PREFACE

Social justice has been aptly described as the signature tune of the Indian Constitution. In fact the preamble to the Constitution lays down broadly a systematic plan to build India into a state committed to the principle of social justice- a truly welfare state. For ensuring social justice in a community, equality of treatment amongst all sections in the first pre requisite. However the concept of equality in abstract sense is counter productive because it does not take into consideration, The inherent inequalities in human beings. Moreover it ignores the problems of certain segments of the society who for historical and social regions, have remained educationally, culturally, economically and socially backward for generation. In the American Constitution, The doctrine of equality was found wanting in affording fare treatment to the Negroes. In India the problem would have been there had the founding fathers not taken upon themselves to deal with it and made specific provision for protecting the interest of weaker sections of the society such as Scheduled Castes, Scheduled Tribes, Women, Children, Other Backward Classes and minorities. These measures intended to restore social and economic balance in favor of socially and economically disadvantage sections have come to be known as “Protective Discrimination” or reverse discrimination. In the United States of America such measures have been popularly known as “affirmative action”. Legislative and executive actions may
appear to be discriminatory in form but are generally regarded as attempts at restaring the substance of equality.

In the recent past a considerable controversy has been raising in India far and against the retention of these provision. In fact a confrontation has already started between those who have derived benefits from the policy of reservation and those at whose cost these benefits have been given. The stirs in Gujrat, Bihar, Madhya Pradesh and other parts of India are a painter to the sensitiveness of the problem.

These development have prompted the author to undertake the present study. This work has attempted to examine the Constitutional provision relating to Distributive justice or Protective Discrimination and the Judicial Pronouncement thereon along with. Of course the other legislative measures adopted in India for protecting the interest of weaker sections of the society.