

## Is Article 14 Still A Part of The Constitution?

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India is one of those fortunate countries which has a written constitution that lays down certain basic principles regarding what the citizen can expect of the State and how we shall be governed. There are four fundamental rules of what the citizens, through the Constitution given in the Preamble are entitled to: (1) Social, economic and political justice (2) Liberty of thought, expression, belief, faith and worship (3) Equality of status and of opportunity (4) The promotion of fraternity assuring the dignity of the individual.

The Constitution goes further and through Article 14 mandates equality of all persons before law and equal protection of law. Parliament and the State Legislatures are empowered to legislate within their prescribed domains, including on matters relating to criminal law. The Indian Penal Code gives the definition of offences, prescribes what acts amount to a criminal offence and lays down the penalty which would be attracted on conviction. The procedure for registering and investigating offences, their prosecution and trial are given in the Code of Criminal Procedure. In addition there are Special Acts, such as the Prevention of Corruption Act, which determine different crimes under that specific Act. Every Indian, from President down to the last citizen is within the ambit of law. That is the true meaning of justice as given in the Preamble and equality before law mandated under Article 14. The question is whether we any longer function in accordance with the provisions of the Constitution.

Let me give two examples from Britain. John Porfumo was Minister of State for Defence. He had an affair with a woman called Christine Keeler to whom he paid a sum of money. It is alleged that in the course of pillow talk he passed on some information to Christine Keeler, which reached Soviet officials who then used it during a visit of some Soviet warships to Britain. John Porfumo resigned and was virtually banned from politics for life. The second case is of Jeffery Archer, famous author, deputy leader of the Conservative Party, Member of Parliament and a Minister of the Crown. A prostitute alleged that he paid her 1000 Pounds not to reveal that he had an affair with her. There was an investigation during which Jeffery Archer denied the charge, he was found to have told a lie, he was convicted of perjury and sentenced to three years rigorous imprisonment and he quit all his posts. I call Britain a true democracy because everyone is dealt with on an equal footing before the law.

In India, too, we have had examples of the high moral values of some of our leaders. A train accident occurred for which the minister was not to blame, but Lal Bahadur Shastri resigned as Railway Minister, owning moral responsibility. An Airbus crashed near Hyderabad because of pilot error, but Madhavrao Scindia, the Civil Aviation Minister, resigned and accepted moral responsibility. By contrast we have Abdul Ghani Khan Chowdhary. He was Railway Minister when a narrow gauge train on the Jabalpur, Nainpur, Balaghat section was toppled off a bridge in a storm, resulting in heavy casualties. Far from resigning the minister accused the press of exaggeration in reporting 138 deaths when actually only 108 had died. As an example of crass irresponsibility this statement cannot be bettered. Worse still is what we are now seeing with Pawan Bansal, the present Railway Minister.

The facts of the case, as reported, are that the Delhi Special Police Establishment (CBI) was keeping track of Mahesh Kumar, General Manager, Western Railway, who was seeking promotion as Member (Electrical) of the Railway Board. His main contact person was Vijay Singla, the nephew (sister's son) of Pawan Bansal. According to sources a deal was struck for rupees ten crores for the promotion, but unfortunately the post of Member (Staff) was the only one vacant and this went to Mahesh Kumar. A further deal was struck that when the post of Member (Electrical) fell vacant a few months ahead Mahesh Kumar would be given that post, but for this the price was an additional rupees two crores. This would cover the additional charge of Western Railway till the desired post in the Board was available. A bribe of Rs. 90 lakhs was paid to Vijay Singla and he was caught red handed. Mahesh Kumar, Vijay Singla and four other persons have been arrested and DSPE (CBI) is on the lookout for two more persons. The Opposition has asked for Pawan Bansal's immediate ouster but a shameless Bansal and even more shameless Congress Party have refused to oblige. There never has been a charge of corruption against Mahatma Gandhi, Sardar Patel, Jawaharlal Nehru, Maulana Azad, Dr. B.C. Roy, C. Rajagopalachari, B.G. Kher or any of the other great leaders of the freedom movement. Today there is hardly any leader one can call honest. One is pleasantly surprised that in the Jain Hawala case, merely because his name was mentioned in a diary maintained by the accused, L.K. Advani voluntarily stepped down from all posts, elected, appointed or party, till such time as his name was cleared by proper investigation. That is the right and proper thing to do. But unfortunately today's Congress, devoid of any sense of morality, has chosen to back Pawan Bansal.

Justice and equality demand that those entrusted by law with the function of dealing with crime should do their duty as prescribed by law. In Britain the Deputy Speaker of the House of Commons was accused of homosexual assault and rape of two men. He has resigned from Parliament and the Deputy Speakership and the police took him into custody. The Thanedar of the police station concerned did not take anyone's permission for acting under law. In India the DSPE (CBI) should have named Pawan Bansal in the FIR because obviously no officer would give a bribe to anyone unless he felt that the person was influential enough with government to be able to obtain a decision of his choice. Orders of promotion can only be approved by the minister, Pawan Bansal, not by Vijay Singla, his nephew. A bribe paid to the nephew, which led to a favourable order, must be deemed to be a bribe paid to the minister. If the investigation indicates that the minister is innocent then, of course, a final report should be sent by the police seeking closure of the case, but certainly there is no justification for excluding the minister from the FIR and not bringing him within the ambit of investigation immediately after the offence. But in India the Code of Criminal Procedure and Article 14 of the Constitution obviously apply selectively. If one is a minister belonging to the ruling party law enforcement agencies must leave one alone because after all, the minister is more equal than others.

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