

Topic: The Extent Of Protection Of Advertisements Under Article 19 (1) (A)

Name of the Case: Hamdard Dawakhana v. Union of India, AIR 1960 SC 554

Bench: Chief Justice Bhuvaneshwar P Sinha, Justice Syed Zafar Imam, Justice KN Wanchoo, Justice KC Dasgupta

Background: Parliament enacted an act with a view to control advertisements of drug in certain cases. The act was challenged on the ground that restriction on advertisements was a direct abridgement of the freedom of speech and expression. The court ruled that the predominant object of act was not merely look up advertisement offering against decency and morality, but also to prevent self-medication which might be used to advocate and spread the evil.

Ratio: The Supreme Court stated that an advertisement, no doubt, is a form of speech, but nature it is to be determined by the object which it seeks to promote. It may amount to an expression of ideas and propagation of human thought and, thus, would fall within the scope of Article 19 (1) (a). But a commercial advertisement having an element of trade and commerce and promoting business as an element of trade and commerce, and it no longer falls within the concept of freedom of speech for its object is not to propagate any ideas— social, political or economic or to further literature or human thought.

And, advertisement promoting drugs and commodities, the sale of which is not in public interest, could not be regarded as propagating any idea and, as such, could not claim the protection of Article 19 (1) (a).