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WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal providededicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

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# **DIALECTICS OF LAW AND ETHNOGRAPHY: ANALYSING RC POUDYAL V UNION OF INDIA**

AUTHORED BY - HARSH UNHAVANE

## **Abstract**

*RC Poudyal v Union of India*<sup>1</sup> is an interesting case filled with historical considerations with a judgement specifically suited for the state of Sikkim. However, it can also raise questions about where the line should be drawn and how transferrable the principles raised in this judgement are. In this paper, I shall attempt to simplify and analyse this landmark judgement.

This 1973 case primarily deals with the issue of reservation of seats in the Legislative Assembly of Sikkim and focuses on the concerns related to the representations facilitated by the reservations made by the Parliament and tries to determine its constitutional validity. This judgement was given by a five judge bench with a 3-2 partial split. Justices Venkatachaliah, Verma and Reddy delivered the majority opinion while Chief Justice LM Sharma and Justice Agrawal gave partial dissents.

## **Historical and Sociocultural Context**

Sikkim, under the British rule, was a princely State of a hereditary monarchical structure under the king known as the Chogyal. Post independence in 1947, there was a huge demand from the public in Sikkim for merger with India but the rulers resisted it. The Chogyal, under pressure from his people, took several steps towards sharing power by conducting elections and establishing a state council that would function under his sovereign rule. However, the people grew unsatisfied with it over the years. People marched against the rule of the King and anti-royalist riots took place in 1973. The Prime Minister of Sikkim appealed to the Indian Parliament in 1975 requesting his state to be a part of India. The Indian Army entered the city of Gangtok and overpowered the Chogyal's palace guards. Subsequently, a referendum was held where ninety-seven percent of voters chose to overthrow the monarchy and hence the union with India was approved. Ultimately, on May 8, 1973, a formal

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<sup>1</sup> 1994 Supp (1) SCC 324.

agreement was signed between the Government of India, the then Chogyal and the leaders of the political parties of Sikkim.

Culturally, the population of Sikkim consisted mainly of three ethnic groups namely – Bhutia-Lepchas, Nepalis and Sanghas. The Bhutia-Lepchas were worried about their voices as a new minority (due to sudden influx of Nepali immigrants) and therefore got the Chogyal to create various councils to devolve power between the two groups. Within these councils there was a system of reservation of seats for various communities for the purpose of safeguarding cultural and religious rights.

Therefore, the Government of India admitted Sikkim to India by the powers vested in it through Article 2 resulting in the 36th Amendment to the Constitution. This led to the insertion of Article 371F which listed special provisions for the State of Sikkim that kept in mind its peculiar history. A particular clause (clause 'f') of Article 371F is of importance here since the aforementioned case revolves around it.

In 1975, pursuant to the provision of clause (f), the parliament passed an amendment to the Representation of People Act, 1950 and constituted the parliament in the following manner: -

The Bhutia-Lepchas, an indigenous group, were allocated 12 seats, recognizing their historical significance and demographic presence. Additionally, a single seat was reserved for the Buddhist Sanghas, acknowledging their unique religious and cultural role within the state. The Scheduled Castes, representing another integral component of Sikkim's diverse populace, were assigned 2 seats. Lastly, the General Category, encompassing other residents of Sikkim, was allotted 17 seats, ensuring representation across the state's varied social spectrum. This seat distribution was a critical aspect of the legislative framework post-Sikkim's integration into India, highlighting the efforts to balance historical, cultural, and social dynamics in political representation.

The Bhutia-Lepchas were declared as Scheduled Tribes by a Presidential Order.<sup>2</sup>

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<sup>2</sup> Ibid [4]



The seat reserved for the Buddhist Sanghas was based on a separate electorate where only other Buddhist Sanghas could vote for the person standing for that seat belonging to the same community. The Petitioner of the case, a Nepali Sikkimese, filed a case under Article 226 of the Constitution of India in the High Court of Sikkim which was later withdrawn and transferred to the Supreme Court of India under Article 139A.

## **Analysis**

In my analysis of the *RC Poudyal v Union of India* case, I delve into several critical issues. First, I examine whether the reservations made for the Buddhist Sanghas contravene the basic structure of the constitution by potentially going against the principles of secularism. Then, I explore the proportionality of the number of seats reserved for the Bhutia-Lepchas, questioning whether these exceed what is justified by their population size. Finally, I assess the judiciary's capacity to review the conditions under which a new state is admitted into the Union of India, as per Article 2 of the Constitution. These issues form the core of my commentary, highlighting the intricate balance between constitutional mandates, the principles of secularism, and the judiciary's role in constitutional interpretation.

The petitioners contended that the reservation of seats for the Sanghas (through the amendment of the Representation of People Act, 1951) was made purely based on religious considerations and therefore it violated Articles 15 (1) and 325 of the constitution and offended the secular principles enshrined in it. They contended that creating a separate electorate for religious monasteries violated the basic structure of the Constitution. They argued that the provisions of clause (f) of Article 371F are unconstitutional. They also said that reserving seats for the Bhutia Lepchas without reserving seats for the Nepali Sikkimese was violative of the right to equality under article 14. Finally, they argued that the amounts of seats reserved for the Bhutia Lepchas is disproportionate and violative of Article 332 (3) of the Constitution and derogates from the principle of “one man, one vote” enshrined in Article 170(2) of the Constitution.

The respondents replied to the contentions of the petitioner by saying that although the monasteries of the Sangha are religious in nature, they form a separate section of the society owing to the social service they have rendered to the people of the state, especially the Bhutia Lepchas. Therefore, in lieu

of this background, they should be treated as more than a religious institution. In relation to the objection of disproportionality, the respondents argued that perfect “arithmetical equality of value of votes is not a constitutionally mandated imperative of democracy”. Furthermore, they argued that even if it did make a departure from the limit of tolerance, it was justified on the basis of historical considerations peculiar to Sikkim’s polity.

The court dismissed the petition and said that clause (f) of Article 371F was not violative of the basic structure and the provisions reserving 12 seats were not violative of Article 332 (3) or 14. The court also said that the reservation of one seat for the Sangha is not made purely on the basis of religious considerations and thus it is not unconstitutional. Finally, the court unanimously agreed that questions pertaining to the terms and conditions of accession of a new state are justiciable.

On the question of issue (c), the court gave a clear reply in the affirmative. Justice Agrawal said noted that the Parliament, while making laws under Article 2, cannot provide for terms and conditions which are inconsistent with the constitution and it is open to the Court to examine the same.<sup>3</sup>; even in this case, the Parliament cannot derogate from the basic features of the Constitution.

### **Critical Analysis**

This case centred on the unique historical and socio-political context of Sikkim, poses significant questions about the transferability of its judgement principles to other contexts, challenging the balance between universal constitutional doctrines and contextual applications. The case navigates the complex interplay between secularism and cultural preservation, especially in upholding the reservation of seats for the Buddhist Sanghas, thereby presenting a nuanced yet contentious interpretation of secular principles. Furthermore, the decision to validate disproportionate reservation for the Bhutia-Lepchas, despite its attempt to address historical injustices, raises critical debates about electoral equality and the potential conflict with contemporary principles of fairness. The court's stance on the justiciability of conditions under which new states join the Union marks a significant constitutional juncture, necessitating an examination of the judiciary's role in balancing legal oversight with political and historical complexities. This case also brings to the forefront the perennial

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<sup>3</sup> Ibid [119]

debate between equality and equity, especially in the context of the Nepali Sikkimese's contention of discrimination. Lastly, the implications of this judgement for future cases involving regional peculiarities versus universal constitutional norms offer a fertile ground for a comprehensive critique, highlighting both the strengths and limitations of this landmark decision.

