

PRESENT SITUATION OF THE RIGHT TO JOB IN INDIA

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INTRODUCTION

In the present era, money is the most important resource for living. Without money, no one can access the resources necessary to live in this world. Now the question arises that how can one earn money? A person can earn money only when he or she is employed. Employment not only helps in earning money but also leads to personal development. Depriving a person of his right to work will deprive him of his basic fundamental rights as the person will not live a standard life. Article 21 of the Indian constitution provides that every person has the right to live with human dignity; human dignity can only be achieved if the necessities of life are fulfilled. A Country's economy will suffer if its citizens remain unemployed despite their ability to work. Therefore, like all other fundamental rights, the Fundamental right to work should also be well recognized.

In this article, I will discuss the importance of the right to work and how this right being one of the most important, has become one of the most ignored rights.

RELATIONSHIP BETWEEN EMPLOYMENT AND ECONOMY

Humans are assets in the economic development of a country. Countries with a small population understand the value of a human and focus on increasing its population because they know how fruitful human beings can be for the development of a Nation. When the people of the nation are employed, they all work hard in the country's development which leads to an increase in goods and services in a country. This all raises the National Income of that country.

A country like India with a large population is facing a high degree of Unemployment. There is huge wastage of human resources. In India, most of the people in the country are willing to work, but they are not getting work. When people are not employed, they are not having any source of income, which causes poverty in the economy. Poverty further breeds many ills in

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society such as crime, starvation, increasing death rate,. Therefore, there is a fall in the National Income of the country.

ELEMENTS OF RIGHT TO JOB

The right to the job should have both Quantitative and Qualitative elements. The quantitative element requires that there should be enough jobs for every person seeking one. And Qualitative element provides for decent or dignified work which includes fair wages, fair conditions and reasonable hours, etc. In addition to this Right to Job should also have the element of liberty i.e., “Freedom of choice that all should have the opportunity to gain employment”.¹

RIGHT TO LIFE INCLUDES THE RIGHT TO LIVELIHOOD

With time, the scope of Article 21 has increased. Earlier there was no mention of the Right to livelihood under the Fundamental Rights of the Indian Constitution. The wider interpretation is given in the judgment of *Olga Tellis & Ors. v. Bombay Municipal Corporation & Ors.*² increased the ambit of Article 21 of the Indian Constitution by adding the Right to work as an inherent right under Article 21 of the Constitution of India.

*Olga Tellis & Ors. v. Bombay Municipal Corporation & Ors.*³ In the year 1981, The Bombay Municipal Corporation and the state government of Maharashtra decided to remove the inhabitants who resided in slums and near the pavements in Bombay and expel them to their place of origin. The people filed a complaint against the decision. Still, after filing the suit, they were forced to leave.

After forceful eviction, Olga Tellis a journalist, and other organizations, filed a writ petition under Article 32 of the Indian Constitution against the decision of the State Government and the forceful removal of people.

The court held that the decision of the eviction by the Maharashtra Government was against Article 21 of the Indian Constitution. They decided that removing people from their places will deprive them of their means of subsistence and right to work, which is protected under

¹Jeremy Sarkin and Mark Koenig, Developing the Right to Work: Intersecting and Dialoguing Human Rights and Economic Policy, 33(1) Human Rights Quarterly 3 (2011) available at <https://www.istor.org/stable/23015979>. (Last visited on 26th March, 2021).

² *Olga Tellis & Ors. v Bombay Municipal Corporation & Ors*, (1986) SC 180.

³ *Ibid.*

Article 41 of the DPSP. Both DPSP and Fundamental rights are on the same footing. Therefore, the Right to Livelihood is protected impliedly under the right to life of article 21.⁴

This case law gave a wider interpretation to Article 21 of the Indian Constitution by adding the Right to work under it.

State of Uttar Pradesh v. Charan Singh; this case law was interpreted in the same way as the Olga Tellis case. Under this case, it was held that the Right to work is a fundamental right, impliedly included under Article 21 of the Indian Constitution.⁵

ARTICLE 41 (DPSP) - RIGHT TO WORK

In India, the right to a job is not expressly a fundamental right. Article 41 includes the right to a job as a Directive Principle. According to this article, the state has to secure the right to work for all its citizens. But this right, being part of Directive Principles, is not enforceable in the courts. Under Article 41, the state shall not be bound by this right if it is out of its economic capacity, which shows that the right to a job is dependent on the development and the economic capacity of the state.⁶

For example, if the government introduces any scheme related to employment. A person left unemployed under that scheme because scheme comes to an end, the state shall not be bound to employ that person.⁷

GROUND REALITY OF EMPLOYMENT IN INDIA

Founding Fathers of the Indian constitution had a great desire to make the right to job enforceable as they wanted that everyone should be employed but today, the ground reality of the country's employment situation is disheartening. Since the 21st century, India's GDP has shown a lot of improvement. India is known as one of the world's largest economies. Government has the economic capacity through which it can ensure more and more jobs for its citizens but the problem is that the government is spending its finance on projects which

⁴ Abhishek Kumar, Olga Tellis & Ors. v Bombay Municipal Corporation & Ors., Law Times Journal, <http://lawtimesjournal.in/olga-tellis-and-ors-vs-bombay-municipal-corporation-and-ors/>. (Last visited on March 26, 2021)

⁵ Tissy Annie Thomas, Right to work under the Indian Constitution, I-Pleaders, <https://blog.iplayers.in/right-to-work/#:~:text=Right%20to%20Work%20and%20Part%20IV%20of%20the%20Indian%20constitution.&text=However%2C%20the%20Indian%20Constitution%20does,in%20the%20court%20of%201a> w. (Last visited on March 24, 2021)

⁶ INDIA CONST. Art. 41

⁷ NARENDER KUMAR, CONSTITUTIONAL LAW OF INDIA 560 (10th ed. 2020).

will increase the GDP of the country but will bear no fruit on its citizens. A few of such examples are:

- Central government's project to build a new Parliament in Delhi till the year 2022 with an estimated cost of Rs. 971 crores.⁸
- The government spent 2,989 crores on the Sardar Patel statue on unity.⁹
- Rs. 3600 crores were spent by the Maharashtra government on building the Shivaji statue.¹⁰
- Rs. 3,755 crores were spent by the Modi government on Publicity and ads.¹¹
- The government spent Rs. 800 crores to rebuilt Narendra Modi Stadium in Gujarat.¹²
- Gujarat government wasted Rs.80 crores on 3 hours visit of US President Donald Trump in February 2020.¹³
- Rs. 526 crores were spent by the Aam Aadmi Party on promotions and ads.¹⁴

ARTICLE 23 OF THE UNIVERSAL DECLARATION OF HUMAN RIGHTS (UDHR)

The Right to work is internationally recognized. The birth of every revolution is to get all the basic human rights recognized by those in power. UDHR is a document having a legal sanctity that focuses on Human rights all over the world. UDHR is the composition of 30 Articles with a preamble. These articles focus on all the rights which are necessary for a human being to live freely and make life worth living. Article 23 of the UDHR provides that everyone has the right to work and the Right to choose work.

⁸ Construction of new parliament building begins under Modi Govt's Central Vista project, The Print, <https://theprint.in/india/construction-of-new-parliament-building-begins-under-modi-govts-central-vista-project/585963/>. (Last Visited on 1st April, 2021).

⁹ The Statue of Unity Cost Rs 2,989 Crore. Here's What Else That Money Could Have Bought, The Wire, <https://thewire.in/politics/statue-of-unity-cost-narendra-modi>. (Last Visited on 1st April, 2021).

¹⁰ 11 times our government wasted huge amount of Taxpayers Money without thinking twice, ScoopWhoop, <https://www.scoopwhoop.com/government-waste-taxpayer-money/>. (Last Visited on 1st April, 2021).

¹¹ *Ibid*.

¹² Mahesh Lange, Motera Cricket Stadium, world's Largest, named after Modi., The Hindu, <https://www.thehindu.com/sport/cricket/motera-cricket-stadium-in-ahmedabad-renamed-narendra-modi-stadium/article33922104.ece>. (Last visited on 1st April, 2021).

¹³ Scroll Staff, Gujarat to spend Rs. 80 crores for Donald Trump's 3-hour visit to Ahmedabad, Scroll, <https://scroll.in/latest/953620/gujarat-to-spend-rs-80-crore-for-donald-trumps-3-hour-visit-to-ahmedabad-report>. (Last visited on 1st April, 2021).

¹⁴ *Supra* 10.

PRESENT SCENARIO OF EMPLOYMENT IN INDIA

India, which is known for its youngest populations, is not able to provide them with employment. In the 20-24 age groups, only 37 percent of people are employed, and this situation could lead to dangerous consequences. This is even though, in the 5-to-30-year age range, India has 35 percent of its working population.¹⁵

Providing public employment is the responsibility of a functioning government. But the recent trend shows that the government is moving towards privatization and limiting state interference on the ground of corruption and inefficiency. Even in filling the vacancies in existing positions, governments at both central and state levels have been very poor. Instead of attempting to ensure that all vacant posts are filled, the number of people in employment has been further reduced by both central and state governments.

Though capitalism may help India to grow its GDP as a result of this increasing privatization has led companies to only strive for profit thereby replacing labour with capital and this will deepen India's unemployment problem.

- PRESENT UNEMPLOYMENT RATE IN INDIA

In the past few years, the unemployment rate is on the rise, which was very high during the spread of coronavirus in 2020. Since Lockdown, the country is trying to recover its employment rate now it's been more than one year. According to CMIE, the unemployment rate in December 2020 was 9.1% and it reduced to 6.5% in January 2021. Again, the rate rose in February 2021 to 6.9%. In March it was 6.52 % (Urban- 7.24 Rural-6.19)¹⁶

- UNEMPLOYMENT IN INDIAN JUDICIARY

It is so shameful that India, one of the most populated country has one judge per 50,000 people. There are very few posts of judicial officers in India as compared to its population. It will be more disheartening to see that out of the total posts of judicial officers many are vacant. As per the 2021 report, in the High court out of 1080 posts, 419 posts are vacant, and

¹⁵ Perna Sindwani, Young and Jobless: 63% Indians between 20-24 are unemployed, Business Insider India available at <https://www.businessinsider.in/careers/news/young-and-jobless-63-indians-between-20-24-are-unemployed/articleshow/73999969.cm> (Last visited on 1st April, 2021).

¹⁶ CMIE Unemployment Rate in India, https://unemploymentinindia.cmie.com/kommon/bin/sr.php?kall=wsttimeseries&index_code=05005000000&dtype=total. (Last visited on 2nd April, 2021).

in Supreme Court, out of 34 posts, 4 posts are vacant. Millions of people approach court every day in search of justice and the justice remain denied to them without any verdict.¹⁷

- **JOBLESS PROFESSORS IN INDIA**

Central Government hired around 1500 professors on a Contract basis. This contract was to expire on 31st March 2021. In the fear of losing jobs, over 500 Assistant professors on 24th March 2021 from all over the country protested in front of the Education Ministry. This shows that even after working hard for the past 2 years, professors were denied the security of their job which made them do protest. This protest is not only of professors but also of the students who will be left to study without any teacher.¹⁸

- **‘CHAHATRA ADHIKAR MARCH’ (STUDENT’S RIGHTS MARCH) BY NSUI AGAINST RISING UNEMPLOYMENT**

Unemployment is one of the biggest issues in India. Students, after studying from various prestigious Centre and State Universities remain Unemployed. On 12th March 2021, students from all over India who are a member of the National Students Union of India participated in a march that took place in Delhi.

This march was the voice of youth, who work so hard and are deprived of jobs. They all raised their slogans against the central government for providing them with jobs. Students are frustrated from the government’s cancelling of various employment exams, scams in various exams, pending results of various exams, and lazy placement cells which made them challenge the government’s power.¹⁹

¹⁷419 posts out of 1080 sanctioned posts for judges in high courts, Supreme Court vacant, Business Today, <https://www.businesstoday.in/current/economy-politics/419-posts-out-of-1080-sanctioned-posts-for-judges-in-high-courts-supreme-court-vacant/story/434104.html>. (Last visited on April 2nd, 2021).

¹⁸ Maaz Hasan, over 1,500 Professors to Be Jobless in a Week, 500 March to Delhi, The quint, <https://www.thequint.com/news/education/over-1500-professors-to-get-jobless-on-31-march-protest-in-delhi-teqip-faculty#read-more>. (Last visited on 2nd April, 2021).

¹⁹ Parliament march by youth to protest unemployment, The New Indian Express, <https://www.newindianexpress.com/cities/delhi/2021/mar/13/parliament-march-by-youth-to-protest-unemployment-2276054.html>. (Last visited on 2nd April, 2021).

- CANDIDATES SELECTED FOR JOBS, STILL WAITING TO JOIN

There are various instances in India in which students cracked the recruitment examinations but they are waiting for years for joining letter. Recently the case of students who cracked the Village Development officer examination of Uttar Pradesh in the year 2019, are still waiting for their appointment letters. They gave their examination in 2018 and results were announced in 2019. Now, even after more than a year has passed, they are not given any information related to their appointment. So, hundreds of students were protesting at Yogi Adityanath's residence (Uttar Pradesh's Chief Minister). This is not the first time that students are protesting for their right to the job, it's been for a lot of years that even after clearing the examination they are waiting for the appointment letter and remain unemployed for that period. This is not only the loss of students but also for the economy as pending work remains pending. The main problem faced by the students in this situation is mental stress which is often ignored by politicians.²⁰

CONCLUSION

The Right to Job is a Human Rights issue and there is a need to raise awareness among the masses and oblige governments to fulfill the requirements on right to job i.e., adopting a national policy on right to the job, providing unemployment compensation, and employment services, enforcing plans to counter unemployment and implementation of technical and vocational training plans. So, it is the primary responsibility of the state and the inherent right of every individual to have the right to the job. In India students after studying hard are uncertain about their jobs. Year by Year the country's employment rate is falling. The government is wasting money on unnecessary projects. There is a need for youth to raise their voices and fight for their future. Therefore, the Right to the job should be expressly defined under fundamental rights in India.

²⁰ Akanksha Kumar, why candidates recruited for UP posts years ago are still waiting to join duty, news laundry, <https://www.newslaundry.com/2021/03/08/why-candidates-recruited-for-up-posts-years-ago-are-still-waiting-to-join-duty>. (Last visited on 2nd April, 2021).