



THE BUZZ

Vol. 03-11

Monthly Newsletter By Ayana Legal

Provisions of the Act

The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 includes social and economic boycott within "offences of atrocities". Section 3(1)(n) punishes a person who after the election poll threatens to impose social and economic boycott upon a member of either a scheduled caste or tribe.

Section 2(bc) defines economic boycott. It includes within its definition the refusal to deal with, work for hire or do business with the other person, denying opportunities and abstaining from professional and business relations.

A PLACE WITHIN PUBLIC VIEW UNDER THE SCHEDULED CASTES AND SCHEDULED TRIBES (PREVENTION OF ATROCITIES) ACT, 1989

The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (the "Act") envisages a large number of scenarios under "offences of atrocities" committed by those not belonging to a Scheduled Caste or Tribe. One of these scenarios is highlighted under Section 3(1)(r) – "intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe in any place within public view;" and sub-clause (s) – "abuses any member of a Scheduled Caste or a Scheduled Tribe by caste name in any place within public view;". All insults or intimidations to a person will not be an offence under the Act unless such insult or intimidation is on account of the victim belonging to Scheduled Caste or Scheduled Tribe.

A common factor in the aforementioned clauses is the use of the word "place within public view" which finds neither any definition nor explanation provided for it under the Act along with "insult" and "intimidation". The Act states that words not defined but which find definition under the Indian Penal Code, 1860 shall have the same meaning assigned to them as per the Code. The meanings for "insult" and "intimidation" can be as per Section 503 for 'criminal intimidation' and Section 504 for 'intentional insult with intent to provoke breach of the peace' of the Code. The term 'Public' is defined under Section 12 of the Indian Penal Code as 'any class of public' or 'any community', which would lead to the inference that a "place within public view" is one that is accessible to any class of the public.

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Section 2(eb) defines social boycott as a refusal to permit a person to render to the other person or receive from him any customary service or to abstain from social relations that one would maintain or to isolate him from others.

Thank You

We at Ayana Legal thank you for your continued support and patronage to our newsletter and capsules. We look forward to being back with our next edition soon.

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JUDGEMENTS

In the case of *Pradnya Kenkare v. State of Maharashtra*, 2005 SCC OnLine Bom 574, it was held that the act of insult or intimidation must be visible and audible to the public in order to constitute such act to be an offence. Therefore, the incidence of insult or intimidation has to occur in a place accessible to and in the presence of the public.

The Supreme Court in the case of *Swaran Singh v. State*, (2008) 8 SCC 435, has clarified the difference between public place and place within a public view. The Hon'ble Court held that a public place would ordinarily mean a place which is owned or leased by the Government or the municipality (or other local body) or gaon sabha or an instrumentality of the State, and not by private persons or private bodies.

The Apex Court has defined a place within public view as:-

- (1) A place is within public view when it can be seen by public e.g. lawn outside the building, also;
- (2) A place which may not be visible to public but if the incident took place when some members of the public, not merely relatives or friends, were present, it turns into the place within public view.

In the case of *Ashutosh Tiwari & Anr v. State of Madhya Pradesh & Anr*, Misc. CrI. Case No. 6138 of 2010, the Madhya Pradesh High Court held that a staff room is not a place within public view as common public or citizens do not have access to it without permission of the school.

In *Daya Bhatnagar & Ors. v. State*, 109 (2004) DLT 915, it was stated that public view' means a place which is within hearing, knowledge or accessibility, of a group of people. Such group of people should be as good as strangers and not linked with the complainant through any close relationship or any business, commercial or any other vested interest. Hence, the public persons must be independent, impartial and not interested in any of the parties.