

Topic: Freedom To Form Association And Reasonable Restriction Under Article 19 (1) (C) And 19 (4)

Name of the case: State of Madras v. VG Row, AIR 1952 SC 196

Bench: Chief Justice M Patanjali Sastri, Justice MC Mahajan, Justice BK Mukherjea, Justice Sudhi Ranjan Das, Justice Chandrashekhar

Background: The State Government power to declare an association unlawful on the ground that such association constituted a danger to public peace, or interfered with maintenance of public order, or the administration of the law. The government notification had to specify the grounds for making the order and fix a reasonable period to make a representation against the order. The State Government was, however, not authorised to disclose any facts which it regarded as being against public interest. The government had to place the notification and representation against it before an advisory board. If the board, after considering the material, found that there was no sufficient cause of declaring the Association unlawful, the government was bound to cancel the order.

Ratio: The Supreme Court declared the provision to be unconstitutional, for the test to declare an association unlawful was 'subjective' and the factual existence of the ground was not justiciable. The court emphasised that curtailing the right to form Association was fraught with serious potential reaction in religion, political and economic fields. Therefore, the vesting of power in the government to impose restriction on this right without having the grounds, therefore calls for a judicial enquiry. The existence of one-sided review by an advisory board was no substitute for judicial inquiry.