

Topic: Secularism Under Article 25 And 26

Name of the Case: S.R. Bommai v. UOI, AIR 1994 SC 1918

Bench: Justice Kuldeep Singh, Justice P.B. Sawant, Justice K. Ramasamy, Justice S.C. Agarwal, Justice Yogeshwar Dayal, Justice S.R. Pandian, Justice A.M. Ahmadi

Ratio: The nine-judge bench of Supreme Court referred to the concept of secularism in the Indian context. The concept of secularism is not merely a passive attitude of religious tolerance. It is also a positive concept of equal treatment of all religions.

In the world of Justice Sawant:

“religious tolerance and equal treatment of all religious groups and protection of their life and property and of the places of their worship are essential part of secularism enshrined in our Constitution.”

In the world of Justice BP Jeevan Reddy:

“.....while the citizen of this country are free to profess, practice and propagate such religion, faith or believe as they choose, so far as the state is concerned, that is, from the point of view of the state, the religion, the faith or belief of a person is immaterial. To it, all are equal and all are entitled to be treated equally.” The concept of secularism was not expressly incorporated in the Constitution at the stage of its making. However, its operation was visible in the Fundamental Rights and directive principles. The concept of secularism, is not expressly stated in the Constitution, was, nevertheless deeply embedded in the constitutional philosophy.”

In 1976, though the 42nd amendment of the Constitution, the concept of secularism was made explicit by amending the preamble. By this amendment, the word secularism would introduce the preamble of the Constitution and thus, what was hitherto implicit was explicit.

To underline the great significance of secularism, the Supreme Court declared it as the basic feature of the Constitution. Any step inconsistent with the constitutional policy is, in the plain words, unconstitutional. And, further, the Supreme Court has gone to the extent of ruling that any State Government which has even separate policies or/and secular course of action if acts contrary to the constitutional mandate and renders its self-amenable to the action under Article 356.