

CONSTITUTIONAL AMENDMENT ACT 2019

The Indian Parliament has passed the 104th Constitutional Amendment Act 2019 which extended the reservation for Scheduled Caste and Scheduled Tribes and abolish the provision for the nomination of 2 Anglo-Indians to Lok Sabha by President and 1 member in State Assemblies by the Governor which ceased the representation of the Anglo-Indian Community from the Parliament which was existing since 1952. The Anglo-Indian community in India traces its origins to an official policy of the British East India Company to encourage marriages of its officers with local women.

The term Anglo-Indian first appeared in the Government of India Act, 1935. In the present context, Article 366(2) of the Constitution Of India states: “An Anglo-Indian means a person whose father or any of whose other male progenitors in the male line is or was of European descent but who is domiciled within the territory of India and is or was born within such territory of parents habitually resident therein and not established there for temporary purposes only...”

When the 126th constitutional amendment bill was introduced in the house and parliament decides to amend the Constitutional provision; the *Statement of Object and Reason* provides for the reasoning for such an enactment which reveals the intention of Amendment. As per the 126th Constitution Amendment Bill, 2019 the clause of *Statement of Object and Reason* explains the extension of SC/STs reservation but does not mention the reasons for non-extension of the Anglo-Indian reservation. The reasons for such extension has been mentioned in the Statement of Object and Reason with the intention of the founding fathers of the Constitution; “*Although the Scheduled Castes and the Scheduled Tribes have made considerable progress in the last 70 years, the reasons which weighed with the Constituent Assembly in making provisions with regard to the aforesaid reservation of seats have not yet ceased to exist. Therefore, with a view to retaining the inclusive character as envisioned by the founding fathers of the Constitution, it is proposed to continue the reservation of seats for the Scheduled Castes and the Scheduled Tribes for another ten years i.e. up to 25th January 2030.*”

The reasons for this non-extension of the provision of Article 334 of Indian Constitution have only been discussed at the time of parliamentary debates on December 10, 2019 which says as follow:-

- (i) As per 2011 Indian Census the population of Anglo-Indians is merely 293;and,
- (ii) the Anglo-Indian community has made significant progress over the course of time.

The view of the Supreme Court with respect to the Statement of Object and Reason can be ascertained from the case of *Devadoss (dead) by L. Rs, v. Veera Makali Amman Koil Athalur, AIR 1998 SC 750* in this case the hon'ble court held that, Statement of Objects and Reasons, accompanying a legislative bill is concerned, it is permissible to refer to it for understanding the background, the antecedent state of affairs, the surrounding circumstances in relation to the statute and the evil which the statute sought to remedy. But, it cannot be used to ascertain the true meaning and effect of the substantive provision of the statute.

As per the ratio decidendi of judgment, the true meaning of a legislation cannot be decoded from the perspective of the Object and Reasons. The legal maxim, "*Contemporanea expositio est optima et fortissima in lege*" which means that the best way to construct a document is to read it as it would have read when made. The doctrine of *Contemporanea expositio* is well known for interpreting a statute by reference to the exposition it has received from contemporary authority however it should give way where the language of the statute is plain and unambiguous.

However, the legislation must provide for a Statement of Object and Reason for the interpretation to be ascertained at its least; the bare existence of the same is assumed by the drafter of the legislation. In the case of the 126th Constitutional Bill, 2019 the drafter has elaborated on the extension of the reservation to the SC/STs but the same is void of an explanation to the non-extension to another category of individuals in the Article 334. Thereby, not satisfying the bare minimum requirement established for interpretation.

The number of people who identified themselves as Anglo-Indian was 296, according to the 2011 Census. The All India Anglo-Indian Association, on the other hand, has objected to Law Minister Ravi Shankar Prasad's claim that the community has just 296 members. Its president-in-chief, Barry O'Brien, has written to both the Prime Minister and Ravi Shankar Prasad.

In the report of Ministry of Minority Affairs 2019, a fact-finding report on Anglo-Indians which reveals issues such as identity crisis, lack of employment, educational backwardness and lack of proper housing facilities and cultural erosion. The intention of the framer of the Indian Constitution should be in consideration that the population of Anglo-Indians being scattered and it is difficult for a community member to be elected to the Parliament and the welfare of the Anglo-Indians as an objective ascertained from the Parliamentary Debates from 16th June 1949. Such amendment raises a crucial questions on the intention of the Parliament with respect to this minority group and their representation in the parliament.

In conclusion, the representation of Anglo-Indian community and its abolition through the Constitutional Amendment without deliberation into the community through a fact-finding report and without any reason being specified in the Statement of Object and Reason is a notion that obliterates the community and violating the right of proportional representation of a particular minority group and disturbing the federal structure of nation as well.