

Topic: Right To Elect Is Not A Fundamental Right

Name of the Case: Jyoti Basu v. Debi Ghosal, AIR 1982 SC 983

Bench: Justice O. Chinnappa Reddy and Justice R.S. Pathak

Fact of the Case: The appellant contends that the concept of proper party was not relevant in election law and that only these person could be impleaded as party who are expressly directed to be so impleaded by the Representation of People Act, 1951.

The first appellant in the appeal is the Chief Minister and other two appellant State Minister. They had been impleaded by the first respondent as parties to an election petition filed by him in the High Court questioning the election of second responded to the House of People. It was averred in the election petition that the Chief Minister and State Ministers who are impleaded as parties to the election petition had colluded and conspired with the returned candidates to commit various alleged corrupt practices.

Judgment: Right to elect, fundamental though it is to democracy, each, anomalously enough, neither a Fundamental Right nor a common law right. It is pure and simple, a statutory right. So is the right to be elected. So is the right to dispute and election. Outside of the statute, there is no right to elect, creations they are, and therefore, subject to statutory limitation.