

### Case name:

Kesavananda Bharati v. State of Kerala

### Case Type:

Constitutional Law, Judicial Review, Sovereignty

### Arguments by Plaintiff:

The plaintiff, Kesavananda Bharati, argued that the constituent power of the Constitution cannot be misused to amend the Constitution in a way that destroys the basic structure of the Constitution. He contended that the 24th and 25th Amendment Acts, which were passed to defeat the petitioner's challenge to the 22nd Amendment Act, were unconstitutional.

### Arguments by Defendant:

The defendant, the State of Kerala, argued that the constituent power of the Constitution allows the Parliament to amend the Constitution in any manner it deems fit, as long as the procedure prescribed in Article 368 is followed. They contended that the petitioner's challenge to the 22nd Amendment Act was premature and that the amendment was valid.

### Case:

The case of Kesavananda Bharati v. State of Kerala was a landmark constitutional law case in India that dealt with the issue of the constituent power of the Constitution and the power of judicial review. The petitioner, Kesavananda Bharati, challenged the 24th and 25th Amendment Acts, which were passed to defeat his challenge to the 22nd Amendment Act. The petitioner argued that the 22nd Amendment Act, which allowed the Parliament to amend the Constitution without any limitation, was unconstitutional.

### Summary:

The case of Kesavananda Bharati v. State of Kerala was a significant judgment that established the basic structure doctrine of the Constitution of India. The court held that the constituent power of the Constitution cannot be misused to amend the Constitution in a way that destroys the basic structure of the Constitution. The court also held that the Parliament

does not have the power to amend Article 368 of the Constitution, which deals with the procedure for amendment of the Constitution.

### ### Main Arguments:

The main arguments in the case were:

- \* The petitioner argued that the 22nd Amendment Act, which allowed the Parliament to amend the Constitution without any limitation, was unconstitutional.
- \* The defendant argued that the constituent power of the Constitution allows the Parliament to amend the Constitution in any manner it deems fit, as long as the procedure prescribed in Article 368 is followed.
- \* The court held that the constituent power of the Constitution cannot be misused to amend the Constitution in a way that destroys the basic structure of the Constitution.

### ### Court Decisions:

The court held that:

- \* The constituent power of the Constitution cannot be misused to amend the Constitution in a way that destroys the basic structure of the Constitution.
- \* The Parliament does not have the power to amend Article 368 of the Constitution, which deals with the procedure for amendment of the Constitution.
- \* The 24th and 25th Amendment Acts, which were passed to defeat the petitioner's challenge to the 22nd Amendment Act, were unconstitutional.

### ### Legal Precedents or Statutes Cited:

The court cited the following legal precedents and statutes:

- \* Kesavananda Bharati v. State of Kerala (1973) 4 SCC 225
- \* Constitution of India, 1950
- \* Article 368 of the Constitution of India
- \* Article 329A of the Constitution of India
- \* Representation of the People Act 1951

## \* 39th Constitutional Amendment

### ### Quotations from the court:

The court quoted the following:

\* "The power to amend the fundamental instrument can not carry with it the power to destroy the essential features of the basic structure, the basic framework, the essential foundation of the Constitution." (Kesavananda Bharati v. State of Kerala (1973) 4 SCC 225)

\* "It is presumed to know the law." (Para 604-605)

### ### Judgement:

The court held that the constituent power of the Constitution cannot be misused to amend the Constitution in a way that destroys the basic structure of the Constitution. The court also held that the Parliament does not have the power to amend Article 368 of the Constitution, which deals with the procedure for amendment of the Constitution.

### ### Conclusion:

The case of Kesavananda Bharati v. State of Kerala was a landmark judgment that established the basic structure doctrine of the Constitution of India. The court held that the constituent power of the Constitution cannot be misused to amend the Constitution in a way that destroys the basic structure of the Constitution. The judgment has significant implications for the power of judicial review and the role of the judiciary in protecting the Constitution from arbitrary amendments.