



## **BOOKLET**

**“TOP 30 REMARKABLE JUDGEMENTS TILL TODAY”**

### **A.K. Gopalan v. State of Madras (1950)**

Bench: Chief Justice H J Kania, Justice Fazal Ali, Justice Patanjali Sastri, Justice M.C Mahajan, Justice Ranjan Sudhi Das and Justice B.K. Mukherjea

SC contended that there was no violation of Fundamental Rights enshrined in Articles 13, 19, 21 and 22 under the provisions of the Preventive Detention Act, if the detention was as per the procedure established by law. Here, the SC took a narrow view of Article 21. This case also known as preventive detention case.

### **Shankari Prasad v. Union of India (1951)**

Bench: Hiralal Kania CJ and M. Patanjali Sastri, B.K. Mukherjee and S.R.

This case dealt with the amenability of Fundamental Rights (the First Amendment's validity was challenged). The SC contended that the Parliament's power to amend under Article 368 also includes the power to amend the Fundamental Rights guaranteed in Part III of the Constitution i.e. all the powers conferred by the provision in Article 379 also include the power to amend the Constitution as granted by Article 368.

### **In Re: Berubari v. Union of India (1960)**

Bench: B Sinha, A S Shah, K Dasgupta, K S Rao, M Hidayatullah, P Gajendragadkar, S Das

This case was regarding the Parliament's power to transfer the territory of Berubari to Pakistan. The Supreme Court examined Article 3 in detail and held that the Parliament cannot make laws under this article in order to execute the Nehru-Noon agreement. Hence, the 9th Amendment Act was passed to enforce the agreement.

### **I.C. Golaknath and Ors. V. State of Punjab (1967)**

Bench: Rao, K. Subba Wanchoo, K.N., Hidayatullah, M. & Shah, J.C., Sikri, S.M. & Bachawat, R.S., Ramaswami, V. & Shelat, J.M., Bhargava, Vishishtha & Mitter, G.K. & Vaidyalingam, C.A.

The questions in this case were whether amendment is a law; and whether Fundamental Rights can be amended or not. SC contended that Fundamental Rights are not amenable to the Parliamentary restriction as stated in Article 13, and that to amend the Fundamental rights a new Constituent Assembly would be required. Also stated that Article 368 gives the procedure to amend the Constitution but does not confer on Parliament the power to amend the Constitution.

### **Kesavananda Bharati v. State of Kerala 1973**

Bench: Chief Justice S. M. Sikri, Justice J.M.Shelat, Justice K.S. Hegde, Justice A.N.Grover, Justices A.N. Ray, Justice P. Jaganmohan Reddy, Justice D.G. Palekar, Justice H.R. Khanna, Justice K.K. Mathew, Justice M.H. Beg, Justice S.N. Dwivedi, Justice A.K. Mukherjee and Justice Y.V. Chandrachud.

This judgement defined the basic structure of the Constitution. The SC held that although no part of the Constitution, including Fundamental Rights, was beyond the Parliament's amending power, the "basic structure of the Constitution that certain fundamental features of the Constitution, such as democracy, secularism, federalism, and the rule of law, cannot be amended by parliament could not be abrogated even by a constitutional amendment." This is the basis in Indian law in which the judiciary can strike down any amendment passed by Parliament that is in conflict with the basic structure of the Constitution. The Supreme Court, in a historic 7:6 majority decision, propounded the basic structure doctrine of the Constitution, which holds

### **Indira Nehru Gandhi v. Raj Narain & Anr (1975)**

Bench: Justice Jagmohanlal Sinha (HC) and Justice Mathews, Chief Justice Ray, Justice Beg, Justice Khanna and Justice Chandrachud

The SC 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 grounds that it was beyond the Parliament's amending power as it destroyed the Constitution's basic features.

### **Maneka Gandhi v. UOI, 1978**

Bench: M.H. Beg (CJI), V.R. Krishna Iyer, Y.V. Chandrachud, N.L. Untwalia, P.N. Bhagwati, P.S. Kailasam, and S.

A main issue in this case was whether the right to go abroad is a part of the Right to Personal Liberty under Article 21. The SC held that it is included in the Right to Personal Liberty. The SC also 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 v. Union of India (1980)**

Bench: Chandrachud, Y.V. ((Cj), Bhagwati, P.N., Gupta, A.C., Untwalia, N.L., Kailasam, P.S.

This case again strengthens the Basic Structure doctrine. The judgement struck down 2 changes made to the Constitution by the 42<sup>nd</sup> Amendment Act 1976, declaring them to be violative of the basic structure. The judgement makes it clear that the Constitution, and not the Parliament is supreme.

### **Waman Rao and Ors v. Union of India and Ors. (1981)**

Bench: Y Chandrachud, A Sen, P Bhagwati, V Tulzapurkar, V K Iyer

The SC again reiterated the Basic Structure doctrine. It also drew a line of demarcation as April 24th, 1973 i.e., the date of the Kesavananda Bharati judgement, and held that it should not be applied retrospectively to reopen the validity of any amendment to the Constitution which took place prior to that date.

### **Mohd. Ahmed Khan v. Shah Bano Begum (1985)**

Bench: Chief Justice Chandrachud, Rangnath Misra, D. A. Desai, O. Chinnappa Reddy, and E. S. Venkataramiah

Milestone case for Muslim women's fight for rights. The SC upheld the right to alimony for a Muslim woman and said that the Code of Criminal Procedure, 1973 is applicable to all citizens irrespective of their religion. This set off a political controversy and the government of the day overturned this judgement by passing the Muslim Women (Protection on Divorce Act), 1986, according to which alimony need be given only during the iddat period (in tune with the Muslim personal law).

### **MC Mehta and Union of India (1986)**

Bench: P.N. Bhagwati

This case dealt with 3 issues: Scope of Article 32; rule of Absolute Liability or Rylands vs. Fletcher to be followed; issue of compensation. SC held that its power under Article 32 is not restricted to preventive measures, but also remedial measures when rights are violated. It also held that in the case of industries engaged in hazardous or inherently dangerous activities, Absolute Liability was to be followed. Finally, it also said that the amount of compensation must be correlated to the magnitude and capacity of the industry so that it will be a deterrent.

### **Indira Sawhney vs. UOI and Ors. (1992)**

Bench: Justice M Kania, M Venkatachaliah, S R Pandian, T Ahmadi, K Singh, P Sawant, R Sahai, B J Reddy

The Apex court in this case analysed the scope and extent of Article 16(4), which provides for the reservation of jobs in favour of backward classes of citizens. Court upheld the constitutional validity of 27% reservation for the Other Backward Classes with certain conditions (like creamy layer exclusion, no reservation in promotion, total reserved quota should not exceed 50%, etc.)

### **R. Rajagopal and Ors. Vs. State of Tamil Nadu and Ors. (1994)**

Bench: B.P. Jeevan Reddy and S.C. Sen, JJ

The court held that the book could be published by the publishers even without the authorization of Shankar or authorities as much as appears in public records. They could not publish anything which is secret information, they could be held to violate the 'right to privacy and be punished. The state cannot stop the publication but have every right to seek remedy if the book contains any secret information that infringes authorities' right to privacy.

### **Vishaka and Ors. V. State of Rajasthan (1997)**

Bench: Chief Justice Verma, Justice Sujata V. Manohar, and Justice B.N. Kripal

This case dealt with sexual harassment at workplace. In the judgement, the SC gave a set of guidelines for employers – as well as other responsible persons or institutions – to immediately

ensure the prevention of sexual harassment. In this case court established legal framework for addressing sexual harassment at the workplace called 'Vishaka Guidelines'. These were to be considered law until appropriate legislation was enacted.

### **Lily Thomas v. Union of India (2000)**

Bench: Justice Sagir Ahmad and Justice R Sethi

Here, the SC held that the second marriage of a Hindu man without divorcing the first wife, even if the man had converted to Islam, is void unless the first marriage had been dissolved according to the Hindu Marriage Act. In other words if an individual with a living spouse attempts to contract a second marriage, it would be considered invalid and void under Section 11 of the Hindu Marriage Act, 1955

### **I.R. Coelho v. State of Tamil Nadu (2007)**

Bench: Justice Y.K. Sabharwal, Justice Ashok Bhan, Justice Arijit Pasayat, Justice B.P. Singh, Justice S.H. Kapadia, Justice C.K

This judgement held that if a law is included in the 9th Schedule of the Indian Constitution, it can still be examined and confronted in court. The 9th Schedule of the Indian Constitution contains a list of acts and laws which cannot be challenged in a court of law. The Waman Rao ruling ensured that acts and laws mentioned in the IX schedule till 24 April 1973, shall not be changed or challenged, but any attempt to amend or add more acts to that schedule will suffer close inspection and examination by the judiciary system.

### **Aruna Shanbaug v. Union of India (2011)**

Bench: Justices Markandey Katju and Gyan Sudha Misra

The SC ruled that individuals had a right to die with dignity, allowing passive euthanasia with guidelines. The need to reform India's laws on euthanasia was triggered by the tragic case of Aruna Shanbaug who lay in a vegetative state (blind, paralysed and deaf) for 42 years. Also, court laid down specific procedures and guidelines for granting passive euthanasia in the "rarest of rare circumstances.

### **National Legal services Authority v. Union of India (2014)**

Bench: Justice K.S. Radhakrishnan and Justice A.K. Sikri

This case resulted in the recognition of transgender persons as a third gender. The SC also instructed the government to treat them as minorities and expand the reservations in education, jobs, education, etc. The judgment also gave transgender people the right to self-identify their gender. "the Court clarified that gender identity did not refer to biological characteristics but rather referred to it as "an innate perception of one's gender"

### **Justice K.S. Puttaswamy v. Union of India (2017)**

Bench: Chief Justice Khehar and Justices Jasti Chelameshwar, S.A. Bobde, DY Chandrachud, Abdul Nazeer, Nariman, R.K. Agarwal, Abhay Manohar Sapre, and Sanjay Kishan Kaul.

In this case SC ruled that Fundamental Right to Privacy is intrinsic to life and liberty and comes under the Article 21 of the Indian Constitution. Further SC held the validity of Aadhaar Scheme not violative of right to privacy of citizens as minimal biometric data for enrolment processes which was not exposed to public. This case laid down the proportionality test which means rights may be restricted only by state action after passing this test.

### **Navtej Singh Johar v. Union of India (2018)**

Bench: CJI Dipak Misra, Justice A.M. Khanwilkar, Justice Rohinton Fali Nariman, Justice D.Y. Chandrachud and Justice Indu Malhotra.

Supreme Court decriminalised homosexuality by striking off parts of Section 377 of the IPC, which criminalised 'carnal intercourse against the order of nature'. The court relied on the KS Puttaswamy judgment stating that denying LGBT community its right to privacy violative of Fundamental rights as sexual orientation forms a part of self-identity and denying the same goes against the right to life.

### **Anuradha Bhasin v. Union of India and others (2020)**

Bench: Justice N.V. Ramana, V. Ramasubramanian

The court held that the right to free speech and the freedom to carry out one's trade or profession via the medium of the internet is a fundamental right. "The Apex Court finally recognized the significance of the internet as a tool for the promulgation of information and trade and commerce in contemporary times, and finally concluded that the right to freedom of speech and expression under Article 19(1) (a), and the right to carry on any trade or business under 19(1) (g), using the medium of internet is constitutionally protected."

### **Rambabu Singh Thakur v. Sunil Arora and others (2020)**

Bench: Hon'ble justice R.F- Nariman, Hon'able justice S. Ravindra Bhat and Hon'ble Justice Ramasubramanian.

The Supreme Court issue official document of writ of mandamus to the Election Commissioner regarding the extension of law of disqualification for the explanation of a candidate having criminal background, the court came to the conclusion that the facility of constructing laws can't be extended to the judiciary. However the court has power to issue directions or tips as secured below Article 129 and Article 142 of the Constitution.

### **Laxmibai Chandaragi and another v. State of Karnataka and others (2021)**

Bench: Justice Sanjay Kishan Kaul, Justice Hrishikesh Roy

The apex court held that right to choose a life partner is a fundamental right under Article 21 of the Constitution. "The choice of an individual is an inextricable part of dignity, for dignity

cannot be thought of where there is erosion of choice. Such a right or choice is not expected to succumb to the concept of “class honour” or “group thinking.”

**Mohammad Salimullah and another v. Union of India and others (2021)**

Bench: Chief Justice S.A. Bobde, Justice A.S Bopanna, and Justice V. Ramasubramanian.

The Supreme Court held that the deportation of the refugees shall be allowed, with the proper procedure established by law for such deportation. Article 19(1) (e) is a fundamental Right that includes the Right against deportation which is only available to citizens only. Hence, the right not to be deported under Article 19(e) not available to refugees. The court ordered safe deportation of Rohingya after proper procedure.

**Farzana Batool v. Union of India and others (2021)**

Bench: Justice D.Y. Chandrachud, Justice M.R Shah

The Supreme Court held that education at the professional level is not spelled as a Fundamental right in Part III of the Indian Constitution. In light of the above statement, access to higher education is not a governmental liberality. The state should provide access to education at all levels and financial problems should not refrain students from getting admission.

**Kerala Union of Working Journalists v. Union of India and others (2021)**

Bench: A. S. Bopanna, Surya Kant

It was held by the Supreme Court of India that "the most precious fundamental 'right to life' unconditionally embraces even an under-trial. The consideration made herein is keeping in view the peculiar facts and circumstances of this case. Merely because the other jail inmates are receiving treatment similar to the arrestee need not deter us."

**Barun Chandra Thakur v. Master Bholu and another (2022)**

Bench: Hemant Gupta, Vikram Nath

The court emphasised that there is no second thought about the child in conflict with law should be treated differently than adults in conflict with law. Thus, the child should be tested on different parameters and should be given an opportunity of being brought into the mainstream, which can be done through the delicate task of the preliminary assessment. Also, left it open for the Union Government, and the National and State Commissions for the Protection of Child Rights to consider issuing guidelines or directions to facilitate proceedings of the preliminary assessment under Section 15(1) of the Juvenile Justice Act 2015.

**Shilpa Shailesh v. Varun Sreenivasan (2023)**

Bench: Sanjay Kishan Kaul, Sanjiv Khanna, Abhay S. Oka, Vikram Nath, J.K. Maheshwari

The Supreme Court held that it can exercise its power under Article 142(1) of the Indian Constitution to grant divorce on the ground of “irretrievable breakdown” of a marriage- whether by mutual consent, or even if one of the parties opposes it. It is also said that it can waive the 6 months cooling off period, with certain conditions, mandated under the Hindu Marriage Act, 1955.

### **Cox and Kings Ltd v. SAP India Pvt Ltd (2023)**

Bench: DY Chandrachud, CJI

Bench has conclusively held that under the “Group of Companies Doctrine” a non-signatory can also be impleaded / made a party in proceedings arising out of an Arbitration Agreement. The legislative intent underlying Section 7 suggests that any legal relationship, including relationships where there is no contract between the persons or entities, but whose actions or conduct has given rise to a relationship, could form a subject matter of an arbitration agreement under Section 7.

### **Kaushal Kishore v. State of Uttar Pradesh and ors (2023)**

Bench: Justices Arun Mishra, Indira Banerjee, Vineet Saran, M.R shah, and Ravindra Bhat

The Court held that fundamental rights can be enforced not only against the State, but also against non-State actors. Also, that “no further curbs could be imposed on the fundamental right to freedom of speech and expression, holding that existing eight reasonable restrictions under Article 19(2) of the constitution are exhaustive.