

Important judgements

Basic Structure :

- **Shankari (1st CAA) - law under Art 13 doesn't cover constl amendment**
 - An amendment is valid even if it abridges any fundamental Right.
- **Golaknath (7th CAA) - Overruled Shankari**
 - Parliament could not restrict any of the FR. Art 13 covers constl amendment as law and Art 368 merely provides procedure for amendment of constitution rather than power to amend it.
- 24th (Parliament has power to take away any FR)
- Kesavananda Bharati - overruled Golaknath - upheld 24th but BS
 - (Suprem of Constn, SoP, Sov, unity - BS)
- **42nd** - amend 368 - no limit on constituent power of Parl and no amendment can be challenged by JR
- **Minerva Mills 1980** - JR under BS + ltd power of Parl is BS -
 - Limited power cant be enlarged to absolute, supremacy of constn
- **Waman rao 1981** - reiterated + 24th April 1973 cutoff date
- **SR Bommai**- (secularism, federalism under BS)
- **I.R Coelho** and State of Tamil Nadu 2007
 - If a law is included in the 9th schedule of the Indian constitution (**Article 31B**), it can still be open for judicial review.
 - Test to invalidate law in 9th schedule = If both violation of FR and basic structure
 - Deadline - April 24th, 1973 (Waman Rao case)

FR and DPSP

- **Champakam (led to 1st CAA)**
 - Reservation in Madras challenged given it violates equality before law. Court upheld Madras HC judgement to strike down Govt order for reservation. But court argued that constl amendment will not come under 'law' in Art 13.
 - In pursuance of this, Govt brought 1st C. Amendment to allow to amend FR (Art 15(4) inserted) to provide DPSP (Article 46).
- **Golaknath**
- **24th (power to take away any FR)**
- **25th (31C - 39b and 39c + No judicial review on such laws)**
- **KB case - upheld 25th but invalidated 2nd provision of no JR + gave BS doctrine**
- **42nd - extended scope of 31C for all DPSP**
- **MM case - invalidated extension - DPSP again subord to FR - harmonious construction**
- **44th - Right to property under Art 31 abolished**

Case**Important Supreme Court judgments****Reservation**

Champakam Dorairajan	Led to 1st Amendment - Art 15(4)
Indra Sawhney and Union of India 1992	<ul style="list-style-type: none"> • upheld - Mandal Commission implementation of 27% • 50% • OBC creamy layer • No reservation in promotion
M Nagaraj case, 2006	show quantifiable data to prove <ul style="list-style-type: none"> • "backwardness" of a SC/ST for reservation in promotion, • inadequate representation • efficiency of govt
Jarnail Singh case, 2018	SC modified the 2006 Nagaraj judgment No need of data Suggested govt to create creamy layer for SC/STs
Ram Singh case	Reservation for Jats case. SC asked centre to move beyond historical injustices criteria and explore 'New and creative method' to identify disadvantages eg transgenders.
Recent SC case	Supreme Court ruled that there is no fundamental right to reservations in appointments and promotions under articles 16(4) and 16(4A) of the Constitution

Free Speech - Art 19

Raj Narain Case	Laid foundation of RTI
Subhash Chandra Agarwal case	CJI office under RTI
DAV college case	NGOs receiving govt funds under RTI
ISRO Spy case	Official Secrets Act violation
Kameshwar Prasad vs state of Bihar	Freedom of Speech ie in Art 19 to all including civil servants
Shreya Singhal and Union of India 2015	The controversial section 66A of the IT Act which permitted arrests for unpleasant content posted on the internet was struck down as unconstitutional. Speech can be punished only if it amounts into direct incitement to violence.
Sabu Mathew George 2018	Right to Access Internet is a basic fundamental right , which could not be curtailed at any cost, except for when it "encroaches into the boundary of illegality."
Faheema Shirin v. State of Kerala	Kerala High Court declared the right to Internet access as a fundamental right
Anuradha Bhasin v. Union of India, 2020	Right to Internet part of Article 19 (a) and (g)- freedom of speech and trade/profession over internet <ul style="list-style-type: none"> • Indefinite extension of internet ban in Kashmir is violation of FR • Justify in writing • Sec 144 cant be used for blanket ban • Test of proportionality • Reasons of Internet ban must be published in public domain.

Privileges

Keshav Singh case Freedom of speech < Parliamentary Privileges but its subordinate to Art 21

Searchlight case JR can't be invoked to challenge order based on privileges

Balaji Raghavan Case 1994 Abolition of Titles (A18) - Bharat Ratna and Padma awards can not be used as titles.

Contempt of Court

Pritam Lal vs High Court of MP case Duty of court to punish the contempt act to preserve its dignity.

Judges should not be hypersensitive

Mulgaonkar case

PN Dua case Mere criticism of court doesn't amount to contempt of court

Baradanath Mishra case Need to distinguish between criticism of a particular judge or the court. Contempt of court only in latter case.

Art 21 - Right to Life

Maneka Gandhi Due process of law -> no person deprived of life and liberty except acc to **Just, fair and reasonable law**

Bachan Singh vs. State of Punjab (1980) Capital punishment in India can be given only in rarest of rare cases.

MC Mehta and Union Of India 1986 Enlarged the scope and sphere of Article 32 and Article 21 to incorporate the right to healthy and pollution-free environment.

Aruna Shanbaug Case, 2011 Along with guidelines - permanent vegetative state patients only, SC allowed **passive euthanasia which entails withdrawing of life support measures or withholding of medical treatment** in the country. But for greater clarity on constn referred to Constitutional bench

Common cause, 2018 Allowed passive euthanasia and guidelines for living will. Right to life with dignity includes smoothening of process of dying of terminally ill patients or in permanent vegetative state.

The Selvi vs State of Karnataka 2010 SC restricted the use of narco-analysis and brain mapping. Reinforces **protection against self-incrimination.** (Article 20)

Swapnil Tripathi Case 2018 Right to access justice is a fundamental right under Article 21.

Paschim Banga Khet Mazdoor Samity case 1996, & Parmanand Katara vs. Union of India case 1989 SC has upheld that **Right to Health** is inherent in Right to life and personal dignity. (Article 47 also provides for the state to improve public health, nutrition and standard of living.)

Privacy

MP Sharma and Kharak Singh Not a FR

KS Puttaswamy 2018

Right to Privacy under Article 21 --- Led to judgements of Decriminalising Adultery and homosexuality.

Aadhaar Judgment

Striking down sections of Aadhaar Act but upholding it constitutional

Karnataka High court

Recently, asked details of victim to be removed citing "right to be forgotten" in sensitive cases especially concerning women

Art 25

Shirur Mutt' case in 1954

Doctrine of Essentiality - court took responsibility to determine essential and non essential practices

Ratilal Gandhi case

Every person has fundamental right to follow religious beliefs according to his own conscience (thus conflict with Essentiality doctrine)

Nikhil Soni

Santhara case

Stanislaus case, 2015

Right to propagate doesn't include right to convert

Rafique Bhikhan case

Phase out Haj Subsidy

Sarla Mudgal case 1995

Addressed the issue of **bigamy** & conflict between personal laws in case of inter-religious marriages

SC observed - "Need for Uniform Civil Code can hardly be doubted. This can happen when social climate is properly built-up by elites of the society and Statesman amongst leaders awaken the masses to accept the change."

Right to Property

Recent SC case

Right to Property as a human right

Art 32

L Chandra Kumar Case, 1997

SC ruled power of JR under Art 32 and 226 part of BS

Governor

Shamsher Singh and Ram Jawaya case

Governor and president position equal at respective levels - both nominal heads as we have parliamentary democracy

Har Gobind Pant

- Governor not an **employee** of Union and not answerable for his actions to it

B.P. Singhal v. Union of India, 2010

President can **remove** Governor without assigning any reason, but this power cannot be exercised in arbitrary or capricious manner.

Rameshwar Prasad, 2006

- G cannot shut out post poll alliances altogether
- Governor not to dismiss govt formation alleging to unsubstantiated claims of horse trading or corruption

Nabam Rebia case, 2016

- Governor's **discretion** to be narrowly constructed
- can't use discretion to summon or dissolve legislature w/o aid and advice

Judiciary**PIL**

Hussainara Khatoon case,
1979

1st case of PIL

- release of more than 40,000 under trial prisoners.

SP Gupta

PIL validated

- SC (justice Bhagwati) held that “any member of the public or social action group acting bonafide” can invoke the Writ Jurisdiction of the High Courts (under article 226) or the Supreme Court (under Article 32) seeking redressal against violation of legal or constitutional rights of persons who due to social or economic or any other disability cannot approach the Court.

**Arun Gopal vs UoI case,
2017**

SC fixed timings for crackers use and banned non-green crackers in Delhi.

Bandhua Mukti Morcha case

Bonded labour

MC Mehta

Right to clean Environment

Vishakha vs State of
Rajasthan

Sexual harassment as violation of FR

Appointment

First Judges Case or S.P. Gupta case 1981

The ruling gave the Executive dominance over the Judiciary in judicial appointments for the next 12 years

Second Judges Case or Supreme Court Advocates on Record Association versus Union of India 1993

The majority verdict gave back Chief Justice of India's power over judicial appointments and transfers.

Third judges case or Special Reference case of 1998

Chief Justice of India must check with a plurality of four senior-most Supreme Court judges to shape his opinion on judicial appointments and transfers.

Fourth Judges SC Advocates on Record vs UoI

Struck Down NJAC

Rajya Sabha

Kuldeep Nair Case

RS is not a true federal house - no residential requirement needed

Ordinance

Cooper case 1970,
AK Roy vs UoI case 1982

Presidential satisfaction for ordinance need can be **questioned** on grounds of malefic intentions. President's satisfaction is subject to Judicial Review.

DC Wadhwa case 1987

Legislative power of the executive to promulgate ordinances is to be used in **exceptional** circumstances and not as a substitute for the law-making power of the legislature.

KR Lakshmanan vs Tamilnadu case 1996 - - - - -

Should be promulgated only when urgent & immediate action is required.

Krishna Kumar Singh vs. State of Bihar, 2017

Failure to place an ordinance before the legislature constitutes abuse of power and a **fraud** on the Constitution.

NCT vs UoI case

Constitutional Objectivity should be the core principle to balance legislature & executive interactions.

Speaker

Kihoto Hollohan Case

- Speaker decisions on defection cases comes under JR as it acts as a quasi-judicial authority.
- ADL doesn't violate right to speech of MPs

Centre State

SR Bommai and Union of India 1994

Power of President to dismiss a state government is not absolute. Imposition of President's rule is subject to judicial review. SC can restore a dissolved assembly. States are not mere appendages of the Union. The Union Govt should ensure that the power of the states are not trampled with.

Defection

Kihoto Hollohan vs Zachillhu Case

Speaker decisions on defection cases comes under JR as it acts as a quasi-judicial authority. ADL doesn't violate right to speech of MPs

Keisham Meghachandra Singh Case

Speaker should decide on the disqualification within 3 months.

Rajendra Singh Rana

failure to exercise jurisdiction ground for court to intervene

Women

Vishaka and State of Rajasthan 1997

Introduction of Vishaka Guidelines and provided basic definitions of sexual harassment at the workplace

Nirbhaya case March 2014

Introduction of the Criminal Law (Amendment) Act, 2013 and definition of rape under the Protection of Children from Sexual Offences Act, 2012, the Indian Evidence Act, 1872, Indian Penal Code, 1860 and Code of Criminal Procedures, 1973.

Indian Young Lawyers Association case

Sabrimala case

Joseph Shine case

Decriminalisation of adultery

Babita Punia and others case RIT Foundation vs Union of India 2022

SC allowed Permanent Commission of Women in Army

The term wife should be interpreted to include women in live-in relationships, and they are protected from marital rape.

Muslim women

Shah Bano 1985

This case challenged the Muslim personal law.

Shamim Ara case, 2002

Invalidated arbitrary triple talaq - talaq should be preceded by reasonable cause and attempts at reconciliation

Shayara Bano, 2017

invalidated the practice of instant triple talaq - its against FR (?) and not integral part of islam

SC/ST

Samatha and State of Andhra Pradesh 1997

SC declared that the forest land, tribal land, and government land, in scheduled areas could not be leased to private companies or non-tribal for industrial operations. Such activity is only permissible to a government undertaking and tribal people.
Socialism in constitution means minimisation of inequalities.

Armugam Servai

Khaps are illegal

Subhash Kashinath Mahajan Case 2018

Dilution of SC/ST act - adequate protection against misuse - preliminary enquiry before registering FIR, Anticipatory bail -----> Amendment Act of 2018 undo this. Section 18A (ST-SC PoA Act)

Prithvi Raj Chauhan Case 2020

SC upheld the amendment.

CJS - Criminal Justice

Neelam Katara vs. Union of India case and Himanshu Singh Sabharwal vs. State of Madhya Pradesh & Ors. 2008

For Witness protection scheme

Prakash Singh, 2006

Police reforms

DK Basu judgement

Custodial violence

Nilabati Behera vs State of Odisha

Right against Custodial violence

Prakash Kadam case

Fake encounters are cold blooded murders

Tahseen Poonawala case

Directions for mob lynching

LGBTQ

Naz Foundation

The Section 377 of the Indian Penal Code, 1860 declared as unconstitutional. The same was reversed by the Supreme Court in 2013.

Suresh Kumar Kaushal

Reversed

NALSA case, 2014

This case resulted in the recognition of transgender persons as a third gender. SC also instructed the government to treat them as minorities and expand the reservations in education, jobs, education etc

KS Puttaswamy

Navtej Singh Johar case

declared the parts of **Section 377** of the IPC unconstitutional thus decriminalizing homosexuality.

Sedition

Kedar Nath Singh vs State of Bihar case 1962

Upheld Sedition law as reasonable restriction of free speech

Balwant Singh vs State of Punjab case 1995

Mere raising of slogans is not sedition (Khalistani Slogans)

Romesh Thapar vs State of Madras case

Essential ingredients for sedition - disruption of public order, violent overthrow of govt and arming security of state

Elections

Harbans Singh Jalal case

MCC comes into force moment election is announced and continues till results are announced

PUCL vs UoI case, 2013
Subramaniam Swamy

NOTA
VVPAT

Criminalisation

ADR vs UoI
Poll Affidavit to mention criminal cases, personal assets and educational qualifications

Krishnamoorthy case
False or incomplete info in affidavit - undue influence and interference with fair elections

Lily Thomas and Union Of India 2013
Immediate disqualification of any MLA, MLC, MP convicted and given minimum of two-year imprisonment (Struck down Section 8(4) of RPA that gave exception)
In 2018, SC clarified - Disqualified Lawmaker's House Membership to be Revived if Conviction is Stayed.

Public interest foundation case, 2014
complete trial of cases involving legislators in one year

Public interest foundation case, 2018
criminal antecedent of candidates must be widely publicized through different media + give reasoning of why selecting such candidates (except for winnability)

Lok Prahari Vs UOI case 2018
SC made mandatory the disclosure of the source of income of political candidates as well as their dependants

Jan Chowkidar case
Person in custody has no right to vote - but govt brought amendment

Rajbala vs. State of Haryana
• Upheld constitutional validity of min educational criteria in Haryana panchayat polls.

Abhiram Case
Sec 123(3) of RPA, 1951 - use of religion for votes a corrupt act

Union of India vs R Gandhi case
SC laid down guidelines for formation of tribunals

- half members from judiciary
- suspension of members need concurrence of CJI
- Administration support for any tribunal from Min of Law and not parent ministry

Public services

TSR Subramaniam case, 2013

- Min guarantee of tenure in sensitive positions
- Setup CSB
- Insist on written orders not verbal

Vineet Narain Case
min tenure of CBI director - 2 years
DoPT not to interfere in day to day working

OTHERS

Maru Ram vs Union of India 1980, Dhananjay Chatterjee vs State of WB, 1994
SC held that the pardoning power of President (**Article 72**) should be acted on the aid and advice of the Council of Ministers.

Epuru Sudhakar case 2006
Pardoning power of President (72) and Governor (161) are subject to Judicial Review.

BALCO employees Union vs Union of India case
Judiciary showed Judicial Restraint not to take policy questions.

