Chief Justice of India observed that the Preamble although is a short statement but its significance cannot be ignored. The Preamble refers to nature of Indian state and the objectives, which are to be achieved for all the citizens. It also testifies to the concept of popular sovereignty and records the date on which the constitution was finally adopted by the Constituent Assembly. Its features can be analyzed and divided in four parts;

- a) The Source of Authority,
- b) The Nature of State,
- c) The Objectives of the state, and
- d) The Date of Adoption and Enactment.

The Source of Authority Popular Sovereignty

At the first instance, the Preamble categorically accepts the principal of popular sovereignty. It begins by the words: “we the people of India” and these testify to the fact that people are the ultimate source of all authority. The government derives its power from the people. The constitution has its roots and derives its sovereignty from the people. “The preamble embodies what is the desire of every member of the house, that the constitution should have its roots, its authority, its sovereignty from the people”, said, Dr. Ambedkar. The preamble states that the constitution derives its authority from the people of India. In the constituent assembly, two members objected

to the use of term “we the people”. One of them was Mr. H.V Kamath who wanted that the Preamble should begin with the words “*in the name of God*” and some other members also supported this view. However, when after a debate it was put to vote, 41 votes in favour and 68 against defeated the amendment. Another member, Mr. Mollana Mohani objected to, the use of these words on the ground that since the Constituent Assembly was elected by a small electorate and that too on the basis of Communal Electorate, it was not fully representative and hence not competent to use these words. However, this view was also rejected by the constituent Assembly. As such the preamble adopted by it, begins with the words: “We the people of India” and signifies the fact of sovereignty lies with the people of India. Such a declaration was essential after the end of the sovereignty of the British Crown over India on 15th of August 1947 and after the rise of India as a Sovereign Democratic Republic.

Nature of State

The preamble refers to the five cardinal features of India as a state. It declares India to be sovereign, socialist, secular, democratic republic. Originally, the Preamble did not contain the term ‘socialist’ and ‘secular’. These were added to it by the 42nd Amendment 1976. Each of these five features is briefly explained as under:

a) India is a Sovereign State

The Preamble proclaims that India is a sovereign state. Such a proclamation was essential to denote the end of British rule over India. It testifies to the fact that India is no longer the dependency or colony or possession of the British Crown. It also affirms the end of British rule on 15th of August 1947.

With the adoption of the constitution by the Constituent Assembly, this status ended and India emerged as a fully sovereign independent state. It proclaimed the result of the freedom struggle and affirmed that India was free internally and externally to take her own decisions and implement them for her people and territories, association unlike the UN and the headship of British King/Queen has only a symbolic significance. The British king has no place in the Indian constitution. President of India is the sovereign head of the state who is indirectly elected by the people for a fixed term of 5 years. Hence India is a republic.

India is a Socialist State: Even before the term was added by 42nd Amendment in 1976 the constitution had a socialist content in the form of certain directive principles of state policy. In other words what was hitherto implicit in the constitution has now been made express. The Indian brand of socialism is a democratic socialism and not the communistic socialism or the state socialism, which involves the Nationalization of all the means of production and the distribution and the abolition of private property. Democratic socialism on the other hand holds faith in a mixed economy where both public and private sectors coexist side by side supreme court in the case of G.B. Pant University of Agriculture & Technology vs. State of U.P AIR 2000 observed that the Democratic socialism aims to end poverty, ignorance, disease, inequality of opportunity.

b) India is a Secular State: It means that the state is neutral in the matter of religion and hence does not uphold any particular religion as the state religion. The term secularism was added by 42nd Amendment Act 1976, however as the Supreme Court observed that although the word secular were expressly inserted in year 1976 but there can be no doubt that

constitution makers wanted to establish such a state and accordingly articles 25 to 28 guaranteeing the fundamental rights to freedom of religion have been included in the constitution. The Indian constitution embodies the positive concept of secularism, which means that all religions in India irrespective of their strength have the same status and support from the state.

- c) India is a Democratic:** The term Democratic denotes that the constitution has established a form of the government which gets its authority from the people. The rulers are elected by the people and get there and are responsible to them. The Indian Constitution provides for the representative parliamentary democracy under which the executive is responsible to the legislature for all its policies and actions. Universal adult franchise, Periodic elections, rule of law, independence of judiciary, is some of the manifestations of democratic characters of Indian polity.
- d) India is Republic State:** the term republic implies an elected head of the state. A democratic state may have an elected head or a hereditary head. A democratic polity can be grouped into two categories monarchy and republic. In a monarchy the head of the state is hereditary one for example Britain. There the monarch a hereditary ruler is no hindrance to democratic government as the real power of the state is in the hands of representatives of the electorate. Under a republican form, on the other hand the head of the state single or collective is always elected for a prescribed period for example in USA the head of the state the president is elected for a fixed term of four years. By deciding to become a Republic India has chosen the system of electing one of its citizen as its president—the head of the state at regular intervals.

Objectives Stated In the Preamble:

The preamble lists four cardinal objectives, which are to be “secured for all its citizens”. These objectives are four in number: justice, liberty, equality and fraternity. These are briefly discussed below:

Justice: it implies a harmonious reconciliation of individual conduct with the general welfare of the society. The essence of justice is attainment of common good Indian constitution seeks to secure justice in all its three dimensions –social, economic and political-for all the citizens. One of the key ideals of the National Liberation Movement was to secure a new social order based on socio-economic-political justice. End of foreign rule was to serve as the means to secure justice through self-rule. In its social dimension justice means the absence of socially privileged class in the society and no discrimination against any citizen on grounds of caste, creed, color, religion, sex, or place of birth. India accepts the securing of social justice as a goal. It stands for eliminating social exploitation in the name of caste or creed. For this purpose the constitution grants the right of equality to all the citizens, makes untouchability a crime, and grants special protection to the weaker sections of society for securing their equality with others.

Economic justice means no discrimination between man and man on the basis of income, wealth and economic values. It involves the concept of equitable distribution of wealth, i.e., economic equality, end of monopolistic control over means of production and distribution, decentralization of economic resources and securing of adequate opportunities to all for earning their livelihood and a welfare state. The aim of directive principles of state policy is to secure socio-economic justice and welfare in India. Commitment

to socialism is also designed to achieve the objective of socio-economic justice.

In its political dimension, justice means equal, free and fair opportunities to the people for participation in the political process. It stands for the grant of equal political rights to all the people without any discrimination on the basis of caste, creed, colour, religion, sex, or place of birth. The constitution of India provides a liberal democratic political system in which all the people have the right to elect their representatives and right to hold public offices. Through several devices, grant of political rights, provisions for free, fair and regular elections and responsive and responsible governments, the constitution has taken all the steps considered necessary for securing political justice in India.

Thus justice -socio economic and political is a major objective of the constitution, which is expressly enshrined in the preamble of the constitution. Whereas political justice has been secured through the adoption of a liberal democratic system, the goal of socio-economic justice is yet to be fully realized. Casteism, communalism, continued social discrimination against some sections of society, religious bigotry, poverty and unemployment have to be eliminated.

LIBERTY: the term liberty used in the preamble has both positive and negative sense. It signifies not only the absence of any arbitrary restraint in the freedom of individual action but also the creation of conditions which provide the essential ingredients necessary for the fullest development of the personality of the individual. The preamble declares liberty to be the second prime objective to be secured by the constitution. The freedom of the country makes it all more essential to secure the liberty of the people.

Preamble lists liberty of thought, expression, belief, faith and worship as the objective to be secured to all the people. The grant of Fundamental Rights (Part III) including the right of freedom is designed to secure this objective. Liberty is the vital necessity for the fullest development of mind of the individual. It is the condition of worth living. Liberty of faith and worship is designed to strengthen the spirit of secularism. Liberty, as such, is another cardinal objective of the constitution. Right to religious freedom is a fundamental right. The constitution grants and guarantees the liberty of thought, expression, belief, faith and worship.

EQUALITY: Realizing fully the importance of equality and the interrelationship between liberty and equality, the preamble makes equality the third main objective of the constitution. It has been described in terms of its two variables: (i) equality of status, that is, natural equality of all persons as equal and free citizens of India enjoying equality before law, (ii) equality of opportunity, that is, adequate opportunities for all to develop. For securing the equality of status what is needed is equality before law and end of discrimination or restrictions based on grounds of religion, race, sex, color, creed, caste, residence, etc. The Indian constitution provides for these under Articles 14 and 15 of the constitution. It also guarantees equality of opportunity. However, along with it the constitution provides for special protection to women, children as the weaker sections of society. Thus equality is a cherished goal of Indian Constitution declared in the preamble and secured throughout the constitution.

FRATERNITY: The Preamble clearly states that another major objective is to promote among all the people—fraternity—a feeling of spiritual and psychological unity. It means a spirit of brotherhood, the promotion of

which is absolutely essential in our country, which is composed of people of many races and religions it is designed to secure dignity of the individual and unity and integrity of the Nation. Human dignity was regarded as a supreme value in our National Liberation Movement. Freedom struggle was governed by the objective of ending second-rate treatment given to the people of India by the British rulers. For this, unity of the nation was considered essential for fighting the inhuman British rule. The founding fathers of the Constitution, therefore, specified in the Preamble that free India should promote fraternity assuring human dignity and unity and integrity of the Nation. The universal declaration of human Rights (1948) declares, “All human beings are born free and equal in dignity and rights”. The Indian Constitution, in its Preamble accepts this as a major objective of state in India. In fact no Democracy can be complete without ensuring human dignity and unity, and integrity of the nation. In specifying this as the objective, the Preamble seeks to strengthen and complete Indian democracy. Thus, justice, liberty, equality and fraternity are the four cardinal objectives of the Indian constitution.

Date of Adoption and Enactment: In its final paragraph, the Preamble specifies the important historical fact that the constitution was adopted on 26th of November 1949. It was on this day that the constitution received the signatures of the president of the Constituent Assembly and it was declared passed. The preamble came into force only on 26th January 1950.

3. IMPORATNCE OF THE PREAMBLE

After a review of the features of the Preamble, it becomes quite easy to assess its importance. The Preamble states the philosophical foundations of the constitution and enumerates its objectives. As rightly observed by G.J

Subha Rao, “The objectives sought to be achieved by the constitution are declared in sonorous terms by its Preamble. It contains in a nutshell its ideas and its aspirations. The Preamble is not a platitude but the mode of its realization as worked out in detail in the constitution.”

Likewise C.J. Hidayatullah also observed, “Preamble resembles the declaration of Independence of the United States of America, but is really more than a declaration. It is the soul of our constitution and lays down the pattern of our political society, which it states is sovereign democratic republic. It contains a solemn resolve which nothing but a revolution can alter”.

In fact, the Preamble is a key to the interpretation of the constitution. It is a part of the basic structure of the constitution insofar as it states the philosophy, the ideals and the objectives of the constitution. It is through its Preamble that the constitution of India commits itself to a social revolution. The Preamble states the values, which the constitution is committed to secure. To conclude we would like to quote, M.Y. Pylee, while discussing importance of the Preamble he observes, “The Preamble of the constitution is one of the best of its kind ever drafted. Both in ideas and in expression it is unrivalled. It embodies the spirit of the constitution, the determination of the Indian people to unite themselves in a common adventure of building up a new and independent nation which will ensure the triumph of Justice, liberty, equality and fraternity.

4. Role of Preamble and judicial interpretation

Ordinarily the preamble was not regarded as part of the statute and therefore at one time it was thought that preamble does not form part of the

constitution In the reference on the agreement relating to Berubari Union and Exchange Enclaves (re Berubari Union and Exchange of Enclaves, A.I.R. 1960 S.C) the Supreme Court held that the Preamble is not a part of the Constitution and according to it, it is not a source of substantive powers. The preamble has limited application and can be resorted to where there is any ambiguity in the statute. If the terms used in the constitution are ambiguous or capable of two meanings in interpreting them some assistance may be taken from the objectives enshrined in the constitution and the construction, which fits the preamble, may be preferred.

This view has been rejected by the Supreme Court in its later decision in Kesavananda Bharti v. State of Kerala, A.I.R. 1960 S.C, held that the Preamble is the part of the constitution. Sikri, C.J, Observed that the preamble of the constitution is of extreme importance and constitution should be read and interpreted in the light of the grand and noble vision expressed in the preamble.

On the issue whether preamble can be amended the court observed since preamble is part of the constitution it can be amended subject to the condition that basic features in the preamble cannot be amended. The court further said, 'the edifice of our constitution is based upon the basic elements mentioned in the preamble. If any of these elements are removed the structure will not survive and it will not be the same constitution and it cannot maintain its identity.

The preamble in the later decisions was relied on in imposing the implied limitations on the amending power of the parliament under article 368 of the constitution. In the case of Randhir Singh vs. Union of India A.I.R. 1982, SC. the court while relying on the preamble and article 14 and article 16 held

that article 39(a) envisages a constitutional right of equal pay for equal work for both men and women. In *L.I.C. of India v. Consumer Education and Research Centre* 19955 SCC 482, also Supreme Court held that the Preamble is an integral part of the Constitution.

The position of law, which emanates from the decided cases, is the preamble is an integral and very important part of the constitution. It is a guiding star in the interpretation of the constitution. It can be amended but its part, which forms the basic structure of the constitution, cannot be tampered or altered.

5. Conclusion

The basic philosophy of the constitution of India is to be found in essence in the preamble itself...’ The preamble promises justice, equality, liberty and freedom and ensures dignity of individual, and unity and integrity of Nation. The preamble is the face and the key of the constitution. Preamble is a unique part of the constitution in the sense that it represents the entire constitution in its written words. Preamble is a part of constitution and therefore can be amended with the rider that the feature, which form the basic structure of the constitution, cannot be altered, tampered or amended. It may not be wrong if we conclude by saying that,

‘Preamble is the golden string which runs through the provisions of the constitution so as to attain the objectives enshrined in the preamble itself’
(emphasis supplied)