



THE CONSTITUTION OF INDIA – AN ANALYTICAL APPROACH, (1997, 2nd ed.). By H.K. Saharay. Eastern Law House, Calcutta. Pp.904. Price Rs. 490.

THERE ARE many books on constitutional law written by numerous authors in this country. H.M. Seervai, a top authority, wrote on Constitution of India, and is considered as one of the best works in the world. Shri Durga Das Basu's book on constitutional law is another example of great work of importance and relevance for researchers in India. Basu's work is very detailed work and it covers comparative study of various constitutions. For researchers in constitutional law, Basu's work is one of the authentic works in India. Seervai's work is critical and analytical and is considered as the mines of ideas for researchers in Constitution of India. The book under review¹ is authoritative work on the Constitution of India. It is an analytical work wherein a comparative study of various constitutions is done.

Though a written constitution is not mandatory but most of the countries, e.g. U.S.A, Pakistan, South Africa, Australia and Canada etc. have a written constitution. If we view the British parliamentary system we will observe that there is no written constitution in the United Kingdom. But still they are governing well by developing healthy conventions.

Whether a country is democratic, socialistic, kingship or any other form, constitutional law is always there even if there is no written constitution. Constitutional law *inter alia* provides the division of powers. Indian Constitution also provides the functions of judiciary, legislature and executive. Being a quasi-federal constitution these functions are divided among states and the center. Indian Constitution basically gives center the ultimate power e.g. Central Government has the power to change the boundary of the nation and also to impose emergency or presidential rule.

Our Constitution framed and written 50 years ago under the chairmanship of Dr. B.R. Ambedkar reflects the influence of constitutions of different countries of the world. It is precisely for this reason that our Constitution has survived in spite of all kinds of storms or political instability. It has kept the faith of the people in democracy.

1. Hereinafter referred to as Saharay's Constitution of India.



Some governments have tried to change the nature of our Constitution, particularly before and after the introduction of emergency. But our judiciary is of real high standard that withstood the executive onslaught and has provided that the basic structure of the Constitution can never be changed even with 2/3rd majority of the Parliament².

The book under review is very authentic, critical and analytical in approach. It has been written in a fluent article wise commentary form. The book contains latest case law and also contains relevant comparisons with various other countries of the world. It is rightly said that it is the duty of the judiciary, particularly the Supreme Court, to interpret the Constitution. By and large our judiciary has done a good job.

It is said that there are two types of constitutions, flexible and rigid. Being the written constitution our Constitution is supposed to be rigid, still our courts have not lagged behind to make it flexible. For instance Justice Bhagwati introduced the concept of Public Interest Litigation (PIL) and he also decided that in PIL, even a letter could be treated as petition before the high courts and the Supreme Court.³ Supreme Court has very rightly broadened the scope of article 21 of the Constitution of India, which states that no person shall be deprived of his life or personal liberty except according to the procedure established by law. The interpretation of this article has been an issue in numerous cases and the Supreme Court has rightly given wider meaning to article 21 to include right to go abroad, right to privacy⁴, right against solitary confinement, right to legal aid, right to speedy trial, right against hand cuffing, right against delayed execution, right against custodial violence, right against public hanging, right to have doctor's assistance and right to shelter⁵.

The author has written the book in a very lucid style and has given critical review of various cases and also cited comparative relevant provisions of constitutions of South Africa, U.S.A, Canada, Australia and many other countries of the world. This makes the book a standard book for the researchers, LL.M. students and lawyers. The reviewer considers this work as a standard work after H.M. Seervai and Durga Das Basu on the Constitution of India.

This book has been printed flawlessly in standard English with an attractive cover by Eastern Law House, Calcutta. This 904 pages book is priced at Rs.490, which makes it affordable even for a student.

2. *Keshvananda v. State of Kerala*, AIR 1973 SC 1461.

3. *Bandhua Mukti Morcha v. Union of India*, AIR 1984 SC 8802.

4. *Maneka Gandhi v. Union of India*, 1978 SCR 621.

5. E.g., *Hussainara Khatun v. State of Bihar & Others*, AIR 1979 SC 1369, AIR 1979 SC 1819, AIR 1980 SC 1360.



The reviewer recommends this book for students, researchers, lawyers and libraries. The reviewer once again congratulates the author and the Eastern Law House for publishing this book at a very moderate price.

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