CONSTITUTION OF INDIA

9TH June 2021.

Kunal Keshan – RA2011004010051

Analyze the condition:

CASE - 1

In a case, three children were expelled from the school  
for refusing to sing the national anthem, although they stood respectfully when  
the same was being sung. They challenged the validity of their expulsion before  
the Kerala High Court which upheld the expulsion as valid and, on the ground,  
that it was their fundamental duty to sing the national anthem. On appeal, the  
Supreme Court held that the students did not commit any offence under the  
Prevention of Insults to National Honour Act, 1971. Also, there was no law  
under which their fundamental right under Article 19 could be curtailed.  
  
  
Accordingly, it was held that the children’s expulsion  
from the school was a violation of their fundamental right under Article 19,  
which also includes the freedom of silence.  
  
  
What according to you is justified? According to Article  
19 section (2) article 19 can be limited and contradicted if matters affecting:  
a. sovereignty and integrity of the state    b. security of the state    c. public law and order    e. decency      d. contempt of court     f. incitement to an offence. Make analysis in the light of the Article and its exception.

Case analysis:

1. The supreme court itself acknowledges that, “there is no provision of law which obliges anyone to sing the National Anthem nor is it disrespectful to the national anthem if a person who stands up respectfully when the national anthem is sung does not join the singing.”
2. In the given situation, the three children stood respectfully when the national anthem was being sung.
3. And as mentioned above, the students did not do anything wrong and had the full right to practice the freedom of silence as mentioned under article 19.
4. Under Article 19(1), all citizens of India have the right to freedom of expression and being silent in itself is an expression. Which the students have full authority to practice.
5. Therefore, the Kerala High Court and their respective school must reevaluate their decision and lift the expulsion immediately.

Reference:

1. <https://indiankanoon.org/doc/1142233/>
2. <https://indiankanoon.org/doc/493243/>
3. <https://www.thehindu.com/news/national/Playing-of-the-national-anthem-and-laws/article16730624.ece>