

Despite the limited court functioning and the plethora of COVID related matters, 2020 had significant judgments and hearings. In this section, we profile the ten most important cases. And the cases to look forward to in 2021.

1. [Land Acquisition](#)

This judgment, on 4th March, resolved ambiguities between the [1804](#) and [2013 land acquisition legislations](#). Section 24(2) of 2013 Act states that land acquisition proceedings initiated under 1804 Act will lapse if the State has yet to take physical possession of the land “or” failed to pay compensation to the landowners. The Union argued that only if both conditions were met, could a land acquisition lapse.

The five-judge bench led by [Arun Mishra J](#) held that the State’s failure to deposit compensation in the landowner’s account was not sufficient to lapse proceedings. This case had previously garnered public attention for the questions it raised about [precedent](#) and [recusal](#).

2. [RTI Requests for Pleadings](#)

On March 4th, the Supreme Court restricted the application of the [Right to Information Act, 2005](#) to the Gujarat High Court. In particular, [Justice Banumathi](#)’s three-judge Bench held that citizens cannot file RTI requests to obtain pleadings. Instead, citizens must resort to using the procedure established by the Gujarat High Court rules. As commentators have [pointed out](#), this judgment is likely to set the precedent for all High Courts and the Supreme Court itself.

3. [The legality of SC/ST \(Prevention of Atrocities\) Act Amendment](#):

[Justice Arun Mishra](#)’s three-judge Bench upheld the constitutionality of Parliament’s [2018 Amendment](#) to the [Prevention of Atrocities Act](#). The Amendment stated that preliminary enquiry would not be required for the registration of FIR against the accused under the PoA Act. It also declared that the investigating officer shall not require approval for the arrest of the accused.

4. [EWS Reservation](#)

The petitioners made submissions challenging the [Constitution \(One Hundred and Third Amendment\) Act, 2019](#). Some crucial Constitutional issues considered were:

a) The question of the Act violating the basic structure of the Constitution in light of the ‘width’ and ‘identity’ equality principles.

b) The issue of the 50% ceiling limit and whether reservation to EWS constituted an exception to this limit.

After examining the arguments of the parties, the Court noted that the present case posed substantial questions around the interpretation of the Constitution. On 6th August, the

three-judge bench consisting of CJI Bobde, and Justices Reddy and Gavai referred the case to a five-judge bench.

5. [Scheduled Castes & Preferential Treatment](#)

The case challenged the constitutional validity of Punjab Scheduled Castes and Backward Classes (Reservation in Services) Act, 2006. The Act provided 'first preference' for the Balmikis and Mazbhi Sikh castes under the reservations for Scheduled Caste in public services.

On 27 August 2020, a five-judge bench comprising [Arun Mishra](#), [Indira Banerjee](#), [Vineet Saran](#), [M.R. Shah](#) and [Aniruddha Bose](#) JJ decided to refer the contextual case in the matter, [E.V. Chinnaiah](#), to a larger bench. The Constitution Bench will have to decide if any preferential treatment to specific communities within the Scheduled Castes and Scheduled Tribes is categorically unconstitutional.

6. [Maratha Reservation](#)

Maharashtra passed the [Socially and Educationally Backward Classes Act, 2018](#) ('Act') to extend reservations to the Maratha community. In effect, its introduction reserved over 70% of seats in Maharashtra. This opened a floodgate of petitions challenging the Act before the Bombay High court. The High Court upheld the SEBC Act but reduced the reserved seats to 12% in education and 13% in public employment.

When the case moved to the Supreme Court, one of the key issues was whether the State has the power to exceed the 50% reservation ceiling set by the Supreme Court in [Indra Sawhney v Union of India](#). After hearing the parties, the three-judge bench determined that the issue involved substantial questions of law on the interpretation of the Constitution. Hence, it needed to be heard by a Constitution Bench.

A five-judge bench consisting of [Ashok Bhushan](#), [Nageswara Rao](#), [Abdul Nazeer](#), [Hemant Gupta](#) and [Ravindra Bhat](#) JJ will be hearing this case on a day-to-day basis from January 25th 2021 onwards.

7. Article 370 -Reference Issue

In March, the five-judge Article 370 Bench [ruled out](#) referring this case to a larger bench. Senior Advocates Dinesh Dwivedi and Sanjay Parikh had argued that in [Sampat Prakash](#), the Court had given its decision without contemplating the law laid down in [Prem Nath Kaul](#) – both significant cases on Article 370. With this [order](#), the Bench dismissed that two were in conflict with each other.

The Court [signalled](#) its preference for the precedent set by Sampat Prakash – namely, whether the President can issue orders under Article 370 after the dissolution of the J&K Constituent Assembly. Sampat Prakash held yes. More [here](#).

8. [Admissibility of Confessions under the NDPS Act](#)

With an ongoing crackdown under the [Narcotics Drugs and Psychotropic Substances Act, 1985](#) (NDPS Act), the Tofan Singh judgment assumes great significance. The case revolved

around conflicts arising from three laws, namely, the NDPS Act, [The Evidence Act, 1872](#) and the [Code of Criminal Procedure, 1973](#) (CrPC).

The Court had to answer two crucial questions: first, whether officers under the NDPS Act would be construed as traditional Police Officers. Second, what would be the evidentiary value of confessions given to such officers?

A three-judge bench of the Supreme Court comprising [Rohinton F. Nariman](#), [Naveen Sinha](#) and [Indira Banerjee JJ](#), in its majority judgment, deemed officers under the NDPS Act as police officers. They invoked S.25 of The Evidence Act and concluded that confessions to such officers cannot be used during the trial. Read our analysis of this judgment [here](#) and [here](#).

9. [The Right to Assembly at Shaheen Bagh](#)

In December last year, nationwide protests against the [Citizenship Amendment Act, 2019](#) dominated public discourse in India. In this case, the Supreme Court had to decide if Shaheen Bagh protestors had blocked public spaces.

The three-judge bench consisting of [Sanjay Kishan Kaul](#), [Aniruddha Bose](#) and [Krishna Murari JJ](#) pronounced a unanimous judgment. It noted that the right to freedom of speech and expression and right to assembly granted the Shaheen Bagh occupants the right to protest. However, this right was subject to the public interest exception. In this case, indefinite blockage of public spaces tilted the balance in favour of the public interest exception. More [here](#).

10. [Prashant Bhushan Contempt Case](#)

The Supreme Court initiated suo moto criminal contempt proceedings against Advocate Prashant Bhushan and Twitter India, on the basis of two tweets posted by Bhushan on the social media platform.

The bench took the prima facie view that the statements brought the administration of justice into disrepute and were capable of undermining the authority of the institutions of the Court – particularly the Chief Justice – in the eyes of the public.

On 19th August, the Court issued a brief [order](#) seeking Bhushan to apologise unconditionally before August 24th. After Bhushan [declined](#) to retract his statement, the Court reserved its order on sentencing for the meantime. A week later, on August 31st, the Court fined Bhushan INR 1. Prashant Bhushan paid the fine and has filed for a review of this judgment.

[Laxmibai Chandaragi v. The State of Karnataka](#) - **Consent of family not needed once two adults decide to marry**

The Court observed that educated younger boys and girls are choosing their life partners which is a departure from traditional norms of society. The consent of the family or the community or the clan is not necessary once two adult individuals agree to enter a wedlock and their consent has to be piously given primacy.

Devilal v. State of Madhya Pradesh - Juvenile offender under 18 years and above 16 years to be remitted to jurisdictional Juvenile Justice Board

Field Code Changed

In this case, the Court considered to what extent could the benefit under the Juvenile Justice Act be extended where the offender was above 16 years and less than 18 years of age on the day the offence was committed.

The Court held that in such a case, even if the accused were guilty, the matter must be remitted to the jurisdictional Juvenile Justice Board.

The Chief Election Commissioner of India v. MR Vijayabhaskar - Freedom of press relating to Court proceedings

The Court held that freedom of speech and expression also extends to reporting the proceedings that happen in courts including oral observations made by judges.

"Article 19(1)(a) covers freedom of press. Freedom of speech and expression covers freedom to cover court proceedings too...Now people are more digital oriented and hence look to internet for information. hence it would do no good to prevent a new medium to report proceedings. constitutional bodies will do better than complain about this," the Court said.

Satbir Singh v. State of Haryana - Guidelines drafted for Dowry Death Trials

The Court held that Section 304-B IPC must be interpreted keeping in mind the legislative intent to curb the social evil of bride burning and dowry demand. The Bench, therefore, laid down guidelines for Dowry Death trials in the lower courts.

Rahul Sharma v. National Insurance Company Ltd. - If deceased was self-employed and below the age of 40 years, 40% addition would be made to their income as future prospects.

This judgement reiterated the ratio of the Supreme Court in National Insurance Co. Ltd. v. Pranay Sethi.

Jayamma v. State of Karnataka - Admissibility of Dying Declaration

Field Code Changed

The Supreme Court held that dying declarations are admissible in evidence on the principle of necessity as there is little hope of the maker surviving. Dying declaration can form the basis of conviction if recorded in accordance with law and if it gives a cogent and plausible explanation of the occurrence, it can be relied on as the solitary piece of evidence to convict the accused.

Mohammad Salimullah v. Union of India - 'Right not to be deported' is concomitant to Article 19 and available only to Indian citizens

Field Code Changed

The Supreme Court, while hearing a case challenging the decision to deport Rohingya refugees, held while fundamental rights under Articles 14 and 21 are available to all persons whether citizens or not, the 'right not to be deported' is ancillary or concomitant to the right to reside or settle in any part of the territory of India guaranteed under Article 19(1)(e) and is available only to citizens.

Farzana Batool v. Union of India - **Right to Professional Education**

Field Code Changed

The Court held that though the right to pursue higher education has not been spelt out as a fundamental right under Part III of the Constitution, it bears emphasis that access to professional education is not a governmental largesse, and that the State has an affirmative obligation to facilitate access to education at all levels.

Dr. Jaishri Laxmanrao Patil v. The Chief Minister - **Reservation for the Maratha community**

A Constitution Bench of the Supreme Court struck down the Maratha reservation quota and held there were no exceptional circumstances justifying the grant of reservation to Maratha community in excess of 50 percent ceiling limit as laid down in the *Indra Sawhney* judgment.

Vikas Kishan Rao Gawali v. State of Maharashtra - **OBC reservation cannot exceed 50 percent**

Field Code Changed

The Supreme Court also laid down a triple test to be complied with by the State before reserving seats in local bodies for OBCs.

The three conditions prescribed are:

- (1) to set up a dedicated Commission to conduct rigorous inquiry into the nature and implications of the backwardness of local bodies, within the State;
- (2) to specify the proportion of reservation required to be provisioned local body wise in light of recommendations of the Commission; and
- (3) in any case such reservation shall not exceed aggregate of 50% of the total seats reserved in favour of SCs/STs/OBCs taken together.

Guru Dutt Pathak v. State of UP - **Non-examination of independent witnesses not fatal to prosecution**

Field Code Changed

The Supreme Court upheld the Allahabad High Court's observation that where there is clinching evidence of eyewitnesses, non-examination of some of the witnesses or absence of examination of any independent witnesses would not be fatal to the case of the prosecution.

Aparna Bhat v. State of Madhya Pradesh - **Judgment of Madhya Pradesh High Court which prescribed tying Rakhi as condition for bail set aside**

The Court observed that using *Rakhi* tying as a condition for bail transforms a molester into a brother by judicial mandate and is wholly unacceptable. It has the effect of diluting and eroding the offence of sexual harassment. The Bench also issued guidelines for dealing with bail in sexual harassment cases and insisted that sensitivity must be displayed by judges in such cases.

The Court directed training and sensitization of judges by mandating a module on gender sensitization as part of the foundational training of every judge.

Kerala Union of Working Journalists v. Union of India - Fundamental Right To Life unconditionally embraces even an undertrial

Field Code Changed

While deciding a petition seeking release of Kerala journalist Sidique Kappan, the Supreme Court held that the fundamental right to life is available to undertrial prisoners as well.

Vikas Kumar v. Union Public Service Commission - Judgment which excluded persons with over 40 percent visual/hearing impairment from judicial service no longer binding precedent

Field Code Changed

The Court ruled that a person suffering from the neurological condition, writer's cramp, is entitled to have a scribe to write the Civil Service exam.

The Court also held that an earlier judgment in *V Surendra Mohan v. State of Tamil Nadu* which had upheld a ceiling of 40 percent disability for appointment as civil judge, is no longer good law.

Importantly, the Court also held that 'benchmark disability' as defined in the Act is not a precondition to obtaining a scribe.

Gautam Navlakha v. National Investigation Agency - Power of Court to order house arrest

The Court held that under Section 167 of the CrPC, in appropriate cases, it will be open to courts to order house arrest as well. Further, in order to house arrest a person, courts can consider criteria like age, health condition and the antecedents of the accused, the nature of the crime, the need for other forms of custody and the ability to enforce the terms of the house arrest.

In Re: Distribution of Essential Supplies and Services During Pandemic - Vaccine Policy of the Central government

Amongst other things, the Court noted that paying for vaccination when it is by the State/UT Governments and private hospitals for persons between 18-44 years is arbitrary and irrational.

Union of India v. KA Najeeb - Bail in UAPA cases where undertrial accused has been subjected to prolonged imprisonment

Emphasising on the right to speedy trial under Article 21 of the Constitution, the Supreme Court allowed the grant of bail to an accused who had spent over 5 years in jail as undertrial in a case under the Unlawful Activities Prevention Act (UAPA).

The Court accepted that there was a bar under Section 43D(5) of UAPA against grant of bail. However, the Court made it clear that the provision does not oust the jurisdiction of constitutional courts to grant bail on grounds of violation of fundamental rights.

L Raghurani Singh v. District Magistrate, Imphal West District, Manipur - NSA charges against Manipuri activist Erendro Leichombam revoked

In response to a petition moved by his father, the Supreme Court ordered the immediate release of Manipuri activist Erendro Leichombam who was booked under the National Security Act (NSA) for a Facebook post criticising Bharatiya Janata Party leaders *for advocating cow-dung and cow-urine as cures for COVID-19*.

Important cases from 2020

Dr. Shah Faesal v. Union of India - Reference to larger Bench in case concerning Article 370 of the Constitution denied

A five-judge bench of the Supreme Court held that there is no need to refer to a larger bench the petitions challenging the Presidential Orders to repeal the special status earlier granted to Jammu & Kashmir under Article 370 of the Constitution.

Pravakar Mallick & Anr v. State of Orissa - Regarding reservation in promotions

The Court followed the law laid down in *M Nagaraj v. Union of India* and reiterated that the State is not bound to make reservations for SCs/STs in matters of promotion. However, if they wish to do so, they have to collect quantifiable data showing backwardness of the class and inadequacy of representation of that class in public employment, keeping in mind maintenance of efficiency, as indicated by Article 335 of the Constitution of India.

Pawan Kumar Gupta v. State of NCT of Delhi - Plea by 2012 Delhi gang rape case convict dismissed

The Court dismissed the curative petition moved by a death row convict in the 2012 Delhi gang rape case and also rejected the application for stay on execution. After the Court dismissed the final plea challenging the rejection of the convicts' mercy petitions by the President of India, the four convicts were hanged to death at Tihar Jail at 5:30 am on March 20.

Chebrolu Leela Prasad Rao v. State of AP - Government order providing 100% reservation for tribal teachers in Scheduled Areas unconstitutional

The Court held that the Government Order issued by the State of Andhra Pradesh providing 100% reservation to Scheduled Tribe candidates in posts for teachers in schools located in

scheduled areas was unconstitutional and that there was "no rhyme or reason" for the State government to resort to 100% reservation.

Skill Lotto Solutions v. Union of India- Constitutionality of levy of GST on lottery and betting upheld

The Court upheld the imposition of Goods and Service Tax (GST) on the sale of lotteries, holding that the Central Goods and Services Tax Act, 2017 and the notifications issued under the same bringing lottery and gambling under the GST net are valid.

Christian Medical College Vellore Association v. Union of India - Rights under Article 30 of the Constitution are not absolute, could be exercised as per regulation of the State

The Court noted that the right conferred on religious and linguistic minorities to administer educational institutions of their choice is not an *absolute right* and is not free of *regulation* from the State. Article 30 does not prevent the State from imposing reasonable regulations to make the administration of minority institutions transparent.

Chief Information Officer v. High Court of Gujarat- Regarding right to access court records through RTI

The Supreme Court restricted the application of the Right to Information Act, 2005 when it came to obtaining court records at the Gujarat High Court. A three-judge Bench held that citizens cannot file RTI requests to obtain copies of pleadings, judgments, documents, decrees or orders, deposition of the witnesses, etc. Instead, citizens must resort to using the procedure established by the Gujarat High Court Rules.

Siddaraju v. State of Karnataka - Affirmation of Reservation for Persons with Disability

A three-judge Bench held that granting reservation in promotions for persons with disabilities is not forbidden under Article 16(1) of the Constitution, and that persons with disabilities (PWDs) are fully capable of performing requisite functions.

Rambabu Singh Thakur v. Sunil Arora - Political parties to publish pending criminal cases of selected candidates

The Court gave various directions to political parties both at the Central and State level to mandatorily upload on their websites the detailed information of candidates along with pending criminal cases against them, state reasons for selecting candidates and also why individuals who did not have any criminal antecedents could not be selected.

This information has to be published on a local and national newspaper and on the official social media platforms of the political party. Political parties have to submit a report of the Election Commission within 72 hours of the selection of the said candidate.

Kasi v. State through The Inspector of Police - *Suo Moto* Extension of Limitation Period during Covid-19 not to affect right of accused to be released on default bail

Field Code Changed

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In an appeal before the Supreme Court, it was held that the order passed by the Madras High Court regarding extension of limitation period is not applicable to compute the period mentioned under Section 167(2) CrPC and shall not restrict the right to default bail of accused.

Vineeta Sharma v. Rakesh Sharma - Daughters shall have coparcenary rights irrespective of whether their father was alive when Hindu Succession (Amendment) Act, 2005 came into force

Field Code Changed

A three-judge Bench of the Supreme Court held that the amended Section 6 of the 2005 Act confers the status of coparcener on daughters born before or after amendment in the same manner as sons, with the same rights and liabilities. It also held that since the coparcener right is by birth, it is not mandatory that the father coparcener should be living as on November 9, 2005, when the amended provision came into force.

Abhilasha v. Prakash & Ors - Unmarried Hindu daughter can claim maintenance from her father till she is married

Field Code Changed

The Court held that an unmarried Hindu daughter can claim maintenance from her father till she is married, relying on Section 20(3) of the Hindu Adoptions and Maintenance Act, 1956, provided she proves that she is unable to maintain herself. For enforcement of the right, her application/suit has to be under Section 20 of the Act.

Anuradha Bhasin v. Union of India - Access to Internet as a Fundamental Right

Field Code Changed

The Supreme Court ruled that the freedom of speech and expression through the internet, and the freedom to practice any profession, occupation, trade and commerce through the internet is a fundamentally guaranteed right, under Article 19(1)(a) and Article 19(1) (g) of the Indian Constitution. The Court also added that indefinite suspension of the internet is not permissible, and banning the internet repeatedly by orders under Section 144 CrPC, is an abuse of power.

The ruling came in a plea challenging internet shutdowns in Kashmir.

Prithviraj Chauhan v. Union of India - Constitutional validity of SC/ST Act, 1989

Field Code Changed

A three-judge bench of the Supreme Court upheld the Constitutional validity of Section 18-A of *The Scheduled Caste & Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2018* (no need of preliminary enquiry before registration of FIR or requirement of seeking approval of any authority prior to arrest of an accused).

It was further held that no anticipatory bail can be given for offences under the SC/ST Amendment Act.

Secretary, Ministry of Defence v. Babita Puniya - Permanent Commission for Women in Navy and Army

Field Code Changed

The Court ruled that Short Service Commissioned (SSC) women officers in the Indian Army are entitled to permanent commission (PC) and that they have to be considered for PC irrespective of their having exceeded fourteen years of service.

Denying them PC would be a violation of right to equality under Article 14, the Court held.

Internet and Mobile Association v. RBI - RBI's ban on trading in cryptocurrency quashed

Field Code Changed

The Supreme Court quashed a circular of the Reserve Bank of India (RBI) which had banned banks and financial institutions from providing services to any individual or business entities in dealing with or settling cryptocurrency including Bitcoin.

It held that the ban by RBI despite the central bank not finding anything wrong about the manner in which virtual currency (VC) exchanges were functioning and despite the fact that VCs were not banned by any law in India, was violative of freedom to carry on trade guaranteed by Article 19(1)(g) of the Constitution.

Mukesh Kumar & Anr v. State of Uttarakhand & Ors - Reservation is not a fundamental right

Field Code Changed

The Court held that there is no fundamental right to claim reservation in promotions in public posts. The judgment highlighted that Article 16(4) and Article 16(4-A) of the Constitution are enabling provisions and that state governments are not bound to make reservations. The courts have no authority to compel the State government to do so.

Amit Sahni v. Commissioner of Police - On right to dissent

In the plea filed against Delhi's Shaheen Bagh protests over the Citizenship Amendment Act, 2019, the Supreme Court held that public spaces cannot be occupied indefinitely.

The Court made several observations on the permissible limits of the right to protest. Democracy and dissent go hand in hand, but demonstrations expressing dissent have to be in designated places alone, the Court said. The mode and manner of dissent against colonial rule cannot be equated with dissent in a self-ruled democracy, the Court added.

Amish Devgan v. Union of India - Regarding what constitutes "hate speech"

The Court made several pertinent observations on what constitutes hate speech while refusing to quash FIRs against TV anchor Amish Devgan for allegedly hurting religious sentiments after he used the words 'Lootera Chishti' while referring to the Sufi saint Moinuddin Chishti in one of his TV debates.

Merely referring to feelings of one community or group without any reference to any other community or group does not attract 'hate speech', the Court said. Among other observations, the Court also observed that *freedom and rights cannot extend to create public disorder or incite violence*.

