

# Introduction to Constitution

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- **A Constitution is a People's document expressing their intentions, aspirations and ethos wished to be entrenched from all evils.**

**Lord Bolingbroke** has stated that –

**“By Constitution we mean .....**

- **that assemblage of laws, institutions and customs**
- **Derived from certain fixed principles of reason. And**
- **Directed towards the common good.**

**That compose the general system, according to which the community has agreed to be governed.”**

- In common parlance, a Constitution is a public, socio, economic, political, legal and philosophical covenant of the people, by the people and for the people.
- It is an organic document.
- In I.R.Coelho vs. State of T.N.(AIR 2007 SC 861), the apex court held that “Constitution is a living document”.
- “The Constitution like all life is an experiment.”  
– Justice Holmes

- In **State of W.B. vs. Committee for Protection of Democratic Rights (AIR 2010 SC 1476)** the Supreme Court observed that –

**“the Constitution is supreme and all organs of the State derived power, authority and jurisdiction from it. It is living, organic, dynamic and must grow with the nations.”**

- Therefore, **the provisions of the Constitution should be construed broadly and liberally.**

- “the principles of constitution are not drawn from the cosmic vacuum.”
- The principles of Constitution are drawn from the painful experiences of the people, shaped from time to time in response to the public demands and needs and crystalized in the common good and welfare.
- “The exercise of coercive power by the Government over men born free and equal could be justified only by the consent of the governed.”

**GOVERNMENT IS CREATED BY CONTRACT TO SAVE THE WELFARE OF THE PEOPLE.**

**‘Constitution’ can be used in two senses**

- **Abstract Sense** : It consists of that system of laws, customs and conventions
  - which define the composition and powers of organs of the State, and
  - regulate the relations of the various States to one another, and to the private citizens.
- **Concrete Sense** : It is a document in which the most important laws are authoritatively ordained.

**Concisely Constitution refers to a set of rules and principles which –**

- **Define the nature and scope of government,**
- **Regulate the relationship between institutions of legislature and judiciary,**
- **Regulate the relationship between State and citizens, and**
- **Establish the broad rights of individual citizens.**

- In re Special Reference No. 1 of 2012, the Supreme Court of India reiterated the supremacy of the constitution with judiciary as guardian, and laid down that the legislature and executive are answerable to the Constitution, and it is there where judiciary, guardian of the Constitution must find contours of powers.

**Justice Joseph Story's cosmic cognizance declares that –**

- “Every word employed in the constitution is to be expounded in its plain, obvious and common sense, unless the context provides some ground to control, qualify or enlarge it”.



- **Constitutions are not designed for metaphysical or logical subtleties, for niceties of expression, for critical propriety, for elaborate shades of meaning, or for the exercise of philosophical acuteness or judicial research.**
- **They are instruments of a practical nature, founded on the common business of human life, adopted to common wants, designed for common use, and fitted for common understanding.**
- **The people make them, the people adopt them, the people must be supposed to read them, with the help of common sense, and cannot be presumed to admit in them any recondite meaning or extraordinary gloss.”**

- **“The people made the Constitution, and the people can unmake it. It is the creature of their will, and lives only by their will.”  
— [John Marshall](#)**
- **“Our Liberties do not come from charters; for these are only the declaration of the pre-existing rights .... They do not depend on parchments or seals; but come from the King of Kings and Lord of all the Earth.” – **John Dickinson.****

# Salient Features

- Power resides with the people.
- Rule of Law prevails.
- Social Document.
- Written Constitution.
- Preamble.
- Parliamentary Government.
- Separation of powers
- Secular State.

- **Independent Judiciary.**
- **Fundamental Rights.**
- **Directive Principles of State Policy.**
- **Fundamental Duties.**
- **Flexibility of the Constitution.**
- **Universal Adult Suffrage.**
- **Emergency Provisions.**
- **Constitutional Independent Agencies like Comptroller and Auditor General; Election Commission; Public Service Commission**

# PREAMBLE

- **WE, THE PEOPLE OF INDIA**, having solemnly resolved to constitute India into a **SOVEREIGN SOCIALIST SECULAR DEMOCRATIC REPUBLIC** and to secure to all its citizens:
- **JUSTICE**, **social**, **economic** and **political**;
- **LIBERTY** of **thought, expression, belief, faith and worship**;
- **EQUALITY** of status and of opportunity;
- and to promote among them all
- **FRATERNITY** assuring the dignity of the individual and the unity and integrity of the Nation;
- IN OUR CONSTITUENT ASSEMBLY **this twenty-sixth day of November, 1949**, do **HEREBY ADOPT, ENACT AND GIVE TO OURSELVES THIS CONSTITUTION**.

# Preamble contd....

- Preamble is the quintessence of the constitutional spiritualism of Indian ethos, aspirations and targeted expectations.
- It is the key to open the mind of the makers of the constitution and the legislative intendment.
- It is an effective part of the Constitution and enforceable philosophy.
- It is hailed as the Basic Structure of the Constitution.
- **THE PREAMBLE HAS A ROLE TO CONCEPTUALISE THE JUSTICE IN THE LIFE OF REPUBLIC”. – Justice Ashok A Desai.**

# Part-III FUNDAMENTAL RIGHTS

- **Fundamental Rights** constitute the distilled version of the natural and inalienable human rights covenanted to be protected by the State administration.
- Respect for fundamental rights is the hall mark of civilized society and sensible State institutions.
- Fecundity of fundamental rights is not notional, but factual, national and international.

# Fundamental Rights – Art-12 to 35

- **Art-12** – Definition of State – Inclusive definition.
  - i) Government & Parliament of India
  - ii) Government & Legislatures of States
  - iii) All Local and OTHER AUTHORITIES.
- **Art-13**: Laws inconsistent with or in derogation of Fundamental Rights – Source of Judicial Review.



# F.Rs –(i) Right to Equality.

- **Art-14:** Equality before Law – Equal protection of law.
- **Art-15:** Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth.
- **Art-16:** Equality of opportunity in matters of public employment – prohibitive grounds – religion, race, caste, sex, place of birth, DESCENT AND RESIDENCE.-
- **Art – 17:** Abolition of untouchability.
- **Art-18:** Abolition of Titles.

# F.Rs - ii) Right to Freedom

- **Art-19:** Protection of certain rights regarding freedom of speech etc. – **All citizens shall have right to:**
  - a) **freedom of speech and expression;**
  - b) **assemble peaceably and without arms;**
  - c) **form associations and unions;**
  - d) **move freely throughout the territory of India;**
  - e) **to reside and settle in any part of India;**
  - g) **to practice any profession, or to carry on any occupation, trade or business;**

Subect to limitations under Cl.2 to 6.

**Reasonable restrictions** - inconsistency with the existing law, Security of State, friendly relations with foreign states, public order, decency or morality, contempt of court, defamation or incitement to offence.

# Right to Freedom contd..

- **Art-20**: Protection in respect of conviction for offences
  - (1) Right against Expost facto law
  - (2) Right against Double Jeopardy.
  - (3) Right against self-incrimination.
- **Art-21**: Protection of Life and personal liberty.-  
Art-21A. Right to Free and Compulsory education
- **Art-22**: Protection against arrest and detention in certain cases – Preventive Detention.

# F.Rs. (iii)

## Rights against Exploitation.

- **Art-23**: Prohibition of traffic in human beings and forced labour.
- **Art-24**: Prohibition of employment of children in factories etc.

## (iv) Right to Freedom of Religion

- **Art-25**: Freedom of Conscience and free profession, practice and propagation of religion.
- **Art-26**: Freedom to manage religious affairs.
- **Art-27**: Freedom as to payment of taxes for promotion of any particular religion.
- **Art-28**: Freedom as to attendance at religious instruction or religious worship in certain educational institutions.

# (v) Cultural and Educational Rights.

- **Art-29**: Protection of interests of minorities.
- **Art-30**: Rights of minorities to establish and administer educational institutions.
- Art-31: Repealed (compulsory acquisition of property) – saving of laws –
- Art-31A: Saving of laws providing for acquisition of estates etc.
- Art-31 B: Validation of certain laws and regulations.
- Art-31 C: Saving of laws giving effect to certain Directive Principles.

## (vi) Right to Constitutional Remedies.

- **Art-32**: Remedies for enforcement of rights – conferred by this Part. – Writs.
- **Art-33**: Power of Parliament to modify the rights conferred by this Part in their application to Forces.
- **Art-34**: Restrictions on rights conferred by this Part while Martial Law is in force in any area.
- **Art-35**: Legislation to give effect to the provisions of this Part.

# WRITS

- **WRIT- A COMPASSIONATE COMPANION FOR INDIVIDUAL AND A CORROSIVE CONTROL OVER ADMINISTRATION.**
- **Every act of judicial expansion of the Art-21 and F.R. will impose a burden on state exchequer and impinges on the administrative function. However, no rivalry is to be construed between administrative machinery and judicial wing. Both the sovereign bodies are to be juxtaposed to meet the needs of growing public awareness of human rights philosophy.**



- Writ in common parlance denotes **‘a Piece of writing’** or **‘command or order from supreme authority’**
- In legal parlance it is the **‘supreme order of the Sovereign Power directed towards a subject or authority for compliance’**
- Historically the adjudication of issues/disputes and administration of justice have been exercised by the Kings or **‘Crown’** in English law- the **‘sovereign power’**

- **With the dawn and replacement of ‘King’s power’ by ‘People’s Power’ in democratic societies, the supreme sovereign power of issuing ‘specific unassailable orders’ is vested in the apex judiciary i.e. the Supreme Court of India**
- **Writs denote “Extraordinary Power” and are known as “Prerogative Writs”**

- This “extraordinary power” is ordained by “We the People of India” to be vested with the Constitutional Courts i.e. the Supreme Court and the High Courts and to be exercised meticulously to oversee the tenability, legality and constitutionality of actions of all individuals and public institutions to ensure justice – fair, just, reasonable and equitable

- “If I was asked to name any particular Article in this Constitution as the most important – an article without which this Constitution would be a nullity – I could not refer to any other Article except this one. It is the very soul of the Constitution and the very heart of it.”- Dr. B.R.Ambedkar.

- This fundamental right of Art-32 can be described as the **'cornerstone of the democratic edifice raised by the Constitution'**  
-Gajendragadkar, J. (Premchand Gard vs. Excise Commissioner,UP (AIR 1963 SC 996,999)
- **"The protector and guarantor of fundamental rights."**- Patanjali Sastri, J.

# PRINCIPLES FOR EXERCISE OF WRIT JURISDICTION

- **1. ALTERNATIVE BODY** – Being a discretionary remedy, Writ is not generally granted when there exists an alternative remedy, equally adequate and efficient, unless there is an exceptional reason. **However, this is not a strict rule but only a rule of convenience rather than a rule of law.**

(Dismissal of 2 lakhs of employees by Tamilnadu govt.  
T.K.Rangarajan vs. TN (2003))

- **2. SUPPRESSION OF MATERIAL FACTS** by a litigant entails refusal of writ remedy, since it tantamount to abuse of court process

- **LACHES OR DELAY** – Laches or inordinate delay disentitles a person to writ remedy.  
**VIGILANTIBUS NON DORMIENTIBUS JURA SUBVENIUNT** i.e. Equity aids the vigilant and not the indolent applies. Writ is an equitable remedy.
- **RES JUDICATA** – There should be finality to binding decisions of court of competent jurisdiction. This rule generally applies to writs under A-226.

- **Art-32 embodies the writ jurisdiction of the Supreme Court** and **Art-226 houses the writ jurisdiction of High Courts**
- **Art-32: Remedies for enforcement of rights conferred by this Part-**
- **Cl.(1) – The right to move the Supreme Court by appropriate proceedings for the enforcement of the rights conferred by this Part is guaranteed.**
- **(i.e. The Right to Access to Justice is guaranteed as a Fundamental Right.)**



- **Cl.(2) – The Supreme Court shall have power to issue directions or orders or writs, including writs in the nature of Habeas Corpus, Mandamus, Prohibition, Quo Warranto and Certiorari, whichever may be appropriate, for the enforcement of any of the rights conferred by this Part.**
- **Cl.(3) – Without prejudice to the powers conferred on the Supreme Court by Cl.(1) and (2), Parliament may by law empower any other court to exercise within the local limits of its jurisdiction all or any of the powers exercisable by the Supreme Court under Cl.(2)**
- **Cl.(4) – The right guaranteed by this Article shall not be suspended except as otherwise provided for by this Constitution.**

# WRIT REMEDIES

- **HABEAS CORPUS** – A palladium of liberty of a common man.
- A prerogative **process to secure the liberty of a subject** through effective means- immediate release from unlawful and unjustifiable detention.
- It may be issued against an **administrative authority** and also against a **private person**.
- Not available to a **person convicted by a court of competent authority**.

# Habeas Corpus contd..

- It is a bastion of liberty even within jails and a writ of versatile vitality and operational utility. (Sunil Batra (2) vs. Delhi Admn. (1980)
- ADM Jabalpur vs. Shivakant Shukla (Habeas Corpus case) (1976) – Majority decision held that habeas corpus would not be available for enforcement of fundamental rights during emergency. Justice Khanna dissented and observed that Art-21 is not the sole repository of Right to Life and personal liberty.
- In Kanu Sanyal vs. Dist. Magistrate, Darjeeling (1973) held that production of person (unlawfully detained ) before court during proceedings is not necessary.
  - Since the State is obligated to protect the right to life and personal liberty of citizens, the remedy of habeas corpus directly impinges on the actions of administrative authorities.
  - This remedy became the source of “compensatory jurisprudence” too – cases from Rudal shah, Sebastian Hungray, Bhimsingh, Veena Sethi etc.

# MANDAMUS

- Mandamus means **Command**. Judicial command from constitutional court directed to any **judicial, quasi-judicial or administrative** authority when the F.R. of an individual is **infringed by an executive order or statutory order**. It is used for public purposes and to compel performance of public duties.

## Conditions for issue of Mandamus –

- The petitioner has a legally enforceable right to obtain performance of a legal duty.
- There must be a duty cast upon the administrative authority by law, and the duty is not discretionary.
- Non performance of duty by the administration is to be proved.

# Mandamus contd....

- Mandamus lies to compel government to perform the promise though contained in non-statutory or executive instruction. (Union of India vs. Anglo Afghan Agencies. (1968)
- Mandamus can be issued when a person in authority Oversteps the limits of its power; or Fails to comply with the conditions laid down for the exercise of such powers.

Existence of statutory remedy is no bar to issue mandamus (State of Karnataka vs. Nagendrappa - 1991)

# Contd...

- Mandamus does not lie against a private individual unless he is acting under some public authority.
- It lies against a quasi-public body , for ex. Principal of an aided college.
- Mandamus may be denied when there is an alternative remedy.
- Court does not interfere with the exercise of administrative discretion i.e. refusal to renew licence. (Rameshwar Prasad vs. Dist. Magistrate). But illegal exercise of discretion i.e. excessive jurisdiction, malafides and influenced by extraneous considerations, may warrant mandamus remedy.
- Mandamus cannot be issued against State Legislature to prevent consideration of a Bill.

# PROHIBITION

- Writ of Prohibition is primarily supervisory with an object to restrain courts or inferior tribunals from exceeding their limits of jurisdiction.

This writ is issued when the quasi-judicial bodies/tribunals or inferior courts –

- a) act without jurisdiction
- B) act beyond jurisdiction
- c) violate principles of natural justice
- D) proceed under an ultra-vires law
- E) violate a fundamental right of individuals.
- (TTD vs. Tallapaka Ananthacharyulu-2003; S.Govinda Menon vs. UOI – 1967)

# CERTIORARI

**Certiorari** literally means “to be fully informed of”

- **Issued by a superior court to an inferior court/quasi-judicial bodies** requiring matters pending before them to be transmitted to the superior court.

## **Grounds of issue -**

- if a judicial decision is intended to be questioned;
  - Want of jurisdiction / excess of jurisdiction / failure to exercise jurisdiction
  - Error of law apparent on the face of the record.
  - Disregard of principles of natural justice
  - Judicial character of duty has to be inferred from the nature of the duty itself and is not to be superadded by any provision of law granting power.
- 
- **Madhavarao Scindia vs. UOI (1971) – Privy Purse case.**
  - **A.K.Kraipak vs. UOI ; Basappa vs. Nagappa (1954)**



# QUO-WARRANTO

**Quo-Warranto** means “By what authority”

- This writ is in the nature of Injunction.
- The object of the writ is to prevent a person from wrongfully usurping and continuing in a public office.

Conditions for issue of the writ:-

- i. It must relate to a public office of substantive nature.
- li. Such office must be either constitutional or created under a statute.
- The person holding the office should not be legally qualified to hold the office or remain in office due to contravention of a constitutional or statutory provision.

## Contd...

- This is a discretionary remedy which the court may grant or refuse if the application is actuated by ill will or malice or ulterior motive.
- B.Srinivasa Reddy vs. Karnatka Urban Water supply & Drainage Board Employees Assn(2006) – Petition filed challenging the appointment of Managing Director of Board.
- Ashok Pandey vs. Mayavati (2007) – seeking removal as they were members of Rajya Sabha. Petition dismissed as not contradictory Art-164.
- Similarly N.T.Ramarao's case . A.P.CM.

# COMPENSATORY JURISPRUDENCE

- Remedial jurisdiction is revolutionized through writs with the liberalization of 'Locus Standi' principle and evolution of Public Interest Litigation/Social Action Litigation.
- Emergence of Compensatory jurisprudence in cases of infringement/infracton of fundamental rights of individuals – A relief to the victim and a responsibility or accountability on the part of the administration.
- Where the victims have sustained significant legal injury, the court awards compensation under Art-32 and 226.
- Rudal Shah vs. Bihar (1983) Rs. 35,000/- compensation for illegal detention/in carceration beyond the period of imprisonment.

# Contd...

- Sebastian Hongray vs. UOI. – Army personnel shooting two men under suspicion – Dependent wives granted compensation of one lakh each.
- Delhi Domestic Working Women Union's case – domestic workers subjected to indecent sexual assault by army personnel.
- Bodhisatwa Gautam vs. S.Chakraborty (1996) – compensation to victim of rape by a private person.
- Chandrimadas case – gang rape of Bangladesh woman by railway employees.
- Nilabati Behera – 22 yr victim – Rs. 1,25,000=-
- Rs. 75,000/- compensation to mother whose 9 yr boy was killed in judicial custody in Saheli's case.
- LDA vs. MK Gupta – State is liable to pay compensation if a citizen sustains loss or injury by an arbitrary action of the State

# Curative Relief

- The concept of **Curative petition** emanates under **Art-137** which is a review on the orders of review of supreme court. Curative petition is entertained in exceptional circumstances. This judicial technique is meant to satisfy the object of “complete justice” under Art-142. Refer case of [Rupa Ashok Hurra vs. Ashok Hurra and Anr. \(2002 4SCC338\)](#)-
- to have relief against the final judgment/order of the Supreme Court, after dismissal of a [review petition](#).
- in order to prevent abuse of its process and to cure gross miscarriage of justice, **SC may reconsider its judgments in exercise of its inherent powers**

# Significance of DPSP

- **“The Constitution like all life is an experiment.” – Justice Holmes**
- **My thesis is that “social justice is a constitutional fundamental and a socialist order an economic imperative” – Justice Krishna Iyer.**
- **Social Justice – an ultimate command of “we, the people.”**

## DPSP contd...

- **Socio-Economic justice is a devise to set right or minimise the imbalances in the society – is not a passion, not a guideline but a solemn duty of both the ruler and ruled.**
- **A phenomenon of social revolution with a faith in human values, and dignity in human relations.**
- **Part-IV contains the Constitutional scheme, devised to bring practical colour to the ideals of “Justice – Social and Economic”.**

- **If Part-III protects the rights of the Individual, Part-IV protects the rights of the community.**
- **Part-IV represents the Rights of the Society and the duty of the State in realizing the socio-economic and cultural rights of the people.**
- **F.Rs create negative obligations on the State whereas DPSP impose positive obligations on the State to formulate policies consistent with Part-IV.**



# Chief Contents of DPSP

- **Art-38 an article of faith for the crusaders of Social Justice:**

**This Article is a substantive part of the Constitution.**

- **The State shall 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.**

# Art-38 contd...

- “The Indian Constitution which is not a non-aligned national charter, but a **document of social revolution**, casts an **obligation on EVERY INSTRUMENTALITY INCLUDING JUDICIARY**, which is separate, but equal branch of State TO TRANSFORM STATUS QUO ANTE into HUMAN ORDER SET IN Art-38” – Krishna Iyer.J.,
- Mandate of this Article to State has in terms been unequivocal.
- Ordinance issued by Art-38 requires the State to secure, provide and organize for what is specifically provided in Art-39 to 51.

# Art-39

- **ART-39: Certain principles of policy to be followed by the State:**
- **The State shall, in particular, direct its policy towards securing**
  - (a) that the citizens, 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 sub serve the common good;**
  - (c) that the operation of the economic does not result in the concentration of wealth and means of production to the common detriment;**

# Art-39 contd...

- **(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 of strength;**
- **(f)the 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.**
- **Object of Art-39 is the social and economic welfare of society and to create an egalitarian social order.**

# In a nutshell....

- **The Constitution – a fundamental document of assurance of justice – has been drawn to take care of well being of ‘We, the people’. Part. IV therefore ordains the State to: -**

## **SECURE:**

- **Adequate means of livelihood, welfare of the people – Art-39;**
- **Operation of legal system to promote justice – Art.39-A.**
- **For all workers – work, living wage, decent standard of life–Art.43**
- **Workers’ participation in the management – Art-43.A.**
- **Uniform Civil Code – Art.44.**
- **Free and Compulsory Education – Art.45.**
- **Raising standard of living – Art.47**

## **ORGANIZE:**

- **Art-40 – Panchayat Raj**
- **Art-48 – agriculture and animal husbandry on modern and scientific lines.**
- **Art.48.A – Protection of wild life, to protect and improve environment, safeguard forests, lakes,**
- **Art.49 – Protection of Monuments of artistic and historic interests.**

# Contd....

- **MAKE EFFECTIVE PROVISIONS TO SECURE:**
- **Promoting interest of weaker sections – Art.46**
- **Right to work, just and human conditions of work – Art.41**
- **Providing of free and compulsory education – Art.45**
- **These provisions represent the Doctrines of Socialism as well as the goal of Welfare State – generally declared in the Preamble and specifically enumerated in the Part-IV.**

# Enforceability – Justiciability

## Art- 37.confusion of elite

- **Art-37: “The provisions contained in this Part SHALL NOT BE ENFORCEABLE 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.”**
- **Are ‘we the people’ refrained from taking resort to the judicial process to enforce them?**

- Directive Principles is merely another name for the **instrument of instructions!** – Ambedkar
- Judiciary cannot command the Legislature or Executive to bring practical contents to the Principles? – Predicament of judiciary.
- DPSP may not be enforceable before courts of law but they are not non-justiciable.



# Art- 37 contd...

- **Nehru in debates:**
- **“There is an inherent contradiction between the Fundamental Rights and the Directive Principles of State Policy. Therefore again it is on the Parliament to remove the contradiction and make the fundamental rights to subserve the Directive Principles.”**
- **PLENTY DONE BUT THAT UNDONE IS STILL VAST.**
- **The judiciary is obliged to look into constitutional spirit of the DPSP. That itself is the spirit and so to say, culture of the administration of justice. And it need not be in compliance to writ of Art-37.**
- **Mandate of Art-37 is not only basically, but also exclusively to the Legislature to bear in mind the directives while adopting laws.**

# Appeal to all

- **“To defy or deny social justice to the humblest Indians even from the highest Court, is not only extra constitutional, but also contra constitutional” -Krishna Iyer, J.**
- **“Denial of anything rightful to anyone, may be humble or honourable, being inhuman is always more grave than offending Constitution. Anxiety of highest order frequently take shape of individual angularity. Angularity does not necessarily maintain the vision in its entirety” - Justice Ashok A Desai.**

# Appeal contd....

- **The Directive Principles are now regarded as a dependable index of a 'Public Purpose'.**
- **Justice Mathew attributed to DPSP a significant and venerable place saying that –**  
“In building up a just social order it is sometimes imperative that the Fundamental Rights should be subordinated to Directive Principles....Economic goals have an uncontestable claim for priority over ideological ones on the ground that excellence comes only after existence. It is only if men exist that there can be Fundamental Rights.”

# Contd....

- **Sometime conceptual thinking leads eminent persons to conviction.**
- **And the conviction does not maintain relations with the logic. It turns to be blind faith.**
- **Sometime they rotate the conviction into conceptual thinking.**
- **It leads to a conceptual blindness.**
- **CAVEAT**
- **THE FAILURE OF THE LEGISLATURE TO TRANSMIT DIRECTIVE PRINCIPLES INTO LEGAL RIGHTS IS COGNIZABLE IN THE COURT OF “WE, THE PEOPLE”**

# Thanking you all

- **DPSP may not have LEGAL FORCE (as to the minds of intellectuals) but it has BINDING FORCE.**
- **“A person in power may not have to answer for his breach in a Court of Law. But he will certainly have to answer for them before the electorate at election time” – Dr. Ambedkar**
- **Elite who feel that judiciary has no substantial role to play except maintaining the spirit to the extent captured by the enactment, call upon the Judiciary to look beyond law where “Social Justice” rests.**

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