

Case name:

The Constitution (Seventeenth Amendment Act), 1964 was challenged in the Supreme Court of India.

Case Type:

Constitutional Law, Judicial Review

Arguments by Plaintiff:

The petitioners challenged the Constitution (Seventeenth Amendment Act), 1964 on the ground that it infringed Articles 14, 19(1) (f) and (g) and 31 of the Constitution. They contended that the amendment was ultra vires Articles 368 and 13(2) of the Constitution.

Arguments by Defendant:

The respondents, the Government of India, argued that the power to amend the Constitution under Article 368 is plenary and there are no implied limitations on the same.

Case:

The Supreme Court of India had to decide whether the Constitution (Seventeenth Amendment Act), 1964 was valid and did not infringe any fundamental rights guaranteed under the Constitution.

Summary:

The Supreme Court of India held that the power to amend the Constitution under Article 368 is unfettered and there are no implied limitations on the same. The Court also held that the fundamental rights guaranteed under Part III of the Constitution are not amenable to amendment under Article 368.

Main Arguments:

The main arguments raised by the petitioners were that the amendment was ultra vires Articles 368 and 13(2) of the Constitution. The respondents, on the other hand, argued that the power to amend the Constitution under Article 368 is plenary and there are no implied limitations on the same.

Court Decisions:

The Supreme Court of India held that the power to amend the Constitution under Article 368 is unfettered and there are no implied limitations on the same. The Court also held that the fundamental rights guaranteed under Part III of the Constitution are not amenable to amendment under Article 368.

Legal Precedents or Statutes Cited:

The Constitution of India, Article 368, Articles 14, 19(1) (f) and (g), Article 31, Article 12, Article 248 read with Item 97 of List I.

Quotations from the court:

"The power to amend the constitution is a sovereign power and the amending body is sovereign to the legislative body. The power to amend the constitution is supreme to the legislative process."

Judgement:

The Supreme Court of India held that the power to amend the Constitution under Article 368 is unfettered and there are no implied limitations on the same. The Court also held that the fundamental rights guaranteed under Part III of the Constitution are not amenable to amendment under Article 368.

Conclusion:

The Supreme Court of India held that the Constitution (Seventeenth Amendment Act), 1964 was valid and did not infringe any fundamental rights guaranteed under the Constitution. The Court also held that the power to amend the Constitution under Article 368 is unfettered and there are no implied limitations on the same.###Case name: The Constitution (Forty-Fourth Amendment) Act 1978 and The Constitution (Forty-Fifth Amendment) Act 2002

###Case Type: Constitutional Law, Fundamental Rights, Amending Power of Parliament

###Arguments by Plaintiff:

- The petitioners argued that the Constitution (Forty-Fourth Amendment) Act 1978 and the Constitution (Forty-Fifth Amendment) Act 2002 were in violation of the basic structure of the Constitution.
- They contended that the power of amendment under Article 368 is to be found in Articles 246 & 248 of the Constitution, read with Item 97 of List 1 of the 7th Schedule.
- They argued that the power of law-making in these Articles is "subject to the provisions" of the Constitution.

###Arguments by Defendant:

- The respondents argued that the power to amend the Constitution is given by Article 368 and if the procedure of Article 368 is followed, then the Constitution shall stand amended.
- They contended that Article 368 gives Parliament the plenary power to amend any part of the Constitution, including the Fundamental Rights conferred by Part III.
- They argued that the principle of stare decisis cannot be applied to a decision on a constitutional point and that there is no restriction in the Constitution which prevents the Apex Court from reviewing its earlier decisions.

Case:

The Constitution (Forty-Fourth Amendment) Act 1978 and The Constitution (Forty-Fifth Amendment) Act 2002 were challenged on the ground that they violated the basic structure of the Constitution.

Summary:

The Supreme Court observed that the Constitution makers did not intend that the fundamental rights conferred by Part III of the Constitution could not be amended for giving effect to the directive principles of state policy contained in Part IV of the Constitution.

Main Arguments:

- The petitioners argued that the amendments were in violation of the basic structure of the Constitution.

- The respondents argued that the power to amend the Constitution is given by Article 368 and that Parliament has the plenary power to amend any part of the Constitution.

Court Decisions:

- The Supreme Court observed that the Constitution makers did not intend that the fundamental rights conferred by Part III of the Constitution could not be amended for giving effect to the directive principles of state policy contained in Part IV of the Constitution.
- The Court held that there is no implied limitation on the power of Parliament to amend the Constitution under Article 368.
- The Court observed that there is no restriction in the Constitution which prevents the Apex Court from reviewing its earlier decisions.

Legal Precedents or Statutes Cited:

- Article 368 of the Constitution of India
- Article 246 & 248 of the Constitution of India
- Item 97 of List 1 of the 7th Schedule
- The Constitution (Forty-Fourth Amendment) Act 1978
- The Constitution (Forty-Fifth Amendment) Act 2002

Quotations from the court:

- "The Constitution is meant to endure." (Para 298)
- "The contention that the parliament may provide for another constituent assembly by amending the constitution and that assembly can amend part III and take away or abridge fundamental rights is not tenable." (Para 299)

###Judgement:

The Supreme Court held that the Constitution (Forty-Fourth Amendment) Act 1978 and the Constitution (Forty-Fifth Amendment) Act 2002 do not violate the basic structure of the Constitution and that Parliament has the power to amend any part of the Constitution, including the Fundamental Rights conferred by Part III.

Conclusion:

The Supreme Court's decision upholds the plenary power of Parliament to amend the Constitution and clarifies the scope of the amending power under Article 368.