

ECONOMIC INJUSTICE, VIOLENCE AND VIOLATIONS

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Abstracts:

The Paper is an essay where different land allotment policies of Odisha Government studied in the context of Human Rights Violation. In a simple lime People's Land rights in terms of economic injustice and different kind of ciolence arise out the government policies and infringement of state, local and illegitimate powers.

Keywords: *Revenue Acts, Social Problem (Servitors), Violence and Violations*

Economic injustice is a violation of human rights that causes violence, although the preamble of the Constitution of India guarantees economic justice to all its citizens and the Constitution (Forty second amendment) Act 1976 enshrines Socialist feature in its Preamble for the weaker sections of the society. The fundamental concept of Human Rights dates back to the doctrine of natural rights founded on natural law. Man born free and he aspires a life of free thought with a decent life. Right to personal security, personal liberty and all other rights by the by conceived were appended to the basic concept of human rights. Man gradually progressed so as to reach the height of civilization that has been the world culture of the present day, although it lacks rationalization in equitable distribution of the limited resources bestowed upon the living being for its use as yet. Human rights not merely circumscribed to cater justice to an individual or a group of individuals by lessening the loss or damage caused, but it was thought of to be indispensable to place a check for further deterioration so that on that base one should have a healthy and peaceful life. Thus social and political justice pledged by the preamble

of the Constitution to be secured to all citizens will be incomplete unless first economic justice is guaranteed to all.

From a nomadic life man reached a settled life based on agriculture and now in a position to make use of the advanced science and technology. Human rights as a part of social sciences are supplementary to material sciences for equitable distribution of the limited resources all around. Development in agriculture builds the economic infrastructure for industrial growth of any country. But matter of concern land titles in India are in mess. Most of the criminal offences are the outcome of the civil irregularities. D.C. Wadhwa, emeritus professor of the Gokhale Institute of Politics and Economics says, "India's land records are fiscal in nature and presumptive in character. The title to land is only incidental"(1). Giving his views on McKinsey's estimate that 1.3 per cent growth is lost every year because of land and property market distortions. Professor D.C. Wadhwa says, "India could be losing 1.3 per cent economic growth a year, if you consider the productive man-hours lost in litigation proceedings, and the fact that doubts over



ownership inhibit supply of capital, thus raising the cost of credit for agriculture"(1).

Vulnerable groups according to Human Rights- Rights of Tribals/Indigenous rights: Rights of indigenous people, Ethnic groups who are natives to a land or region (2). India basically being an agricultural one and most of its people depend upon agriculture for their living, naturally study and analysis on land laws need be systematic to achieve the Socialistic feature of the Constitution. Inadequacy in land related and socio-religious laws and lack of due care in interpretation and application of the Acts extant worsen the plight of some ethnic groups, who are a minority making them economically handicapped and loss of livelihood.

1. Revenue Acts

We may read the following Acts to make the point lucid.

Odisha Land Reforms Act 1960: Whereas it is necessary to enact a progressive legislation relating to agrarian reforms and land tenures consequent on the gradual abolition of intermediary interest (3). The Act makes clear provision for conferring higher rights on the real cultivator. The Act, therefore has come with time schedule for effecting these reforms with a view to conferring higher rights on the true cultivators, put an end to absentee landlords fix ceiling units in respect of agricultural holdings determine surplus lands and settle the same with landless people (3).

Odisha Estate Abolition Act 1951:Whereas in pursuance of the Directive Principles of State Policy laid down by the Constitution of India, it is incumbent on the state to secure economic justice for all (4).

Section 8 (3) of the OEA Act reads as: Any person who immediately before the date of vesting held land under an intermediary on favorable terms for personal service rendered by him to such intermediary shall, from the

date of vesting, be discharged from the conditions of such service and the land may be settled with him in such manner and under such terms and conditions as may be prescribed (4).

Provided that nothing in sub section 3 shall apply to a trust estate which is vested in the state on or after the date of coming into force of the Odisha Estate Abolition (Amendment) Act, 1970(4).

2. Social Problem (Servitors)

Making an analysis of the position of the traditional temple priests and their allies, we may read the Odisha Hindu Religious Endowments Act 1951 as:

Any jagir or inam granted to an archaka, sevak, service holder or other employee of a religious institution for performance of any service or charity in or connected with a religious institution shall not be deemed to be a personal gift to the said archaka, service holder or employee but shall be deemed to be a religious endowment (5).

Traditional servitors, basically from the OBC, ST and SC communities of Odisha, associated with the religious concerns since the pre-vedic era have been earmarked some landed property in course of time by the ex-feudal state chiefs in shape of remuneration for the services they render hereditarily to the Deity. These people have been the real agriculturists and tillers of the land for earning their livelihood. As per the statute interpreted so far by various authorities, Section 8 (3) of the OEA Act is not applicable to the traditional servitors and their allies engaged in the services to the Deity, as they do not render personal services on favorable terms to the intermediary. Seva-puja etc to the Deity are not considered as a personal service to the Deity as the status of the Deity as an intermediary in that respect is different from that of the mortal ex-intermediaries. Unlike, servitors any person who holds the land under an intermediary for rendering personal services to the



intermediary shall be discharged from the conditions of his service and the land may be settled in his name. A traditional servitor tenant and other than a traditional servitor tenant both possess the land for rendering personal services to the intermediary. They both developed the land since their forefathers to the present cultivable state of the land putting their personal hard toil. The land in question has been in shape of remuneration to both the tenants because that was the procedure of payment of remuneration or wages then. Unlike other tenants, land title for the servitors is highly fluctuous and elastic and it is ambiguous to a common man's understanding. It is very difficult to establish in the court of law, the title extant in the present scenario, as the land grabbers are tactful to transfer the ownership in a camouflaged fashion to establish their rights over the land.

Below are mentioned some of the villages where the servitors have been forcibly ousted from their lands of possession unauthorizedly either partially or wholly. There are cases where servitors are rendering their services but no land title maintained as it was initially; inelasticity of the land title incidentally eroded. Often the matter is subjudice for pretty long period. And there are cases where Government is not responsive to accord protection to these vulnerable ethnic groups for their just cause. Village Pantikharisan, Kaibalyapur, Haripur, Hatiasila, Badhisahi, Golagaon, Gothabana, Damasahi, Gamei, Gotisahi, Puania, Natugaon, Saluni, Nagamunduli, Itamati, Melama, Balugaon, Sampada, Khuntupada (Khandapara), Jogiapalli, Kanchanabelli, Malisahi, Bhaliadihi, Panchumu of Nayagarh district and many other villages of Odisha witness disturbances and violence over the issue. It may be worth noting, there is not a single village in Odisha where land disputes more or less not arisen and because the servitors could not fight the situation, the matter closed ex parte in some cases. Servitors in some places have to sell their own recorded land to meet the expenses

of Court cases for the lands litigated by the land grabbers.

Huge common property and funds created out of the landed property taken away by the land grabbers from the servitors and due to lack of proper management of the property so taken and the funds so raised leads to severe violence that causes wastage of precious productive man hours and loss of life mostly in the rural Odisha. Servitors in their dwelling villages are prone to be litigated concerning their cultivable land. It is presumed by most of the common people that the servitors can only use the land in question and can be ousted any time as they like, even though the servitors have been cultivating the lands ancestrally. Traditional servitors have got no voice in the locality. Their right to freedom of speech and expression under Article 19 (1) (a) are infringed. Their identity in the locality is trivial and unaccountable, though their contribution to the society is age-old. Land grabbers and their associates may be accused of snooping of the servitors.

Traditional servitors have been engaged in their priestly work since the prehistoric era diffusing a healthy socio-religious atmosphere in the society. They work for maintaining brotherhood and a peaceful environment in the society and inculcate people to maintain a life, free from worries and anxieties with an ethically justifiable way of life. They are the cradle of the aggrandized temple culture, we come across now. They never leave the temple even if the temple's income falls for some reason. As hereditary functionaries they are the most depended upon. Sevayatas would not hesitate to lay their lives for the cause of temple. They visualize an ideal society which could show the path of redemption to all. It advocated an egalitarian principle of devotion and a different concept of ritual pollution (6). If Odisha Government could conduct an impartial enquiry or any philanthropic Agency could make a detailed study and bring out a report, the real picture about the plight and predicament of the



innocent servitors would come to light. In order to make the mission a success an atmosphere of fearlessness be enliven among the servitors to get a realistic response from them.

3. Violence and Violations

3.1. Fundamental Rights

Article 14- Right to equality before law: the state shall not deny to any person equality before the law or the equal protection of the laws within the territory of India (7). Section 8(3) of the OEA Act is not applicable to the trust estate of the religious shrines, whereunder the servitors and other concerned hereditarily render seva-puja to the Deity, even though they discharge their duty and remunerated in shape of landed property since long. The wages or remuneration procedure here may be contemplated similitude to the minimum wages Act now, but the Act is not applicable to them as the religious and the charitable institutions are not coming under the purview of a farm/factory or a shop or commercial establishment, either. However, minimum food, health care, shelter, education for their children and all other basic and dire needs for them and their family members are an inevitability. Traditional servitors do not desire more than the existing land already earmarked to them defeating the law extant, section 8 (3) of the OEA Act, but they contravene the fact that misinterpretation i.e. with an evil intent of designing to establish that these people are deficient to the task assigned and in the process the lands in their possession made litigated, unnecessarily drags them to violence. State being the guardian to these vulnerable and minority groups, need to stand by them for justice and their rescue, in order that these socially and economically weaker people do not suffer, but we do not feel such a sympathetic and judicious gesture from the state government. Traditional servitors as poor agriculturists and the real cultivators of the land if evicted from their agricultural holdings, it amounts to depreciation of their source of livelihood.

Article 21- protection of life and personal liberty: no person shall be deprived of his life or personal liberty except according to procedure established by law (7). The servitors are deprived of their right to livelihood established according to law, i.e. section 8(3) of the OEA Act, comes under the purview of violation of Article 21 of the Constitution. The Supreme Court in its decision rendered in Raja Vir Kishore Deo v. State of Odisha held that the Act so enacted has not taken away the right of Raja of Puri as sewaka and also it does not affect religious rights of Raja (8). We can analyze the situation in the context of the traditional servitors that as sewakas in the various temples of Odisha, their right to enjoy the title and possession of lands cannot be alienated from them. In the state of Himachal Pradesh v Umed Ram, the Supreme Court further elaborated that right under Article 21 embraces not only physical existence of life but the quality of life and denial of that right would be denial of the life as understood in the richness and fullness by the ambit of the Constitution (8). Right to live with dignity is a fundamental right as held by apex Court in Menaka Gandhi v Union of India AIR 1978 SC 597. Article 21 advocates protection of life which is embodied with the guarantee of livelihood. Even though the servitors engaged in a religious charitable activity, they have every right to live with dignity and decency. The lands in the question under their possession for offering seva-puja to the Deity though belongs to the religious institution as per the statute, in the name of religious activities or any other malafide intent of some unruly and undisciplined people, it cannot be withdrawn from them for common use making the servitors economically crippled. It amounts to snatching away of the rice bowl from them. As citizens of India, servitors have got the basic right to earn their livelihood for a decent living free from malnutrition and unhealthy environment. The lands in the question withdrawn from the servitors tantamount to making them loss of livelihood leading to a miserable, meaningless and incomplete life. With the expansion of the



number of families, lands allotted to them initially have been portioned even to approximately half an acre or below in most of the families. The homestead lands where these people stay in are also not of theirs and they have to manage themselves in one thatched house, (bed room-cum kitchen) about four members of a family. Charitable institutions not being the commercial establishments, Minimum Wages Act not applicable to them, but servitors who have been remunerated in the shape of landed property hundreds of years ago cannot be deprived of their rights of livelihood guaranteeing right to life under Article 21 of the Constitution. Their humble submission is that there should not be any deviation from the statute; government is only to initiate steps and be watchful for application of section 8(3) of the OEA Act in letter and spirit. In order that the servitors even if a vulnerable group of the society can make use of their valuable time in a constructive way toward progress and prosperity and can be free from mental distress and languish and this shall be an auxiliary to the progressive momentum of the human society as a whole.

Right to freedom of religion : Article 25-Freedom of conscience and free profession, practice and propagation of religion (7) is infringed in the case of traditional servitors who are made to be deprived of their age-old routine cal scheduled duty consequent upon being evicted from their ancestral possession of land as remuneration and humiliated. And this is in no way contravention to Article 25 (1), excerpted as-Subject to public order, morality and health and to the other provisions of this part, all persons are equally entitled to freedom of conscience and the right freely to profess, practice and propagate religion (7). It also does not affect any existing law, i.e., section 8(3) of the OEA Act, or prevent the state from making any law as directed in Article 25 (2) of the Constitution.

3.2. Directive Principle of State Policy

We may discuss the Directive Principles of State Policy enshrined in part IV of the Constitution which have got relevance to the subject.

Article 37-Application of the principles contained in this part-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 (7).Directive Principles are not the rights but the principles as it connotes. Rights are enforceable but principles are applications. Courts initially used to deliver judgments emphasizing on part III of the Constitution that contains the Fundamental Rights. But after the (twenty fifth Amendment) Act 1971, Courts have been taking a different view point. While delivering judgments they consider Directive Principles of State Policy as directives and both part III and part IV are complementary and supplementary to each other for achieving the Socialist objective of the Constitution. Directive Principles of State Policy under Part IV of the Constitution empower the state to frame schemes to secure economic justice to the weaker sections of the society. Where in worst case, the state fails to comply to the fundamental rights of the citizens; it could supplement the same through suitable schemes framed. But as we observe for the traditional servitors across the state no such tentative scheme framed by the state as yet.

Article 38- State to 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 (7).

(2) The state shall in particular, strive to minimize the inequalities in income and



endeavour to eliminate inequalities in status, facilities, and opportunities, not only amongst individuals but also among groups of people residing in different areas or engaged in different vocations (7).

Article 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 (7).

(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 strength (7).

(f) that 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 (7).

Article 39 (A)- Equal justice and free legal aid- The state shall secure that the operation of the legal system promotes justice, on a basis of equal opportunity, and shall in particular provide free legal aid by suitable legislation or schemes or in any other way, to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities (7). In the context, the state may consider to frame a scheme to extend legal aid to the traditional servitors.

Article 41. Right to work, to education and to public assistance in certain cases- The state shall within the limits of its economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want (7).

Article 47.Duty of the state to raise the level of nutrition and the standard of living and to improve public health (7).

3.3. Universal Declaration of Human Rights

It is very important to note that Article 1,3,5,7,8 and 22 which have got an unique and unparallel echo of humane approach of the Universal Declaration of Human Rights are violated in case of the most primordial traditional servitors of Odisha.

4. Conclusion

It is mostly during the post-independence era, the lands bestowed to the traditional servitors by ex-feudal state chiefs and even prior to that they had been in possession and could develop the land to a cultivable stage as agriculturists for rendering seba- puja in the religious shrines have been litigated. Consequently they are dragged to court cases incurring unimaginable expenses and violence. Cases of death and physical assault are abundant. They are demoralized, pressurized left in a fearful ambiance and not able to draw the attention of the higher authorities. They lead a miserable and pathetic life. Their socio-economic position is in a pitiable stage. Odisha Government as a mark of compliance to the Socialistic feature enshrined in the Preamble of the Constitution of India may take the following steps for upliftment of their socio-economic standard-

1. A survey on the socio-economic, literacy, position of the traditional servitors be made and a report published by the Odisha government.
2. Land records' position as before 1917 settlement be rectified and possession given to the traditional servitors evicted.
3. Traditional servitors engaged in their priestly work not enjoying the land, be allowed to possess and recorded in their names.
4. A cell in the state Secretariat be constituted to monitor the tasks assigned



and suitable suggestions communicated to the state government regularly.

5. Government may design suitable schemes and implement the same for upliftment of the socio-economic and literary standard of the traditional servitors.

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