

Topic: The Concept Of Reasonable Restriction Under Article 19 (6)

Name of the case: Krishna Kakkanth v. Govt. of India, AIR 1997 SC 128

Bench: Justice S.N. Ray and Justice BL Hansaria

Fact of the case: The constitutional validity of circular issued by government of Kerala directing that distribution of pamphlets under comprehensive Coconut development program and similar schemes of the agriculture department and in order to streamline implementation of the scheme specify specific roles and responsibility of different agency involved.

It was provided in the circular that pump sets and accessories of farmers toys alone should be supplied and after sales service facility should be provided by suppliers and dealers. It was also indicated that the cost of pump sets and accessories would be supplied at a lesser price than fixed by government.

It was also stated in the circular that RAIDCO was the only cooperative in the State under cooperative department, having a network of branches for distribution of all sorts of pump sets etc.

Ratio: The Supreme Court explained the concept of reasonableness that the reasonableness or restriction is to be determined in an objective manner and from standpoint of the interest of general public and not from distant point of interest of a person upon whom the restrictions are imposed or upon abstract consideration. A restriction cannot be said to be unreasonable merely because it is in a given case, it operates harshly. In determining the infringement of the right guaranteed under Article 19 (1) (g), the nature of right alleged to have been infringed, the underlying purpose of the restriction imposed, the extent and urgency of evil sought to be remedied thereby, the disproportion of the imposition, the prevailing conditions at the time all needs to be determined accordingly.

Thus, restriction to be reasonable must not be arbitrary or excessive in nature so as to go beyond the interest of general public. This formulation involves a balancing of private vis-a-vis public interest. In this process, the courts have learnt towards the consumer interest. Thus, while far-reaching restrictions are imposed on trade and commerce, only rarely will a restriction be held unreasonable.
