

The Protection Of Civil Rights Act, 1955

Q. – Define Civil rights?

S. 2(a) "civil rights" means any right accruing to a person by reason of the abolition of "untouchability" by article 17 of the Constitution;

Article 17 in The Constitution Of India 1949

Abolition of Untouchability - Untouchability is abolished and its practice in any form is forbidden. The enforcement of any disability arising out of Untouchability shall be an offence punishable in accordance with law.

Q. – Define places and premises where practicing untouchability is punishable under the Act?

S. 2(aa) "hotel" includes a refreshment room, a boarding house, lodging house, a coffee house and a cafe;]

S. 2(b) "place" includes a house, building and other structure and premises; and also includes a tent, vehicle and vessel.

S. 2(c) "place of public entertainment" includes any place to which the public are admitted and

S. 2(d) "place of public worship" means a place, by whatever name known, which is used as a place of public religious worship or which is dedicated generally to, or is used generally by, persons professing any religion or belonging to any religious denomination or any section thereof, for the performance of any religious service, or for offering prayers therein; ¹ and includes-

S. 2(i) all lands and subsidiary shrines appurtenant or attached to any such place,

S. 2(ii) a privately owned place of worship which is, in fact, allowed by the owner thereof to be used as a place of public worship, and

S. 2(iii) such land or subsidiary shrine appurtenant to such privately owned place of worship as is allowed by the owner thereof to be used as a place of public religious worship;

S. 2(e) "shop" means any premises where goods are sold either whole- sale or by retail or both wholesale and by retail ¹ and includes-

(i) any place from where goods are sold by a hawker or vendor or from a mobile van or cart,

(ii) a laundry and a hair cutting saloon,

(iii) any other place where services are rendered to customers.

Q. – Define the term Scheduled Castes under the Act?

S. 2(db) "Scheduled Castes" has the meaning assigned to it in clause (24) of article 366 of the Constitution.

Article 366 clause 24 in The Constitution Of India 1949

366. Definition In this Constitution, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say

Scheduled Castes means such castes, races or tribes or parts of or groups within such castes, races or tribes as are deemed under Article 341 to be Scheduled Castes for the purposes of this Constitution;

Q. – What amounts to enforcing an act of religious or social disabilities?

S. 3. Whoever on the ground of "untouchability" prevents any person-

(a) from entering any place of public worship which is open to other persons professing the same religion ³ or any section thereof, as such person; or

(b) from worshipping or offering prayers or performing any religious service in any place of public worship, or bathing in, or using the waters of, any sacred tank, well, spring or

water- course, ¹ river or lake or bathing at any ghat of such tank, water- course, river or lake] in the same manner and to the same extent as is permissible to other persons professing or any section thereof, as such the same religion, ² or any section thereof, as such person; ³ shall be punishable with imprisonment

for a term of not less than one month and not more than six months and also with fine which shall be not less than one hundred rupees and not more than five hundred rupees]. Explanation.- For the purposes of this section and section 4 persons professing the Buddhist, Sikh or Jaina religion or persons professing the Hindu religion in any of its forms or developments including Virashaivas, Lingayats, Adivasis, followers of Brahmo, Prarthana, Arya Samaj and the Swaminarayan Sampraday shall be deemed to be Hindus.

Q. – What punishment is prescribed for enforcing religious disabilities?

S. 4. Punishment for enforcing social disabilities. Whoever on the ground of "untouchability" enforces against any person any disability with regard to-

- (i) access to any shop, public restaurant, hotel or place of public entertainment; or
- (ii) the use of any utensils, and other articles kept in any public restaurant, hotel, dharmshala, sarai or musafirkhana for the use of the general public or of ⁴ any section thereof; or
- (iii) the practice of any profession or the carrying on of any occupation, trade or business ⁵ or employment in any job]; or
- (iv) the use of, or access to, any river, stream, spring, well, tank, cistern, water- tap or other watering place, or any bathing ghat, burial or cremation ground, any sanitary convenience, any road, or passage, or any other place of public resort which other members of the public, or ⁴ [any section thereof], have a right to use or have access to; or
- (v) the use of, or access to, any place used for a charitable or a public purpose maintained wholly or partly out of State funds or dedicated to the use of the general public, or ⁴ any section thereof]; or
- (vi) the enjoyment of any benefit under a charitable trust created for the benefit of the general public or of ¹ [any section thereof]; or
- (vii) the use of, or access to, any public conveyance; or
- (viii) the construction, acquisition, or occupation of any residential premises in any locality, whatsoever; or
- (ix) the use of any dharmshala, sarai or musafirkhana which is open to the general public, or to ¹ any section thereof]; or
- (x) the observance of any social or religious custom, usage or ceremony or ² [taking part in, or taking out, any religious social or cultural procession]; or
- (xi) the use of jewellery and finery; ¹ [shall be punishable with imprisonment for a term of not less than one month and not more than six months and also with fine which shall be not less than one hundred rupees and not more than five hundred rupees]. ³ Explanation.- For the purposes of this section, "enforcement of any disability" includes any discrimination on the ground of "untouchability".]

Q. – What punishment is prescribed for refusing to admit persons to hospitals on the grounds of untouchability?

S. 5. Whoever on the ground of "untouchability"-

- (a) refuses admission to any person to any hospital, dispensary, educational institution or any hostel⁴ , if such hospital, dispensary, educational institution or hostel is established or maintained for the benefit of the general public or any section thereof; or
- (b) does any act which discriminates against any such person after admission to any of the aforesaid institutions; ⁵ shall be punishable with imprisonment for a term of not less than one month and not more than six months and also with fine which shall be not less than one hundred rupees and not more than five hundred rupees].

Q. – What punishment is prescribed for refusing to sell goods or render services on the grounds of untouchability?

S. 6. Whoever on the ground of "untouchability" refuses to sell any goods or refuses to render any- service to any person at the same time and place and on the same terms and conditions at or on which such goods are sold or services are rendered to other persons in the ordinary course of business ¹ shall be

punishable with imprisonment for a term of not less than one month and not more than six months and also with fine which shall be not less than one hundred rupees and not more than five hundred rupees].

Q. Which other acts of practicing untouchability are made punishable?

S. 7. Punishment for other offences arising out of "untouchability".

(1) Whoever-

(a) prevents any person from exercising any right accruing to him by reason of the abolition of "untouchability" under article 17 of the Constitution; or

(b) molests, injures, annoys, obstructs or causes or attempts to cause obstruction to any person in the exercise of any such right or molests, injures, annoys or boycotts any person by reason of his having exercised any such right; or

(c) by words, either spoken or written, or by signs or by visible representations or otherwise, incites or encourages any person or class of persons or the public generally to practise "untouchability" in any form whatsoever;² or]

(d) insults or attempts to insult, on the ground of "untouchability", a member of a Scheduled Caste; shall be punishable with imprisonment for a term of not less than one month and not more than six months and also with fine which shall be not less than one hundred rupees and not more than five hundred rupees.

Explanation 1- A person shall be deemed to boycott another person who-

(a) refuses to let to such other person or refuses to permit such other person, to use or occupy any house or land or refuses to deal with, work for hire for, or do business with, such other person or to render to him or receive from him any customary service, or refuses to do any of the said things on the terms on which such things would be commonly done in the ordinary course of business; or

(b) abstains from such social, professional or business relations as he would ordinarily maintain with such other person.

Explanation II.- For the purpose of clause (c) a person shall be deemed to incite or encourage the practice of "untouchability"-

(i) if he, directly or indirectly, preaches "untouchability" or its practice in any form; or

(ii) if he justifies, whether on historical, philosophical or religious grounds or on the ground of any tradition of the caste system or on any other ground, the practice of "untouchability" in any form.

Q. – How the hindrance to exercise fundamental right under Art. 17 of the Constitution is dealt with by the Act?

(1A)¹ Whoever commits any offence against the person or property of any individual as a reprisal or revenge for his having exercised any right accruing to him by reason of the abolition of "untouchability" under article 17 of the Constitution, shall, where the offence is punishable with imprisonment for a term exceeding two years, be punishable with imprisonment for a term which shall not be less than two years and also with fine.

(2) Whoever-

(i) denies to any person belonging to his community or any section thereof any right or privilege to which such person would be entitled as a member of such community or section, or

(ii) takes any part in the ex-communication of such person, on the ground that such person has refused to practise "untouchability" or that such person has done any act in furtherance of the objects of this Act,² [shall be punishable with imprisonment for a term of not less than one month and not more than six months, and also with fine which shall be not less than one hundred rupees and not more than five hundred rupees].

Q. – How the Act deals with the issue of compelling anyone to perform derogatory acts on the grounds of disability?

S. 7A.³ Unlawful compulsory labour when to be deemed to be a practice of untouchability.

(1) Whoever compels any person, on the ground of "untouchability", to do any scavenging or sweeping or to remove any carcass or to flay any animal or to remove the umbilical cord or to do any other job of a similar nature, shall be deemed to have enforced a disability arising out of "untouchability".

(2) Whoever is deemed under sub-section (1) to have enforced a disability arising out of "untouchability" shall be punishable with imprisonment for a term which shall not be less than three months and not more than six months and also with fine which shall not be less than one hundred rupees and not more than five hundred rupees.

Explanation.- For the purposes of this section, "compulsion" includes a threat of social or economic boycott.

Q. – What is the effect of conviction under various sections of this Act?

S. 8. Cancellation or suspension of licences in certain cases. When a person who is convicted of an offence under section 6 holds any licence under any law for the time being in force in respect of any profession, trade, calling or employment in relation to which the offence is committed, the court trying the offence may, without prejudice to any other penalty to which such person may be liable under that section, direct that the licence shall stand cancelled or be suspended for such period as the court may deem fit, and every order of the court so cancelling or suspending a licence shall have effect as if it had been passed by the authority competent to cancel or suspend the licence under any such law. Explanation.- In this section, "licence" includes a permit or a permission.

S. 9. Resumption or suspension of grants made by Government. Where the manager or trustee of a place of public worship¹ or any educational institution or hostel] which is in receipt of a grant of land or money from the Government is convicted of an offence under this Act and such conviction is not reversed or quashed in any appeal or revision, the Government may, if in its opinion the circumstances of the case warrant such a course, direct the suspension or resumption of the whole or any part of such grant.

Q. – How the act of abetment of the offences is dealt with under the Act?

S. 10. Abetment of offence. Whoever abets any offence under this Act shall be punishable with the punishment provided for the offence.

Explanation.- A public servant who willfully neglects the investigation of any offence punishable under this Act shall be deemed to have abetted an offence punishable under this Act.]

Q. – What are the powers of the State Government to impose collective fine?

S. 10A. Power of State Government to impose collective fine.

(1) If, after an inquiry in the prescribed manner, the State Government is satisfied that the inhabitants of an area are concerned in, or abetting the commission of, any offence punishable under this Act, or harbouring persons concerned in the commission of such offence or failing to render all the assistance in their power to discover or apprehend the offender or offenders or suppressing material evidence of the commission of such offence, the State Government may, by notification in the Official Gazette, impose a collective fine on such inhabitants and apportion such fine amongst the inhabitants who are liable collectively to pay it, and such apportionment shall be made according to the State Government's judgment of the respective means of such inhabitants and in making any such apportionment the State Government may assign a portion of such fine to a Hindu undivided family to be payable by it: Provided that the fine apportioned to an inhabitant shall not be realised until the petition, if any, filed by him under sub-section (3) is disposed of.

(2) The notification made under sub-section (1) shall be proclaimed in the area by beat of drum or in such other manner as the State Government may think best in the circumstances to bring the imposition of the collective fine to the notice of the inhabitants of the said area.

(3) (a) Any person aggrieved by the imposition of the collective fine under sub-section (1) or by the order of apportionment, may, within the prescribed period, file a petition before the State Government or such other authority as that Government may specify in this behalf for being exempted from such fine or for modification of the order of apportionment: Provided that no fee shall be charged for filing such petition.

(b) The State Government or the authority specified by it shall, after giving to the petitioner a reasonable opportunity of being heard, pass such order as it may think fit: Provided that the amount of the fine exempted or reduced under this section shall not be realisable from any person, and the total fine imposed on the inhabitants of an area under sub-section (1) shall be deemed to have been reduced to that extent.

(4) Notwithstanding anything contained in sub-section (3), the State Government may exempt the victims of any offence punishable under this Act or any person who does not, in its opinion, fall within the category of persons specified in sub-section (1), from the liability to pay the collective fine imposed under sub-section (1) or any portion thereof.

(5) The portion of collective fine payable by any person (including a Hindu undivided family) may be recovered in the manner provided by the Code of Criminal Procedure, 1973 for the recovery of fines imposed by a Court as if such portion were a fine imposed by a Magistrate.

Q. – What are the provisions to impose stringent punishment to repeaters?

S. 11. Enhanced penalty on subsequent conviction. Whoever having already been convicted of an offence under this Act or of an abetment of such offence is again convicted of any such offence or abetment, shall, on conviction, be punishable-

(a) for the second offence, with imprisonment for a term of not less than six months and not more than one year, and also

with fine which shall be not less than two hundred rupees and not more than five hundred rupees;

(b) for the third offence or any offence subsequent to the third offence, with imprisonment for a term of not less than one year and not more than two years, and also with fine which shall be not less than five hundred rupees and not more than one thousand rupees].

Q. – How the presumption under section 12 will operate?

S. 12. Presumption by courts in certain cases. Where any act constituting an offence under this Act is committed in relation to a member of a Scheduled Caste¹, the court shall presume, unless the contrary is proved, that such act was committed on the ground of "untouchability".

Q. – In which cases jurisdiction of the civil court is barred?

S. 13. Limitation of jurisdiction of civil courts.

(1) No civil court shall entertain or continue any suit or proceeding or shall pass any decree or order or execute wholly or partially any decree or order if the claim involved in such suit or proceeding or if the passing of such decree or order or if such execution would in any way be contrary to the provisions of this Act.

(2) No court shall, in adjudicating any matter or executing any decree or order, recognise any custom or usage imposing any disability on any person on the ground of "untouchability".

Q. – Who will be sentenced in case of commission of the offence by juristic person?

S. 14. Offences by companies.

(1) If the person committing an offence under this Act is a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly: Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed with the consent of any director or manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.- For the purposes of this section, -

- (a) " company" means any body corporate and includes a firm or other association of individuals; and
(b) " director" in relation to a firm means a partner in the firm.

Q. – what is the special procedure prescribed for trial of offences under this Act?

S. 15. (1) Offences to be cognizable and triable summarily. Notwithstanding anything contained in the Code of Criminal Procedure, 1973 , every offence punishable under this Act shall be 2 cognizable and every such offence, except where it is punishable with imprisonment for a minimum term exceeding three months, may be tried summarily by a Judicial Magistrate of the first class or in a metropolitan area by a Metropolitan Magistrate in accordance with the procedure specified in the said Code.

(2) Notwithstanding anything contained in the Code of Criminal Procedure 1973 , when any public servant is alleged to have committed 2 the offence of abetment of an offence punishable under this Act, while acting or purporting to act in the discharge of his official duty, no court shall take cognizance of such offence of abetment except with the previous sanction-

- (a) of the Central Government, in the case of a person employed in connection with the affairs of the Union; and
(b) of the State Government, in the case of a person employed in connection with the affairs of a State.
