

Democracy the name is Rule of Law

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The Preamble of the Constitution of India declares proudly that "we the people of India" have solemnly resolved to constitute India into a "Sovereign, Democratic, Republic", as originally incorporated therein and insertion of two words therein.²

Essentially, the system of Democratic governance envisaged in the Preamble has been so appropriately designed that the expectations of the people constituting the democracy in India are soon materialized very soon, as such, the Indian Constitution has drawn up an elaborate plan of action with Constitutional sanctity³ detailing destination and direction in which the State has to proceed with its policies so as to successfully attain the beneficial end where for the action has been designed and enforced by the machinery of the State there for. Basically, the Democratic element consistent with the peremptory norm of 'Rule of Law' has been reflected in Part xv⁴ vouchsafing that every person should be eligible to be included in general electoral roll for the territorial constituencies, further, strictly bars the State excluding any person to inclusion in such electoral rolls merely on the grounds of religion, race, caste sex. as such, the Constitution of India the Election the Union and the further explicitly lays down an important and relevant principle⁵ that the elections to the House of people [Lok Sabha] and State legislature should be 'on the basis of the Principle of 'Universal adult suffrage" and every individual has right to vote, if one fulfils the conditions as prescribed by the Constitution of India, or any other law for the time being in force.⁶ thus, the democratic right to franchise is secured to all eligible Voters founded upon the peremptory norm of Equality, the bedrock the concept of the "Rule of Law" Apparently,

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² The Constitution of India, 42nd Amendment 1976

³ The Constitution of India, Parts III & IV.

⁴ The Constitution of India, Part xv- Elections

⁵ The Constitution of India, Art.325

⁶ The Constitution of India, Art.326

in its wider perspective, the notion of the Rule of Law embraces the right of the people to constitute the System of the Government of their choice, and this is quite evidently projected in the Indian Context pervasively under the Constitution of India.

A continuous and microscopic scan of the constitutional scheme obviously establishes that The democracy and the Rule law are intricately twined with each other at the same time, they are inter related.

It is universally acknowledged that the Democracy is the "Government of the people, by the people and of the People", as expounded by Abraham Lincoln. Therefore, it follows that the People are the sketch drawers of the government as well as the Government. consequently, it follows that the Government which secures the popular mandate in process of elections rise to the expectations and aspirations of the people acting in accordance with the spirit of the Rule of Law. such inference is justified since, the people opt for the democratic system of governance conspicuously, in contradistinction to the dictatorial or despotic regime hoping that democratic system would be better choice to ensure that their ambitions are accomplished their legitimate interests are all taken adequate care .

As it is highlighted in the preceding lines the democracy implies the Rule of Law the Constitutional protective roof for the all the Governed, and the Constitution of India guarantees right to Equality⁷, a prime element of Rule of Law assuring like treatment to all alike and contrary is a manifest anathema to the spirit of the Rule of Law.

The Democracy in India is a creature of the Constitution, a legitimate aspiration the Indians.⁸

The Preamble of the Constitution of India in accordance with the purport of the Rule of Law, vindicated the cardinal objects of the Constitution of India, among tri fold justice namely, Social, Economic and Political Justices are one of such goals cumulatively sound the conformity with the Rule of Law. Therefore, The Government in office should gear up all its policies inconformity therewith. As such, it follows that the Governmental action should be interpreted in this perspective beneficial to the people.

As of necessity, the democratic interpretation of the Rule of Law connotes fairness of Governmental action within the parameters of the Law beneficial to the people.

⁷ The Constitution of India, Arts.14,16

⁸ The Constitution of India, The Preamble

Basically, Democracy is not a system of governance by the people but something more than mere large group of people organized politically ruled by the Government of their choice, but a people's friendly Government accomplishing their expectations. The same notion is maintained

in the Constitution of India inasmuch as, The Constitution of India is not mere a political document, but voice of people sounding their legitimate expectations from the government in office through peaceful mode through democratic process of periodic elections.

The Constitution of India again envisages the democratic administration in the direction of elimination of wide inequalities among various groups or different individuals⁹ across entire Nation.

In view of the Constitutional strategy under the constitution of India, it should be presumed that Rule of law under the policy of the Constitution of India it covers initially the formation and Control over the Government, at the same time, it also covers the procedural aspects so as to ascertain the validity of action or authorities.

The Concept of the Rule of Law, therefore serves dual objective namely, it obligates the democratic government to enforce the public welfare policies as well as serves as an effective test to ascertain whether the Government does so in fact. Hence, it is evident beyond doubt that a democratic State like India governed by the Constitution has no option but to rule according to the Rule of Law

consistent with avowed Constitutional objectives. So, it emerges ultimately that the Rule of Law and democracy are interchangeable and means to serve the people better if ruled in accordance with the Constitutional principles under the independent Apex judicial supervision provided there under. This view is fortified by the functioning of the Government in India according to the dictates of the Constitution and the guidance of the independent Supreme judiciary.

A country like India committed to the peaceful progress of the people and their overall development in conformity with the constitutional objectives¹⁰ in democratic way, the State is hardly left with any option but act consistently with the Rule of following

⁹ The Constitution of India, Art.38

¹⁰ The Constitution of India, Preamble

the imperatives of the Constitution.¹¹ subject to challenge ability before the Judiciary where the Government deviates from the Course of action mandated by the Constitution.

Further, the Rule of Law substantial and procedural check upon the administration ensures transparency, accountability and responsibility therefor such misfeasance and malfeasances.

The inter relationship between the Rule of Law and the Democratic Government is yet times understood and interpreted interns of "thick and Thin doctrine"¹² which covers both the substantial and procedural elements of the Rule of law strengthening the edifice of the Democratic governance and nurtures its sustenance and longevity.

Obviously, when tested the Constitution of India which sows the seeds of democracy upon the principle of universal Adult suffrage owed to uphold the inherent Dignity of the Individual has spared no effort to ensure that the administrative machinery and mechanism operates according to Rule of Law,¹³ Again, one should note that the Rule of Law in Democratic system¹⁴ also affirms in the principle "UBI JUS IBII REMEDIM"¹⁵ as evident again from the Constitution of India¹⁶ Constituting the basic structure thereof.

Thus the Rule of has vital and significant role to play in the democratic administration of the state and safeguarding the fundamental rights and freedoms¹⁷, enforcing the obligations of the state.¹⁸

The Government constituted by the representatives of the people elected through periodical elections conducted by independent constitutional body in India obviously has to govern according to the prescriptions of the Constitution and the Rule of Law, the basic feature o the constitution interconnected to each other.

Thus, the Constitution of India clearly establishes that the Democracy and the Rule of Law closely and inseverable related to serve effectively the people architect of the Democratic Government conducive to accomplishment of the Goals of Constitution.

¹¹ The Constitution of India Part III &IV

¹² The Constitution of India-The Directive Principles of State Policy, Part-IV

¹³ Supra F.N 3&4

¹⁴ UN secretary General 2004 Report

¹⁵ " Where there is Right there is Remedy"

¹⁶ The Constitution of India-Arts14 to 32

¹⁷ The Constitution of India-Part III

¹⁸ The Constitution of India-Part IV