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Gender discrimination in India: An overview

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Abstract

Women empowerment is the key slogan of all the Governments after Independence but the women in India are still victim of gender discrimination. Recent order of Vice-Chancellor of Aligarh Muslim University banning entry of female students in library is a classic example. Thanks to the Hon'ble Allahabad High Court which set aside the order and allowed female students to enter into library for studies without any discrimination. Women constitute nearly 50% of economically active population but they have hardly any say in decision making system because women are still considered less capable than man in our society. There are only two female judges out of 30 judges in the Supreme Court and only 58 judges out of 669 judges of High Courts. The representation of women in Parliament and State Assemblies is also very poor. The situation is not improving because 33% reservation for women in political system is being opposed by male dominated Parliament. The compassionate appointments were also denied to the married daughters but Hon'ble Madras High Court recently ruled that there cannot be any discrimination between a married son and a married daughter in the matter of granting compassionate appointment to the wards of a deceased employee. The society cannot develop and prosper without equal participation of women

Keywords: Women, Empowerment, Discrimination.

1. Introduction

Women empowerment may have been the key slogan for every government in India since Independence, but the findings of a government report and day-to-day happenings reported in newspaper are telling another story. Recent orders of Vice-Chancellor of Aligarh Muslim University banning entry of girl students into library on

The unreasonable plea that their presence in libraries would attract the crowd of students therein causing chaos and unrest. The order created a heated debates among people, public forum, social organizations and even in parliament. Thanks to the Hon'ble Allahabad High Court which set aside the orders of Vice Chancellor and allowed the entry of girl Students in libraries without discrimination.

Women form almost 50% of economically active population of our country yet they have hardly any say in decision-making systems of Indian political establishment. According to Central Statistics Office (CSO) publication, women in 2014 occupied only 7 of 45 of ministerial position in the centre, which is a little more than 15% against around 10% women participation in 2004. 62 females have been elected in 2014 elections constituting 11% share in the lower House. In the states, women's share is only 8% in assemblies and only 4% in State Councils. In the panchayat's, overall 46.7% women are present, with maximum 58.6% in Jharkhand and minimum 32.3% in Goa. There were only two women among 30 judges in the Supreme Court and there were only 58 women judges out of 669 judges in different High Courts of India.^[1]

Women are at the receiving end as far as representation in All India and Central Group A Service is concerned. There were only 14% females were in Indian Administrative Service, 19% in Indian Foreign Services and 12% in Indian Trade Service in 2012. While data for IPS was not available, there were 30% females in Indian Economic Service and 28% in the Indian Foreign Service.^[2]

The official reports found that women constitute a little less than half of the economically active population of India, but their contribution to economic activity is far low. As per census 2011, the work force participation rate for female is 25.51% against 53.26% for males. Rural areas have a better work force participation rate of 30.02% compared with 53.03 for males. In Urban sector, the participation rate of females trails at 15.44% against 53.76% for males. The lack of opportunities to female is obviously caused by gender bias and the male population thinks that women are less capable.

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The word “discrimination” means ‘making an adverse distinction with regard to’ or ‘distinguishing unfavorably from others’.^[3] The clause (3) of Article 15 of Constitution of India, permits special provisions for women and children, and the Courts have upheld the validity of special measures in legislative or executive orders issued in favour women. The procedural laws in criminal laws enacted in favour of women have also been upheld. The service of summons on men only in civil cases have been upheld in ‘*Shahbad-V-Abdullah*’ Case.^[4] Section 437 (1) of Code of Criminal Procedure Code, 1973 provides for a preferential treatment to women in the matter of granting bail to in non-bailable cases. Prior to amendment to Hindu Succession Act, 2005, female heirs were not able to raise claim their share in undivided house as much as heirs and could not take initiative claim partition of family dwelling house but after the amendment, the women heirs are now able to claim for partition even if any male heirs do not come forward seeking partition.^[5]

Now even an estranged house-wife has the right to stay in her husband’s home and is entitled to seek maintenance from him under the Domestic Violence Act even if the estrangement had occurred prior to the enactment of the law.^[6]

The Hon’ble Madras High Court in its landmark judgement, has ruled recently that there cannot be any discrimination between a married son and a married daughter in the matter of granting compassionate appointments to the ward of a deceased employee. Making discrimination, held Hon’ble Madras High Court, between a son and a daughter on the ground of marriage is arbitrary and violative of fundamental rights to equality enshrined under Article 14 of Constitution. Relying on a July, 2012 judgement of the same High Court, the court held that if marriage is not a bar in the case of son, the same yard stick shall be applied in the case of daughter also and, therefore, there could not be any unequal treatment among children based on gender.^[7]

The marriages between minor boy and girl on falling in love is a common happening in sub-urban areas of our country. Courts are swamped by cases of honour killings and teenagers seeking protection of law after marrying against wishes of their parents. The Delhi High Court has directed the legislature to frame a concrete and unambiguous laws regarding marriage of minors. The Court directed that the law makers must differentiate between marriages where parents force their children, particularly daughter, to get married at a very young age and cases of minors marrying without the consent of parents. The Court observed that the former is clearly a scourge as it shut out the development of children and is an affront to their individuality, personalities, dignity and, above all, life and liberty. A burgeoning of cases of missing daughters and married daughters detained by their parents is a serious societal problem, having civil and criminal consequences. The Delhi Court, hearing a petition by a 18 year old boy who had eloped with a 16 year old girl and got married against their parents wishes, held that marriage between two minors was not void, just voidable, and that too if only either of couple wanted its declaration. The Court held that the laws explicitly made such a marriage voidable at the option of child spouse but no body other than a party to the marriage can file a petition for annulment of the marriage.^[8]

Conclusion

Even after several decades of Independence, women are being discriminated at large scale and they are denied equal

rights in their day-to-day lives. Women folk forms larger part of the weaker section of society. Employer are still often seen reluctant to pay wages to the women employees or daily wagers equal to the male employees. Their representation in various public sectors are still poor. The proposed bill for providing 33% reservation to women in Parliament to women is pending since long. The society cannot develop and prosper properly unless adequate opportunities are provided to the women without discrimination.

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