

LEGAL REASONING PRACTICE SHEET



PASSAGE

The Fundamental Rights as assured under the Constitution of India guarantees to protect the basic human rights of all citizens of India and are put into effect by the courts, subject to some limitations. One of such fundamental rights is the Right to Equality. Right to Equality means that every person, who lives within the territory of India, has an equal right before the law and there shall be no discrimination based on religion, race, caste, sex and place of birth. It is not only the right of Indian citizens but also a right of noncitizens. It also includes equality of prospects in matters of employment, abolition of untouchability and abolition of titles. Articles 14, 15, 16, 17 and 18 of the Constitution of India highlight the Right to Equality in detail. This Fundamental Right is the major foundation of all other rights and privileges granted to Indian citizens.

Thus, it is imperative that every citizen of India has easy access to the courts to exercise his/her Right to Equality. It ensures the guarantee to every person the right to equality before law and equal protection of the laws and prohibits the discrimination. Article 14 emphatically says that "the State shall not deny to any person equality before the law or the equal protection of the laws subject to reasonable classification" which also include that- equals would be treated equally and unequals unequally. It is subject to the Test of Reasonable Classification which says that the classification must be based upon intelligible differentia that distinguishes persons or things that are grouped from others that are left out of the group. This differentia must have a rational relation to the object of classification. Article 15 says that the State shall not discriminate against a person only on the basis of religion, race, sex, place of birth or any of them.

Fundamental Rights are not absolute rights and Parliament could put reasonable restrictions. The grounds for the restriction may be for the advancement of SCs, STs, OBCs, women and children or general public order or decency, mortality, sovereignty and integrity of India or security of state, friendly relations with foreign states etc.

From article 15(3) onwards, the Constitution starts Protective Discrimination. Article 15(3) empowers the State to make special provisions for women and children. Article 15(4) empowers the State to make special provisions for advancement of socially and educationally backwards or SC/STs. Article 15(5) goes one step further and empowers the State to make reservations in admission into education institutions including private schools or colleges whether or not aided by the government. Only minority educational institutions (such as Madrasas) have been left out of this provision. Thus, article 15(3) and 15(4) are the basis of reservation in the country.

Article 16(3), 16(4), 16(4-A) and 16 (4-B) provide further strength to all sorts of discrimination among the people on account of their unequal status. Article 16(3) allows the State to make any law-making residence qualifications necessary in the case of government jobs, thus making the domicile provisions stronger. Article 16(4) allows the State to make reservations for any backward class of citizens which in the opinion of the State is not adequately represented in services. This opens the door for Other Backward Classes (OBC) reservations. Article 16(4-A) empowers the State to make reservations in promotions also for SCs, STs and OBCs. Article 17 abolishes untouchability. Article 19(5) allows the State to impose reasonable restrictions on freedom of movement and occupation to protect the interest of scheduled tribes.

1. The Indian Railways issued a notification where any employee not having any children would not be eligible to take any emergency leave. Prior to such notification every employee of the Indian railways was eligible to take two emergency leaves per month. This notification was challenged on the grounds of being discriminatory. Decide the validity of the notification.

- (a) The notification is valid as it makes a reasonable classification.
- (b) The notification is valid as employees with children might require emergency leave.
- (c) The notification is invalid as every employee must get emergency leave.
- (d) The notification is invalid as there is no reasonability in making such a classification.

2. The entrance exams for jobs in the Gram Panchayat of village X were to be conducted. According to the notification, one of the requirements was that every candidate must possess either a permanent house or own an agricultural field in village X in order to appear for the exam. This notification was challenged on the grounds of being discriminatory. Decide the validity of the notification.

- (a) The notification is valid as it makes a reasonable classification.
- (b) The notification is valid as it would be beneficial if the employees are residents of village X.
- (c) The notification is invalid as there is no reasonability in making such a classification.
- (d) Both (a) and (b).

3. State X had forty percent of its residential area covered in dense hilly forests. The state government made a law that there would be a 25% reservation in all government jobs for people who are residing in such areas of the state. This law was challenged on the grounds of being discriminatory. Decide the validity of the notification.

- (a) The law is valid as the government can make law for the upliftment of the socially and educationally backward class.
- (b) The law is invalid as it discriminates between residents of the state who reside in non-hilly areas.
- (c) The law is invalid as it discriminates between residents of the state and residents of other states.
- (d) Both (b) and (c).

4. District X comprised an area which was inhabited by a local tribe for centuries. Y industries wanted to set up their factory on the outskirts of district X for which they needed to visit the interior parts of the area. They were however stopped from doing that by a government order. Decide the validity of the order.

- (a) The order is valid as it was to protect the interest of the tribe.
- (b) The order is valid as setting up the factory would degrade the environment.
- (c) The order is invalid as it restricts the right to freedom of movement.
- (d) The order is invalid as it restricts the right to freedom of occupation.

5. XYZ is a catholic missionary school located in X city. The government of the state issued a notification directing the school to reserve 10% of the seats for students coming from socially and educationally backward class. Decide the validity of the notification.

- (a) The notification is valid as the government has the right to make laws for the upliftment of socially and educationally backward class.
- (b) The notification is valid as the as it does not amount to discrimination.

- (c) Both (a) and (b).
(d) The notification is invalid.

ANSWERS WITH EXPLANATION

1. Ans. (d) Option (d) is the correct answer as the notification is invalid as there is no reasonable classification in segregating employees who are issueless and penalizing them for the same by preventing them from taking emergency leave.
2. Ans. (c) Option (c) is the correct answer and the notification is invalid as there is no reasonable classification in preventing the non-residents of village X from appearing in the exam and no reasonable nexus can be established.
3. Ans. (a) Option (a) is the correct answer as it can be assumed that people living in such areas are cut-off from the basic facilities and therefore must be socially and educationally backward, therefore the government has the right to make laws for the upliftment of such people.
4. Ans. (a) Option (a) is the correct answer as Article 19(5) allows the State to impose reasonable restrictions on freedom of movement and occupation to protect the interest of scheduled tribes.
5. Ans. (d) Option (d) is the correct answer as minority educational institutions are kept out of the scope of Article 15(5) of the constitution which gives the right to the government to make reservations in admission into education institutions.



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