



Untouchability

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Abstract: The preamble to the constitution of India provides for social, economic and political justice and equality of status and opportunity to all its citizens. Article 17 of the constitution provides that “Untouchability” is abolished and its practice in any form is forbidden. The enforcement of any disability arising out of untouchability shall be an offence punishable in accordance with law. The abolition of untouchability is the arch of the constitution to make its preamble, meaningful and to integrate the Dalits in the national main-stream. The practice of Untouchability in any form is therefore, a crime against the constitution. Despite of stringent provisions of the Laws dealing with the prohibition of untouchability as well as the hard attitudes of the courts against untouchability, the atrocities against untouchables even continued in all states.

Index Terms – Constitution, Equality, Untouchability.

I. INTRODUCTION

Equality is one of the magnificent corner-stones of Indian democracy¹. The preamble of the Indian constitution imbued among its people with pride of being its citizens in an integrated Bharat with Fraternity, dignity of person and equality of status. But castism; Sectional and religious diversities and parochialism are disintegrating the people. Social stratification need restructure. Democracy meant fundamental changes in the social and economic life of the people, absence of iniquitous conditions, inequalities and discrimination. There can be no dignity of person without equality of status and opportunity. Denial of equal opportunities in any walk of social life is denial of equal status and amounts to prevent equal participation in social intercourse and deprivation of equal access to social means. Humane relations based on equality, equal protection of laws without discrimination would alone generate amity and affinity among the heterogeneous sections of the Indian society and a feeling of equal participants in the Democratic polity. Adoption of new ethos and environment are, therefore, imperatives to transform the diffracted society into high degree of mobility for establishing an egalitarian social order in secular socialist democratic Bharat Republic.” Untouchability” of the Dalits stands an impediment for its transition and is a bane and blot on civilized society.²

Article 17 of the constitution of India, in part III, a Fundamental Right, made an epoch making declaration that “Untouchability “ is abolished and its practice in any form is forbidden. The enforcement of any disability arising out of “untouchability” shall be an offence punishable in accordance with law. In exercise of the power in second part of article 17 and Article 35(a)(ii), the untouchability (offence) Act 1955 was made, which was renamed in 1976 as “Protection of Civil Rights Act”.³ The expression ‘Civil Rights’ is defined as “any right accruing to a person by reason of the abolition of untouchability by Article 17 of the constitution”⁴. Article 17 is a very significant provision from the point of view of equality before the law. It guarantees social justice and dignity of man, the twin privileges which were denied to a vast section of the Indian society centuries together.⁵ The “atrocities” committed on scheduled castes and scheduled tribes had not diminished. Therefore, the parliament passed the impugned Act known as the scheduled castes and scheduled tribes (prevention of Atrocities) Act 1989. An Act to prevent the commission of offences of atrocities against the

member of the Scheduled Castes and the Scheduled Tribes and to provide for special courts for the trial of such offences and for the relief and rehabilitation of the victims of such offences.⁶

Despite various measures to improve the socio-economic conditions of the scheduled castes and scheduled tribes, they remain vulnerable. They are denied number of civil rights. They are subjected to various offences, indignities, humiliations and harassment. They have, in several brutal incidents, been deprived of their life and property. Serious crimes are committed against them for various historical, social and economic reasons.⁷

According to National Crimes Records Bureau (NCRB)⁸ reports, a total of 40,300 cases of atrocities against SCs [in which SC/ST (POA) Act applied] were reported in the country during 2014. The highest incidents of atrocities against SCs were reported from Uttar Pradesh (8,066 cases). Bihar (7,874 cases), Rajasthan (6,734 cases) and Madhya Pradesh (3,294 cases) whereas the highest number of victims of under atrocities against SCs were reported from Bihar (8,268 persons), Rajasthan (6,931 persons) and Madhya Pradesh(3,424 persons)

The highest rate of atrocities against SCs was reported from Rajasthan (55.1%) followed by Bihar (47.5%), Madhya Pradesh (29.0%) and Uttar Pradesh (19.5%) as compared to 20.0% at all India level during 2014. A total of 1,27,341 cases of crimes committed against SCs were for trial in the country during 2014. In 17,712 cases trials were completed, 5,102 cases ended in conviction and in 12,610 cases accused persons were acquitted or discharged. At the end of 2014, a total of 1,08,659 cases were pending for trial. The conviction rate of 28.8% and pendency rate of 85.3% under crime against SCs were reported during 2014. Since 2014, crimes against SCs have increased one percent overall, although there was a steep rise of 5.5 percent in 2016. As per 2016 statistics, Uttar Pradesh accounts for over a quarter (25.6 percent) of these crimes in 2016, followed by Bihar and Rajasthan. This is further reflected in the fact that their respective capital cities constitute almost 45 percent of the total crimes against SCs among all 19 metropolitan cities. States with low prevalence of violence include West Bengal (0.3%), Jharkhand (1.3%) and Kerala (2%). Coimbatore and Chennai have emerged with the lowest prevalence of violence against SCs amongst all metropolitan cities, with 0.2% and 0.6% respectively.⁹

II. UNTOUCHABILITY

The word “untouchability” has not been defined either in the constitution or in the Act, because it is not capable of any precise definition.¹⁰ “Untouchability” is a product of the Hindu caste system¹¹. A single judge of the Mysore High Court¹² in Deverajia has rightly held that untouchability in the Act refers to the social disabilities historically imposed on certain classes of people by reason of their birth in certain castes and would not include an instigation of social boycott by reason of the conduct of certain persons. The word “Harijan” prime facie refers to an untouchable. Untouchability is an integral part of caste system and is not based on mens rea.¹³

Mahatma Gandhiji in his ‘My Philosophy Of Life’¹⁴ stated that “untouchability” means pollution by the touch of certain persons by reason of their birth in a particular state of family. It is a phenomenon peculiar to Hinduism and has got to warrant in reasons of sastras”. According to Dr. B R Ambedkar “the untouchability” is the notion of defilement, pollution, contamination and the ways and means of getting rid of that defilement. It is a permanent hereditary stain which, nothing can “cleanse”. The parliamentary committee on untouchability headed by L. Elayaperumal in their 1969 report stated that “untouchability” is a basic and unique feature and inseparably linked up with the caste system and social setup based upon it. It does not require much research to realise that the phenomenon of untouchability in this country is fundamentally of a religious or political origin. Untouchability is not a separate institution by itself, it is a corollary of the institution of the caste system of Hindu society.¹⁵ It is an attitude on the part of a whole group of people. It is a spirit of social aggression that underlies this attitude.

III. DISCRIMINATION AGAINST UNTOUCHABLES OR DALITS

In India the Dalits – officially known as scheduled castes (“SCs”) – constitute 167 million people according to the 2001 census. Although India has an impressive range of constitutional provisions and laws that ban caste discrimination and untouchability, the lack of implementation remains a chronic problem. Caste system leads to social exclusion and systematic denial of basic rights of Dalits at all levels in society .¹⁶

According to National Campaign on Dalits Human Rights (NCDHR) there are various forms of discriminations being practiced against Dalits in India. These are –

- Prohibited from eating with other caste members.
- Prohibited from marrying with other caste members.
- Separates glasses for Dalits in village tea stalls.
- Segregation in seating and food arrangements in village functions and festivals.
- Prohibited from using common village pat.
- Separate burial grounds.
- No access to village’s common / public properties and resource (wells, ponds, temples etc)
- Segregation (separate seating area) of Dalit children in schools.
- Bonded labour.

A significant proportion of India’s Dalits women suffer multiple forms of discrimination, incl. Verbal abuse, physical assault, sexual harassment and assault, domestic violence, naked parading, and rape. Some young Dalit girls are even exposed to a form of forced prostitution in temples, serving as sex workers for men from dominant castes. An estimate 1.3 million Dalits in India make their living through the inhuman and outlaw practice of manual scavenging (the job of cleaning human excrement from dry toilets with bare hands). The use and abuse of Dalit bonded labourers remains endemic within a range of occupations. In this aspect, Dalit children are particularly vulnerable. 50% of all SC children, and 64% of girl students drop out due to discrimination being practiced against them in school. The difference in dropout rates between Sc youth and all India youth has actually grown from 4.39% in 1989 to 16.21% in 2008 .¹⁷

IV. CONSTITUTIONAL PROVISIONS

The constitution of India is the basic and supreme law of our country. It provides the philosophy of liberty, equality and fraternity which is conducive for the egalitarian and humanitarian form of society. Therefore, the constitution of India contained special provisions for the safeguard of scheduled castes under fundamental rights part III, part IV directive principle of state policy.

Article 14 provides that –

The state shall not deny to any person equality before the law or the equal protection of the law within the territory of India.

Article 15:-

- (1) The state shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them.
- (2) No citizen shall, on grounds only of religion, race, caste, sex, place of birth or any of them, be subject to any disability, liability, restriction or condition with regards to-
 - (a) access to shops, public restaurants, hotels and places of public entertainment ; or
 - (b) the use of wells, tanks, bathing ghats, roads, and places of public resort maintained wholly or partly out of state funds or dedicated to the use of the general public.
- (3) Nothing in this article shall prevent the state from making any special provision for women and children.

- (4) Nothing in this article or in clause(2) of article-29 shall prevent the state from making any special provision for the advancement of any socially and educationally backward classes of citizens or for the schedule castes and schedule Tribes.
- (5) Nothing in this article or in sub clause(g) of clause(1) of article-19 shall prevent the state from making any special provision, by law for the advancement of any socially and educationally backward classes of citizens or for the schedule castes or the schedule Tribes in so far as such special provisions relate to their admission to educational institutions including private education institutions, whether aided or unaided by the state, other than the minority educational institutions referred to in clause(1) of article-30.

Article 16:-

- (1) There shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the state.
- (2) No citizen shall, on grounds only of religion, race, caste, sex, descent, place of birth, residence or any of them, be ineligible for, or discriminated against in respect of any employment or office under the state.
- (3) Nothing in this article shall prevent parliament from making any law prescribing in regard to a class of employment or appointment an office (under the government or any local or other authority within a state or union territory any requirement as to residence within the state or union territory) prior to such employment or appointment.
- (4) Nothing in this article shall prevent the state from making any provision for the reservation of appointments or posts in favour of any backward class of citizens which in the opinion of the state is not adequately represented in the services under the state.

(4-A) nothing in this article shall prevent the state from making any provision for reservation in matters of promotion (with consequential seniority) to any class or classes or posts in the services under the state in favour of the scheduled castes and the scheduled Tribes which in the opinion of the state, are not adequately represented in the services under the state.

(4-B) nothing in this Article shall prevent the state from considering any fulfilled vacancies of a year which are reserved for being filled up in that year in accordance with any provision for reservation made under clause(4) or clause(4-A) as a separate class of vacancies to be filled up in any succeeding year or years and such class of vacancies shall not be considered together with the vacancies of the year in which they are being filled up for determining the ceiling of fifty percent reservation on total number of vacancies of that year.

- (5) Nothing in this article shall effect the operation of any law which provides that the incumbent of an office in connection with the affairs of any religious or denominational institution or any member of the governing body thereof shall be a person professing a particular religion or belonging to a particular denomination.

Article 17:-

“Untouchability” is abolished and its practice in any form is forbidden. The enforcement of any disability arising out of “untouchability” shall be an offence punishable in accordance with law.

Article 21:-

No person shall be deprived of his life or personal liberty except according to procedure established by law.

Article 23:-

- (1) Traffic in human beings and begar and other similar forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law.
- (2) Nothing in this article shall prevent the state from imposing compulsory service for public purposes, and in imposing such service the state shall not make any discrimination on grounds only of religion, race, caste or class or any of them.

Article 25:-

- (1) Subject to public order, morality and health and to the other provisions of this part, all persons are equally entitled to freedom of conscience and the right freely to profess, practice and propagate religion.
- (2) Nothing in this article shall affect the operation of any existing law or prevent the state from making any law –
 - (a) regulating or restricting any economic, financial, political or secular activity which may be associated with religious practice.
 - (b) Providing for social welfare and reform or the throwing open of Hindu religious institutions of a public character to all classes and sections of Hindus.

Article 26:-

Subject to public order, morality and health, every religious denomination or any section thereof shall have the right –

- (a) To establish and maintain institutions for religious and charitable purposes;
- (b) To manage its own affairs in matters of religion;
- (c) to own and acquire movable and immovable property; and
- (d) To administer such property in accordance with law

Article 29:-

- (1) Any section of the citizens residing in the territory of India or any part thereof having a distinct language, script or culture of its own shall have the right to conserve the same.
- (2) No citizen shall be denied admission into any educational institution maintained by the state or receiving aid out of state funds on grounds only of religion, race, caste, language or any of them.

Article 39-A:-

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 46:-

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.

V. INTERNATIONAL PROVISIONS

The Universal Declaration of Human Rights 1948, The International Covenant on Civil and Political Rights 1966 and International Convention on the Elimination of all forms of Racial Discrimination, 1966 lay down standards of general application to all human beings which are applicable at all time and in all circumstances setting the standards for advancement of human rights.

VI. UNIVERSAL DECLARATION OF HUMAN RIGHTS, 1948

Article 1 provides that –

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Article 2:-

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs whether it be independent trust, non self governing or under any other limitation of sovereignty.

Article 3:-

Everyone has the right to life, liberty and security of person.

Article 7:-

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this declaration and against any incitement to such discrimination.

Article 18:-

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

Article 27(i):-

Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.¹⁸

VII. INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS, 1966

Article 6(i) provides that –

Every human being has the inherent right to life. The right shall be protected by law. No one shall be arbitrarily deprived of his life.

Article 26:-

All persons are equal before the law and entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all person equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national as social origin, property, birth or other status.

VIII. INTERNATIONAL CONVENTION ON THE ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION, 1966 (ICERD)

Article 1 provides that-

1. In this Convention, the term “racial discrimination” shall mean any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.
2. This Convention shall not apply to distinctions, exclusions, restrictions or preferences made by a State Party to this Convention between citizens and non-citizens.
3. Nothing in this Convention may be interpreted as affecting in any way the legal provisions of States Parties concerning nationality, citizenship or naturalization, provided that such provisions do not discriminate against any particular nationality.
4. Special measures taken for the sole purpose of securing adequate advancement of certain racial or ethnic groups or individuals requiring such protection as may be necessary in order to ensure such groups or individuals equal enjoyment or exercise of human rights and fundamental freedoms shall not be deemed racial discrimination, provided, however, that such measures do not, as a consequence, lead to the maintenance of separate rights for different racial groups and that they shall not be continued after the objectives for which they were taken have been achieved.¹⁹

IX. THE PROTECTION OF CIVIL RIGHTS ACT, 1955

The protection of civil rights Act 1955, extends to the whole of India and provides punishment for the practice of “untouchability”. It is implemented by the respective state governments and Union Territory administrations²⁰.

Main provisions of the protection of Civil Rights Act 1955 are as under—

Section 3–7A of the Act define the following as offences if committed on the ground of “untouchability” and lay down punishment for them :

- i. Prevention from entering public worship places, using sacred water resources (section 3)
- ii. Denial of access to any shop, public restaurant, hotels, public entertainment, cremation ground etc (section 4)
- iii. Refusal of admission to any hospital, dispensary, educational institution etc. (section 5)
- iv. Refusal of sell goods and render services (section 6)
- v. Molestation, causing injury, insult etc (section 7)
- vi. Compelling a person on the ground of untouchability to do any scavenging or sweeping or to remove any carcass etc. (section 7A)

X. THE SCHEDULED CASTES AND THE SCHEDULED TRIBES (PREVENTION OF ATROCITIES) ACT, 1989

The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 to prevent the commission of offences of atrocities against the member of the Scheduled Castes and the Scheduled Tribes to provide for special courts for the trial of such offences and for the relief and rehabilitation of the victims of such offences. “Atrocity” has been defined under section 2 of the said Act to mean an offence punishable under section 3(1). Section 3(1) provides as follows²¹ :-

Punishments for offences of atrocities :- (1) Whoever, not being a member of a Scheduled Caste or a Scheduled Tribe,—

- (i) Forces a member of a scheduled caste or a scheduled tribe to drink or eat any inedible or obnoxious substance;
- (ii) Acts with intent to cause injury, insult or annoyance to any member of a Scheduled Caste or a Scheduled Tribe by dumping excreta, waste matter, carcasses or any other obnoxious substance in his premises or neighbourhood;
- (iii) Forcibly, removes clothes from the person of a member of a Scheduled Caste or a Scheduled Tribe or parades him naked or with painted face or body or commits any similar act which is derogatory to human dignity;
- (iv) Wrongfully occupies or cultivates any land, owned by, or allotted to, or notified by any competent authority to be allotted to, a member of a Scheduled Caste or a Scheduled Tribe, or gets the land allotted to him transferred;
- (v) Wrongfully dispossesses a member of a Scheduled Caste or a Scheduled Tribe from his land or premises or interferes with the enjoyment of his rights, over any land premises or water ;
- (vi) Compels or entices a member of a Scheduled Caste or a Scheduled Tribe to do “beggar” or other similar forms of forced or bonded labour other than any , compulsory service for public purpose imposed by government;
- (vii) Forces or intimidates a member of a Scheduled Caste or a Scheduled Tribe not to vote or to vote to a particular candidate or to vote in a manner other than that provide by law;
- (viii) Institutes false, malicious or vexatious suit or criminal or other legal proceedings against a member of a Scheduled Caste or a Scheduled Tribe;
- (ix) Gives any false or frivolous information to any public servant and thereby causes such public servant to use his lawful power to the injury or annoyance of a member of a Scheduled Caste or a Scheduled Tribe;
- (x) Intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe in any place within public view;
- (xi) Assault or uses force to any women belonging to a Scheduled Caste or a Scheduled Tribe with intent to dishonour or outrage her modesty.
- (xii) I being in a position to dominate the will of a women belonging to a Scheduled Caste or a Scheduled Tribe and uses that position to exploit her sexually to which she would not have otherwise agreed;
- (xiii) Corrupts or fouls the water of any spring, reservoir or any other source ordinarily used by members of the Scheduled Castes or the Scheduled Tribes so as to render it less fit for the purpose for which it is ordinarily used;
- (xiv) Denies a member of a Scheduled Caste or a Scheduled Tribe customary right of passage to a place of public resort or obstructs such member so as to prevent him from using or having access to a place of public resort to which other members of public or any section thereof have a right to use or access to;
- (xv) Forces or causes a member of a Scheduled Caste or a Scheduled Tribe to leave his house, village or other place of residence; shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to five years and with fine;

XI. JUDICIARY ON UNTOUCHABILITY

The independence of judiciary is the “live wire” of our judicial system. The judiciary under our constitutional scheme has been performing positive and creative function in securing and promoting human rights to the people.²² In *State Of Karnataka V/s Appa Balu Ingale*²³ the Supreme Court held that, the abolition of untouchability is the arch of the constitution to make its preamble meaningful and to integrate the Dalits in the national mainstream. The thrust of article 17 is to liberate the society from blind and ritualistic adherence and traditional, beliefs which lost all legal and moral base. It seeks to establish new ideal for society-equality to the Dalits, as per with general public, absence of disabilities, restrictions or prohibitions on grounds of caste or religion, availability of opportunities and a sense of being a participant in the main stream of national life.²⁴

In *Indra Sawhney and ors. V Union of India and ors*²⁵ the Supreme Court observed that, “Secularism is the basic feature of the Indian constitution. It envisages a cohesive, unified and casteless society. The constitution has completely obliterated the caste system and has assured equality before law. Reference to caste under Articles 15(2) and 16(2) is only to obliterate it. The prohibition on the ground of caste is total, the mandate is that never again in this country caste shall raise its head. Even access to shops on the ground of caste is prohibited. The progress of India has been from casteism to egalitarianism – from feudalism to freedom.

The caste system which has been put in the grave by the farmers of the constitution is trying to raise its ugly head in various forms. Caste poses a serious threat to the secularism and as a consequence to the integrity of the country. Those who do not learn from the events of history are doomed to suffer again. It is, therefore, of utmost importance for the people of India to adhere in letter and spirit to the constitution which has moulded this country into a sovereign, socialist, secular democratic republic and has promised to secure to all its citizens justice, social, economic, and political, equality of status and opportunity” .²⁶

In *Lata Singh V/s State of UP and another*²⁷ , the apex court held that, “the caste system is a curse on the nation and the sooner it is destroyed the better. In fact, it is dividing the nation at a time when we have to be united to face the challenges before the nation unitedly. Hence, inter-caste marriages are in fact in the national interest as they will result in destroying the caste system. However, disturbing news are coming from several parts of the country that young men and women who undergo inter-caste marriage, are threatened with violence, or violence is actually committed on them. In our opinion, such acts of violence or threats or harassment are wholly illegal and those who commit them must be severely punished. This is a free and democratic country, and once a person becomes a major he or she can marry what so ever he/she likes”.

The Supreme Court of India in *People’s Union for Democratic Rights V/s Union of India*²⁸ held that the Fundamental Right under article 17 of the constitution is available against private individuals also and it is the constitutional duty of the state to take necessary steps and ensure that this fundamental Right is not violated.

In *Dalima cement (Bharat) ltd. V/s Union of India*²⁹ the apex court held that, “the concept of equality and equal protection of laws guaranteed by Article 14 in its proper spectrum encompasses social and economic justice in a political democracy and equality before law is co-relative to the concept of rule of law for all around evolution of healthy social order. A basic postulate of the rule of law is that “ justice should not only be done but it must also be seem to be done “ . The healthy social order is only possible in India, if the members of scheduled castes and scheduled tribes are brought at par with other members of Indian communities.

Secularism is a basic feature of the constitution. Irrespective of caste or religion, the constitution guarantees equality in its preamble as well as other provisions including Articles 14-16. The constitution envisages a cohesive unified and casteless society³⁰ . For removing of social discrimination and to integrate the Dalits with Hindu society, the courts have given broader meanings to the terms which are used under Article 15(2). The Madras high court in *Banali Das V/s Pakhu Bhandari*³¹ held that the word “shop” in this Article is used in a generic sense and would include any premises where goods are sold either by retail or wholesale or both and would include a laundry, hair cutting saloon or such other places where services are rendered to the customer. A doctor’s clinic or lawyer’s office may will be included within the expression “shop” so the refusal of a barber to shave a cobbler in public saloon was rightly considered as offending Article 15(2) of the constitution.

Equality is a dynamic concept with many aspects and dimensions and it cannot be cribbed, combine and confined with an traditional and doctrinaire limits.³² In *Surya Narayan Chaudhary V/s State of Rajasthan*³³,

the Rajasthan High court permitted the entry of Harijans to temple without purification ceremonies, on a public interest petition. The High Court disposed off the petition with necessary directions in favour of Harijans. The Court pointed out that under the Nathdwara Temple Act, the state government had the power of general superintendence over the temple administration. Therefore, it could prevent infringement of constitutional or other legal provisions. It had a duty to prevent hostile discrimination. It further ruled that every devotee, including the Harijan who wants to enter the temple, shall be permitted to do so in accordance with the general practice. Harijans shall not be subjected to additional conditions. The purification ceremonies shall be discontinued as it violated Article 14, 15 and 17 of the constitution. “ The Govt, must also take strict steps to ensure that there is no further mockery of this constitutional guarantee and offenders, if any, are promptly dealt in accordance with law”³⁴. The Govt undertaking was noted and it was asked to keep the law and order. On the other hand those who claimed public interest were asked not to “use the Harijans as pawns on political chess board”.

XII. CONCLUSION

Caste system is the root cause of the origin of untouchability. Therefore the abolition of caste system is very essential for the eradication of untouchability. The monstrous course of untouchability has got to be eradicated. It has got to be eradicated not merely by making constitutional provisions or laws but also by eradicating it from the minds and hearts of men. For that it is even more important that members of communities who are untouchable should assert their self respect and fight for their dignity than that members of the other communities should forget about it.³⁵

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