BLOGS

Landmark Cases on Article 25

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Introduction

The concept of secularism is implicit in the Preamble of the Constitution, which declares the people's resolve to secure all its citizens "liberty of thought, expression, belief, faith, and worship". The **42nd Amendment Act of 1976** has inserted the word secular in the Preamble.

In India, a secular state was never considered an irreligious state. It only means that, in respect of religion, the state is neutral. It is an ancient doctrine in India that the state protects all religions but interferes with none. The state can have no religion of its own; instead, it should treat all religions equally.

The following article shall discuss some landmark cases on Article 25 delivered by the Supreme Court over the years to provide clarification with respect to its ambit.

Landmark Cases on Article 25

SR Bombay vs. Union of India in 1994

In SR Bombay vs. Union of India in 1994, the Supreme Court held that secularism is a basic feature of the Indian Constitution. It means the Parliament cannot delete the word secularism by amendment under Article 368.

Article 25(1) guarantees every person:

1. The freedom of conscience
2. The freedom to profess, practice, and propagate religion.

The freedom of “conscience” is the absolute inner freedom of the citizen to mould his relationship with God in whatever manner he likes. When this freedom is expressed outward, it is “to profess and practice religion”.

- To profess a religion means to declare one’s faith and beliefs freely and openly.
- To practice a religion means to perform the prescribed religious duties, rites, and rituals and to exhibit religious beliefs.
- To propagate means to spread and publicize his religious views. But this should be done without any coercion.

Exceptions under Article 25

The right guaranteed under Article 25(1) is not absolute. Instead, this right is subjected to the following conditions:

1. Public order, health, and morality
2. To the other provisions of Part 3
3. A state can make any law to regulate or restrict any economic, financial, financial, political, or other activities associated with religious practices.
4. The state can make any law providing for social welfare and reform.

Therefore, a ban on the bursting of firecrackers between 10 p.m. and 6 a.m., even on Diwali night, is justified since the bursting of firecrackers is not essential to Diwali celebrations. Article 25 must give way to Article 21, which includes the right to protection from noise pollution ***(In re Noise Pollution)***.

Rev. Stanislaus vs. State of Madhya Pradesh, 1977

The Supreme Court held that the right to propagate one’s religion does not grant the right to convert another person to one’s religion.

Bijoy Emmanuel vs State of Kerala 1984 National Anthem Case

The Supreme Court has held that no person can be compelled to sing the National Anthem if he has genuine conscientious religious obligations. They could stand up while the national anthem was being sung.

Aacharya Jagdishwaranand Avadhuta versus Commissioner of Police Kolkata, 1984

This case is popularly known as the Anand Margi case, in which the Supreme Court held that the Tandav dance with human skulls and lethal weapons in public places was not an essential religious rite. Hence, the order by the police to stop such a function is not violative of Article 25(1) of the Constitution.

The Atheist Society of India versus the Government of AP 1992

The Supreme Court has held that breaking coconuts, performing pooja, and chanting mantras or sutras of different religions are part of Indian tradition and hence not against secularism.

Javed versus Haryana, 2003

The Supreme Court held that the Haryana Panchayati Raj Act, which disqualifies persons having more than two children from contesting elections for the posts of Sarpanch and Panch in Panchayat, does not violate Article 25 of the Constitution. Under Muslim law, it permits marrying four women but does not anywhere mandate it as a duty to form four marriages. The state can make laws in the interest of social welfare and reform this freedom of religion, subject to public order, morality, and health.

Explanation 1 of Article 25 provides that the wearing and carrying of kirpans shall be deemed to be included in the profession of the Sikh religion.

Conclusion

In conclusion, Article 25 of the Indian Constitution is a fundamental right that ensures the right to freedom of religion to all citizens of India. The landmark cases discussed above have helped in shaping the interpretation of this article and have strengthened the fundamental right of citizens to practice and propagate their religion.