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Liability of Doctorsvs. liability of Judges with respect to Negligence

The doctors, who have been given the status of God in India, are facing some issues regarding their professional liabilities. Negligence generally defined as the absence or failure to exercise due care. The doctor is expected to utilize maximum degree of his skill and knowledge and exercise a reasonable degree of care while performing his duty. Doctors are being penalized for negligence. However there is no such case against a Judge giving wrong verdict causing sufferings to the accused. It is an action or inaction of the doctor that has caused suffering to the patient. Action taken by a doctor depends upon his judgment of the patient's ailment. In a very similar way as the facts are presented to the court, signs and symptoms of a disease are presented to a doctor. If doctors can be charged for negligence why shouldn't judges be weighed on similar scale, ultimately both are responsible for death or suffering of other unrelated person. If the judges need free and fair environment for judgments so do doctors need fearless and tension free atmosphere to make decisions. Key Words : Doctors, Judges, Medical, Negligence, Liability.

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Introduction :

With the development of the society, law develops. Development of law depends of human behavior. If human behaves properly without causing harm to other and respects the dignity of other, it requires fewer laws. On the other hand if human behaves improperly with lust of earning money or other considerations, which ultimately results into the violation of the rights of others such societies require more laws. The technology is developed with the purpose of the improvement in the human life, but most of the times it is misused by human being e.g. sex determination by use of ultrasound. The services provided by the professionals are not an exception to it. The relation between the service provider and the consumer are becoming more and more stressful day by day.

The relation between the service provider and the receiver like Advocate & Client, Doctor & Patient, Engineer & Proprietor etc. are govern by either contract between them or under the law of tort. They are also regulated by the principles of professional ethics, consumer Act, and other relevant civil and criminal laws. Among various services provided, Law and Medicine are such services that have immediate bearing on the receivers well being both physical and psychosocial. The doctors, who have been given the status of God in India, are facing some issues regarding their professional liabilities. The question of their liability arises when the Doctor-patient relationship is under strain. Many doctors are accused of negligence when they fail to satisfy the patients or relatives expectations. Such expectations may be just and appropriate or may depend upon spurious and incomplete knowledge of disease process or its outcome.Negligence is generally defined as the absence or failure to exercise due care. When there is duty of the doctor to take care of the patient, doctor has breached this duty of care ultimately causing sufferings or injury to the patient.

Supreme Court of India in Parmanand Kataria vs. Union of India[1] case has laid down that "every doctor, at the governmental hospital or elsewhere, has a professional obligation to extend his services with due expertise for protecting life". The doctor is expected to utilize his maximum degree of skill and knowledge and also to exercise a reasonable degree of care while performing his duty. Law is an instrument Sharp by both sides. Use and misuse of law are the two sides of the same coin. Due to unawareness about the medical knowledge, some patient or other supporting people without going to the reality of the doctor's role directly make the doctor responsible for failure of medical treatment. They take law into their hand, assault the doctor and try to destroy his hospital instruments, file malicious prosecution or sometimes gather the demanded money. Even then the concept of medical negligence is very relevant and needed to protect the right of due care of the patients.

Every now and then we hear the news of a doctor being penalized for negligence. However there is no case against a Judge giving wrong verdict causing sufferings to the accused. It is expected by the person approaching the court that judges will utilize their maximum care (based on skill/ knowledge/experience) while delivering the judgment. Hon'ble

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Mr. Justice S.H. Kapadia, Chief Justice of India said[2] : "When we talk of ethics, the judges normally comment upon ethics among politicians, students and professors and others. But I would say that for a judge too, ethics, not only constitutional morality but even ethical morality, should be the base…".

The very logic behind medical negligence, be it a civil or criminal, is doing something which has cause ill effect on the patients health or not doing something which would have restricted patients deterioration, ultimately causing suffering to the patient. It is an action or inaction of the doctor that has caused suffering to the patient. Now every action taken (or not taken) by a doctor depends upon his judgment of the patient's ailment. In a very similar way as the facts are presented to the court, signs and symptoms of a disease are presented to a doctor.

As different Judges may have different opinion or interpretation of the evidences and facts presented to them so doctors can and do have different interpretations of the same set of signs and symptoms presented to them. Doctors deal with the human body; which the science has failed to fully understand till now. Every human body is different, may respond differently to the same medicine or disease process. Given the inadequacy of our understanding of the nature and its secrets it becomes very difficult to be accurate in diagnosing and treating patients. Yet doctors are every now and then sued for medical negligence. Secondly in civil negligence the intention of the doctor is not considered at all, he may be trying to save his patient and in the process caused some damage unknowingly, he is sued. The worst part of it is the crowed of aggrieved relatives, ready to assault the doctors on the spot without prosecution. However what so may be the case be, mistake is a mistake and should be dealt with proper punishment. After all it's the life of patient which is at stake; hence negligence should be punished but after and only after adequate understanding of the circumstances in which the negligence is made.

Now it is interesting to compare similar situation against the judge and lawyers. Imagine a person being convicted in a lower court and given death sentence, and a higher court says it's not rarest of rare and replaces the sentence to life imprisonment. Now imagine the relatives of the convict thrashing the Lower court Judge in his office as is done with the doctors!! The same mistake of judgment is involved in both the judiciary and medicine. In both the cases there is difference in interpretation of facts and evidences. Both of them are involved in life and death of a person. However a Doctor has to undergo trail both in the courts and media trail outside the court. And the Judges are not even questioned about. Any word said against them is contempt of the court. If the judges need free and fair environment for judgments so do doctors need fearless and tension free atmosphere to make decisions. If doctors are penalized for interpretation of a complex human body, Judges should be made accountable in interpreting and making judgments on fairly precisely defined laws.

There are thousands of instances where Judgments given by Lower court are turned down by higher court. A so called gangster appears benign to a lower court Judge and given bail and when the same person appears before higher court he becomes threat to the society and denied bail. Somewhere someone has to be made accountable for such lapses, may it be the Judge, the prosecution or the police. Who will take responsibility of a so called 'person causing threat to society and influencing evidences' being released on bail??? So far none has been booked for 'release on bail at lower court of a person causing threat to society and influencing evidences'. No police officer for not gathering adequate evidences, no prosecutor for improper pleading, no politician or bureaucrat for not challenging cases at higher courts or no Judges for giving wrong Judgments, have been booked so far.

Sometimes influential people like bollywood actors get their judgments reviewed by higher courts very same day as the lower court announces them guilty. By the end of the day the whole case is changed, all the facts noted earlier have very different interpretations…! May be some divine light flashes changing the whole scenario and suddenly the whole picture becomes 'clearer'…! Sometimes such decisions make one feel that do higher court judges believe in the judgments given by their counterparts in lower courts. If they are so suspicious and prompt in staying lower court order, what should common man interpret from this uncertainity?If one cannot have the financial or mental capacity to fight upto the Supreme Court he should forget about getting 'fair' justice.

Why should not people related to Judiciary be made accountable? If a Lawyer takes money to plead a case and deliberately weakens his client's case should he not be tried under consumer protection act? Many a times, it totally depends upon pleader how to plead the case as the poor client is unaware of laws and judicial procedures. The Judges on the other hand have liberty to interpret facts and evidences at his will. No one on earth will question him, at the most his Judgment may be reviewed and altered by higher court but he himself remains untouched.May be it's the Black colour of the coat that has ability to hide all dark deeds as against the white coat of the doctors where in any minor stain stands out brightly.

Conclusion & Suggestion :

Medicine and Judiciary are both noble professions. Doctors are considered as God and Judges are referred as "My Lord". Both have responsibilities towards the society. Both are expected to exercise reasonable care during discharging their duties. Doctors do need free environment for proper functioning. Yet they perform and perform well under the threat of medical negligence. Judges do need to be under such regulations to deliver their duties well. They are as human as all others are. If we have greedy doctors in the society we do have greedy Judges. Courts should not get 'comtempted' in by fair and just criticism. In civil society nobody should have absolute powers even the Judges…….

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Regulation of Media in India in Constitutional Perspective

It may be submitted that regulation of media is being carried out in India through legislative, judicial and self regulatory measures. The role of the three measures has been to guarantee the freedom of speech and expression and also to maintain an ordered society by imposing restrictions as per constitutional mandate. However, in the past much dependence has been on judiciary and self regulatory measures. The trust placed on the media for self regulation is not being satisfactorily discharged by it. Hence a review of the issue is desirable for framing an acceptable regulatory mechanism in the present era. A reasonable approach is desirable for harmonious construction of constitutional freedoms together with fundamental rights of individuals and propagators of news, keeping in view the prevailing social setup and security of the country.

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Introduction :

Information can be disseminated and propagated through various modes out of which media is one of them medium of communication. Media is the medium or instrument of storing or communicating information. Media provides a vehicle for flow of information and communication. Media is derived from word 'Medium' and it is plural form of media. Media was popularly termed as 'Press' but today it denotes the Print and Electronic Media, i.e., Newspaper, Magazines, Radio, Television, Internet or E-media or Social Media.

Media/Press is recognised as the fourth pillar of democracy. It plays a crucial role in shaping healthy democracy. It makes us aware of various social, political and economic activities happening around the world. Obviously a democracy without media can be said to be a vehicle without wheels. Though media is fourth pillar of democracy but it cannot be allowed to transgress its domain through excessive coverage or hype of communal/non patriotic/ antisocial/ immoral or sensitive news. In Sahara India Real Estate Corporation Ltd. V SEBI case[(1)] the Supreme Court also expressed its distress that even letters marked as 'Without Prejudice',were reported by media. Hence the court opined that all Courts which have inherent power can issue prior restraint orders for publication of Court proceedings and this shall not be violative of Article 19(1)(a).

In view of the above it cannot be denied that, there has to be some proper regulation of freedom of speech/media. We are therefore required to identify as to what information should be disseminated and what should not in the national, public and social interest. Hence, a proper Social Engineering is called for which can suggest a regulatory mechanism for it.

Constitutional Provisions :

Preamble of Constitution of India provides us, Liberty of thought, expression, belief, faith and worship.Further, Freedom of Expression is the foremost fundamental right. It is the practical application of individual's freedom of thought. It is true to say that, while Freedom of thought is a personal freedom , freedom of Expression is collective freedom.

According to Article 19 (1) of Constitution of India :

"All citizens shall have the Right

(a) to freedom of speech and Expression."

.....

In India, Freedom of Press is implied from the freedom of Speech and Expression guaranteed by Art. 19(1)(a). Thus being only a right flowing from the freedom of speech, the freedom of Press in India stands on no higher footing than the freedom of speech of a citizen. Hence, press or media enjoys no better privilege and is not distinctive from the freedom of speech available to the citizen of India.

It may be submitted that Art. 19 (1) (a) of the Constitution of India corresponds to Amendment I of the U.S. Constitution which says, "Congress shall make no law abridging the freedom of Speech or of the Press."

It may be pertinent to mention that, Unlike Art. 19 (1) (a) of the Indian Constitution the provision in the U.S.Constitution has two notable features :

(1) Freedom of Press is specially mentioned therein whereas in India, freedom of Press is a genus of which, freedom of Expression is a species

(2) No restrictions are mentioned on the freedom of speech unlike Art. 19 (2) which spells out the restrictions of Art. 19 (1).

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Restictions under the Constitution of India :

Right given under Article 19(1) are not absolute. Reasonable restrictions can be imposed on the grounds mentioned under Art.19 (2).

The grounds upon which reasonable restriction can be imposed on freedom of speech and expression under Art. 19 (2), are as follows :

(1) Security of the State : This phrase was interpreted in Romesh Thappar Case[2] by Supreme Court as serious and aggravated forms of Public Disorder and not merely ordinary breaches of Public Order.

(2) Friendly Relations with Foreign States : This phrase was added by Constitution 1st Amendment in 1951; Further Foreign Relations Act 1932 punishes Libel against Foreign dignataries. But it does not justify supression of fair criticism of foreign policy of government.

(3) Public Order : This was added after decision of Romesh Thappar case in 1951 by 1st Amendment. In this reference the judgement of Supreme Court in Babulal Parate Vs State of Madras[3]. upholding the constitutionality of Section 144 Crpc also deserves mention.

(4) Decency or Morality : This concept is undergoing a major change in the present era of modernisation. The Hicklins Test approved by Supreme Court in Ranjit Dudeshi Vs State of Maharashtra[4] needs to be revisited and new parameters be layed down to decide the ingredients of Obscenity. Sections 292 to 294 IPC[5] recognise exceptions to Freedom of Speech and Expression in the name of restrictions.

(5) Contempt of Court : Contempt of Court Act 1971 defines both Civil and Criminal Contempt. This also lays restrictions of Freedom of publicity of Court proceedings and judicial approach and acts. Media Trial can also be regulated as per Supreme Court's view as given in Sahara Case[6] reffered above.

(6) Defamation : This phrase is covered under Section 499 of IPC.

(7) Incitement to Commit an Offence : This phrase is added by 1st Amendment Act 1951 and the term Offence has the same meaning as given under General Clauses Act.(Sec 40 IPC and Sec 2 Crpc)

(8) Sovereignity and Integrity of India : This was added by Sixteenth Amendment Act 1963 which , intended to prevent any body from challenging soverignity and integrity of India.

Relevant Cases :

In Terminiello Vs City of Chicago[7] Dauglas J., of the U.S Supreme Court has observed that "acceptance by Government of a dissident Press is a measure of the maturity of the Nation."

Art. 19 (1) (a) does not mention freedom of press. It is inferred from judicial decisions that freedom of speech and Expression included in its rubric, the freedom of Press and circulation as well. Freedom of Press includes, Freedom to print, publish and circulate what one pleases. It also includes pamphlets and circulars and every sort of publications. Thus, it is a right to propagate and circulate one's view and opinion subject to reasonable restrictions.

Right to Information :

Right to know or Right to Information or Freedom of Information is considered to be included in the Freedom of speech and Expression. Actually freedom of speech will be meaningful only when the people have opportunity to collect information. In modern democracy, the transparency in the Government is considered one of the element of good government. It will enable people to know the reality of the activities of Government and its officials

In Secretary Ministry of Information and Broadcasting, Govt of India. Vs Cricket Association of Bengal[8] (Supreme Court reiterated the proposition that the freedom of speech and expression guaranteed by Art. 19 (1) (a) includes the right to acquire information and to disseminate the same.

Earlier in Bennet Coleman Co. Vs. Union of India[9] In this case, Supreme Court had held that fixation of maximum number of pages of newspaper by the Government is against the Freedom of press guaranteed under Art. 19 (1) (a). It would directly affect the circulation . hence the said order was declared as unconstitutional.

The Supreme Court in a later case Union of India Vs Cinema Art Foundation[10] upheld the right to convey the perception of film producer about the Gas disaster in Bhopal through documentary film in the interest of public.Similarly, the Court[11] also recognised the right of Journalist and videographer to interview the condemned jail prisoners in jail as any restriction thereupon does not fall under Art 19(2) which was differentiated in another case State Vs Chanta[12] where interview of undertrail prisoner was denied during pendency of trial.

In the case Dinesh Trivedi, M.P and others Vs. Union of India[13] Supreme Court dealt with the Right of freedom of Information and observed :

"In Modern Constitutional Democracies, it is axiomatic that citizens have right to know about the affairs of the government which having been elected by them, seek to formulate sound policies of governance aimed at their welfare."

Information vis a vis Advertisements :

Advertisement is undoubtedly a form of speech. Advertisements have become an important tool for giving information to the consumers in the era of commercialization. Media acts as a vehicle for the above purpose. There is always a need to draw a line between information and commercial often is misleading. Prior to the special laws[14] made for regulation of misleading advertisements supremecourt has tried to regulate advertisements in some of the cases given below.

In Hamdard Dawakhna Vs. Union of India[15] court clarified that Advertisement for propagation of ideas will fall within the scope of freedom of speech and expression. But a commercial Advertisement for the promotion of Business or Trade which is found to be obnoxious does not fall within

Art. 19 (1)(a).

However in Tata Press Ltd Vs. Mahanagar Telephone Nigam Ltd.[16] Supreme Court departed from the view taken by it earlier in Hamdard Dawakhana and held that commercial Advertisement was also a part of Art. 19 (1)(a) and could be restricted within the limits of Art. 19 (2). The Court, made clear that only those Commercial Advertisement which are deceptive ,unfair, misleading and untruthful could be regulated by the Government.

Right to Privacy :

Right to Privacy is enshrined under Article 21 under Right to life and personal liberty. The exponential growth of Media has resulted in a corresponding decline of Individual's Privacy which is also a fundamental Right.

R. Rajagopal Vs. State of Tamilnadu[17] is a relevant case on the issue, In this case, the court has sought to reconcile twin fundamental rights viz, Right to Privacy and the freedom of speech by laying down following proposition - "The right to privacy is implicit in the right to life and liberty guaranteed to the citizens of this country by Article21. It is a "right to be let alone" A citizen has a right to safeguard the privacy of his own, his family, marriage, procreation, motherhood, child bearing and education among other matters.

Another case[18] relating to Telephone Tapping throughout directly concerned with the present issue also deserve to be mentioned here.The Court observed rightly that public emergency or in the interest of public safety are the two sine qua non conditions for the interference by the government in the privacy rights of citizens.This may also extend to the interest of sovereignity of India.

Hence, no one can publish anything concerning the above matters without his consent- whether truthful or otherwise and whether laudatory or critical. If he does so, he would be violating the right to privacy of the person concerned and would be liable in an action for damages. Position may, however, be different, if a person voluntarily thrusts himself into controversy or voluntarily invites or raises a controversy.

Sedition :

The gist of the act/ offence of Sedition is incitement to violence. Mere criticism of government is not enough. Its intention must be subversion of government or disruption of public tranquillity.[19] Sedition does not expressly finds mention in clause 2 of Article 19. However Sec 124-A of IPC deals with offence of Sedition.In Devi Saran Vs State[20] the Court held that Sec124-A[21] and Sec 153-A[22] of IPC imposes reasonable rstrictions in the interest of public order and therefore these are protected under article 19(2). The constitutionality of Sec 124-A was aiso upheld by the Supreme court in Kedarnath Vs State of Bihar.[23]

Jurisprudential Aspects Involved :

Media has certain obligation to the society. These obligations are truth, accuracy, objectivity and balance. Hence, Media has the Social Responsibility. Media and society are interdependent and mutually influential. Media shapes the society and get shaped by society. Role of Media for the development of society is a sine qua non. It plays a vital role in affecting social conditions/ fabric off a country in general and society in particular. That is the reason that media is called the 4th pillar of democracy.

The sociological school of Jurisprudence from the very beginning has been laying stress upon the social impact of law. Law plays a vital role in the society because it is a means to an end. It tries to achieve a social balance and support to establish a regulated society.

According to Ehrlich Law should be LIVING LAW. It should change with the needs of the society and Media is the best source of communicating the legal changes to the public.

According to Duguit, maintaining SOCIAL SOLIDARITY is the prime aim of the law. Thus, Law can play a vital role in maintaining social integration, in particular reference to Indian context where diverse culture is in existence. This view has gained much importance in contemporary India because Media is playing a Key Role in SOCIAL INTEGRATION of the country and is often being accused of going for Media Trial which interferes with the judicial functioning and sometimes becomes a tool of anti-national propaganda.

No freedom can be absolute or completely unrestricted. The concept of 'Right' and its legal co-relatives as depicted by Hohfeld's Table and accepted by eminent Jurists shows that the co-relatives of Right is Duty. Thus, where there is a Right there is a corresponding Duty. It also describes that a right can not exist in absence of a corresponding duty.

Similarly, Art. 19 (2) imposes reasonable restrictions on the exercise of this Right. Now the pertinent question is what is the basis to put 'Reasonable Restrictions'? If we go by Kelson's Pure Theory of Law which is based on pyramidical structure of hierarchy of norms, all the norms ultimately derive their validity from the basic norm termed as 'Grundnorm'.

The reasonable Restrictions as provided in Art 19(2) are reasonable because the exercise of any right gives birth to the compliance of corresponding duty and here the duty is not to exercise them against the interest of nation or society.

Here it is to be kept in mind that in view of some jurists 'Basic structure' of Constitution and not the constitution itself is the grundnorm but it changes nothing as Art. 21 has been declared to be the part of Basic Structure of constitution by the Honourable Supreme Court.

The freedom of Press is to be exercised balancing it with the restrictions mentioned under Art 19 (2). This act of balancing brings us to Rosco Pound's THEORY OF SOCIAL ENGINEERING by which he meant "Reconciling the conflicting interests of individuals in the community and their harmonisation.

He enumerated various interests which the law should seek to protect and classified them into three broad categories:

(1) Private Interest

(2) Public Interest

(3) Social Interest

The restrictions enumerated under Art 19 (2) may either from part of Public Interests or social Interest or they might form part of both of these 2 categories.

Recently in Kanhaiya Kumar's Case[24], the conflict in exercise of Rightto speech and Expression with reasonable restrictions of "Sovereignty and Integrity of India" was at forefront. Whether one could be allowed to speak against Unity and Integrity of the Country in exercise of Right to Speech and Expression? The simple answer is, No because it will harm the social fabric of Nation itself.

Again the Government of India recently decided to take the T.V. News Channel NDTV India off Air as it broadcasted the sensitive news of exact location of terrorists and military personnel fighting against each other in a continuing combat and military operation. The ban seems to be justified because security of the state was at risk. Moreover, it was merely a token ban of one day and not a blanket order. Even this token ban of one day was suspended till the further order at present.

Conclusion :

Thus, to conclude the topic which has been taken for this paper by the author has not only constitutional relevance but also has Jurisprudential basis. The need of the hour is to strike a balance through an integrated approach as advanced by notable jurist John Rawl where he propounded the theory of INTEGRATED JURISPRUDENCE. Today rights have over shadowed the duty concept contrary to that which was prevalent in India as Dharma/Duty encompassing religious, moral and civil duties flowing from the value oriented implementation of rights.

It may be submitted that regulation of media is being carried out in India through legislative, judicial and self regulatory measures. The role of the three measures has been to guarantee the freedom of speech and expression and also to maintain an ordered society by imposing restrictions as per constitutional mandate. However, in the past much dependence has been on judiciary and self regulatory measures. The trust placed on the media for self regulation is not being satisfactorily discharged by it. Hence a review of the issue is desirable for framing an acceptable regulatory mechanism in the present era. A reasonable approach is desirable for harmonious construction of constitutional freedoms together with fundamental rights of individuals and propagators of news, keeping in view the prevailing social setup and security of the country.

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Observation on Muslim Matrimonial Law

In India, the Muslim personal law should be codified and necessary reforms be introduced for the enactment of Islamic Code, within the matrix of Sharia law to jewel down the differences among various schools of Islam. To insists that Muslim law as prevalent in India should be preserved amounts to retention of certain legal rigidities, social inequalities, uncalled for discrepancies and undesired hardships which are contrary to Islam. Dr. Tahir Mahmood's work setting out the legislative scenario across the Islamic landscape is at once instructive, seminal and of futuristic relevance for such an Islamic Code for the Indian Muslims of tomorrow. He has cited the Holy Quran to prove that Polygamy under Islam can be restricted by an agreement or by the law.

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Islam has categorically granted equal status to man and woman. But the male dominated ethos of the medieval and feudal periods has assigned secondary status to woman in our country. The roots in the milieu and traditional customs existing in the Indian origin have made it rather difficult for the Muslim women in India to enjoy the rights bestowed on them by Islam. Dr., Tahir Mahmood's recommendation that court should pass decree of Khula u/r the residuary clause contained in Section 2(ix) of the Dissolution of Muslim Marriage Act, 1939 is highly appreciable and we whole heartedly support his progressive view. The misconception has vitiated the law dealing with the wife's right to dissolve the tie of marriage.

The popular fallacy that a Muslim male enjoys, under the Quranic law, unbridled authority to liquidate the marriage. The whole Quran expressly forbids a man to seek pretext for divorcing his wife so long as the remains faithful and obedient to him.[1] The Islamic Law gives to the man primarily the faculty of dissolving the marriage, if the wife, is disobedient. Unless the wife is disobedient, no man can justify a divorce. If he abandons his wife or puts her away in simple caprice, he draws upon himself the divine anger, for the course of God, said the Prophet, rests on him who repudiates his wife capriciously. But it is unfortunate that Muslim Personal Law as applied in India has taken a course contrary to the spirit of what the Prophet or the Holy Quran laid down and the same misconception vitiates the law dealing with wife's right to divorce.

The true Islamic law of divorce, in fact stands for what is no known as the "breakdown theory" of divorce. The Quran did not specify and matrimonial offences neither the Prophet laid any bar to the matrimonial relief. This is what the modern 'breakdown' theory of divorce exactly stands for which precludes the courts from going into the causes of breakdown of marriage.

A husband, who is convinced that his marriage is irretrievably broken down, can pronounce a talaq, which shall not become effective during the period of Iddat. At the expiry of this period, i.e. he does not revoke, the marriage is dissolved but the couple can revive the marriage by a fresh solemnization, provided the wife agrees. And that is all, there are no complications, no complexities, no inequities in this process. However since the husband cannot be allowed to play hide and seek with his wife by repeatedly pronouncing a talaq and then either revoking it within the permissible period of Iddat or offering to remarry the woman after the expiry, the law provides that he can do so only twice in the whole of his life and whenever he does it for the third time, the marriage is instantly dissolved perpetually, leaving no room either for the revocation of divorce or for a novation of marriage by a fresh solemnization. Unfortunately the Muslims in India are themselves composing a parody of this extremely rationale and humane law by straight away jumping to third talaq in single pronouncement in sheer ignorance, believing that without this their action would have no effect at all and it is again unfortunate that the Muslim clergy approve of it and the courts give effect to it. If people know that triple-divorce superfluous and even a single talaq would dissolved the marriage, of course, leaving room for revocation during the next three months and remarriage thereafter, innumerable families would have been saved from disruption.[2]

Taking the form of Khulla, Courts in India have eclipsed

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this extremely liberal and pro-women law by judicial ignorance and juristic prejudice against the law of Islam has practically extinguished this parallel right of talaq given to her. The right of divorce which Islam confers on women, if understood in its true perspective, will indeed by found surprisingly exemplary as to how the Islamic law has equated her right to divorce with means' unilateral right to talaq. Where the husband is reluctant and tries to maintain the marital bond against the wishes of the wife despite forgoing of her Mahr. She is free to go to the court and ask for a decree of Khul without even giving the court, the reasons as to why she wants which is, mutatis mutandis, the same as man's right to talaq. But it is unfortunate for the Muslim women in India that this institution giving her equal rights is clouded with misconception and referred erroneously as a 'bargain for the benefit of the husband'.[3]

Islam has clearly granted equal status to man and woman. Holy Quran says :

They are your garments
And you are their garments. [4]

Talaq-e-tafwiz which authorizes the wife to stipulate with the husband, at the time of marriage, to the effect that she would have a right to pronounce a unilateral divorce, on his behalf in specified circumstances, is unknown to the Muslim Women in India.

The issue of maintenance of divorced Muslim women, their rights are beautifully balanced against the Quaranic law which strongly discourages divorce and allows under many restrictions regarding Talaq as the resort. However, this extremely rationale and humanistic law on divorce has indeed been awfully corrupted to the detriment of Muslim women in India. The right to maintenance of a divorced Muslim woman ceases after the expiry of the period of Iddat as a natural corollary to its concept of marriage and policy on divorce. Since marriage, in Islam is a dissoluble union, the parents' liability to maintain their unmarried daughter remains only suspended during her married life. On dissolution, whether by her husband's death or by divorce whether at her own instance or otherwise, the liability of the parents is revived and continues to be discharged until she remarries.[9].

In consonance with Islamic concept of justice, expressed through the device of mata as mentioned in Ayat 241 Surah-al-Buqura and Ayat Surah-al-Talaq (fair and reasonable provision in statutory terminology) has found place in the act of 1986 which if judiciously applied in suitable cases, would be in conformity with the Shariah law on the subject. There are some points about maintenance of divorced muslim women :

(i) Maintenance for divorce Muslim wife after Talaq she is entitled to get the allowance up to the end of Iddat period only.

(ii) If divorced women are pregnant then she is entitled to get the allowances up to delivery.

(iii) Where she herself maintains the children born to her before and after divorce a reasonable and fair provision and maintenance to be made and paid by her former husband for a period of two years from the respective date of birth of such children.

(iv) An amount equal to the sum of Mahr to be paid to her at the time of her marriage or at any time thereafter.

We would also like to mention that the Act of 1986 only attempts to enforce the traditional Islamic Law on women's post divorce rights the other part of the law is Islam namely, the true Quaranic principles and processors relating to divorce must also be properly enforced.

Great importance is assigned to reason in Islamic system and Quranic philosophy. While on the one hand human reason is subordinate to Divine reason in revelation, simultaneously man is exhorted to approach an understanding of heights of human knowledge and fulfillment. Qiyas, Ijme, Ijtihad, Istihsan, and Maslahah are some of the brilliant examples of the role reason has played in the development of juristic thought in Islamic Shariat.

Muslims in various countries adhered to particular schools of Islamic law from the earlier times, but with the advancement of time and social progress many Muslim countries is have enacted codified laws on the basis of a selection of legal rules derived from mo0re than a single school or even from all the schools of Islamic law. For instance, The Ottoman Law of Family Rights, enacted in Turkey rules from the various schools of Islamic law. In Egypt, the laws generally represent a synthesis of the four Sunni schools of law and contain some of the rules of Shia origin. The same is true about Sudan. Jordan and Syria have enacted their own laws in 1951 and 1953 respectively, based on a selection of the Hanafi, Shafei and Hanbali rulings. Tunisia, Morocco and Algeria have enacted, between 1956 and 1959, certain new laws based on the legal opinion in the schools other than that of Imam Malik. The Iraqi Law of Personal Status, 1959 (as amended in 1963) represents a synthesis of the Hanafi and Jafri schools equally dominant in that country.

It should be mentioned, however, that the enactments referred to above have generally remained within the bounds of the known principles of Sharia law. Major portions of the new codes enacted in Lebanon, Jordon Syria, Tunisia, Morocco, Iran and Iraq have only given statutory from to the traditional legal principles, without any change. Similarly, not much reform can be said to have taken place in the laws of Indonesia, Malaysia, Burnei, Singapore and Ceylon, all of which generally provide rules for the administration of Islamic law by the Courts.

In India also the Muslim personal law should be codified and necessary reforms be introduced for the enactment of Islamic Code, within the matrix of Sharia law to jewel down the differences among various schools of Islam. To insists that Muslim law as prevalent in India should be preserved amounts to retention of certain legal rigidities, social inequalities, uncalled for discrepancies and undesired hardships which are contrary to Islam. Dr. Tahir Mahmood's work setting out the legislative scenario across the Islamic

landscape is at once instructive, seminal and of futuristic relevance for such an Islamic Code for the Indian Muslims of tomorrow.[10] He has cited the Holy Quran to prove that Polygamy under Islam can be restricted by an agreement or by the law.[11]

References :

(1) *Quran Surah Al-Nisa, Ayat, 34.*

(2) *See, Abul Ala Maududi, Huquq al Zawajayn, 10 (4th Ed. 1964).*

(3) *Tahir Mahmood Personal Law in Crisis, 64-65 (1986).*

(4) *Quran, Surah Al Buqara, Ayat 187.*

(5) *Ziauddin Ahmed vs Anwar B. Begum: Rukia Khatun vs Abdul Khaliq Laskar both decided during 1978-79.*

(6) *AIR 1980 Mad. 82.*

(7) *Jbn Human's Famous Treatise on the Hanafi Law, cited in Tyabji, Muslim Law, 226 (4th Ed. 1968).*

(8) *One of the six most authentic collections of prophet's tradition, cited in Ameer Ali, 11 Mohammedan Law, 406 (5th Ed. 1929).*

(9) *See, Fatawa-e-Qadi Khan (English Trans. by Maulavi Muhammad Yusvs) Vol.1-11 (1875).*

(10) *Tahir Mahmood, Family Law Reform in the Muslim World (1972).*

(11) *Id. at 273.*

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मध्यप्रदेश शासन द्वारा जनजातियों की शिक्षा के विकास हेतु किए गए प्रावधान : एक अध्ययन

प्रस्तुत शोधपत्र में मध्यप्रदेश शासन द्वारा जनजातियों की शिक्षा के विकास हेतु किए गए प्रावधानों का अध्ययन किया गया है। किसी भी लोक कल्याणकारी राज्य के लिए यह आवश्यक है कि वह समाज के सबसे पिछड़े वर्ग के लिए विशेष व्यवहार निर्धारित करें। सम्पूर्ण भारत में अनुसूचित जनजातियों को उस पिछड़े तबके रुप में देखा जा सकता है, जिसे न केवल आर्थिक विकास, बालिका सामाजिक न्याय की भी आवश्यकता की अपेक्षा अन्य वर्गों से अधिक है, यही कारण है कि भारतीय संविधान द्वारा अनुसूचित जनजातियों के हितों के संरक्षण के लिए विशेष प्रावधान किए गए हैं। मध्यप्रदेश ने भी संघ की उक्त नीति एवं सिद्धांत का अनुसरण करते हुए राज्य की सीमाओं में निवासरत जनजातीय वर्ग हित संवर्द्धन, संरक्षण कल्याण और विकास हेतु एक आयोग का गठन किया है, मध्यप्रदेश राज्य अनुसूचित जनजाति आयोग अधिनियम 1995 के तहत मार्च 1996 में मध्यप्रदेश राज्य अनुसूचित जनजाति आयोग का गठन किया गया है, जो अनुसूचित जन-जाति के विकास के लिए कार्य करता है।

डॉ.अरुणा सेठी* एवं संगीता मसानी**

भारतीय संविधान में अनुसूचित जनजातियों को विशेष संरक्षण एवं सुविधाएँ देकर समाज के उन्नत वर्गो के समकक्ष लाकर बड़ा करने का संकल्प किया गया है। इस तथ्य को ध्यान में रखते हुए राज्य ने इन वर्गों के कल्याण कार्य को महत्व दिया गया। 1975 में स्थापित आदिम जाति कल्याण विभाग द्वारा संचालित कल्याण कार्यक्रमों की शैक्षणिक उन्नति की योजनाओं में प्रमुख थी :

(1) जनजातीय क्षेत्रों में शालाओं का संचालन।

(2) अनुसूचित जनजातीय विद्यार्थियों को छात्रवृत्ति तथा शिष्य वृत्तियों का वितरण।

(3) छात्रावासों और आश्रम शालाओं का संचालन।

मध्यप्रदेश में गोंड, भील, बैगा, भारिया एवं सहरिया जनजाति आदि जनजाति को भारत सरकार द्वारा विशेष पिछड़ी जनजाति समूह के रूप में मान्यता दी गई है। इन जनजातियों के विकास हेतु प्रदेश में 10 अभिकरण कार्यरत हैं। एकीकृत आदिवासी विकास परियोजना के अन्तर्गत 26 वृहत एवं 5 मध्यम परियोजनाएँ, 30 माण्ड पाकेट्स एवं 6 लघु अंचल कार्यरत हैं। प्रदेश में 3 पूर्णतः अनुसूचित जनजाति जिले तथा 89 अनुसूचित जनजाति विकासखण्ड है।

मध्यप्रदेश में अनुसूचित जनजातियों के उत्थान हेतु आदिवासी विकास विभाग के माध्यम से विभिन्न कल्याणकारी योजनाओं का क्रियान्वयन किया जा रहा है, जिनमें शिक्षा विषयक योजनाएँ प्रमुख है। विभाग द्वारा शालेय शिक्षा के अन्तर्गत आदिवासी विकासखण्डों में प्राथमिक से लेकर उच्चतर माध्यमिक स्तर तक की शालाओं का संचालन किया जा रहा है। इसके अतिरिक्त प्रदेश में अन्य योजनाएँ, यथा आवासीय संस्थाए प्री मैट्रिक, पोस्ट मैट्रिक छात्रावास, आश्रम शालाएँ एवं उत्कृष्ट शिक्षा केन्द्रों की स्थापना, छात्रगृह विभिन्न प्रकार की छात्रवृत्तियों का वितरण, प्रशिक्षण सह उत्पादन केन्द्र, राहत एवं स्वरोजगार हेतु आदिवासी वित्त एवं विकास निगम के माध्यम से आर्थिक विकास की योजनाओं का क्रियान्वयन किया जा रहा है।

सर्वशिक्षा अभियान (एसएसए) :

प्राथमिक शिक्षा के सार्वत्रीकरण के बहुप्रतीक्षित उद्देश्य को निर्धारित समय सीमा में प्राप्ति की दिशा में यह ऐतिहासिक पहल है। यह कार्यक्रम राज्यों के सहयोग से चलाया जाता है, जिसके अंतर्गत देश के प्राथमिक शिक्षा क्षेत्र की चुनौतियों का सामना करने, संकल्प, वर्ष 2010 तक 6–14 आयुवर्ग के सभी बच्चों को उपयोगी एवं स्तरीय शिक्षा उपलब्ध कराना शामिल है।

जिला प्राथमिक शिक्षा कार्यक्रम (डीपीईपी) :

इस योजना का प्रमुख जोर बालिकाओं, अनुसूचित जाति/जनजाति कामकाजी बच्चों, शहरी वंचित बच्चों, विकलांगों आदि की शिक्षा के लिए विशेष सहयोग उपलब्ध कराना है। बालिकाओं एवं अनुसूचित जाति जनजाति के लिए विशेष रणनीतियाँ हैं।

महिला समाख्या (एमएस) :

महिला समाख्या शैक्षिक पहुँच एवं उपलब्धि के क्षेत्र में लैंगिक अंतर का निराकरण करती है। इसमें महिलाओं (विशेषतः सामाजिक एवं आर्थिक रूप से पिछड़ी एवं वंचित) को ऐसे सशक्तिकरण के योग्य बनाना शामिल है।

प्राथमिक स्तर पर बालिका शिक्षा हेतु राष्ट्रीय कार्यक्रम (एनपीईजीईएल) :

सर्व शिक्षा अभियान (एसएसए) की वर्तमान योजना के अधीन

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एनपीईजीईएल प्राथमिक स्तर पर सहायता प्राप्ति से वंचित/पिछड़ी बालिकाओं हेतु अतिरिक्त संसाधन मुहैया कराता है। यह कार्यक्रम शैक्षिक दृष्टि से पिछड़े उन विकासखंडों में चलाया जा रहा है, जहाँ ग्रामीण महिला साक्षरता की दर राष्ट्रीय औसत से कम है और लैंगिक भेदभाव राष्ट्रीय औसत से अधिक है।

शिक्षाकर्मी कार्यक्रम (एसकेपी) :

एसकेपी का लक्ष्य बालिका शिक्षा पर प्रमुख रूप से ध्यान देने के अतिरिक्त दूर–दराज के अर्धशुष्क एवं सामाजिक–आर्थिक रूप से पिछड़े क्षेत्रों में प्राथमिक शिक्षा के सार्वत्रीकरण एवं गुणवत्ता में सुधार लाना है। यह उल्लेखनीय है कि शिक्षाकर्मी स्कूलों में अधिकतर बच्चे अनुसूचित जाति/जनजाति एवं अन्य पिछड़े वर्गों के हैं।

कस्तूरबा गाँधी बालिका विद्यालय :

कस्तूरबा गाँधी बालिका विद्यालय योजना के अंतर्गत मुख्य रूप से प्राथमिक स्तर पर अनुसूचित जाति अनुसूचित जन जाति, अन्य पिछड़े वर्ग और अल्पसंख्यकों की बालिकाओं के लिए दुर्गम क्षेत्रों में आवासीय सुविधाओं के साथ शिक्षा देना है।

जनशिक्षण संस्थान (जेएसएस) :

इस कार्यक्रम का लक्ष्य सामाजिक आर्थिक–रूप से पिछड़े तथा शहरी ग्रामीण क्षेत्रों के शैक्षिक रूप से वंचित वर्गों, विशेषकर नवसाक्षरों, अर्ध–शिक्षितों, अनुसूचित जाति जनजातियों, महिलाओं तथा बालिकाओं, मलिन बस्ती निवासियों, प्रवासी श्रमिकों इत्यादि का शैक्षिक, व्यावसायिक विकास करना है।

केंद्रीय भारतीय भाषा संस्थान (सीआईआईएल) :

केंद्रीय भारतीय भाषा संस्थान, मैसूर की एक योजना जनजातीय भाषाओं सहित आधुनिक भारतीय भाषाओं में अनुसंधान, इनमें निपुण व्यक्तियों का विकास तथा इस हेतु उन्नत पाठ्य सामग्री तैयार करना है। संस्थान ने 90 से अधिक जनजातीय भाषाओं के क्षेत्र में कार्य किया है।

केंद्रीय विद्यालय (केवी) :

इसमें नए छात्रों के दाखिले में क्रमशः 15 प्रतिशत एवं 7.5 प्रतिशत सीटें अनुसूचित जाति और जनजाति के छात्रों के लिए आरक्षित हैं। इन वर्गों के छात्रों से 12वीं कक्षा तक किसी भी प्रकार का शिक्षण शुल्क नहीं लिया जाता है।

नवोदय विद्यालय (एनवी) :

अनुसूचित जाति और जनजाति के छात्रों के पक्ष में आरक्षण संबंधित जिलों में उनकी आबादी के हिसाब से इस प्रकार दिया जाता है कि वह 22.5 प्रतिशत के राष्ट्रीय औसत (15 प्रतिशत अजा के लिए एवं 7.5 प्रतिशत अजजा के लिए) से किसी भी प्रकार कम न हो और अधिकतम दोनों वर्गों (अजा एवं अजजा) को मिलाकर 50 प्रतिशत से अधिक न हो। ये आरक्षण परस्पर परिवर्तनीय हैं तथा सामान्य दक्षता सूची से आने वाले छात्रों से अतिरिक्त हैं।

एससी/एसटी छात्रों को शुल्क में छूट :

माध्यमिक पाठ्यक्रमों के लिए एससी एसटी छात्रों को प्रवेश शुल्क में छूट प्रदान की जाती है।

एससी/एसटी छात्रों के लिए छात्रवृत्ति योजना :

अनुसूचित जाति और जनजाति के उन मेधावी छात्रों को उच्च शिक्षा प्राप्त करने के लिए उनकी पहचान करने, उन्हें प्रोत्साहन देने और उनकी सहायता करने के विचार से 1992 में सामाजिक न्याय और आधिकारिता मंत्रालय के तहत स्थापित डॉ. अंबेडकर फाउंडेशन मेधावी छात्रों को डॉ. अंबेडकर राष्ट्रीय छात्रवृत्ति प्रदान करता है।

राष्ट्रीय शैक्षिक अनुसंधान एवं प्रशिक्षण परिषद (एनसीईआरटी) :

एनसीईआरटी पाठ्यपुस्तकों, अभ्यास पुस्तिकाओं, अध्यापक निर्देशिकाओं, सहायक पठन सामग्री के विकास, पाठ्यपुस्तकों के मूल्यांकन, व्यावसायिक शिक्षा, शैक्षिक तकनीकी, परीक्षा सुधारों, सर्व शिक्षा अभियान को समर्थन, शैक्षिक रूप से वंचित वर्गों की शिक्षा पर ध्यान देती है।

राष्ट्रीय शैक्षिक नियोजन एवं प्रशासन संस्थान (एनआईईपीए):

अनुसूचित जाति और जनजाति का शैक्षिक विकास करना एनआईईपीए का एक प्रमुख कार्यक्षेत्र है। यह अनुसूचित जाति और जनजातियों के लिए चल रहे शैक्षिक कार्यक्रमों एवं योजनाओं का अध्ययन करता है। यह अनुसूचित जाति और जनजाति के छात्रों के शैक्षिक विकास और उनसे संबद्ध शैक्षिक संस्थाओं के लिए सामग्री भी तैयार करता है।

विश्वविद्यालय अनुदान आयोग (यूजीसी) :

यूजीसी अनुसूचित जाति/जनजाति के वर्गों के लिए आरक्षण नीति के प्रभावी क्रियान्वयन के लिए सभी विश्वविद्यालयों, विश्वविद्यालय के रूप में मान्य संस्थानों में अनुसूचित जाति/जनजाति एकक की स्थापना के लिए वित्तीय सहायता उपलब्ध कराता है। अभी इस आयोग ने केंद्रीय विश्वविद्यालयों समेत 113 विश्वविद्यालयों में अजा–अजजा एककों का गठन किया है।

आरक्षण नीति के अंतर्गत आयोग ने केंद्र सरकार के अधीन सभी विश्वविद्यालयोंध्महाविद्यालयों में सभी शिक्षण एवं गैर शिक्षण पदों में भर्ती, प्रवेश, छात्रावास इत्यादि में अनुसूचित जाति/जनजाति के लिए क्रमशः 15 प्रतिशत और 7.5 प्रतिशत आरक्षण का प्रावधान किया है। राज्यों के विश्वविद्यालय संबंधित राज्य द्वारा बनाई गई आरक्षण नीति का पालन करते हैं।

सामुदायिक पॉलीटेकनीक :

सामुदायिक पॉलीटेकनीक की योजना के अंतर्गत क्षेत्र विशेष में विज्ञान और प्रौद्योगिकी का प्रयोग करके ग्रामीण सामुदायिक विकास गतिविधियां चलाई जाती हैं। इसके अंतर्गत ग्रामीण क्षेत्र के लोगों/स्थानीय समुदायों को उनके उपयुक्त एवं अनुरूप प्रौद्योगिकी उपलब्ध कराने के लिए मंच उपलब्ध कराया जाता है।

इंजीनियरिंग कॉलेज :

केंद्र सरकार द्वारा संचालित उच्च शिक्षा संस्थान, जिनमें आईआईटी, आईआईएम तथा राष्ट्रीय प्रौद्योगिकी संस्थान शामिल हैं, में अनुसूचित जाति/जनजाति के छात्रों को क्रमशः 15 प्रतिशत एवं 7.5 प्रतिशत आरक्षण दिया जाता है। आरक्षण के अलावा इनमें अजा अजजा छात्रों के लिए न्यूनतम अर्हता अंकों में भी छूट दिए जाने का प्रावधान है। छात्रावासों में भी सीटें आरक्षित हैं, तथापि राज्य सरकारों द्वारा संचालित संस्थाओं में संबंधित राज्य सरकारों की नीति के अनुसार आरक्षण दिया जाता है।

विशेष घटक योजना (एससीपी) तथा जनजातीय उप–योजना (टीएसपी) :

प्राथमिक शिक्षा एवं साक्षरता तथा माध्यमिक एवं उच्च शिक्षा विभागों के आवंटित बजट में क्रमशः 16.20 प्रतिशत तथा 8 प्रतिशत

अनुसूचित जाति एवं जनजातियों के लिए विशेष घटक योजना (एससीपी) और जनजातीय उपयोजना (टीएसपी) के अंतर्गत आवंटित है।

आश्रम :

प्रदेश के वनांचल और दुरस्थ क्षेत्रों में जहाँ शैक्षणिक सुविधा उपलब्ध नहीं है, आवासीय विद्यालय के रूप में आश्रम शाला की व्यवस्था अनुसूचित जनजाति के लोगों के लिए की जाती है। छात्रावासों के समान ही इनमें निवासरत विद्यार्थियों को निःशुल्क आवास भोजन विद्युत सुविधा उपलब्ध हैं।

उत्कृष्ट शिक्षा संस्थान (छात्रावास) योजना :

प्रदेश शासन द्वारा मेघावी छात्र/छात्राओं को उत्कृष्ट शिक्षा देने के उद्देश्य से प्रदेश के 19 आदिवासी जिलों में उत्कृष्ट शिक्षा केन्द्र स्थापित किए गए है। इस योजना को विस्तार देते हुए इस विकासखण्ड मुख्यालयों पर भी उत्कृष्टता शिक्षा केन्द्र खोले गए है।

पोस्ट मैट्रिक छात्रावासों में आगमन भत्ता :

इस योजना के अन्तर्गत अनुसूचित जनजाति के पोस्ट मैट्रिक छात्रावासों में प्रवेशित विद्यार्थियों को छात्रावास में प्रवेश के प्रथम वर्ष 500 रू. द्वितीय वर्ष में 250 रू. तृतीय वर्ष में 200 रू. आगमन भत्ते की राशि का भुगतान किसे किया जाता है।

निःशुल्क साइकिल प्रदाय योजना :

बालिका शिक्षा प्रोत्साहन के लिए कक्षा 9वी में पढ़ने वाली ऐसी अनुसूचित जनजाति वर्ग की छात्राओं को जिनके ग्राम में हाईस्कूल नहीं है तथा उन्हें अध्ययन हेतु दूसरे ग्राम जाना पड़ता है। आने–जाने की सुविधा के लिए निःशुल्क साइकिल प्रदाय की जाती है।

मध्यान्ह भोजन कार्यक्रम :

प्रदेश शासन द्वारा मध्यान्ह भोजन कार्यकम अन्तर्गत 19 आदिवासी बाहुल्य जिलों के 89 आदिवासी विकासखण्डों में संचालित समस्त शासकीय तथा अनुदान प्राप्त 22,745 प्राथमिक शालाओं में अध्ययनरत् समस्त विद्यालयों को प्रतिदिन पालक शिक्षक संघों के माध्यम से मध्यान्ह भोजन का वितरण किया जा रहा है।

आदर्श विद्यालय :

प्रतिभावान आदिवासी विद्यार्थियों को अच्छी शैक्षणिक सुविधाएँ एवं शिक्षा का उचित वातावरण उपलब्ध कराने के लिए सरकार द्वारा आदर्श विद्यालयों (मॉडल स्कूल) की स्थापना की गई है। इन विद्यालयों में चुने हुए वरिष्ठ शिक्षकों द्वारा दी जाती है। इन विद्यालयों में विद्यार्थियों को योग्यता के आधार पर प्रवेश दिया जाता है।

कन्या शिक्षा परिसर :

आदिवासी कन्याओं में साक्षरता बढ़ाने तथा शिक्षा में गुणात्मक सुधार लाने की दृष्टि से विभाग द्वारा कन्या परिसर खोले गए हैं। वर्तमान में कन्या शिक्षा परिसर निम्नलिखित स्थानों पर संचालित है, जैसे छिदवाड़ा जिला छिंदवाड़ा, अम्बिकापुर–जिला सरगुणा, कुक्षी–जिला धार, चौकी–जिला धार, जगदलपुर–जिला बस्तर, पुष्पराजगढ़–जिला शहड़ोल।

गुरूकुल विद्यालय :

आदिवासी छात्र–छात्राओं को शिक्षा के साथ ही कुछ आर्थिक लाभ भी प्राप्त होता रहे, इस उद्देश्य से पढ़ो और कमाओ के सिद्धांत पर विभाग द्वारा पेन्ड्रारोड़ जिला बिलासपुर में एक गुरूकुल विद्यालय की स्थापना की गई है।

कन्या साक्षरता प्रोत्साहन योजना :

जनजाति की बालिकाओं को शिक्षा में प्रोत्साहन देने के लिए कक्षा 5वीं, 8वीं एवं 10वीं की परीक्षा पास कर अगली कक्षा में प्रवेश लेने पर क्रमशः 500, 1000, 3000 प्रोत्साहन राशि के रूप में प्रदान किए जाते हैं।

शिक्षा के लिए भोजन कार्यक्रम :

इस योजना के अन्तर्गत बड़वानी तथा झाबुआ जिलों में विभाग द्वारा संचालित 2825 प्राथमिक शालाओं को कक्षा 1 से 5 तक की कुल 219254 छात्र/छात्राओं को 200 दिवसों के लिए सुबह का नाश्ता रेड़ी टू ईट 100 ग्राम प्रति हितग्राही के मान से विश्व खाद्य कार्यकम द्वाराा निःशुल्क उपलब्ध कराया जा रहा है।

निःशुल्क गणवेश प्रदाय :

जनजाति के बालकों को सर्वशिक्षा अभियान के अन्तर्गत राज्य शिक्षा केन्द्र के माध्यम से बालिकाओं को निःशुल्क गणवेश प्रदान किए जाते हैं।

म. प्र. राज्य अनुसूचित जनजाति आयोग :

किसी लोक कल्याणकारी राज्य के लिए यह आवश्यक है कि वह समाज के सबसे पिछड़े वर्ग के लिए विशेष व्यवहार निर्धारित करें। सम्पूर्ण भारत में अनुसूचित जनजातियों को उस पिछड़े तबके के रूप में देखा जा सकता है जिसे न केवल आर्थिक विकास, बालिका सामाजिक न्याय की भी आवश्यकता की अपेक्षा अन्य वर्गो से अधिक है, यही कारण है कि भारतीय संविधान अनुसूचित जनजातियों के हितों के संरक्षण के लिए विशेष प्रावधान किए गए हैं। मध्यप्रदेश ने भी संघ की उक्त नीति एवं सिद्धान्त का अनुगमन करते हुए राज्य की सीमाओं में निवास करते रहे, जनजातीय वर्ग के हित संवर्द्धन, संरक्षण कल्याण और विकास हेतु एक आयोग का गठन किया है, मध्यप्रदेश राज्य अनुसूचित जनजाति आयोग अधिनियम 1995 के तहत मार्च 1996 में– 'मध्यप्रदेश राज्य अनुसूचित जनजाति आयोग' का गठन किया गया है, जो अनुसूचित जन जाति के विकास के लिए कार्य करती है।

संदर्भ :

(1) द्विवेदी, निशा : भारतीय शिक्षा प्रणाली, मनीष प्रकाशन दिल्ली।

(2) *कुशवाह, जिमीसिह, सिंह, उमेश एवं जैन, अरिहन्त : जनजातियों में शिक्षा कि स्थिति, एसएसडीएन प्रकाशन, दिल्ली।*

(3) *जोशी, ओमप्रकाश : भारत में शिक्षा का मूल अधिकार, कल्पना प्रकाशन, जयपुर।*

वेब–साईट :

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