

IMPORTANT CASES IN INDIAN POLITY

1. Champakam Dorairajan State of Madras, 1951

In this case caste based reservations were struck down by the court, as against Article 16(2) of the Constitution.

With regard to admission of students to the Engineering and Medical Colleges of the State, the Province of Madras had issued an order which, fixed number of seats for particular communities.

It noticed that while Cl. (1) Art. 29 protects the language, script or culture of a section of the citizens, cl. (2) guarantees the fundamental right of an individual citizen.

This right can not be denied to the citizen only on grounds of religion, race, caste, language or any of them.

If a citizen who seeks admission into any such educational institution has not the requisite academic qualifications and is denied admission on that ground, he certainly cannot be heard to complain of an infraction of his fundamental right under this Article.

This case resulted in First Amendment of the Constitution of India.

2. Golaknath State of Punjab 1967

The Apex court held that law made by the Parliament shall not be such that infringes and takes away the fundamental rights of the citizen which are provided by the Constitution of India.

Law made by a Parliament in a law under Article 13 of the Constitution.

Further, the constitution can be amended.

The judgement was overruled by 24th amendment.

The judgement was restored and its scope was extended in Keshav nand Bharti case.

3. Madhav Jiwaji Rao Scindia Union of India, 1970

The infamous case, Madhav Jiwaji Rao Scindia v. Union of India deals with Article 18 of the Constitution of India.

It abolishes all special titles.

The Supreme Court in this case held the 1970 Presidential order as invalid.

This decision of the court led to abolishing titles and privileges of India's erstwhile princely rulers.

It even abolished privy purses of India's erstwhile princely rulers.

4. Kesavananda Bharati State of Kerala, 1973

The bench in the present case comprised of 13 judges.

This is the largest bench till date in the Indian judicial history.

The Supreme Court gave Parliament power to amend any part of Constitution of India.

The court further added that such amendment shall not take away the fundamental rights of the citizen which are provided by the Constitution of India.

Such law is a law under article 13 of the constitution.

This case is also referred as *Fundamental rights case*.

5. Indira Gandhi vs. Raj Narain, 1975

The Supreme Court held clause 4 of 39th amendment as unconstitutional and void as it was outrightly denied of the right to equality enshrined in Article 14.

The apex Court also added basic features of the constitution to list laid down in Kesavananda Bharati case.

They are stated below:

- democracy,
- judicial review,
- rule of law.

Further, the court added jurisdiction of Supreme Court under Article 32, which deals with writs basically also forms basic structure of the constitution.

6. D.M. Jabalpur v. S. Shukla, 1976

The apex Court in the infamous case of A.D.M. Jabalpur v. S. Shukla was a case during prevailing of emergency in the country.

Right to move to the court for enforcement of fundamental rights guaranteed under constitution stands suspended.

This even includes Article 14, 21 and 22.

This created a havoc in the nation.

In later amendment it was held that Article 21 and 22 cannot be suspended during the time of emergency.

7. Maneka Gandhi vs. Union of India, 1978

The case is considered a landmark case as it gave a new and highly varied interpretation to the meaning of 'life and personal liberty' under Article 21 of the Constitution.

This law which prescribes a procedure for depriving a person of "personal liberty" has to fulfill the requirements of Articles 14 and 19 also.

Also, it expanded the horizons of freedom of speech and expression. The case saw a high degree of judicial activism.

One of the significant interpretation in this case is the discovery of inter connections between the three Articles- **Article 14, 19 and 21.**

It was finally held by the court that the right to travel and go outside the country is included in the right to personal liberty guaranteed under Article 21.

8. Minerva Mills Union of India, 1980

The Supreme Court of India, strengthened the doctrine of the basic structure which was propounded earlier in the Keshavananda Bharti Case and held social welfare laws should not infringe fundamental rights.

Few changes made by the 42nd Amendment Act were declared as null and void.

It laid foundation of judicial review of the laws and judgements in the courts of India.

Judicial review is dealt in Article 13(2) of the Constitution of India.

9. MC Mehta v. Union of India, 1986

MC Mehta filed a Public Interest Litigation for escape of poisonous gases by a plant in Bhopal.

The court in this case extended the scope of Article 21 and 32 of the Constitution of India.

The case is also famous as *Bhopal Gas Tragedy*.

Finally, the court granted interim compensation of 250 crores to the victims.

Though High Court asked Union Carbide to pay compensation of 350 crores to the victim.

10. SR Bommai v. Union of India, 1993

The court in this case curtailed power of President under Article 356 of the constitution of India.

It also held that secularism is the basic structure of the Constitution.

It laid the existence of Ram Temple in the disputed area.

It held the case to larger bench for demolition of Babri Masjid.

11. Rajagopalv. State of Tamil Nadu, 1994

The court in this case decided that the right to privacy subsisted even if a matter becomes one of public record and hence right to be let alone is part of personal liberty.

This comes under the pervuew of Article 21

The case is also known as auto Shankar case.

The judges held that the petitioners have a right to publish, what they allege to be the life story/autobiography of Auto Shankar insofar as it appears from the public records, even without his consent or authorization.

There is a violation of the right to freedom of expression.

12. Olga Tellis v. Bombay Municipal Corporation, 1985

This case came before the Supreme Court as a writ petition.

5 judge-bench gave decision allowing petitioners who live on pavements and in slums in the city of Bombay to stay on the pavements against their order of eviction.

The court also held that right to livelihood is a right to life as per Article 21.

Though the slum resident agreed not to challenge the decision of Municipal Corporation.

Court held that one's fundamental right cannot be waived.

13. Vishaka State of Rajasthan, 1997

This case came before the Supreme Court as a Public Interest Litigation against State of Rajasthan and Union of India by Vishakha and other women groups.

The petitioners demanded enforcement fundamental rights for working women under Articles 14, 19 and 21 of the Constitution.

For this, Vishaka Guidelines were issued.

The judgment also provided basic definitions of sexual harassment at the workplace along with provided guidelines to deal with the same.

Employers shall initiate appropriate action in accordance with concerned criminal law by making a complaint with the appropriate authority.

Disciplinary actions should be taken.

Threw light on compliance mechanism and workers' initiative.

14. D.K. Basu v. State of West Bengal

In this case, the Supreme Court laid down detailed guidelines to be followed by the central and state investigating agencies.

It related all cases dealing with arrest and detention

The court held that till legal provisions are made in that behalf as preventive measures.

Court held that any form of torture or cruel inhuman or degrading treatment.

Even it occurs during interrogation, investigation or otherwise, falls within the ambit of Article 21.

15. Supreme Court Advocates-on Record Association v. Union of India, 1993

It overruled S P Gupta v. Union of India.

Court held primacy of Chief justice cannot be taken away in appointment and transfer of judges of Supreme Court and High Courts.

It recommended constitution of collegiums of judges for the same.

The case is named as *Second judges transfer case*.

It was later overruled a committee called NJAC was appointed for appointment and transfer of judges of Supreme Court and High Courts.

It was again over ruled and NJAC was held unconstitutional in Supreme Court Advocates-on Record Association v. Union of India, 2014

16. PA Inamdar v. State of Maharashtra, 2004

The case was decided by a 2-Judge Bench of the Supreme Court

The dispute related to the fixation of quota in unaided professional institutions

It also dealt withholding of examinations for admission into such colleges.

The 2 matters were hence challenged in the court.

The court held no fixation of quota in unaided professional institutions.

Admissions to be conducted on merit basis.

17. Subramanian swamy vs. Unlon of India,2016

The Supreme Court upheld the Constitutional Validity of Sections 499 to 502[[Chapter XXII] of Indian Penal Code relating to Criminal Defamation.

The Bench comprising of Justices Dipak Misra and PC.Pant held that the right to Life under Article 21 includes right to reputation.

The Bench has dismissed the Petitions filed by Subramanian Swamy, Rahul Gandhi and Arvind Kejriwal challenging the law relating to Criminal Defamation in India.

Criminal Defamation law not unconstitutional.

18. Viiay Kumar Mishra and Anr Vs High court of Judicature at Patna To and Ors,2016

The Apex Court held that Article 233(2) of the Constitution of India only prohibits the appointment of a person as District Judge.

As he is already in the service of the Union or the State, but not the selection of such a person.

The Court set aside the Patna High Court judgment.

Which held that, the aspirant to resign his membership of the subordinate judicial service if he aspires to become a District judge.

SC can transfer cases from Jammu & Kashmir Courts to courts

Persons in Govt/Judicial service need not resign to participate in District Judge Selection Process

19. Kazi vs. Muslim education society,2016

The Supreme Court held that all Tribunals are not necessary parties.

This is majorly in a Special Civil Applications under Articles 226 and 227 of the Constitution,

They are not required to defend its orders when they are challenged before the High Court.

All Tribunals are not necessary parties to the proceedings where legality of its orders challenged

20. Anita Kushwaha vs. Pushpa Sudan, 2016

The Constitution Bench of the Supreme Court held that Supreme Court can, by invoking Article 32, 136 and 142 of the Constitution.

It is empowered to transfer a case from a Court in the State of Jammu and Kashmir to a Court outside the State or vice versa.

The Judges Bench comprised of Chief Justice of India Dr. T.S. Thakur, Justices Fakkir Mohamed Ibrahim Kalifulla, A.K. Sikri, S.A. Bobde, and R. Banumathi

They further made an important observation that Access to Justice is guaranteed to citizens by Article 14 and Article 21 of the Constitution of India.

FURTHER READING

A.K. Gopalan Case (1950): (Interpreted key Fundamental Rights including Article 19 and 21)

This is a significant decision of the Supreme Court because it represented the first case where the court meaningfully examined and interpreted key fundamental rights enlisted in the constitution including article 19 and 21. The contention was whether, under the writ of habeas corpus and the provisions of the preventive detention act, there was a violation of the fundamental rights entitled in article 13, 19, 21 and 22.

The Supreme Court restricted the scope of fundamental rights by reading them in isolation of article 21 and 22 which provided guidelines for preventive detention. The Supreme Court iterated that the term 'due process' prevented the courts from engaging in substantive due process analysis in determining the reasonableness of the level of the process provided by the Legislature.

Shankari Prasad Case (1951): (Amendability of Fundamental Rights)

In this case, the validity of the first constitutional amendment which added Article 31-A and 31-B of the Constitution was challenged. The first time, the question whether fundamental rights can be amended under Article 368 came for consideration of the Supreme Court.

The Supreme Court rejected the contention that in so far as the First Amendment took away or abridged the fundamental rights conferred by Part III it should not be upheld in the light of the provisions of article 13(2).

Therefore "law" in article 13 must be taken to mean rules or regulations made in the exercise of ordinary legislative power and not amendments to the Constitution made in the exercise of constituent power. Article 13 (2) did not affect amendments made under article 368.

Berubari Union case (1960): (Parliament's power to make amendments under Article 3 and Article 368)

In this case, conflict arose regarding the power of the parliament to transfer the territory of Berubari to Pakistan. The detailed examination of article 3 was done by the Supreme Court on a reference made by the President in 1960. The Supreme Court held that the Parliament of India is not competent to make a law under article 3 for the implementation of the Nehru-Noon Agreement.

This was followed by an amendment of the constitution by parliament using the power of Article 368. The result was the Constitution (9th Amendment) Act 1960. The Supreme Court gave a very narrow judgement that the preamble was not an integral part of the constitution and therefore it is not enforceable in a court of law.

I. C. Golaknath case (1967): (Validity of the First and Seventeenth Amendments and described the scope of Article 13)

The validity of the First and Seventeenth Amendments to the Constitution in so far as they affect the fundamental rights was again challenged in this case. The fourth amendment was also challenged.

The Supreme Court adopted a doctrine of prospective overruling under which the three constitutional amendments concerned would continue to be valid. Moreover, the Supreme Court held that article 368 dealt only with the procedure for amendment and an amendment to the Constitution is made as part of the normal legislative process. It is, therefore, a "law" for the purpose of article 13 (2).

To get over the decision of the Supreme Court in Golaknath's case the Constitution 24th Amendment Act was passed in 1971 in which changes to articles 13 and 368 were made.

Kesvananda Bharti case (1973): (Defined the Basic Structure of the Indian Constitution)

The Supreme Court reviewed the decision in Golaknath v. The state of Punjab and considered the validity of the 24th, 25th, 26th and 29th Amendments. The Court held that although no part of the constitution, including fundamental rights, was beyond the amending power of Parliament, the "basic structure of the Constitution could not be abrogated even by a constitutional amendment.

It is a landmark judgement of the Supreme Court of India, and is the basis in Indian law for the exercise of the Indian judicial power to judicially review, and strike down amendments to the Constitution of India passed by the Indian Parliament which conflict with the Constitution's basic structure.

The judgment also defined the extent to which the Indian Parliament could restrict the right to property, in pursuit of land reform and the redistribution of large landholdings to cultivators, overruling previous decisions that suggested that the right to property could not be restricted.

Indira Gandhi v. Raj Narayan case (1975): (Disputes relating to elections involving the Prime Minister of India)

The concept of basic structure was reaffirmed in Indira Nehru Gandhi v. Raj Narayan case. The Supreme Court applied the theory of basic structure and struck down Clause(4) of article 329-A, which was inserted by the 39th Amendment in 1975 on the ground that it was beyond the amending power of the parliament as it destroyed the basic feature of the constitution.

The amendment was made to the jurisdiction of all courts, including the Supreme Court, over disputes relating to elections involving the Prime Minister of India. Some basic features of the Constitution were listed in this case which is considered as unamendable such as sovereign democratic republic status, equality of status and opportunity of an individual, secularism and freedom of conscience and religion and rule of law.

Menaka Gandhi case (1978): (Significant towards the transformation of the judicial review on Article 21)

This case is a landmark judgement which played the most significant role towards the transformation of the judicial view on Article 21 of the Constitution of India so as to imply many more fundamental rights from article 21. A writ petition was filed by Maneka Gandhi under Article 32 of the Constitution in the Supreme Court.

The main issues of this case were whether the right to go abroad is a part of the right to personal liberty under Article 21 and whether the Passport Act prescribes a 'procedure' as required by Article 21 before depriving a person of the right guaranteed under the said article. A new doctrine of a post-decision theory was evolved and the most significant interpretation was made on the interconnections between the three articles 14, 19 and 21.

It was finally held by the court that the right to travel and go outside the country is included in the right to personal liberty guaranteed under Article 21. The Court ruled that the mere existence of an enabling law was not enough to restrain personal liberty. Such a law must also be "just, fair and reasonable".

Minerva mills case (1980): (Basic Structure which includes Parliament's power to amend and the power of Judicial Review)

In this case, the validity of the 42nd amendment act was challenged on the ground that they are violative of the 'basic structure' of the Constitution. The Supreme Court struck down clauses (4) and (5) of the article 368 and it was ruled by the court that a limited amending power itself is a basic feature of the Constitution. The court held that the amendment made to Article 31C is invalid on the ground that they violate two basic features of the Constitution that are the limited nature of the parliament of the power to amend and the power of judicial review.

The Judgement of the Supreme Court thus makes it clear that the Constitution is the Supreme, not the Parliament. Parliament cannot have unlimited amending power so as to damage or destroy the Constitution to which it owes its existence and also derives its power from.

Waman Rao Case (1981): (Validity of 9th Schedule and demarcating the date of 24th april 1973)

Supreme Court in Waman Rao case once again reiterated and applied the doctrine of the basic features of the Constitution. In this case, the implications of the basic structure doctrine for Article 31-B were re-examined. The Court drew a line of demarcation on April 24th, 1973 (the date of Kesavananda Bharti's decision) and held it should not be applied retrospectively to reopen the validity of any amendment to the Constitution, which took place prior to 24-04-1973. It meant all the amendments which added to the Ninth Schedule before that date were valid.

All future amendments were held to be challengeable on the grounds that the Acts and Regulations, which they inserted in the Ninth Schedule, damaged the basic structure. The decision of this case is a landmark one in the constitutional jurisprudence of India. This case has helped in determining a satisfactory method of preserving the settled position and to address grievances pertaining to the violation of fundamental rights.

S. R. Bommai case (1994): (Misuse of Article 356 of the Constitution of India)

S. R. Bommai case was a landmark judgment of the Supreme Court of India, where the Court discussed provisions of Article 356 of the Constitution of India and related issues. This case had a huge impact on Centre-State Relations. The judgement attempted to curb blatant misuse of Article 356 of the Constitution of India, which allowed President's rule to be imposed on state governments.

R. Bommai v. The Union of India raised a serious question of law relating to the Proclamation of President's Rule and dissolution of Legislative assemblies according to Article 356 of the Constitution of India. This verdict stopped the misuse of Article 356 (imposition of the president rule).

Dimensions