

Exception to rule of law article 14

Law



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BUSTER**

ExceptionToRuleOFLaw The above rule of equality is however not an absolute rule and there are number exception to it v ' Equality of Law' does not mean the power of the private citizens are the same as the power of the public officials. Thus a police officer has the power to arrest you while no other private person has this power. This is not violation of rule of law. But rule of law does require that these powers should be clearly defined by law and that abuse of authority by public officers must be punished by ordinary courts.

The rule of law does not prevent certain class of persons being subject to special rules. Thus members of armed forces are controlled by military rules. Similarly medical practitioners are controlled by medical council of India. Certain members of society are governed by special rules in their profession i. e. lawyers, doctors, nurses, members of armed forces and police. Such classes of people are treated differently from ordinary citizens. Article 14 Permits Classification But Prohibits Class Legislation The equal protection of laws guaranteed by Article 14 does not mean that all laws must be general in character.

It does not mean that the same laws should apply to all persons. It does not attainment or circumstances in the same position. The varying needs of different classes of persons often requires separate treatment. From the vary nature of society there should be different laws in different places and the legitimate controls the policy and enacts laws in the best interest of the safety and security of the state. In fact identical treatment in unequal circumstances would amount to inequality. So a reasonable classification is only not permitted but is necessary if society is to progress.

Thus what Article 14 forbids is class-legislation but it does not forbid reasonable classification. The classification however must not be “ arbitrary , artificial or evasive” but must be based on some real and substantial bearing a just and reasonable relation to the object sought to be achieved by the legislation. Article 14 applies where equals are treated differently without any reasonable basis. But where equals and unequals are treated differently, Article 14 does not apply. Class legislation is that which makes an improper discrimination by conferring particular privileges upon a class of persons arbitrarily selected from a large number of persons all of whom stand in the same relation to the privilege granted that between whom and the persons not so favored no reasonable distinction or substantial difference can be found justifying the inclusion of one and the exclusion of the other from such privilege. **TestOfReasonableClassification** While Article 14 forbids class legislation it does not forbid reasonable classification of persons, objects, and transactions by the legislature for the purpose of achieving specific ends.

But classification must not be “ arbitrary , artificial or evasive”. It must always rest upon some real upon some real and substantial distinction bearing a just and reasonable relation to the object sought to be achieved by the legislation. Classification to be reasonable must fulfil the following two conditions Firstly the classification must be founded on the intelligible differentia which distinguishes persons or thing that are grouped together from others left out of the group Secondly the differentia must have a rational relation to the object sought to be achieved by the act.

The differentia which is the basis of the classification and the object of the act are two distinct things. What is necessary is that there must be nexus between the basis of classification and the object of the act which makes the classification. It is only when there is no reasonable basis for a classification that legislation making such classification may be declared discriminatory. Thus the legislature may fix the age at which persons shall be deemed competent to contract between themselves but no one will claim that competency.

No contract can be made to depend upon the stature or colour of the hair. Such a classification will be arbitrary. The true meaning and scope of Article 14 have been explained in a number of cases by the supreme court. In view of this the propositions laid down in Damia case still hold good governing a valid classification and areas follows. 1. A law may be constitutional even though it relates to a single individual if on account of some special circumstances or reasons applicable to him and not applicable to others, that single individual may be treated as a class by itself 2. There is always presumption in favour of the constitutionality of a statute and the burden is upon him who attacks it to show that there has been a clear transgression of constitutional principles. 3. The presumption may be rebutted in certain cases by showing that on the fact of the statute, there is no classification and no difference peculiar to any individual or class and not applicable to any other individual or class, and yet the law hits only a particular individual or class 4.

It must be assumed that Legislature correctly understand and appreciates the need of its own people that its law are directed to problem made

manifest by experience and that its discrimination are based on adequate grounds 5. In order to sustain the presumption of constitutionality the court may take into consideration matters of common knowledge, matters of report, the history of the times and may assume every state of facts which can be conceived existing at the time of the legislation. 6. Thus the legislation is free to recognize degrees of harm and may confine its restriction to those cases where the need is deemed to be the clearest. . While good faith and knowledge of the existing conditions on the part of a legislature are to be presumed, if there is nothing on the face of the law or the surrounding circumstances brought to the notice of the court on which the classification may reasonable be regarded as based, the presumption of constitutionality cannot be carried to extent always that there must be some undisclosed and unknown reason for subjecting certain individuals or corporation to be hostile or discriminating legislation 8. The classification may be made on different bases e. . geographical or according to object or occupation or the like. 9. The classification made by the legislature need not be scientifically perfect or logically complete. Mathematical nicety and perfect equality are not required. Equality before the law does not require mathematical equality of all persons in all circumstances. Equal treatment does not mean identical treatment. Similarly not identity of treatment is enough. 10. There can be discrimination both in the substantive as well as the procedural law.

Article 14 applies to both. If the classification satisfies the test laid down in the above propositions, the law will be declared constitutional. The question whether a classification is reasonable and proper and not must however, be

judged more on commonsense than on legal subtitles. Cases D. S. Nataraj. UnionOfIndia The Government issued an office memorandum announcing a liberalized pension scheme for retired government servants but made it applicable to those who had retired after 31 March 1979.

The supreme court held that the fixing of the cut off date to be discriminatory as violating Article 14. The division of pensioners into two classes on the basis of the date of retirement was not based on any rational principle because a difference of two days in the matter of retirement could have a traumatic effect on the pensioner. Such a classification held to be arbitrary and unprincipled as there was no acceptable or persuasive reason in its favour. The said classification had no rational nexus with the object sought to be achieved.

MadhuLimayev. Supdt. TiharJailDelhi There were Indian and European Prisoners. Both were treated differently. European gets better diet. Court held that difference between Indian and European prisoners in the matter of treatment and diet violates right to equality under Article 14 of Indian prisoners. They all are prisoners they must be treated equally. SanaboinaSatyanarayanv. Govt. ofA. P In Andhra Pradesh. They formulated a scheme for prevention of crime against women.

In prisons also prisoners were classified into two categories first Prisoners guilty of crime against women and second prisoners who are not guilty of crime against women. Prisoners who are guilty of crime against women challenge the court saying that their right to equality is deprived. Court held that there is a reasonable classification to achieve some objective.

TamilNadu ElectricityBoardv. Veeraswamy The employees were governed by

the contributory provident fund scheme. With effect from 1-7-1986 a scheme was introduced.

The question was whether the pension scheme ought to be applied to those who had already retired before the introduction of the pension scheme the supreme court rejected the claim. As per the rules prevalent at the time the retirees had received all their retiral benefits. If the pension scheme was made applicable to all past retirees, the resulting financial burden would be Rs200 crore which would be beyond the capacity of employer. The reason given for introducing the scheme was financial constraint- a valid ground.

The court held that retired employees and those who were in employment on 1-7-1986 cant be treated alike as they do not belong to one class. The workmen who had retired and received all the benefits under the contributory provident fund scheme cease to be employees of the appellants board w. e. f. the date of their retirement. They form a separate class. Thus there was no illegality in introducing the pension scheme and not making it applicable retrospectively to those who had retired before the date. Conclusion

What article 14 forbids is discrimination by law that is treating persons similarly circumstanced differently and treating those not similarly circumstanced in the same way or as has been pithily put treating equals as unequals and unequals as equals. Article 14 prohibits hostile classification by law and is directed against discriminatory class legislation. A legislature for the purpose of dealing with the complex problem that arise out of an infinite variety of human relations cannot but proceed on some sort of selection or classification of persons upon whom the legislation is to operate.

It is well settled that Article 14 forbids classification for the purpose of legislation. It is equally well settled that in order to meet the test of Article 14 (i) classification must be based on intelligible differentia which distinguishes persons or things that are grouped together from those that are left out of group and (ii) the differentia must have a rational nexus to the objects sought to be achieved by the executive or legislative action under challenge. Article 14 contains a guarantee of equality before law to all persons and protection to them against discrimination by law. It forbids class legislation.