CHAPTER THIRTEEN

STATE - RELIGION RELATIONSHIP

The relationship between the State and Religion is one of the basic issues of Secularism and Secular State. The Separation of the State from the religion is considered as one of the important tests of Secularism and Secular State.

Doctrine of Separation in the U.S.A. :-

The Doctrine of Separation of the State and the Church has been explained in the First Amendment to the Constitution of the U.S.A. It is stated that, "Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof". In 1802, President, Jefferson described it as "a Wall of Separation between the Church and the State". Later on, it has been regarded as one of the basic principles of a Secular State. In

In 1947, the Supreme Court of the U.S.A., in the case Everson v. Board of Education (330 U.S. 1 - 1947); has defined the Doctrine of Separation between the Church and the State as follows:—

"Neither a State nor the Federal Government can set up a Church. Neither can pass laws which aid one religion, aid all religions or prefer one religion over another.--- No tax in any amount, large or small, can be levied to support any religious activities or institutions whatever they may be called or whatever form they may adopt to teach or practice religion. Neither a State nor the Federal Government can openly or secretly participate in the affairs of any religious organisation or groups and vice-versa" 2.

It should be noted in this context, that in actual practice, the separation between the State and the religion is not absolute, and it is not followed in various spheres of activities of the Government even in the U.S.A. There are many references to God and to Christ in the official declarations by the persons in the Government. There is

institution of State Chaplains. The Sessions of the Congress and the State Legislatures begin with Prayers. Similarly, the Church in the U.S.A., plays a very dominant role in the politics of the country. It is evident from the elections and working of the Congress in the U.S.A.'

**Indian Concept:**

In the context of Indian Constitution, we find that, the perfect separation of the State and Religion is not accepted. Dr. Luthera emphatically remarks that 'the Constitution of India' does not separate the two. It does not set up a 'wall' or 'partition' between them. It does not create two spheres, one pertaining to the State and the other to the Church, in which both are independent of each other. On the contrary, the Constitution vests immense powers in the State over the affairs of the Church (religious bodies).


4. Ibid., P. 146.
The Indian Constitution itself and many other legislations by the Parliament and the State Legislatures allow the State interference in religious matters. In this connection, the following provisions can be mentioned:

1) The entry of Harijans into Hindu temples (Article 25 (2)).

2) Financial Administration of religious institutions (Article 26 (c) (d)).

3) Grant-in-aid from the State fund to Educational Institutions imparting religious instructions and maintained by religious denominations (Article 28 (2) (3)).

4) Maintenance of Hindu Temples (Article 290 (A)).

5) Amendments in Personal Laws which are based on religion of different communities in India.

6) Matters of excommunications from religious communities.

7) Interpreting and restricting the scope of religious freedom through judicial decisions.

8) Celebration of the Anniversary of Person in the field of Religion, and spending amount from the State Fund on such functions.
9) Participation of Ministers and Government Officials in religious ceremonies in the official capacity.


From what has been said so far, it must be clear that, there is no Wall of Separation between the State and Religion in India. The reasons for this can be traced in the Indian Society which is basically religious. The Constitution of India also recognises the importance of religion in the Society by guaranteeing the Freedom of Religion to individual as well as to religious denominations. In this connection, Smith D.E., remarks, that 'the demand for social reforms and religious reform is so pressing that, little attention is paid to the Principle of Separation of State and Religion'. He further states that 'the other chief reason is that, Hinduism lacks in the kind of ecclesiastical organisation necessary to set its own house in order. How can there be separation of Church and State when there is no Church'.

6. Ibid., P.126.
Constitutional Provisions for 'Separation':

Although, the Indian Constitution does not provide for the complete separation between the State and the Religion, there are some Constitutional Provisions which support the principle of separation between the two. For examples,

Firstly, there is no provision regarding an official State religion like Pakistan and other Islamic States. The Constitution of India does not recognise Hinduism as a State Religion even though, it is the religion of the majority of the citizens in India.

In this context, it should be noted that, there is no explicit prohibition on the State to adopt a particular religion as a State Religion. In this respect, the Indian Constitution sharply differs with the Constitution of the U.S.A. However, the Constitutional Provisions regarding the Fundamental Rights of the Indian Citizens make it very difficult to adopt a particular religion as a State Religion.

Secondly, Citizenship in India, is based on territorial considerations, and not on any religious affiliations or loyalties.
Thirdly, there can be no tax to promote and support any particular religion (Article 27).

Fourthly, there can be no religious instructions in the Government Educational Institutions (Article 28).

Fifthly, the Constitution of India does not prescribe any religious qualification for holding the Office of the Head of the State, as it is found in States like Great Britain, Pakistan, Sweden, Syria, and Thailand. Similarly, the Constitution of India, does not provide for a religious qualification for any public post and appointment under the Central Government as well as the State Governments.

To conclude, it may be observed that, the Indian Constitution contains some provisions which are consistent with the principles of Separation between the State and the Religion, and some provisions which go against the Principle of 'Wall of Separation'.

It should be noted, here, that the absence of complete separation between the State and the Religion is based because of the character of Indian Society which is basically religious. It is also because of the fact that, the Concept of Secularism in India is different from that
of Western Countries. Separation of the State from the
religion is not the basis of Indian Secularism, as it is
in the other countries. Indian Constitution does not re-
ject religion. On the contrary, it respects all religions.
There is no conflict between the State and Religion. Thus,
the relationship between the State and Religion in India,
is the product of India's own political, social and reli-
gious conditions. It is also consistent with India's tra-
dition of religious toleration.