



DIRECTIVE PRINCIPLES JURISPRUDENCE AND SOCIO-ECONOMIC JUSTICE IN INDIA (1996). By Paramjit S. Jaswal. APH Publishing Corporation, New Delhi. Pp. xxxv + 742. Price Rs. 1000.

ONE OF the most significant parts of the Indian Constitution is the chapter on Directive Principles of State Policy (part IV) consisting of articles 36 to 51. The chapters on Fundamental Rights and Directive Principles have rightly been described as the “conscience of the Constitution”.¹ The Directive Principles are believed to “summon an incrementalist model of law as furthering the production of politics concerning... weaker section”.² In a way, these principles envisage provision of a minimum level of well-being to the citizens so as to enjoy the fundamental freedoms necessary for maintaining human dignity, with the eventual objective of realising the goals of the Constitution. Many doctrinal and empirical studies of socio-economic laws of India have eulogised some of the progressive pieces of legislations enacted in consonance with part IV. However, the analyses have also revealed dismal performance of social laws. It is argued that despite laudable projections, these laws provide merely a “modicum of power”³ to the poor or even prove as instruments of doing “power dispensation”⁴ to the powerful rather than as instruments of promoting social justice.

The book⁵ under review is based on the author’s doctoral thesis in which he analyses the various aspects of the working of the Directive Principles jurisprudence with a view to securing the preambular promise of socio-economic justice to the Indian people. In so doing, he has analysed the historical developments that took place in the process of evolution of these principles in the Constituent Assembly. Also elaborately studied are the importance, philosophy, nature and scope of these principles. The book is divided into four parts consisting of twelve chapters in all. The first part consisting of two chapters deals with an introductory overview of the Directive Principles or their evolution. The next two chapters forming part II deal with the philosophy of the Directive Principles and the relationship between these principles or the fundamental rights respectively. Here the author discusses the approach of the Supreme Court from *Champakam Dorairajan*⁶ to *Sanjeev Coke Mfg. Co.*⁷ through *Kesavananda Bharti*⁸ and *Minerva Mills*.⁹

1. Granville Austin, *The Indian Constitution : Cornerstone of A Nation* (1976).

2. Upendra Baxi, “Unorganized labour? Unorganized Law?” in Debi S. Saini (ed.), *Labour Law, Work and Development-Essays in Honour of P.G. Krishnan* (1995).

3. *Ibid.*

4. See, Debi S. Saini, “Compulsory Adjudication Syndrome in India: Some Implications for Workplace Relations” in Saini (ed.), *supra* note 2.

5. Paramjit S. Jaswal, *Directive Principles Jurisprudence and Socio-economic Justice in India* (1996).

6. *State of Madras v. Champakam Dorairajan*, AIR 1951 SC 426.

7. *Sanjeev Coke Mfg. Co. v. Bharat Coking Coal Ltd.*, AIR 1983 SC 239.

8. *Kesavananda Bharti v. State of Kerala*, AIR 1973 SC 1461.

9. *Minerva Mills Ltd. v. Union of India*, AIR 1980 SC 1789.



Part III of the book consisting of chapters 5 to 11 represents the main research of the author where he surveys various Supreme Court judgments in the area of, (i) agrarian reforms; (ii) industrial relations and safeguards for workers; (iii) women and children, welfare of scheduled castes, scheduled tribes and other weaker sections; (iv) prohibition, public health and environment; (v) equality in justice dispensation; and (vi) executive and legislative inaction in pursuit of socio-economic justice. The common running thread in the discussion of these issues in part three of the book is to view the Directive Principles not just as pious wishes but as instruments of revolutionary potential to change the hierarchical, caste-ridden and unequal Indian society into an egalitarian social order. It has been argued that the judiciary was expected to play an activist role in this transformation—“an arm of the social revolution”.¹⁰ But the central focus of the envisaged revolution was the potentiality of the welfare state in effecting this transformation. While interpreting various social laws the higher judiciary had repeatedly reminded the executive of the state's goal of strengthening the welfare state.

Jaswal has worked hard in making this in-depth assessment of the judiciary's contribution in concretising the protection envisaged by part IV of the Constitution. His analysis is comprehensive and convincing. As we know, part IV deals with a variety of aspects of social justice ranging from fulfilment of minimum needs to women's welfare to primary education. Voluminous interpretative law has been laid down by the judiciary in these spheres. It is not possible in one thesis to evaluate cases on the whole range of such issues. For example, in case of labour welfare alone these cases pertain to, (i) minimum wages; (ii) payment of wages; (iii) social security; (iv) workmen's compensation; (v) provision of minimum conditions of work in different types of employments; (vi) maternity relief; (vii) right to work; (viii) industrial and social justice in dispute settlement; (ix) child labour; (x) women workers; (xi) living wage, and (xii) workers participation in management. Nevertheless, to the extent possible, bulk of the case law has been analysed by the author.

While Jaswal's efforts need to be commended, certain shortcomings may also be noted. It is well known the world over that welfare state is on the decline. All around, the economic environment is surcharged with liberalisation, structural adjustment, globalisation and marketisation. The voice of the advocates of welfare state seems to be virtually dying down in the din of euphoria shown by the supporters of marketisation. Of course, we cannot uncritically accept one or the other point of view without considering the *pros and cons* of both. But Jaswal has made no mention of this change in his book, the central basis of which is the legitimacy of the welfare state. Not only that, he has not even mentioned several of the recent judicial pronouncements which indirectly show that the judiciary too is convinced of the need for the success of the reform agenda. In this connection, for example, the case of *Kelawla*¹¹ and *Dena Nath*¹² may be mentioned. Before

10. *Supra*, note 1 at 164.

11. *Bank of India v. T.S. Kelawala; S.U. Motors Pvt. Ltd. v. Their Workmen*, 1990 II LLJ 39 (SC).

12. *Dena Nath v. National Fertilizers Ltd.*, 1992 I LLJ 289 (SC).



these judgments were delivered, many High Courts had taken reverse positions in similar situations, basing their reasoning in the philosophy of the Directive Principles of State Policy. But the Supreme Court has taken a literal stand in the matters concerned.

Also, Jaswal could have reduced the size of the book by a more careful editing. A lot of repetitions are visible at several places. For example, while writing the long epilogue, it appears as if the author is introducing the subject to the reader all over again, which is quite needless. A better referencing could have reduced the size of the book to about two-third of its existing length and also would have made it more readable.

Despite these, the book is a useful addition to the literature on Directive Principles jurisprudence and social justice in India.

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