

Speech

On

“Our Constitution and the Idea of India therein”

At

The Justice Ajay Kumar Tripathi Second Memorial Lecture held
at Patna on 4.11.2023 (Saturday)

Justice B.R. Gavai

JUSTICE AJAY KUMAR TRIPATHI

Timeline

Justice Ajay Kumar Tripathi was appointed as an Additional Judge of the Patna High Court on 9th October 2006.

He was appointed as Permanent Judge of the Patna High Court on 21st November 2007.

Justice Tripathi was appointed as Chief Justice of the High Court of Chhattisgarh, Bilaspur on 7th July 2018.

He authored more than 1100 judgments while on the Bench.

He took oath as Judicial Member of the Lokpal of India on 27th March 2019.

Academic Interest

Justice Tripathi took a keen interest in the future of the legal profession. Justice Tripathi was actively involved in bringing quality legal education to the State of Bihar. He was keenly involved in the setting up of the Chanakya National Law University (CNLU) at Patna and was a member of the General and Academic Councils of the University. Justice Tripathi also served as a member of Academic Council of the National Law School of India University (NLSIU), Bangalore. He was a Special Invitee to the Education Committee, Bar Council of India. The Justice Ajay Kumar Tripathi Foundation, established by his family, aims to continue his work in this field.

Other interests beyond the law

Justice Tripathi was gifted with a multi-faceted personality.

Justice Tripathi was a keen and ardent golfer. A patron of the Patna Golf Club, which was established in 1916. He served as the President of Patna Golf Club between the years 2007-2009. Justice Tripathi, both participated and organized several golf tournaments, and four-balled with several eminent golfers and went on to win many amateur tournaments. On invitation from the Governor of Jammu and Kashmir, Justice Tripathi led Bihar at the inter-state golf tournaments at the Royal Springs Golf Club of Jammu and Kashmir.

He was both a child of Bharat of the 60s, and a young man of Delhi in the late 70s, with its proximity to the English-speaking world. His eclectic taste in music reflects this. He enjoyed listening to the music of all genres equally. But he most loved old ghazals and film songs.

He had a technical and forensic mind and always took a sleeves-rolled up approach to problems before him. He was not a person for abstract soliloquys. This was not a product of any grand educational plan. He credited this, in fact, to his time as a young man working in a car repair shop over a summer to earn some extra pocket money. To learn to see simple solutions and to not be afraid to implement them. Jurisprudence is a complicated word for what can sometimes be simple things.

Justice Tripathi has also immensely contributed to the development of law. He believed in the constitutional mandate of social and economic justice. He delivered many judgments giving solace to the needy people form the marginalized sections.

Some of the judgments are:

Service Law:

1. Koshi Project Workers' Association and Ors. v. The State of Bihar and Ors.¹

Facts: Two writ petitions were filed challenging orders by the State Government for cancellation of promotion of the petitioners as majdoors, i.e., Class-IV permanent government employees.

Decision: The judgment upheld the promotion of the Petitioners, and dismissed cancellation of the promotion notice by the State on the grounds that the Petitioners became permanent Government employees upon completion of one year of service in the work-charge establishment based on rules incorporated in P.W.D. Code Volume-1 by the State Government in 1949 relating to conditions of work-charge establishment including post of permanent nature. The concerned rule of the State Government stated that an employee working in the work-charge establishment for a period of 12 months in a year and for a long

¹ 2006 SCC OnLine Pat 653.

and indefinite period, was deemed to have become a member of the permanent establishment of the State Government.

2. *Md. Najmuddin v. State of Bihar*²

Facts: Three different writ petitions were filed by the Petitioners pleading discrimination in matter of grant of pay parity and allowances, which are available to similarly situated ministerial employees of Rajendra Agriculture University, Pusa, Samastipur.

Decision: It was held that the State and the University Syndicate must work jointly for the welfare of employees, and extend the benefit across the board to every employee instead of discriminating between the employees who had approached the Court and those “*who have silently suffered the discrimination*”. The Court also held that issuance of such a notification where for the same set of work and responsibility, identical set of employees were getting two different remuneration and pay scale, which was neither a healthy position for good

² 2015 SCC OnLine Pat 3259.

administration nor met the standards of Articles 14 and 16 of the Constitution of India.

Land Rights:

3. Anita Agrawal Chhattisgarh & Others v. The State of Chhattisgarh³

Facts: Petitions were filed questioning the legality and validity of a notification issued by the State Government of Chhattisgarh under Section 30(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. The Petitioner challenged the Notification's validity because it had a fixed multiplier of 1 for calculating the compensation for the land acquired in the rural area throughout the state.

Decision: It was held that the existing notification denied fair compensation to poor landowners in remote areas. Fixation of fixed multiplier of 1.10 in respect of all lands from rural area which were 25 or more kilometers away from urban area in

³ WPC No. 1649 of 2017.

absence of any such guideline or policy depicted colourable exercise of discretion as well as total non-application of mind and it was contrary to the Constitutional mandate under Article 14.

Equality at the Workplace:

4. Punam Kumari v. The State of Bihar and Ors⁴

Facts: A writ petition was filed by the petitioner challenging her termination from the post of an Anganwari Sevika. The dismissal report stated the reason for termination of the Petitioner was her absence on the day of an inspection. The case of the Petitioner highlighted two aspects. *First*, that there had been no prior complaints regarding her performance. *Secondly*, she needed medical advice for her pregnancy, and accordingly had applied for leave to the Mukhiya, which happened to coincide with the date of inspection. An appeal before the District Magistrate upheld the Petitioner's dismissal, which was challenged before the Patna High Court.

⁴ 2010 SCC OnLine Pat 2400.

Decision: Justice Tripathi ruled in favour of the Petitioner and the order of termination was held to be violative of Article 14 of the Constitution of India.

Reproductive Rights and Constitutional Law:

5. Ranichand Baiga v. State of Chhattisgarh⁵

Facts: Public Interest Litigation brought by Petitioners belonging to primitive tribal groups who are officially designated as Particularly Vulnerable Tribal Groups (PVTG). The Petitioners challenged a circular issued by the erstwhile State of Madhya Pradesh, specifically the Department of Public Health and Family Welfare, which stated that the tribes or sub-tribes belonging to the Particularly Vulnerable Tribal Groups (PVTGs), whose names had been indicated and who inhabited the geographical areas indicated therein were barred from availing the facility of undergoing family planning procedure by tubectomy or vasectomy etc.

⁵ WPPIL No. 27 of 2017.

Decision: It was held that the government circular requiring a PVTG person to obtain certificate from the Sub-Divisional Magistrate in order to undergo sterilization amounts to government intrusion and violation of the right to privacy, and was quashed being violative of Article 21 of the Constitution of India. Also held that the circulars issued by the erstwhile state of Madhya Pradesh were now applicable to the State of Chhattisgarh. The circular in question, issued by the State of Chhattisgarh, was in violation of Article 21 of the Indian Constitution as the statutory recognition of a woman's right to make reproductive choices flowed from the inviolable guarantee under Article 21.

Property Law:

6. Ashalata Verma v. Bihar State Housing Board and Ors.⁶

Facts: The Petitioner had sought permission from the Housing Board for transferring her flat in favour of her daughter-in-law due to the Petitioner's advancing age. In the process, the Petitioner received a notice from the Housing Board to make hefty payments for her flat, purchased in 1981. Challenging this notice before the Patna High Court, the matter was heard by the Single Judge bench comprising Justice Tripathi.

Decision: He observed that there was absolutely no indication in the counter affidavit filed by the Housing Board that any demand after re-fixation of price was ever raised upon the Petitioner. Therefore, the claim of the Housing Board was held to be "a totally misplaced and dishonest statement" and was rejected. Direction was issued to the Housing Board to issue the necessary permission for transfer of the property in favour of the daughter-in-law.

⁶ 2008 SCC OnLine Pat 922.

He was a devoted family man. A rock of support to his wife and children, encouraging and taking pride in their achievements. The foundation is a small way for them to take pride in his. As a family, to use the tools he gave them, to continue his work, and remember him.

For considering today's topic, we will have to consider the history of making of the Indian Constitution

Preparing a draft constitution for a country like India was a herculean task.

As all of us know, India is a country full of diversity. On a geographical plain, we have gigantic Himalayas on one side, and a vast sea-shore on the other side. We have people belonging to different belief and religion. When our Constitution was prepared, we had a history of a fight for upliftment of the down-trodden. We had also tribals residing in remote areas, who were kept away from the mainstream on account of geographical reasons.

The Constituent Assembly consisted of many stalwarts and people from divergent fields. It consisted of Members belonging to different caste, region, religion, etc., as well as representatives of the provinces. It also consisted of people belonging to different philosophies, like, capitalism, socialism, communism, etc.

The proceedings of the Constituent Assembly began with the **Objectives Resolution** moved by **Pandit Jawahar Lal Nehru** on **13th December 1946**, thus:

“I beg to move:

- (1) This Constituent Assembly declares its firm and solemn resolve to proclaim India as an Independent Sovereign Republic and to draw up for her future governance a Constitution;
- (2) WHEREIN the territories that now comprise British India, the territories that now form the Indian States, and such

other parts of India as are outside British India and the States as well as such other territories as are willing to be constituted into the Independent Sovereign India, shall be a Union of them all; and

- (3) WHEREIN the said territories, whether with their present boundaries or with such others as may be determined by the Constituent Assembly and thereafter according to the Law of the Constitution shall possess and retain the status of autonomous Units, together with residuary powers, and exercise all powers and functions of government and administration, save and except such powers and functions as are vested in or assigned to the Union, or as are inherent or implied in the Union or resulting therefrom; and

- (4) WHEREIN all power and authority of the Sovereign Independent India, its constituent parts and organs of government, are derived from the people; and
- (5) WHEREIN shall be guaranteed and secured to all the people of India justice, social, economic and political; equality of status, of opportunity, and before the law; freedom of thought, expression, belief, faith, worship, vocation, association and action, subject to law and public morality; and
- (6) WHEREIN adequate safeguards shall be provided for minorities, backward and tribal areas, and depressed and other backward classes; and
- (7) WHEREBY shall be maintained and integrity of the territory of the Republic

and its sovereign rights on land, sea and air according to justice and the law of civilized nations, and

- (8) This ancient land attains its rightful and honoured place in the world and make its full and willing contribution to the promotion of world peace and the welfare of mankind.”

Dr. Ambedkar always believed in the paramount interest of the country. In one of his earliest speeches in a Round Table Conference, i.e., on **20th November 1930**, he stated thus:

“We must have a government in which the men in power will give their undivided allegiance to the best interest of the country. We must have a government in which men in power, knowing where obedience will end and where resistance will begin, will not be afraid to amend social and economic code of life

which the dictates of justice and expediency so urgently called for.”

While speaking on the **Objective Resolution**, moved on **13th December 1946**, with regard to absence of provisions in the Constitution, and with regard to economic, political and social justice, Dr. Ambedkar, in his speech, on **17th December 1946**, observed thus:

“..... I should have expected some provision whereby it would have been possible for the State to make economic, social and political justice a reality....”

Dr. Ambedkar was also of the view that the rights without the remedies were meaningless. The vision of Dr. Ambedkar in his first speech could be seen from the provisions that are found in the Indian Constitution under Articles 32 and 226, which provide solace to the billions of citizens of the country.

On **9th December 1948**, during the discussion on **Draft Article 25**, which we now know as **Article 32**, Dr. Ambedkar had said:

“If I was asked to name any particular article in this Constitution as the most important—an article without which this Constitution would be a nullity—I could not refer to any other article except this one. **It is the very soul of the Constitution and the very heart of it and I am glad that the House has realised its importance.**”

Dr. Ambedkar’s zest for patriotism and nationalism could be seen in the following words, when he spoke on **17th December 1946** in the Constituent Assembly:

“When deciding the destinies of nations, dignities of people, dignities of leaders and dignities of parties ought to count for nothing. The destiny of the country ought to count for everything.”

Finally, the Objectives Resolution came to be passed by the Constituent Assembly on **22nd January 1947**. Thereafter, Dr. Ambedkar along with others were elected on the Drafting Committee of the Constitution. Subsequently, Dr. Ambedkar was elected as the **Chairman of the Drafting Committee** on **29th August, 1947**.

After putting herculean labour, the Drafting Committee prepared the first draft of the Constitution. The said draft was introduced to the Constituent Assembly by Dr. Ambedkar when it met on Thursday, the **4th of November 1948**, i.e., **exactly 75 years ago from today.**

After the Draft Constitution was presented to the Constituent Assembly on **4th November 1948**, a brief general discussion followed, which is called the *first reading* of the Constitution.

Dr Ambedkar introduced to the members of the Constituent Assembly, the concept of **“Dual Polity”**:

“The Draft Constitution is, Federal Constitution inasmuch as it establishes what may be called a Dual Polity. This Dual Polity under the proposed Constitution will consist of the Union at the Centre and the States at the periphery each endowed with sovereign powers to be exercised in the field assigned to them respectively by the Constitution.”

He emphasized on the **workability** of the Constitution as:

“All federal systems including the American are placed in a *tight mould* of federalism. No matter what the circumstances, it cannot change its form and shape. It can never be unitary. On the other hand the Draft Constitution can be both unitary as well as federal according to the requirements of time and circumstances. In normal times, it is framed to work as a federal

system. But in times of war it is so designed as to make it work as though it was a unitary system. Once the President issues a Proclamation which he is authorised to do under the Provisions of Draft Article 275, the whole scene can become transformed and the State becomes a unitary State. The Union under the Proclamation can claim if it wants (1) the power to legislate upon any subject even though it may be in the State list, (2) the power to give directions to the States as to how they should exercise their which executive authority in matters are within their charge. (3) the power to vest authority for any purpose in any officer, and (4) the power to suspend the financial provisions of the Constitution. **Such a power of converting itself into a unitary State no federation possesses. This is one point of difference between the Federation**

proposed in the Draft Constitution, and all other Federations we know of.”

Dr. Ambedkar, stated that the Indian Federation will not suffer from faults of rigidity or legalism, as its distinguishing feature is that it is a **flexible federation**. In that regard, he highlighted certain provisions of the Draft Constitution, as thus:

“**First** is the power given to Parliament to legislate on exclusively provincial subjects in normal times. I refer to Draft Articles 226, 227 and 229. Under Draft Article 226 Parliament can legislate when a subject becomes a matter of national concern as distinguished from purely Provincial concern, though the subject is in the State list, provided a resolution is passed by the Upper Chamber by 2/3rd majority in favour of such exercise of the power by the Centre. Draft Article 227 gives the similar power to Parliament in a national emergency. Under Draft Article 229 Parliament

can exercise the same power if Provinces consent to such exercise.”

“The **second** means adopted to avoid rigidity and legalism is the provision for facility with which the Constitution could be amended. The provisions of the Constitution relating to the amendment of the Constitution divide the Articles of the Constitution into two groups. In the one group are placed Articles relating to (a) the distribution of legislative powers between the Centre and the States, (b) the representation of the States in Parliament, and (c) the powers of the Courts. All other Articles are placed in another group. Articles placed in the second group cover a very large part of the Constitution and can be amended by Parliament by a double majority, namely, a majority of not less than two-thirds of the members of each House present and voting

and by a majority of the total membership of each House. The amendment of these Articles does not require ratification by the States. It is only in those Articles which are placed in group one that an additional safeguard of ratification by the States is introduced.”

Dr. Ambedkar also highlighted the fact that the Draft Constitution had sought to forge means and methods whereby India will have Federation and at the same time will have uniformity in all the basic matters which are essential to maintain the **unity of the country**.

Notable entries as per the Seventh Schedule are:

Union List – Defence, Foreign Affairs, Communications

State List – Trade, Agriculture, Police

Concurrent List – Forests, Education, Marriages

To keep the country united, our Constitution provides for single citizenship and two ways of federal structure. Unlike the American Federation, we have a single citizenship. **A citizen residing in any part of the State, either North, East, West, or South, he/she is a citizen of India and not a citizen of that particular State.** Whereas in American Federation, a person has dual citizenship. He/she is a citizen of the United States of America as well as the State to which he/she belongs. It will be apt to quote from his speech of **25th November 1948**, which is as under:

“The proposed Indian Constitution is a dual polity within a single citizenship. **There is only one citizenship for the whole of the India. It is Indian citizenship.** There is not State citizenship. Every Indian has the same rights of citizenship, no matter in what State he resides.”

Our Constitution further provides for a single constitution, to keep the country united. Unlike U.S. Federation, wherein the Center as well as the States have different Constitution, our Constitution provides for only one Indian Constitution. **Dr. Ambedkar said thus:**

“This is not true of the proposed Indian Constitution. No States (at any rate those in Part I) have a right to frame its own Constitution. The Constitution of the Union and of the States is a single frame from which neither can get out and within which they must work.”

Furthermore, Dr. Ambedkar stated the three means adopted by the Draft Constitution to maintain the unity of the country are:

First – a single judiciary.

Second – uniformity in fundamental laws, civil and criminal, and

Third – a common All-India Civil Service to man important posts.

In respect of **unified judiciary**, Dr. Ambedkar had to say thus:

“The Indian Federation though a Dual Polity has no Dual Judiciary at all. The High Courts and the Supreme Court form **one single integrated Judiciary** having jurisdiction and providing remedies in all cases arising under the constitutional law the civil law or the criminal law. This is done to eliminate all diversity in all remedial procedure.”

In respect of **uniformity in fundamental laws, civil & criminal**, Dr. Ambedkar had to say thus:

“Care is taken to eliminate all diversity from laws which are at the basis of civic and corporate life. The great Codes of Civil & Criminal Laws, such as the Civil Procedure Code. Penal Code, the Criminal Procedure Code, the Evidence Act, Transfer of Property Act. Laws of Marriage, Divorce, and Inheritance, are either placed in the Concurrent List so that the necessary uniformity can always be preserved without impairing the federal system.”

In respect of **a common All-India Civil Service**, Dr. Ambedkar had to say thus:

“The dual polity which is inherent in a Federal system as I said is followed in all Federations by a dual service. In all Federations there is a Federal Civil Service and a State Civil Service. The Indian Federation though a Dual Polity will have a Dual Service but with one exception. It is recognized that in every country there are certain posts in its administrative set up which might be called strategic from the point of view of maintaining the standard of administration. It may not be easy to spot such posts in a large and complicated machinery of administration. But there can be no doubt that the standard of administration depends upon the calibre of the Civil Servants who are appointed to these strategic posts. Fortunately for us we have

inherited from the past system of administration which is common to the whole of the country and we know what are these strategic posts. The Constitution provides that without depriving the States of their right to form their own Civil Services there shall be an All India Service recruited on an All-India basis with common qualifications, with uniform scale of pay and the members of which alone could be appointed to these strategic posts throughout the Union.”

The **second reading** commenced on **15th November 1948**. In the second reading the Constitution was discussed clause by clause in detail. The discussion concluded on **17th October 1949**.

The Constituent Assembly again sat on the **14th November 1949** for the **third reading**. After due deliberations, Dr. Ambedkar presented the final draft of the Constitution on 25th November 1949.

On **25th November 1949**, Dr. Ambedkar addressed the members of the Constituent Assembly for **the last time**. In his **final address**, he said that:

“...however good a Constitution may be, it is sure to turn out bad because those who are called to work it, happen to be a bad lot.

However bad a Constitution may be, it may turn out to be good if those who are called to work it, happen to be a good lot. The working of a Constitution does not depend wholly upon the nature of the Constitution. The Constitution can provide only the organs of State such as the Legislature, the Executive and the Judiciary. The factors on which the

working of those organs of the State depend are the people and the political parties they will set up as their instruments to carry out their wishes and their politics.”

Dr. Ambedkar was of the considered view that we must make our political democracy a social democracy as well. To understand, what social democracy means, he said thus:

“It means a way of life which recognizes liberty, equality and fraternity as the principles of life. **These principles of liberty, equality and fraternity are not to be treated as separate items in a trinity. They form a union of trinity in the sense that to divorce one from the other is to defeat the very purpose of democracy.** Liberty cannot be divorced from equality, equality cannot be divorced from liberty. Nor can liberty and equality be divorced from fraternity. Without equality,

liberty would produce the supremacy of the few over the many. Equality without liberty would kill individual initiative. Without fraternity, liberty and equality could not become a natural course of things. It would require a constable to enforce them.”

Most importantly, Dr. Ambedkar highlighted that there was a complete absence of two things in the Indian Society – equality & fraternity.

In relation to equality, he said:

“In Politics we will be recognizing the principle of one man one vote and one vote one value. In our social and economic life, we shall, by reason of our social and economic structure, continue to deny the principle of one man one value.”

After elaborating upon the point that *fraternity means a sense of common brotherhood of all Indians*. Dr Ambedkar said:

“I am of opinion that in believing that we are a nation, we are cherishing a great delusion. How can people divided into several thousands of castes be a nation? The sooner we realize that we are not as yet a nation in the social and psychological sense of the word, the better for us. For then only we shall realize the necessity of becoming a nation and seriously think of ways and means of realizing the goal.”

To traverse the journey taken by the Indian Constitution, it is most appropriate to rely on our constitutional jurisprudence.

In ***State of Rajasthan v. Union of India***,⁷ the then Chief Justice Mirza Hameedullah Beg, observed as:

“A conspectus of the provisions of our Constitution will indicate that, whatever appearance of a federal structure our Constitution may have, its operations are certainly, judged both by the contents of power which a number of its provisions carry with them and the use that has been made of them, more unitary than federal.”

Further, the learned Chief Justice proceeded to add:

“In a sense, therefore, the Indian union is federal. But, the extent of federalism in it is largely watered down by the needs of progress and development of a country which has to be nationally integrated, politically and economically coordinated, and socially, intellectually and spiritually uplifted. In such a

⁷ (1977) 3 SCC 592.

system, the States cannot stand in the way of legitimate and comprehensively planned development of the country in the manner directed by the Central Government.”

The learned Chief Justice proceeds to observe:

“If then our Constitution creates a Central Government which is **“amphibian”**, in the sense that it can move either on the federal or unitary plane, according to the needs of the situation and circumstances of a case, the question which we are driven back to consider is whether an assessment of the “situation” in which the Union Government should move either on the federal or unitary plane are matters for the Union Government itself or for this Court to consider and determine. Each organ of the Republic is expected to know the limits of its own powers. The Judiciary comes in generally only when any question of *ultra vires* action is involved,

because questions relating to vires appertain to its domain.”

Referring next to the *locus classicus* on the principle of federalism, the case **S.R. Bommai & Ors. vs. Union of India & Ors.**⁸ In paragraph 165:

“The polyglot Indian society of wide geographical dimensions habiting by social milieu, ethnic variety or cultural diversity, linguistic multiplicity, hierarchical caste structure among Hindus, religious pluralism, majority of rural population and minority urban habitus, the social and cultural diversity of the people furnish a manuscript historical material for and the Founding Fathers of the Constitution to lay federal structure as foundation to integrate **India as a united Bharat**. Federalism implies mutuality and common purpose for the aforesaid process of change with continuity

⁸ (1994) 3 SCC 1.

between the Centre and the States which are the structural units operating on balancing wheel of concurrence and promises to resolve problems and promote social, economic and cultural advancement of its people and to create fraternity among the people.”

Further, in the same judgment, in paragraph 169, it was noted:

“The federal State is a political convenience intended to reconcile national unity and integrity and power with maintenance of the State's right. The end aim of the essential character of the Indian federalism is to place the nation as a whole under control of a national Government, while the States are allowed to exercise their sovereign power within their legislative and coextensive executive and administrative sphere. The common interest is shared by the Centre and the local interests are controlled by the States. The distribution of the legislative and executive power within limits and

coordinate authority of different organs are delineated in the organic law of the land, namely the Constitution itself. The essence of federalism, therefore, is distribution of the power of the State among its coordinate bodies. Each is organised and controlled by the Constitution. The division of power between the Union and the States is made in such a way that whatever has been the power distributed, legislative and executive, be exercised by the respective units making each a sovereign in its sphere and the rule of law requires that there should be a responsible Government. Thus the State is a federal status. The State qua the Centre has quasi-federal unit.

In 2017, a 9-judge Bench of the Supreme Court in ***Jindal Stainless Ltd. v. State of Haryana***,⁹ had noted in paragraph 190, that:

“Common philosophy which runs through our Constitution is that both Centre and States have been vested with the substantial powers which are necessary to preserve our unique federation with clear demarcation of power. Calling India as quasi-federal might not be advisable as our features are unique and quite different from other countries like the United States of America, etc. Courts in India should strive to preserve this unique balance which our Framers envisaged, any interference into this balancing act would be detrimental for grand vision proscribed by our Makers. Amphibious nature of our federalism has been even noted by the Sarkaria Commission Report on Centre-State relationship. Cooperative federalism envisaged

⁹ (2017) 12 SCC 1.

under our Constitution is a result of pick-and-choose policy which our Framers abstracted from the wisdom of working experience of other Constitutions.”

Coming to the most recent judgment on the point, we can refer to ***State (NCT of Delhi) v. Union of India***.¹⁰ The learned Chief Justice, speaking for a bench of 5-judges, noted in paragraph 74:

“The principles of democracy and federalism are essential features of our Constitution and form a part of the basic structure. Federalism in a multi-cultural, multi-religious, multi-ethnic and multi-linguistic country like India ensures the representation of diverse interests. It is a means to reconcile the desire of commonality along with the desire for autonomy and accommodate diverse needs in a pluralistic society. Recognizing regional aspirations strengthens the unity of the country and embodies the spirit of democracy. Thus, in any federal Constitution,

¹⁰ 2023 SCC OnLine SC 606.

at a minimum, there is a dual polity, that is, two sets of government operate: one at the level of the national government and the second at the level of the regional federal units. These dual sets of government, elected by “We the People” in two separate electoral processes, is a dual manifestation of the public will. The priorities of these two sets of governments which manifest in a federal system are not just bound to be different, but are intended to be different.”

CONCLUSION

Justice Krishna Iyer labels the Indian Constitution as “The Nation's Safety Valve” and these four words embrace the entire essence and spirit of our Constitution. Justice Krishna Iyer captures this essence in the following words:

“The Indian Constitution is the cornerstone of a liberated nation. It lays the grand foundation of a great people's political edifice of governance. It spells out the fundamental rights and socialistic

aspirations of the vast masses long inhibited by an imperialist ethos. It creates a trinity of democratic instrumentalities with checks and balances, parliamentary in structure, quasi-federal in character.

An independent judiciary, an accountable Parliament at the Centre and like legislatures at the State level, a powerful Election Commission and fearless, critical Comptroller and Auditor General provide a paramountcy of democracy, at once responsible and responsive. Judicial review of State action, public finance auditable by a constitutional authority obligation to seek fresh mandate through general elections with adult franchise, accountability, direct and indirect, to the people in several ways, —these are fundamental in the governance of the country. The people, though free, have fundamental duties mandated by Article 51-A of the Constitution to exercise which, as in cases of

environmental and ecological preservation, compassion for living creatures, protection of the value of composite culture, the authority of judicial writ power may be moved in aid.”

It could thus be seen that in the journey of last 75 years of the working of our Constitution, we have seen that though there have been ups and downs, the framers of our Constitution have enabled our country India that is Bharat, in times of external wars or internal disturbances, to remain always united.

When we compare with the situation in our country with those of neighbouring countries, we realize how lucky we are to live in India.

However, to make India that is Bharat, as a country as aspired by our Constitution framers, we must make every attempt possible to eradicate the social and economic inequalities so that India that is Bharat as envisioned by the framers of the Constitution comes into reality.

On this occasion we must pledge ourselves to make every possible effort in that regard.

I once again express my gratefulness to Smt. Alka Tripathi, their daughters – Ms. Anushree Tripathi, Ms. Aditi Tripathi, Ms. Aakriti Tripathi and son-in-law Mr. Rahul Narayanan for organizing this function to keep alive the memory of a great soul Justice Ajay Kumar Tripathi.

I am sure that there are endeavours in organizing various events including in the field of betterment of legal education, which provide yeomen service to the society.

I end by paying homage to Justice Ajay Tripathi.