

## Indian Polity – Part 7

### 7] Directive Principles Of State Policies

#### Notes

#### **Directive Principles of Our State Policy : Part IV (Articles 36-51)**

Part IV of Indian Constitution deals with Directive Principles of our State Policy (DPSP). The provisions contained in this Part cannot be enforced by any court, but these principles are fundamental in the governance of the country and it shall be the duty of the State to apply these principles in making laws. The concept of Directive Principles of State Policy was borrowed from the Irish Constitution. While most of the Fundamental Rights are negative obligations on the state, DPSP are positive obligations on the state, though not enforceable in a court of law.

#### **Article 36 : Definition**

In this Part, unless the context otherwise requires, “the State” has the same meaning as in Part III.

#### **Article 37 : Application of the principles contained in this Part**

The provisions contained in this Part shall not be enforced by any court, but the principles therein laid down are nevertheless fundamental in the governance of the

country and it shall be the duty of the State to apply these principles in making laws.

**Article 38 : State to secure a social order for the promotion of welfare of the people**

(1) The State shall strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice, social, economic and political, shall inform all the institutions of the national life.

(2) The State shall, in particular, strive to minimise the inequalities in income, and endeavour to eliminate inequalities in status, facilities and opportunities, not only amongst individuals but also amongst groups of people residing in different areas or engaged in different vocations.

**Article 39 : Certain principles of policy to be followed by the State**

The State shall, in particular, direct its policy towards securing –

(a) that the citizen, men and women equally, have the right to an adequate means of livelihood;

(b) that the ownership and control of the material resources of the community are so distributed as best to subserve the common good;

(c) that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment;

(d) that there is equal pay for equal work for both men and women;

(e) that the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength;

(f) that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment.

**Article 39A : Equal justice and free legal aid**

The State shall secure that the operation of the legal system promotes justice, on a basis of equal opportunity, and shall, in particular, provide free legal aid, by suitable legislation or schemes or in any other way, to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities.

**Article 40 : Organisation of village panchayats**

The State shall take steps to organise village panchayats and endow them with such powers and authority as may be necessary to enable them to function as units of self-government.

**Article 41 : Right to work, to education and to public assistance in certain**

**cases**

The State shall, within the limits of its economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want.

**Article 42 : Provision for just and humane conditions of work and maternity**

**relief**

The State shall make provision for securing just and humane conditions of work and for maternity relief.

**Article 43 : Living wage, etc., for workers**

The State shall endeavor to secure, by suitable legislation or economic organisation or in any other way, to all workers agricultural, industrial or otherwise, work, a living wage, conditions of work ensuring a decent standard of life and full enjoyment of leisure and social and cultural opportunities and, in particular, the

State shall endeavour to promote cottage industries on an individual or co-operative basis in rural areas.

**Article 43A : Participation of workers in management of industries**

The State shall take steps, by suitable legislation or in any other way, to secure the participation of workers in the management of undertakings, establishments or other organisation engaged in any industry.

**Article 44 : Uniform civil code for the citizen**

The State shall endeavour to secure for the citizens a uniform civil code throughout the territory of India.

**Article 45 : Provision for free and compulsory education for children**

The State shall endeavor to provide, within a period of ten years from the commencement of this Constitution, for free and compulsory education for all children until they complete the age of fourteen years.

**Article 46 : Promotion of educational and economic interests of Scheduled Castes, Scheduled Tribes and other weaker sections**

The State shall promote with special care the educational and economic interests of the weaker sections of the people, and in particular, of the Scheduled Castes and

the Scheduled Tribes, and shall protect them from social injustice and all forms of exploitation.

**Article 47 : Duty of the State to raise the level of nutrition and the standard of living and to improve public health**

The State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties and, in particular, the State shall endeavour to bring about prohibition of the consumption except for medicinal purpose of intoxicating drinks and of drugs which are injurious to health.

**Article 48 : Organization of agriculture and animal husbandry**

The State shall endeavour to organize agriculture and animal husbandry on modern and scientific lines and shall, in particular, take steps for preserving and improving the breeds, and prohibiting the slaughter, of cows and calves and other milch and draught cattle.

**Article 48A : Protection and improvement of environment and safeguarding of forests and wild life**

The State shall endeavour to protect and improve the environment and to safeguard the forests and wild life of the country.

**Article 49 : Protection of monuments and places and objects of national importance**

It shall be the obligation of the State to protect every monument or place or object of artistic or historic interest, declared by or under law made by Parliament to be of national importance, from spoliation, disfigurement, destruction, removal, disposal or export, as the case may be.

**Article 50 : Separation of judiciary from executive**

The State shall take steps to separate the judiciary from the executive in the public services of the State.

**Article 51 : Promotion of international peace and security**

The State shall endeavor to –

- (a) Promote international peace and security;
- (b) Maintain just and honorable relations between nations;
- (c) Foster respect for international law and treaty obligations in the dealings of organized people with one another; and
- (d) Encourage settlement of international disputes by arbitration.

**State of Madras vs. Champakam Dorairajan**

(AIR 1951 SC 226) is a landmark decision of the Supreme Court of India. This judgment led to the First Amendment of the Constitution of India. It was the first major judgment regarding reservations in Republic of India. In its ruling the Supreme Court upheld the Madras High Court judgment, which in turn had struck down the Communal Government Order (G.O) passed in 1927 in the Madras Presidency. The Communal G.O had provided caste based reservation in government jobs and college seats. The Supreme Court's verdict held that providing such reservations was in violation of Article 16 (2) of the Indian Constitution. It gives the result between the Fundamental Rights and Directive Principles of State policy will be considered higher priority for Fundamental Rights.

**Minerva Mills Ltd. and Ors. v. Union Of India and Ors.** (case citation: AIR

1980 SC 1789) is a landmark decision of the Supreme Court of India that applied and evolved the basic structure doctrine of the Constitution of India.

The Supreme court held that balance between the Fundamental rights and the Directive Principles.

**The 42nd Amendment of Indian Constitution** is most comprehensive amendment to the Constitution and carried out major changes. It is also known as “mini constitution”.

- According to the statement of objects and reasons of the 42nd CAA, the following are the reasons for the enactment of 42nd CAA:
- A Constitution to be living must be growing. For removing the difficulties which have arisen in achieving the objective of socio-economic revolution, which would end poverty and ignorance and disease and inequality of opportunity etc., amendment of the Constitution is needed.
- As Parliament and the State Legislatures embody the will of the people so it is essential to establish the parliamentary supremacy in enacting Constitutional amendments.

### **Important Provisions**

- It amended articles 31, 31C, 39, 55, 74, 77, 81, 82, 83, 100, 102, 103, 105, 118, 145, 150, 166, 170, 172, 189, 191, 192, 194, 208, 217, 225, 226, 227, 228, 311, 312, 330, 352, 353, 356, 357, 358, 359, 366, 368 and 371F.
- It inserted articles 31D, 32A, 39A, 43A, 48A, 131A, 139A, 144A, 226A, 228A and 257A and parts 4A and 14A. It also amended Schedule 7.
- The scope of article 31C was widened to cover all the directive principles laid down in the Constitution. Earlier Article 31C saved only laws giving effect to the directive principles of State policy specified in article 39(b) and 39(c).

- New directives was added by new articles 39A, 43A, 48A which, respectively, provide for equal justice and free legal aid to economically backward classes, participation of workers in the management of industries, and protection and improvement of environment and safeguarding of forests and wildlife.
- New article 31D provides for the making of a Parliamentary law to prevent or prohibit anti national activity and anti-national associations. Further it was provided that article 31D will not be deemed to be void on the ground that it takes away or abridges any of the fundamental rights conferred by article 14, article 19 and article 31.
- New article 32A was added to provide that the Supreme Court will have no jurisdiction to decide the constitutional validity of a State law in any writ proceedings under article 32.
- New Part IVA containing article 51A was added to provide lists of fundamental duties of citizens.
- Article 74(1) was amended to make the President to act in accordance with the advice of the Council of Ministers.
- Article 77 and article 166 relating to the Union government and State government have been amended to provide that no court or other authority will be entitled to require the production of any rules framed for the transaction of Government business.

- Article 102(1)(a) was amended to provide that a person will be so disqualified if he holds any such office of profit under the Government of India or the Government of any State as is declared by Parliamentary law to disqualify offices will vest in Parliament instead of in the State Legislature.
- It amended the articles 83 and 172 to increase the duration of the Lok Sabha and every Legislative Assembly from five to six years during a situation of emergency.
- It provided the Union Government to deploy personnel of armed forces in any state to deal with a ‘grave situation of law and order’
- Supremacy of the Parliament was established by this 42nd CAA with regard to the amendment of the Constitution. Article 368 has been amended to provide that no constitutional amendment will be called in question in any court on any ground.
- It transferred subjects like forests, education, weights and measures except establishments of standards, protection of wild animals and birds from the State List to the Concurrent List. New entry 20A was added in Concurrent List which is “Population control and family planning”.
- Article 356 was amended to enlarge the period of operation of proclamation of failure of constitutional machinery in a State which has been approved by Parliament and the period for which the approved Proclamation can be renewed at a time was increased from 6 months to one year.

**The Constitution (Ninety Seventh Amendment) Act 2011** relating to the co-operatives

is aimed to encourage economic activities of cooperatives which in turn help progress of rural India. It is expected to not only ensure autonomous and democratic functioning of cooperatives, but also the accountability of the management to the members and other stakeholders.

**97th Amendment Act, 2011** As per the amendment the changes done to constitution are:-

- In Part III of the constitution, after words “or unions” the words “Cooperative Societies” was added.
- In Part IV a new Article 43B was inserted, which says: The state shall Endeavour to promote voluntary formation, autonomous functioning, democratic control and professional management of the co-operative societies”.
- After Part IXA of the constitution, a Part IXB was inserted to accommodate state vs centre roles.