

**SUBJECT: POLITICAL SCIENCE IV**

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**MODULE: IV, FUNDAMENTAL RIGHTS**

## **RIGHTS TO FREEDOM**

### **1. Protection of Six Rights**

Article 19 guarantees to all citizens the six rights. These are:

- (i) **Right to freedom of speech and expression.**
- (ii) Right to assemble peaceably and without arms.
- (iii) Right to form associations or unions or co-operative societies.
- (iv) Right to move freely throughout the territory of India.
- (v) Right to reside and settle in any part of the territory of India.
- (vi) Right to practice any profession or to carry on any occupation, trade or business.

Originally, Article 19 contained seven rights. But, the right to acquire, hold and dispose of property was deleted by the 44th Amendment Act of 1978.

These six rights are protected against only state action and not private individuals. Moreover, these rights are available only to the citizens and to shareholders of a company but not to foreigners or legal persons like companies or corporations, etc.

The State can impose 'reasonable' restrictions on the enjoyment of these six rights only on the grounds mentioned in the Article 19 itself and not on any other grounds.

#### **(i) Freedom of Speech and Expression**

It implies that every citizen has the right to express his views, opinions, belief and convictions freely by word of mouth, writing, printing, picturing or in any other manner. The Supreme Court held that the freedom of speech and expression includes the following:

- (a) Right to propagate one's views as well as views of others.
- (b) Freedom of the press.

- (c) Freedom of commercial advertisements.
- (d) Right against tapping of telephonic conversation.
- (e) Right to telecast, that is, government has no monopoly on electronic media.
- (f) Right against bundh called by a political party or organisation. (
- g) Right to know about government activities.
- (h) Freedom of silence.
- (i) Right against imposition of pre-censorship on a newspaper.
- (j) Right to demonstration or picketing but not right to strike.

The State can impose reasonable restrictions on the exercise of the freedom of speech and expression on the grounds of sovereignty and integrity of India, security of the state, friendly relations with foreign states, public order, decency or morality, contempt of court, defamation, and incitement to an offence.

### **(ii) Freedom of Assembly**

Every citizen has the right to assemble peaceably and without arms. It includes the right to hold public meetings, demonstrations and take out processions. This freedom can be exercised only on public land and the assembly must be peaceful and unarmed. This provision does not protect violent, disorderly, riotous assemblies, or one that causes breach of public peace or one that involves arms. This right does not include the right to strike.

The State can impose reasonable restrictions on the exercise of right of assembly on two grounds, namely, sovereignty and integrity of India and public order including the maintenance of traffic in the area concerned.

Under Section 144 of Criminal Procedure Code (1973), a magistrate can restrain an assembly, meeting or procession if there is a risk of obstruction, annoyance or danger to human life, health or safety or a disturbance of the public tranquillity or a riot or any affray.

Under Section 141 of the Indian Penal Code, an assembly of five or more persons becomes unlawful if the object is (a) to resist the execution of any law or legal process; (b) to forcibly occupy the property of some person; (c) to commit any mischief or criminal trespass; (d) to force some person to do an illegal act; and (e) to threaten the government or its officials on exercising lawful powers.

### **(iii) Freedom of Association**

All citizens have the right to form associations or unions or co-operative societies . It includes the right to form political parties, companies, partnership firms, societies, clubs, organisations, trade unions or any body of persons. It not only includes the right to start an association or union but also to continue with the association or union as such. Further, it covers the negative right of not to form or join an association or union.

Reasonable restrictions can be imposed on the exercise of this right by the State on the grounds of sovereignty and integrity of India, public order and morality. Subject to these restrictions, the citizens have complete liberty to form associations or unions for pursuing lawful objectives and purposes. However, the right to obtain recognition of the association is not a fundamental right.

The Supreme Court held that the trade unions have no guaranteed right to effective bargaining or right to strike or right to declare a lock- out. The right to strike can be controlled by an appropriate industrial law.

### **Reference:**

M.Laxmikanth (2013), Indian Polity, Mc Grow Hill Education, New Delhi