

## **Topic: Street Hawkers: Freedom To Trade And Commerce And Reasonable Restriction Under Article 19(1)(G) And 19 (6)**

Name of the Case: Sodan Singh v. New Delhi Municipality, AIR 1989 SC 1988 (First Case)

Bench: Chief Justice ES Venkataramiah, Justice S Natarajan, Justice LM Sharma, Justice ND Ojha, Justice Kuldip Singh

Facts of the Case: The petitioner claimed the right to engage in trading business on the pavements of the road of the city of Delhi. The special leave petitions are against the judgment of Delhi High Court dismissing their claim.

Ratio: The Supreme Court considered the question how far the hawkers have a right to ply their trade on the pavement meant for pedestrians? In the instant case, the court has come to the conclusion that the right to carry on trade or business mentioned in Article 19 (1) (g) on the street pavements, if properly regulated, cannot be denied on the ground that the state payments are meant exclusively for pedestrian and cannot be put to any other use. The proper regulation is, however, a necessary condition, for otherwise the very object of laying road would be defeated.

The state holds all public roads and street in the country as a trustee on the behalf of public and a member of the public are entitled as beneficiaries to use them for trading as a matter of right subject to the right of other including pedestrian. The right of hawkers is subject to reasonable restriction under Article 19 (6).

Therefore, the petitioners do have a Fundamental Right to carry on a trade or business of their choice but not to do so at a particular place. The court conceded to the hawkers the right to do business while going from place to place subject to proper regulation in the interest of general convenience of the public.

Second Case in the Row: Sodan Singh v. NDMC, (II) AIR 1992 SC 1153

Ratio: The court has said that every citizen has a right to the use of public street vested in the state as a beneficiary but this right is subject to reasonable restriction as the state may choose to impose. Trading albeit a Fundamental Right under Article 19 (1) (g) of the Constitution but it is subject to reasonable restriction imposed by the virtue of Article 19 (6). This does not include a citizen occupying or squatting on any specific place of his choice on the pavement, regardless of the rights of other, including the pedestrian, to use the pavements. The court has emphasised in this connection: "proper regulation is, however, a necessary condition, for otherwise the very object of laying road would be defeated."

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