

Topic: The British System Of Parliamentary Democracy In Indian Constitution

Name of the case: Ram Jawaya v. State of Punjab, AIR 1955 SC 549

Bench: Chief Justice Mukherjea, Justice V. Bose, Justice Jagannadhadas, Justice V. Ayyar, Justice Imam

Fact of the case: The petition is filed under Article 32 of the Constitution wherein the petitioner purports to carry on business of preparing, printing, publishing and selling test book for different classes in the school of Punjab, particularly for the primary and middle classes, under the name and style Uttar Chand Kapoor & Sons. The Government of Punjab issued a notification wherein the business of printing, publication and sale of text book were to be nationalised under so called policy of nationalisation of textbooks. It was argued that no restriction could be imposed upon the petitioner right to carry on trade which is guaranteed under Article 19(1)(g).

Judgment: Chief Justice of India Mukherjea speaking on behalf of Supreme Court stated that our Constitution has adopted the British system of Parliamentary executive, the President is only a formal or constitutional head of the executive and that the real executive powers are vested in the ministers or the Cabinet. It was further observed that our Constitution is modelled on the British Parliamentary system where the executive is deemed to have the Parliament responsibility for the formulation of governmental policy and its transmission into law though the condition precedent to the size of this responsibility is retaining the confidence of the legislative branch of the state. In the Indian constitution, therefore, we have the same system of Parliamentary executive as in England and Council of ministers consisting, as it does, all the member of legislature, like the British cabinet, 'a hyphen which joins, a buckle with fastens', The legislative part of the State to the executive part. The Cabinet enjoying, as it does, a majority in the legislature concentrates in itself the virtual control of both legislative and executive function.

The petitioner right to carry on trade and business under Article 19(1)(g) were curtailed based on the ground that government has power to issue such notification and such undertaking does not fall under the meaning of Article 31(2).