CASE COMMENT - S.P. MITTAL v. UNION OF INDIA: UNFOLDING THE CONFLICT OF RELIGIOUS RIGHT

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INTRODUCTION

India being a secular country has tolerance for all the religions and this has been reflected from the decisions of our judiciary from time to time. Freedom of religion in India is a fundamental right guaranteed by Article 15 and Article 25 of the Constitution of India. Modern India came into existence in 1947 and the Indian constitution's preamble was amended in 1976 to state that India is a secular state. But having right is not sufficient. There have been numerous conflict between various interest groups and law making bodies which will be dealt in the respective case analysis.

***S.P. Mittal Etc*. v. *Union of India And Others* (1982) 1983 AIR, 1 1983 SCR (1) 729**

FACT

Sri Aurobindo was one of the India's great sage and philosopher. After his career in politics and administration, he decided to convert his life into yoga and meditation at Pondicherry, Tamil Nadu. A French lady named Madam M. Alfassa, became his disciple and also later she known as Mother. Soon after some time many people all over India and also from the abroad joined Sri Aurobindo and formed a society named Sri Aurobindo Society in 1960 under West Bengal Registration of Societies Act 1961.After some years a new township was formed known as AUROVILLE where people were taught he teachings of Sri Aurobindo .Seeing a unique work state and central government decided to provide funds to the township .As a result of it the UNESCO also decided to help this township in its development because it was helpful in international relation.

In year 1970,after the death of Mother Alfassa there were lots of cases registered against the misappropriation of funds in the township .Seeing such a conflict Central government decided to take over the power of administration in its hands, for which legislation passwd a Presidential Ordinance . After some time by filing a writ, that ordinance was converted into ***Auroville Emergency Provision Act 1980***. The same was challenged before Supreme Court of India.

ISSUES RAISED

The constitutional validity of the Act has been challenged on four grounds:

1. Parliament has no legislative competence to enact the impugned statute;
2. The impugned Act infringes Articles 25, 26, 29 and 30 of the Constitution;
3. The impugned Act is in violation of Article 14 of the Constitution; and
4. The act was mala fide.

JUDGEMENT

In the judgement given by the court, Supreme Court firstly defined the powers of the parliament[1] where judgement is-

1. The Parliament had the legislative competence to enact the Auroville (Emergency Provisions) Act, 1980.

2. The subject matter of the impugned Act is not covered by Entry 32 of List II of the Seventh Schedule. Even if the subject matter of the impugned Act is not covered by any specific entry of List I or III of the Seventh Schedule of the Constitution it would in any case be covered by the residuary entry 97 of List I.

3. The function of the Lists in the Seventh Schedule to the Constitution is not to confer powers .They merely demarcate the legislative fields. Power to legislate is given to appropriate legislature by Articles 245 to 248 of the Constitution.

[1]Rustom Cavasjee Cooper v. Union Of India (1970) 1970 AIR 564, 1970 SCR (3) 530.

4. The Auroville Act even incidentally does not trench upon the field covered by the West Bengal Societies Registration Act, 1961 as it is in no way related to Constitution, regulation and winding up of the Society.

INTERPRETATION/COMMENT

Religion, undefined by the constitution, is incapable of precise judicial definition either. In the background of the provisions of the constitution and the light shed by judicial precedent, it can at best be said that religion is a matter of faith. It is a matter of belief and doctrine. The words "religious denomination" in Article 26 of the Constitution must take their colour from the word 'religion' and if this be so, the expression "religious denomination" must also satisfy three conditions:

i. It must be a collection of individuals who has a system of beliefs or doctrine which they regard as conducive to their spiritual well-being, that is, a common faith;
ii. Common organisation: and
iii. Designation by a distinctive name.

Religion means a system of beliefs or doctrines which are regarded by those who profess that religion as conducive to their spiritual well-being". A religion is not merely an opinion, doctrine or belief. It has its outward expression in acts as well; Religion need not be theistic. The above contention was held in ***Sastri Yagnapurushadji and Ors.* v. *Muldas Bhudardos Vaishya and Anr***.[2].

Religious denomination means a religious sect or body having a common faith and organisation and designated by a distinctive name. A law which takes away the rights of administration from the hands of a religious denomination altogether and vests in another authority would amount to violation of the right guaranteed under clause (d) of Article 26. ***Madras*v. *Sri Lakshmindra Thirtha Swamiar***.[3]

Further the arguments raised cannot be accepted for two reasons-

[2] [1966]3SCR242.
[3] [1954]1SCR1005.

Firstly, because it has not been pointed out which were the other institutions where similar situations were prevailing.

Besides, there is uniqueness with this institution inasmuch as the Government is also involved. Even a single institution may be taken as a class. The C: situation prevailing in the Auroville had converted the dream of the Mother into a nightmare. There had arisen acute law and order situation in the Auroville, numerous cases were pending against various foreigners, the funds meant for the Aurovillehad been diverted towards other purposes and the atmosphere was getting out of hand. In the circumstances the Government intervened and promulgated the ordinance and later on substituted it by the impugned enactment. It cannot be said that it is violative of Article 14 on that account

We get support for our view from the following decisions.

In ***Budhan Chowdhury* v. *The State of Bihar***[4] a Constitution Bench of seven Judges of this Court explained the true meaning and scope of Article 14 as follows:

"*It is now well established that while article 14 forbids class legislation, it does not forbid reasonable classification for the purposes of legislation. In order, however, to pass the test of permissible classification two conditions must be fulfilled, namely (i) that the classification must be founded on an intelligible differentia which distinguishes persons or things that are grouped together from others left out of the group and, (ii) that the differentia must have a rational relation to the object sought to be achieved by the statute in question.*"

These observations were quoted with approval by this Court in ***Shri Ram Krishna Dalmia* v. *Shri Justice S.R. Tendolkar and Ors.***[5]

Judicial trend as so far as right to freedom of religion is concerned have evolved through the passage of time in terms of its definition and significance as it have always a subject to judicial interpretation. In Ananda Margi[6] case, the court differentiated between religion and religious denomination by upholding S.P Mittal v. UOI.

[4] AIR 191, 1955 SCR (1)1045.
[5] AIR 538, 1959 SCR 279.
[6]Acharya Jagdishwaranand v. Commissioner Of Police (1984) AIR 512, 1984 SCR (1) 447.

In Bijoe Emmanuel[7] case, Hon'ble Supreme Court held that religious faith must be followed by religious denomination in order to being protected by article 25 of Constitution of India.

In Church of God[8] case, the court held that there should be no violation of Article 25 and 26 have been caused. If a person has a fundamental right i.e. here, right to religion and he enforces it, it should be ensured that others right is not violated i.e. here, right to peaceful environment.

In Aruna Roy[9] case, the judiciary decided in the following case that there is a clear cut difference between religious instruction and religious education and teaching the philosophy of religion. You cannot bring each and every thing related to religion into religious instruction.

CONCLUSION

In the present case i.e., *S. P Mittal v. Union of India*, and various other cases discussed further the Supreme Court have led down the guidelines regarding the definition of "Religion" and "religious denominations", where the approach of the court was very clear as to what should be considered religious denomination and what should not be. There were specific guidelines were led down for the Religious denomination.

However, the author concludes that the judicial trend regarding religious right have never been a predictable concern. A citizen can exercise his right to religious practice till when it is not harming other, but before that it is very necessary to understand that what is religion and what is not in order to claim ones right under fundamental right

[7]Bijoe Emmanuel &Ors v. State Of Kerala & Ors (1987) AIR 748, 1986 SCR (3) 518.
[8]Church of God v. K.K.R.M.C Welfare Association (2000) AIR 2773.
[9]Ms. Aruna Roy &Ors v. Union Of India &Ors, 2002 RD-SC 388 (2002).