



## **GS FOUNDATION BATCH FOR CSE 2024**

**Polity - 23**  
**(Case Laws Notes)**

## FEATURES OF CONSTITUTION

<p>⦿ <b>Ram Jawaya Kapoor v. State of Punjab,</b> AIR 1955 SC 549</p>	<p>The Supreme Court determined that our Constitution has adopted the system of Parliamentary government of England. Basic principle is that the <b>President is the Constitutional Head of the executive while the actual executive powers are vested in the Council of Ministers.</b></p>
<p>⦿ <b>S.R. Bommai v. Union of India,</b> AIR 1994 SC 1918   <b>Aruna Roy v. Union of India,</b> AIR 2002 SC 3176</p>	<p><b>Secularism is the basic structure of the Constitution.</b> Supreme Court held that the secularism has a <u>positive meaning</u> and it means to develop understanding and respect towards different religion.</p>
<p>⦿ <b>Excel Wear v. Union of India,</b> AIR 1979 SC 25   <b>D.S. Nakara v. Union of India,</b> AIR 1983 SC 130</p>	<p>Courts would give more weightage to the nationalization and state ownership but the principles of socialism should not be interpreted and implemented to the extent it totally ignores the interest of private ownership. Further, Supreme Court held that the basic purpose of socialism is to provide decent standard of life and social security to people.</p>
<p>⦿ <b>L. Chandra Kumar v. Union of India,</b> AIR 1997 SC 1125</p>	<p>Supreme Court has held that exclusion of jurisdiction of courts is unconstitutional. Judicial review is the basic structure of the Constitution and it can never be excluded.</p>
<p>⦿ <b>S.R.Bommai v. Union of India,</b> AIR 1994 SC 1918</p>	<p>Supreme Court has expressed in majority opinion that <b>Indian Constitution is federal.</b></p>
<p>⦿ <b>Ram Jawaya Kapur v. State of Punjab,</b> AIR 1955 SC 549</p>	<p>The <b>federal principle or doctrine of separation of power is not incorporated in the Constitution in the strict and rigid form.</b></p>
<p>⦿ <b>State of West Bengal v. Union of India,</b> AIR 1963 SC 1241</p>	<p>Indian Constitution is not truly federal and States are not sovereign. Political sovereignty is distributed between Union and States with greater weightage in favour of the Union.</p>
<p>⦿ <b>State of Rajasthan v. Union of India,</b> AIR 1977 SC 1361</p>	<p>Indian Union is federal but the extent of federalism is largely watered down by the needs of progress and development of a country which has to be nationally, politically and economically coordinated and socially, intellectually and spiritually uplifted.</p>
<p>⦿ <b>Kuldip Nayar v. Union of India,</b> AIR 2006 SC 3127</p>	<p><b>Though the federal principle is dominant in our Constitution and that principle is one of its basic features, but, it is also equally true that federalism leans in favour of a strong centre or unitary power.</b></p>

## PREAMBLE

<p>⦿ <b>In Re Berubari Union case,</b> AIR 1960 SC 845</p>	<p>The Supreme Court held that the <b>Preamble is not the part of the Constitution.</b></p>
<p>⦿ <b>Kesavanand Bharti v. State of Kerala,</b> AIR 1973 SC 1461</p>	<p>The Supreme Court held that the Preamble is the <b>part of the Constitution.</b> The court held that the Preamble of the Constitution is of extreme importance and the Constitution</p>

should be read and interpreted in the light of the Preamble. The court further held that the Preamble can be amended without altering the basic structure of the Constitution.

⦿ <b>Sajjan Singh v. State of Rajasthan,</b> AIR 1965 SC 845	Supreme Court held that Preamble is the sum and substance of the features of the Constitution.
⦿ <b>S.R. Bommai v. Union of India,</b> AIR 1994 SC 1918	Supreme Court reiterated the view held in <i>Keshavananda Bharti</i> case and held that <u>Preamble is an integral part of the Constitution.</u>
⦿ <b>K.K. Baskaran v. State of Tamil Nadu,</b> AIR 2011 SC 1485	Supreme Court held that the Constitution should be interpreted in such manner so as to secure the goal of social economic and political justice.
⦿ <b>Nandini Sundar v. State of Chhattisgarh,</b> AIR 2011 SC 2839	Supreme Court said that promise to provide social, economic and political justice given in the Preamble cannot be forgotten or neglected.
⦿ <b>Sajjan Singh v. State of Rajasthan,</b> AIR 1965 SC 845	<u>Preamble represents the quintessence, the philosophy, the ideals, the soul or spirit of the entire Constitution.</u>

## UNION & TERRITORY

⦿ <b>Amar Singh Ji v. State of Rajasthan,</b> AIR 1955 SC 504	The Supreme Court has ruled that at any given point of time, the territory of India is the area which is specified in the First Schedule under Article 1.
⦿ <b>In Re Berubari's case,</b> AIR 1960 SC 858	The <u>power of Parliament to diminish the area of State does not cover cession of Indian territory to a foreign State.</u> The agreement could <u>only be implemented by an amendment to the Constitution under Article 368.</u>
⦿ <b>Babulal v. State of Bombay,</b> AIR 1960 SC 51	If the State Legislature to which the <u>Bill has been referred, does not express its views within the period so specified or extended, the Bill may be introduced in the Parliament even though the views of the State have not been obtained</u> by the President. If the State Legislature expresses its views within the time so specified or extended the <u>Parliament is not bound to accept or act upon the views of the State Legislature.</u>
⦿ <b>Maganbhai v. Union of India,</b> AIR 1969 SC 783	An agreement to refer the dispute to the tribunal does not amount to cessation of territory and hence amendment of Constitution is not necessary.
⦿ <b>R.C. Poudyal v. Union of India,</b> AIR 1993 SC 1804	Even though the admission or establishment of a new State will be on such terms and conditions as the Parliament may think fit, such conditions cannot be imposed which is against the basic structure of the Constitution.

## CITIZENSHIP

⦿ <b>Pradeep Jain (Dr.) v. Union of India,</b> AIR 1984 SC 1420 <b>Dr. Yogesh Bharadwaj vs. State of Uttar Pradesh,</b> AIR 1991 SC 356	Supreme Court has held that Article 5 recognizes <u>domicile of India</u> . It does not recognize the concept of State domicile.
⦿ <b>Sondur Gopal v. Sondur Rajini,</b> AIR 2013 SC 2678	Regarding <u>domicile of choice</u> Supreme Court has held that in <u>domicile of choice mere acquisition of other domicile is not sufficient. There must be clear intention to abandon the domicile of origin.</u>

- ⇒ ***Romesh Thapar v. State of Madras,***  
AIR 1950 SC 124

Supreme Court held that where the law authorizes restrictions on Fundamental Rights which is wide enough to cover restrictions both within and without the limits provided by the Constitution and it is not possible to separate the two then the whole law is to be struck down.

- ⇒ ***Kihota Hollohan v. Zachillhu,***  
AIR 1993 SC 412

Supreme Court held that 10th Schedule minus para 7 remains valid and constitutional. The remaining provisions of 10th Schedule are complete in themselves and workable.

- ⇒ ***Keshavnanda Bharti v. State of Kerala,***  
AIR 1973 SC 1461

Power of judicial review is not limited to only deciding whether legislative bodies have worked within the boundaries of certain legislative lists in making the required laws, but it is necessary whether the laws have been made in accordance with the Articles of the Constitution and they do not violate the other provisions of the Constitution.

- ⇒ ***L. Chandra Kumar v. Union of India,***  
AIR 1997 SC 1125

The Supreme Court reiterated that the power of the judicial review given to the Supreme Court and the High Courts under Article 32 and 226 is the basic structure of the Constitution and it can not be terminated by statutory amendment under Article 368.

## FUNDAMENTAL RIGHTS: GENERAL

⦿ <i>Maneka Gandhi v. Union of India</i> , (1978) 1 SCC 248	The Supreme Court observed that fundamental rights represent the basic values cherished by the people of India and they protect the dignity of an individual and create conditions in which every human being can develop his personality to the fullest extent.
⦿ <i>M. Nagaraj v. Union of India</i> , AIR 2007 SC 71	The Supreme Court has held that the Constitution has confirmed the existence of fundamental rights and given them protection. Individuals possess certain basic human rights independently of any Constitution by reason of the fact that they are humans.
⦿ <i>Siddharam Satlingappa Mhetre v. State of Maharashtra</i> , (2011) 1 SCC 694	Supreme Court held that fundamental rights represent basic values enriched by the people of India. It is to preserve and protect certain basic human rights against the interference of the State. The object is to ensure inviolability of certain essential rights against political vicissitudes.
⦿ <i>Behram v. State of Bombay</i> , AIR 1955 SC 123 <i>Bashesher Nath v. Income Tax Commissioner</i> , AIR 1959 SC 149	Supreme Court clarified that person cannot waive his Fundamental Rights. This option is not available to him. These rights have not only been enshrined in the Constitution for personal interest but also for benefits of entire society.
⦿ <i>Ramesh Sanka v. Union of India</i> (2019) 3 SCC 589	Writ under Article 32 not maintainable for enforcement of personal contractual rights

## RIGHT TO EQUALITY

⦿ <i>State of West Bengal v. Anwar Ali Sarkar</i> , AIR 1952 SC 75	Supreme Court held that the expression 'Equal Protection of Laws' is a corollary to the expression 'equality before law' and it is difficult to imagine a situation in which the violation of the equal protection of law will not be violation of equality before law.
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⦿ <i>Indira Nehru Gandhi v. Raj Narayan</i> , AIR 1975 SC 2299	Supreme Court held that Rule of Law embodied in Article 14 of the Constitution is the basic feature of the Constitution and it cannot be destroyed by the amendment of the Constitution.
⦿ <i>R.K. Garg v. Union of India</i> , AIR 1981 SC 2138	Supreme Court held that Article 14 forbids class-legislation but it does not prohibit reasonable classification.
⦿ <i>State of West Bengal v. Anwar Ali Sarkar</i> , AIR 1952 SC 75	Supreme Court held that differentia which is the basis of the classification and the object of the Act are two different things. It is important to have nexus between the basis of classification and the object of the Act.
⦿ <i>Chiranjit Lal v. Union of India</i> , AIR 1951 SC 41	Supreme Court held that law may be constitutional even though it applies to a single individual on account of special circumstances. That single individual may be treated as a class. The presumption of constitutionality is always in favour of the statute and the person who challenges the constitutionality has to show that law is arbitrary and unreasonable.
⦿ <i>D.S. Nakara v. Union of India</i> , AIR 1983 SC 130	Supreme Court held that doctrine of classification was evolved to sustain a legislation to State in order to help weaker sections of society.
⦿ <i>E.P. Royappa v. State of Tamil Nadu</i> , AIR 1974 SC 555	Article 14 spells the traditional concept of equality which is based on reasonable classification. Supreme Court laid down a new concept of equality which is different from traditional concept of reasonable classification. Article 14 strikes at the arbitrariness in State action and ensures fairness and equality of treatment. Principle of reasonableness pervades Article 14.
⦿ <i>Kathi Rani v. State of Saurashtra</i> , AIR 1952 SC 123	Supreme Court held that when a law comes within the prohibition of Article 15 it cannot be validated by recourse to Article 14 by applying the principle of reasonable classification.
⦿ <i>State of Madras v. Champakam Dorairajan</i> , AIR 1951 SC 226	Supreme Court declared void the G.O. by Madras government which reserved seats in State Medical and Engineering Colleges for different communities on the basis of religion, race and caste. Supreme Court nullified it because it classified students on the basis of caste and religion.
⦿ <i>Balaji v. State of Mysore</i> , AIR 1963 SC 649	Supreme Court held that Article 16(4) provision only confers discretion to make special provisions for backward classes of citizens.
⦿ <i>T.M.A. Pai Foundation v. State of Karnataka</i> , AIR 2003 SC 355 <i>P.A. Inamdar v. State of Maharashtra</i> , AIR 2005 SC 3226	Supreme Court held that State could not make reservations of seats in admissions in privately run educational institutions and higher educational institutions.
⦿ <i>Ashok Kumar Thakur v. Union of India</i> , (2008) 6 SCC 1	93rd Constitutional Amendment was challenged. The Supreme Court upheld its constitutionality. The court however, held that the benefits of reservations cannot be given to creamy layer candidates.
⦿ <i>Pramati Educational and Cultural Trust v. Union of India</i> , AIR 2014 SC 2114	Supreme Court held that classification of unaided private educational institutions and aided private educational institutions is not violative of Article 14.

*Recent and Landmark Case Laws*

☛ <b><i>State of Bihar v. Chandreshwar Pathak,</i></b> AIR 2014 SC 3752	Supreme Court held that in the case of state services the equality of opportunity means equality before members of same class of employees and not equality between members of separate and independent classes.
☛ <b><i>Balaji v. State of Mysore,</i></b> AIR 1963 SC 649	Supreme Court held that 'caste' of a person cannot be the sole test for ascertaining whether a particular class is backward class or not. Poverty, occupation etc. are other relevant factors to be taken into consideration. But if entire 'caste' is found to be socially and educationally backward, it may be included in the list of Backward Classes.
☛ <b><i>Indira Sawhney v. Union of India,</i></b> AIR 1993 SC 477	Scope and extent of Article 16(4) was examined thoroughly by Supreme Court. Majority opinion of the court is summarized as follows:- <ol style="list-style-type: none"><li>1. Backward class of citizen in Article 16(4) can be identified on the basis of caste and not only on economic basis but caste alone cannot be the basis for consideration.</li><li>2. The court struck down economic criterion for reservation on the ground that Article 16(4) does not mention it.</li><li>3. Article 16(4) is not an exception to Article 16(1). It is an instance of classification. Reservation can be made under Article 16(1). Court overruled its decision in <i>Balaji v. State of Mysore</i> in which it was held that Article 16(4) is an exception to Article 16(1).</li><li>4. Backward classes in Article 16(4) is not similar to socially and educationally backward in Article 15(4). It is much more than socially and educationally backward classes. Certain classes may not qualify for Article 15(4) but they may qualify for Article 16(4). Court overruled Balaji's decision on this point in which it was held that backward classes of citizens under Article 16(4) is same as socially and educationally backward classes.</li><li>5. Creamy layer must be excluded from backward classes.</li><li>6. Article 16(4) permits classification of backward classes into backward and more backward classes.</li><li>7. Reservation shall not exceed 50 percent. In extra-ordinary situations it may be relaxed in favour of people living in far flung and remote areas of the country.</li><li>8. Court overruled <i>Devadasan v. Union of India</i> (1964) and held that 'carry forward' rule is valid provided it should not result in breach of 50% rule.</li><li>9. Court held that reservation under Article 16(4) cannot be made in promotions.</li></ol>
☛ <b><i>Union of India v. Virpal Singh,</i></b> AIR 1996 SC 448	Supreme Court held that caste criterion for promotion is violative of Article 16(4) of the Constitution. Seniority between reserved category candidates and general candidates would continue to be governed by their panel position prepared at the time of selection. Accelerate promotion does

⦿ <i>M. Nagraj v. Union of India</i> , AIR 2007 SC 71	Clause (4-A) and Clause (4-B of Article 16) were challenged in The Supreme Court held that Article 16(4A) and Article 16(4B) flow from Article 16 and do not alter the basic structure of Article 16(4).
⦿ <i>U.P. Power Corporation Ltd. v. Rajesh Kumar</i> , (2012) 7 SCC 1	State can make reservation laws under Articles 16(4), 16(4-A) and 16(4-B) only on the basis of clear and certain factual foundation. Efficiency, backwardness and inadequacy of representation are required to be identified and measured. State can make reservation for SC/STs in promotion only after collecting quantifiable data showing backwardness and inadequate representation.
⦿ <i>B.K. Pavitra v. Union of India</i> , (2019) 16 SCC 129	Concept of creamy layer has no application to grant of consequential seniority.
⦿ <i>People's Union for Democratic Rights v. Union of India</i> , AIR 1982 SC 1473	It is also known as <i>Asiad Project Worker's case</i> , Supreme Court held that right under Article 17 is available against private individual also.
⦿ <i>Balaji Raghavan v. Union of India</i> , AIR 1996 SC 770	Supreme Court held that 'National Awards' would not amount to 'title' within Article 18. The court also held that the National Awards shall not be used as suffixes or prefixes.
⦿ <i>National Legal Services Authority v. Union of India</i> , AIR 2014 SC 1863	It was held that the Members of Transgender community (neither males nor females) should be treated as Third Gender. They are entitled to equal rights like any other citizen of India. Discrimination on the basis of sexual orientation or gender identity includes any discrimination, exclusion, restriction or preference, which has the effect of nullifying or transposing equality by the law or the equal protection of laws guaranteed under our Constitution.

### RIGHT TO FREEDOMS

⦿ <i>Alagaapuram R. Mohanraj v. Tamil Nadu Legislative Assembly</i> , AIR 2016 SC 867	Rights guaranteed under Article 19 are available to citizens only.
⦿ <i>Bennett Coleman and Co. v. Union of India</i> , AIR 1973 SC 106	The Supreme Court held that the rights of shareholders with regard to Article 19(1)(a) were protected and manifested by the newspapers owned and controlled by the shareholders through medium of corporation.
⦿ <i>D.C &amp; G.M. v. Union of India</i> , AIR 1983 SC 937	The Supreme Court held that writ petition filed by the company for violation of Fundamental Rights under Article 19 is maintainable.
⦿ <i>Romesh Thappar v. State of Madras</i> , AIR 1950 SC 124	Supreme Court held that freedom of speech and of press lay at the foundation of all democratic organizations. Without free political discussion no public education for the proper functioning of the process of government is possible.
⦿ <i>Indian Express Newspapers v. Union of India</i> , (1985) 1 SCC 641	Supreme Court held that 'freedom of press' means freedom from interference from authority which would have effect of interference with the content and circulation of newspapers.

⦿ <i>Bennet Coleman and Co. v. Union of India</i> , AIR 1973 SC 106	Supreme Court held that order fixing the maximum number of pages which a newspaper can print is violation of freedom of speech and expression. Freedom of press is both quantitative and qualitative. It lies in both circulation and content.
⦿ <i>Express Newspapers v. Union of India</i> , AIR 1958 SC 578	Supreme Court held that the press is not immune from the laws of taxation and industrial application.
⦿ <i>Sakal Papers Ltd. v. Union of India</i> , AIR 1962 SC 305	The order imposing minimum price and number of pages was held to be violative of Article 19(1)(a).
⦿ <i>R. Rajagopal v. State of Tamil Nadu</i> , (1994) 6 SCC 632	Supreme Court held that the government has no authority in law to impose a prior-restraint upon publication of defamatory material against its officials.
⦿ <i>Devidas Ramchandra Tuljapurkar v. State of Maharashtra</i> , (2015) 6 SCC 1	Use of obscene language against historically respected personalities cannot be allowed in the name of artistic freedom, critical thinking or creativity under Article 19(1)(a).
⦿ <i>Damayanti v. Union of India</i> , AIR 1971 SC 966	Supreme Court held that the right to form association necessarily implies that the person forming the association have also the right to continue to be associated with only those whom they voluntarily admit in the association. Any law by which members are introduced in the voluntary association without any option being given to the members to keep them out, or any law which takes away the membership of those who have voluntarily joined it, will be a law violating the right to form the association.
⦿ <i>Sodan Singh v. New Delhi Municipal Committee</i> , AIR 1989 SC 1988	Supreme Court held that hawkers have fundamental right to carry on trade on pavement of roads. However, their right is subject to reasonable restrictions mentioned in Article 19(6).
⦿ <i>Khoday Distilleries Ltd. v. State of Karnataka</i> , (1995) 1 SCC 574	Supreme Court held that a citizen has no right to carry on trade or business in liquors as beverage. The State has a power to prohibit the manufacture, sale, possession and distribution except in cases for medicinal purposes.
⦿ <i>B.R. Enterprise v. State of U.P.</i> , AIR 1999 SC 1867	Supreme Court held that lottery cannot be construed as trade or business within the meaning of Article 19(1)(g). It contains an element of chance and therefore, it is a gambling.
⦿ <i>Om Prakash v. State of U.P.</i> , AIR 2004 SC 1896	Supreme Court held that ban on sale of eggs within the municipal limits of Rikshikesh is valid as it contains reasonable restriction. The reasonability must be construed from point of view of cultural and religious background of the town.
⦿ <i>Godawat Pan Masala Products Private Ltd. v. Union of India</i> , AIR 2004 SC 4057	Supreme Court held that ban on pan masala and guthka containing tobacco to under age persons is not violative of Article 19(1)(g).
⦿ <i>Mazdoor Kisan Shakti Sangathan v. Union of India</i> , (2018) 17 SCC 324	Right to protest is recognized as a fundamental right under the Constitution. This right is crucial in democracy which rests on the participation of an informed citizenry in governance.
⦿ <i>State of Gujarat v. Mirzapur Moti Qureshi Kasab Jamat</i> , AIR 2006 SC 212	Supreme Court held that ban on slaughter of cows and calves and other milch and draught cattles is not violative of Article

	19(1)(g). It is a reasonable restriction as cows and her progeny are backbone of Indian agriculture and economy.
⦿ <i>T. Baral v. Henry An Hoe</i> , (1983) 1 SCC 177	Accused can take advantage of a beneficial provision under <i>ex post facto</i> laws.
⦿ <i>Government of Andhra Pradesh v. Ch. Gandhi</i> , AIR 2013 SC 2113	If <i>ex post facto</i> law is ameliorative it may be retrospective.
⦿ <i>M.P. Sharma v. Satish Chandra</i> , AIR 1954 SC 300	Supreme Court held that Article 20(3) has following three essentials:- (1) Person must be accused of an offence; (2) This provision is a protection against compulsion to be a witness; (3) Protection is against compulsion to give evidence against himself.
⦿ <i>R.K. Dalmia v. Delhi Administration</i> , AIR 1962 SC 1821	A person is said to be accused if the formal accusation relating to the commission of an offence has been leveled which may result in prosecution and conviction.
⦿ <i>M.P. Sharma v. Satish Chandra</i> , AIR 1954 SC 300	A person whose name is mentioned in the FIR as an accused could claim the protection under Article 20.
⦿ <i>State of Bombay v. Kathi Kalu</i> , AIR 1961 SC 1808	Supreme Court held that interpretation of the phrase 'to be witness' given in <i>M.P. Sharma</i> case is too broad. 'To be witness' is not equivalent to furnishing evidence. Self incrimination can only mean conveying information based on personal knowledge of the person giving information and it cannot include the mechanical process of producing documents or giving finger impressions or blood samples etc.
⦿ <i>Nandini Satpathy v. P.L. Dani</i> , AIR 1977 SC 1025	Supreme Court held that protection of Article 20(3) is available from the stage of police interrogation.
⦿ <i>Selvi v. State of Karnataka</i> , AIR 2010 SC 1974	Lie detector tests should be administered only with the consent of the accused. In case the consent of the accused is not obtained then such tests are violative of Article 20(3).
⦿ <i>Francis Coralie v. Union Territory of Delhi</i> , AIR 1981 SC 746	Supreme Court held that right to live is not limited to mere animal existence. It is something more than just physical survival.
⦿ <i>Indian Hotel and Restaurant Association (AHAR) v. State of Maharashtra</i> , (2019) 3 SCC 429	Supreme Court held that there can not be a total prohibition of dance bars in Maharashtra. The Bench also relaxed the stringent conditions imposed by the Government for getting license for dance bars. The complete prohibition on serving alcohol in the dance bars was quashed as disproportionate.
⦿ <i>Indiblity Creative Pvt Ltd and others v. Govt of West Bengal and others</i> (2019) W.P. (Civil) No. 306/2019 on 11.04.2019	Supreme Court held that free speech cannot be gagged by fear of mob violence. The Court ordered Rs 20 lakhs compensation to the makers of the Bengali film " <i>Bhobhishyoter Bhoot</i> ", which had suffered an 'unofficial' ban from the West Bengal government.

## VARIOUS FACETS OF RIGHT TO LIFE AND LIBERTY

⦿ <b><i>A.K. Gopalan v. Union of India</i>, AIR 1950 SC 27</b>	Personal liberty in Article 21 means liberty of physical body and nothing else. Procedure established by law does not mean due process of law. Law means state made law and it does not mean having element of natural justice.
⦿ <b><i>Maneka Gandhi v. Union of India</i>, AIR 1978 SC 597</b>	Personal Liberty in Article 21 is of widest amplitude and covers variety of rights. The procedure established by law should be just, fair and reasonable. Law means having elements of principles of natural justice.
⦿ <b><i>Justice K.S. Puttaswamy (Rtd.) and Anr. v. Union of India and Ors.</i>, AIR 2017 SC 4161</b>	<u>Right to privacy:</u> Supreme Court held that right to privacy is a fundamental right and it is protected under Article 21. Court overruled M.P. Sharma's case and Kharak Singh's case to the extent they held that right to privacy is not a fundamental right.
⦿ <b><i>Justice K.S. Puttaswamy (Rtd.) and Anr. v. Union of India and Ors.</i> (2019) 1 SCC 1</b>	<u>Aadhaar held to be constitutional:</u> Supreme Court upheld the constitutional validity of Aadhaar after reading down and striking down certain provisions.
⦿ <b><i>Joseph Shine v. Union of India</i>, (2019) 3 SCC 39</b>	<u>Offence of Adultery is unconstitutional:</u> Supreme Court struck down Section 497 of Indian Penal Code as unconstitutional. Court held that it violated women's right to dignity and hence it infringed Article 21.
⦿ <b><i>Navtej Singh Johar v. Union of India</i>, (2019) 3 SCC 345</b>	<u>Homo-sexual acts are constitutional:</u> Supreme Court declared Section 377 of Indian Penal Code, unconstitutional insofar as it criminalizes homosexual acts between consenting adults.
⦿ <b><i>People's Union for Democratic Rights v. Union of India</i>, AIR 1982 SC 1473</b>	<u>Non payment of minimum wages:</u> Supreme Court held that non-payment of minimum wages is violation of Article 21.
⦿ <b><i>Olga Tellis v. Bombay Municipal Corporation</i>, AIR 1986 SC 180</b>	<u>Right to livelihood:</u> Supreme Court held that right to life include right to livelihood also.
⦿ <b><i>Chameli Singh v. State of U.P.</i>, (1996) 2 SCC 549</b>	<u>Right to shelter:</u> Supreme Court held that right to shelter is a fundamental right under Article 21.
⦿ <b><i>Suchitra Srivastava v. Chandigarh Administration</i>, AIR 2010 SC 235</b>	<u>Reproductive choices:</u> Supreme Court held that right to make reproductive choices (decision to produce child or not) is included in Article 21.
⦿ <b><i>Parmanand Katara v. Union of India</i>, AIR 1989 SC 2039</b>	<u>Right to health:</u> Supreme Court held that all doctors (private or government) are obliged to extend medical assistance to injured immediately without asking for legal formalities.
⦿ <b><i>Ramlila Maidan v. Home Secretary, Union of India</i>, (2012) 5 SCC 1</b>	<u>Right to sleep:</u> Supreme Court held that right to sleep is a fundamental right as it is biological and essential element of basic necessities of life.
⦿ <b><i>Jolly George Varghese v. State Bank of Cochin</i>, AIR 1980 SC 470</b>	<u>Arrest of judgment debtor:</u> Supreme Court held that arrest and detention of honest judgment debtor, in absence of willful failure to pay despite sufficient means is violative of Article 21.
⦿ <b><i>Neerja Chaudhary v. State of M.P.</i>, AIR 1984 SC 1099</b>	<u>Bonded labour:</u> Supreme Court held that bonded labour should be identified and rehabilitated.
⦿ <b><i>Gian Kaur v. State of Punjab</i>, (1996) 2 SCC 648</b>	<u>Right to die:</u> Supreme Court held that 'right to life' does not include 'right to die'.
⦿ <b><i>Aruna Ramchandra Shanbaug v. Union of India</i>, AIR 2011 SC 1290</b>	<u>Passive euthanasia:</u> Supreme Court held that in certain cases passive euthanasia is allowed.

⦿ <i>National Legal Service Authority v. Union of India</i> , AIR 2014 SC 1863	<u>Self-determination of gender</u> : Supreme Court held that self-determination of gender is part of personal liberty guaranteed under Article 21.
⦿ <i>Bachpan Bachao Andolan v. Union of India</i> , AIR 2011 SC 3361	<u>Child rights</u> : Supreme Court held that sexual, physical and emotional abuse of children detained in circus is violation of Article 21.
⦿ <i>M.H. Hoskot v. State of Maharashtra</i> , AIR 1978 SC 1548	<u>Right to free legal aid</u> : Supreme Court held that right to free legal aid is part and parcel of right to life and liberty.
⦿ <i>Hussainara Khatoon v. State of Bihar</i> , AIR 1979 SC 1360	<u>Right to speedy trial</u> : Supreme Court held that right to speedy trial is a fundamental right and it is implicit in Article 21.
⦿ <i>Nirmal Singh Khalon v. State of Punjab</i> , AIR 2009 SC 984	<u>Fair investigation</u> : Supreme Court held that fair trial includes fair investigation.
⦿ <i>Sunil Batra v. Delhi Administration</i> , AIR 1980 SC 1579	<u>Keeping undertrials with convicts</u> : Supreme Court held that keeping undertrials with convicts in jail offends Article 21.
⦿ <i>Prem Shankar v. Delhi Administration</i> , AIR 1980 SC 1535	<u>Right against handcuffing</u> : Supreme Court held that handcuffing is <i>prima facie</i> inhuman, arbitrary and unreasonable. Handcuffing should be resorted to when there is clear and present danger of escape.
⦿ <i>Kishore Singh v. State of Rajasthan</i> , AIR 1981 SC 625	<u>Use of third degree methods</u> : Supreme Court held that use of 'third degree' method by police is violative of Article 21.
⦿ <i>Murli S. Deora v. Union of India</i> , AIR 2002 SC 40	<u>Ban on smoking in public places</u> : Supreme Court directed the government to issue orders banning smoking in public places considering the adverse effect of smoking on non-smokers.
⦿ <i>Attorney-General of India v. Lachma Devi</i> , AIR 1986 SC 467	<u>Public hanging</u> : Supreme Court held that execution of death sentence by public hanging is violative of Article 21.
⦿ <i>Deena v. Union of India</i> , (1983) 4 SCC 645	<u>Hanging by rope</u> : Supreme Court held that hanging by rope does not violate Article 21.
⦿ <i>T.V. Vatheeswaran v. State of Tamil Nadu</i> , AIR 1981 SC 643	<u>Delay in execution of death sentence</u> : Supreme Court held that delay in execution of death sentence is violative of Article 21.
⦿ <i>Nilabati Behra v. State of Orissa</i> , (1993) 2 SCC 746	<u>Custodial torture/death</u> : Supreme Court awarded compensation to the family of deceased who died in police custody due to beating.
⦿ <i>D.K. Basu v. State of W.B.</i> , AIR 1997 SC 610	Supreme Court laid down guidelines to be followed by investigating agencies in cases of arrest and detention.
⦿ <i>Joginder Kumar v. State of U.P.</i> , (1994) 4 SCC 260	Supreme Court laid down guidelines regarding arrest of persons during investigation.
⦿ <i>Rudal Shah v. State of Bihar</i> , (1983) 4 SCC 141	<u>Compensation for violation of Article 21</u> : Supreme Court held that courts have power to award compensation in appropriate cases of violation of Article 21.
⦿ <i>Vishaka v. State of Rajasthan</i> , AIR 1997 SC 3011	<u>Prevention of sexual harassment</u> : Supreme Court laid down guidelines to prevent sexual harassment of working women in workplace.
⦿ <i>Rural Litigation and Entitlement Kendra v. State of U.P.</i> , (1985) 2 SCC 431	<u>Right to clean environment</u> : Supreme Court held that right to clean environment is a fundamental right protected under

<b>M.C. Mehta v. Union of India</b> (Shriram Food Fertilizer case), (1986) 2 SCC 176 <b>Indian Council for Enviro-Legal Action v. Union of India</b> , (1996) 3 SCC 212 <b>Vellore Citizen's Welfare Forum v. Union of India</b> , (1996) 5 SCC 650	Article 21. Consequently, Supreme Court also gave various directions regarding upkeep of environment and control of pollution.
⦿ <b>Mohini Jain v. State of Karnataka</b> , (1992) 3 SCC 666	Supreme Court held that right to education at all levels is a fundamental right flowing from Article 21.
⦿ <b>Unni Krishnan v. State of A.P.</b> , (1993) 1 SCC 645	Supreme Court held that right to education is a fundamental right flowing from Article 21 but right to free education is available to the children until they complete the age of 14 years. After that the obligation of State to provide education is subject to economic capacity and development.
⦿ <b>State of Tamil Nadu v. K. Shyam Sundar</b> , (2011) 8 SCC 737	Supreme Court held that the right to education should be extended to have quality education without discrimination on the ground of economic, social and cultural backgrounds.
⦿ <b>A.K. Roy v. Union of India</b> , AIR 1982 SC 710	Supreme Court laid down following guidelines relating to arrest under preventive detention law: <ol style="list-style-type: none"> <li>(1) After detention the family members of detenue should be informed about detention and place of detention;</li> <li>(2) Detenu must be detained in a place where he habitually resides unless in certain exceptional circumstances detention at other place is feasible.</li> <li>(3) Detenu must be entitled to books, writing materials, own food and visits from family and friends;</li> <li>(4) He must be kept separate from those who are convicted;</li> <li>(5) Treatment of punitive character should not be meted out to him.</li> </ol>
⦿ <b>Mazdoor Kisan Shakti Sangathan v. Union of India</b> , (2018) 17 SCC 324	If there is a conflict of two rights qua individuals under Article 21 then in such a situation the test of 'larger public interest' is required.
⦿ <b>K.S. Puttaswamy v. Union of India (Aadhaar Case)</b> , (2019) 1 SCC 1	<ul style="list-style-type: none"> <li>* Privacy ensures that a human being can lead life of dignity by securing the inner recesses of the human personality from unwanted intrusions. All matters pertaining to an individual do not qualify as being inherent part of right to privacy. Only those matters over which there would be a reasonable expectation of privacy are protected by Article 21.</li> <li>* Right to privacy as a fundamental right is not limited to Article 21. It resonates through the entirety of Part III of the Constitution. Privacy is also recognized as a natural right which inheres in individual and is thus, inalienable.</li> <li>* Privacy is both negative and positive concept. As a negative concept it restrains the State from committing an intrusion upon life of personal liberty of citizens. As a positive obligation it imposes an obligation on the State to take all necessary measures to protect the privacy of an individual.</li> <li>* Good and just social order is one which respects dignity. Dignity is to be treated as 'empowerment' or right to development.</li> </ul>

## RIGHT AGAINST EXPLOITATION

● <b><i>People's Union for Democratic Rights v. Union of India, AIR 1982 SC 1943</i></b>	Supreme Court held that a person who provides labour or service to another for less than minimum wage also amounts to forced labour.
● <b><i>Deena v. Union of India, AIR 1983 SC 1155</i></b>	Supreme Court held that labour taken from prisoners without paying proper renumeration is violative of Article 23.
● <b><i>People's Union for Democratic Rights v. Union of India, AIR 1982 SC 1943</i></b>	Supreme Court held that construction work is a dangerous work and employment of children in construction industry amounts to violation of Article 24.
● <b><i>M.C. Mehta v. Union of India, AIR 1997 SC 699</i></b>	Supreme Court held that children below the age of 14 years cannot be employed in any hazardous industry, mines or other works. The court laid down guidelines to protect economic, social and humanitarian rights of children.

## RIGHT TO FREEDOM OF RELIGION

● <b><i>S.R. Bommai v. Union of India, AIR 1994 SC 1918</i></b>	Supreme Court held that secularism is the basic feature of the Constitution. Indian Constitution embodies positive concept of secularism. In matters of religion, the State is neutral and treats every religion equally.
● <b><i>Aruna Roy v. Union of India, AIR 2002 SC 3176</i></b>	Supreme Court held that study of religion in school is not against secular philosophy of the Constitution. Secularism is susceptible to positive meaning i.e. developing understanding and respect towards different religions.
● <b><i>Ismail Faruqui v. Union of India, (1994) 6 SCC 360</i></b>	Supreme Court held that offer of prayer or worship is a religious practice but offering at every location where such prayers can be offered would not be an essential religious practice.
● <b><i>Church of God (Full Gospel) of India v. K.K.R.M.C. Welfare Association, AIR 2000 SC 2773</i></b>	Supreme Court held that no person can be allowed to create noise pollution or disturb the peace of others while exercising religious freedom. Religious prayers through loudspeakers are not an essential element of any religion.
● <b><i>S.P. Mittal v. Union of India, AIR 1983 SC 1</i></b>	Supreme Court held that religious denominations must satisfy the following requirements:- (1) It must be a collection of individuals who have a system of beliefs which they regard as conducive to their spiritual well being. (2) It must have a common organization. (3) It must be designated by a distinctive name.
● <b><i>Indian Young Lawyers Association v. State of Kerala (Sabarimala Temple Case), (2019) 11 SCC 1</i></b>	Right to freedom of religion is not absolute and must be harmonized with other liberties and freedoms, and is subject to constitutional morality. Deity may be a juristic person for purpose of religious laws and capable of asserting property rights. However, deity is not a 'person' for the purpose of Part III of the Constitution.

## CULTURAL AND EDUCATIONAL RIGHTS

Frank Anthony Public School Employees Association v. Union of India, AIR 1987 SC 311	Supreme Court held that idea of giving special rights to minorities is to give them a sense of security and feeling of confidence.
Frank Anthony Public School Employees Association v. Union of India, AIR 1987 SC 311	It was held that regulatory measures aimed at making minority institutions effective instruments for imparting education, without nullifying management's right are permissible.
T.M.A. Pai Foundation v. State of Karnataka, (2002) 8 SCC 481	Supreme Court laid down the following:- <ol style="list-style-type: none"> <li>(1) State is to be regarded as a unit for determining linguistic as well as religious minority.</li> <li>(2) Institutes which receive aid from the State could be subject to government rules and regulations.</li> <li>(3) In respect of unaided institutions only regulation which the government may put is regarding the qualifications and minimum conditions of eligibility of teachers and principal.</li> <li>(4) Conditions of recognition and affiliation by or to a Board or University is to be complied with.</li> <li>(5) An aided institution has to admit a reasonable number of non-minority students.</li> <li>(6) Minority institution may have its own procedure and method of admission but the procedure must be fair and transparent.</li> </ol>
Islamic Academy of Education v. State of Karnataka, (2003) 6 SCC 697	Supreme Court held that educational institutions can have their own fee structure but there must be no profiteering and capitation fee cannot be charged.

## RIGHT TO CONSTITUTIONAL REMEDIES AND PUBLIC INTEREST LITIGATION

Ramेश Thapar v. State of Madras, AIR 1950 SC 124	Supreme Court is protector and guarantor of fundamental rights and it <b>cannot refuse to entertain applications seeking protection against infringement of such rights.</b>
Prem Chand Gang v. Excise Commissioner, U.P., AIR 1963 SC 996	The Fundamental Right to move to Supreme Court can be appropriately described as <b>cornerstone of the democratic edifice raised by the Constitution.</b> In discharging the duties assigned to it the courts play the role of sentinel on the qui vive and it must always regard it as solemn duty to protect the fundamental right zealously and vigilantly.
Daryao v. State of U.P., AIR 1961 SC 1457	When the matter has been heard and decided by the High Court under Article 226 the writ under Article 32 is barred by the principle of res judicata.
Rupa Ashok Huria v. Ashok Huria, AIR 2002 SC 1771	In order to correct the gross miscarriage of justice which cannot be challenged again, the court will allow curative petition to seek second review of the final order.
Fertilizer Corporation Kamgar Union v. Union of India, AIR 1981 SC 344	In appropriate cases it becomes necessary to change the social awareness of legal rights and social obligations and take a broader view of question of locus standi to initiate proceedings.

## EXECUTIVE

⦿ <i>U.N. Rao v. Indira Gandhi</i> , AIR 1971 SC 1002	Supreme Court has held that Article 74(1) is mandatory and the President cannot exercise the executive power without the aid and advice of the Council of Ministers. Even after the dissolution of Lok Sabha the Council of Ministers does not cease to hold the office.
⦿ <i>Ram Jawaya Kapur v. State of Punjab</i> , AIR 1955 SC 549	Supreme Court held that the President has been made a formal or constitutional head of the executive and the real executive powers are vested in the Council of Ministers.
⦿ <i>Hargovind v. Raghukul</i> , AIR 1979 SC 1109	Supreme Court held that the office of Governor of a State is not an employment under the Central government. It is an independent constitutional office and is not under the control of or subordinate to the Central government.
⦿ <i>Ram Jawaya Kapur v. State of Punjab</i> , AIR 1955 SC 549	Ordinarily the executive power connotes the residue of governmental functions that remain after legislative and judicial functions are taken away. Executive power is not confined to the administration of laws already enacted but it includes the determination of government policies, maintenance of law and order, foreign policy etc.
⦿ <i>Shamsher Singh v. State of Punjab</i> , AIR 1974 SC 2192	Whenever the Constitution requires the satisfaction of the President or Governor, it is not their personal satisfaction. It is the satisfaction of Council of Ministers who aid and advise the President or Governor generally.
⦿ <i>U.N. Rao v. Indira Gandhi</i> , AIR 1971 SC 1002	Article 74(1) is mandatory and, therefore, the President cannot exercise executive power without the aid and advice of the Council of Ministers. It is essential to have a council of Ministers under Article 74(1) even at a time when the House of the People has been dissolved or term expired.
⦿ <i>S.P. Anand v. H.D. Deve Gowda</i> , (1996) 6 SCC 734	Article 75(5) permits the President to appoint a person who is not a member of either House of Parliament as a Minister, including a Prime Minister subject to the possibility of his commanding the support of the Majority of members of the Lok Sabha.
⦿ <i>B.P. Singhal v. Union of India</i> , (2010) 6 SCC 331	Governors cannot be dismissed arbitrarily on the ground that the central government had lost confidence in him and he does not agree with its policies and ideologies.
⦿ <i>Rameshwar Prasad v. Union of India</i> , AIR 2006 SC 980	The expression 'required' in Article 163(1) signifies that the Governor could exercise his discretionary powers only when there is a compelling necessity to do so. The Governor could not in exercise of his discretion do anything which was prohibited to be done. The court has the power to examine the validity of his action when it is mala fide.
⦿ <i>Kehar Singh v. Union of India</i> , AIR 1989 SC 653	Pardon is an act of grace and cannot be demanded as a matter of right. President cannot be asked to give reasons for his order.
⦿ <i>Epuru Sudhakar v. Government of Andhra Pradesh</i> , AIR 2006 SC 3385	The pardon power is open to judicial review on limited grounds like non-application of mind, mala fide, arbitrariness,

irrelevant considerations etc. Pardoning power cannot be exercised arbitrarily.

- ⦿ *Kehar Singh v. Union of India*, AIR 1989 SC 653

Supreme Court held that while exercising the pardoning power President can scrutinize the evidence on record and can come to a different conclusion. In doing so, the President does not modify or supersede the judicial records. The petitioner for mercy has no right to an oral hearing by the President.

- ⦿ *Eupuru Sudhakar v. Government of Andhra Pradesh*, AIR 2006 SC 3385

Supreme Court held that pardoning powers of President under Article 72 and of Governor under Article 161 are subject to judicial review. Pardoning cannot be exercised on the basis of caste and political reasons.

- ⦿ *Shatrughan Chauhan v. Union of India*, (2014) 3 SCC 1

Inordinate delay in rejection of mercy petition of death row convicts amounted to 'torture' and it is a sufficient basis in itself to commute death sentence to life imprisonment.

## LEGISLATURE

- ⦿ *D.C. Wadhwa v. State of Bihar*, (1987) 1 SCC 378

Supreme Court ruled that successive re-promulgation of ordinances without any attempt to get the Bills passed by the Assembly would amount to fraud on Constitution and the ordinance so repromulgated is liable to be struck down. It held that the exceptional power of law making through ordinance cannot be used as a substitute for the legislative power of the State Legislature.

256 Ordinances were promulgated in State of Bihar and all of them were kept alive by re-promulgation without being brought before Legislature. The court held it 'subversion of democratic process' and 'colourable exercise of power' and held it amounted to fraud on Constitution.

- ⦿ *S.P. Anand v. H.D. Deve Gowda*, AIR 1997 SC 272

Supreme Court held that a person who is not a member of either House of the Parliament can be appointed by the Prime Minister for six months.

- ⦿ *Lily Thomas v. Union of India*, (2013) 7 SCC 653

Convicted Members of Parliament and Member of Legislative Assemblies will be immediately disqualified from holding membership of the House without being given three months' time for appeal.

- ⦿ *R.K. Garg v. Union of India*, (1981) 4 SCC 675

The power to promulgate ordinances is a power exercisable only when both Houses of the Parliament are not in session and it has been conferred *ex necessitate rei* in order to enable the executive to meet an emergent situation. This power to promulgate an ordinance is co-extensive with the power of Parliament to make laws and the President cannot issue an Ordinance which Parliament cannot enact into a law.

- ⦿ *B.R. Kapoor v. State of Tamil Nadu*, 2001(6) SCALE 309

A minister must be a member of the Legislative Assembly and thus representative of an accountable to the people of the State. A non-member who does not possess the qualifications prescribed by Article 173 or has been disqualified under Article 191 cannot be appointed as Chief Minister.

Scope of protection of immunity available to the Members of Parliament is quite wide and is not confined only against judicial proceedings but is available to them against all action and criminal proceedings or anything said or any vote given by them. The object of the protection is to enable members to speak their mind in Parliament freely and fearlessly.

- ⦿ *In Re Keshav Singh*, AIR 1965 SC 745

In case of conflict between provisions under Article 194 and the provisions pertaining to fundamental rights, an attempt will have to be made to resolve the said conflict by the adoption of the rule of harmonious construction. Articles 194 and 105 are subject to fundamental rights guaranteed under Articles 21 and 22.

- ⦿ *Jaya Bachchan v. Union of India*,  
AIR 2006 SC 2119

An 'office of profit' is an office which is capable of yielding a profit or a pecuniary gain. Nature of payment must be considered as a matter of substance rather than form. The mere use of the word 'honorarium' will not take the payment out of the purview of profit.

## JUDICIARY

- ⦿ *Union of India v. Sankalchand Seth*,  
AIR 1977 SC 2328

The Supreme Court held that 'consultation' means full and effective consultation. It does not mean concurrence and the President is not bound by such consultation.

- ⦿ *S.P. Gupta v. Union of India*, AIR 1982 SC 149

(Also known as 1<sup>st</sup> Judges case or Judges transfer case) the Supreme Court agreed with the opinion in *Sankalchand* case. This meant that executive had supremacy in appointment of judges.

- ⦿ *S.C. Advocates on Record Association v. Union of India*, (1993) 4 SCC 441

(Also known as 2<sup>nd</sup> Judges case) Supreme Court overruled the decision in *S.P. Gupta* case. The court held that in the matters of appointment of judges of Supreme Court and High Courts the Chief Justice of India should have primacy.

- ⦿ *re Presidential reference*, AIR 1999 SC 1

(Also known as 3<sup>rd</sup> Judges case) Supreme Court held that consultation process to be adopted by the Chief Justice of India requires consultation of plurality of judges.

- ⦿ *Supreme Court Advocates-on-Record Association v. Union of India*,  
(2015) AIR SCW 5457

Supreme Court declared both the 99th Constitutional Amendment as well as the NJAC Act, 2014 as unconstitutional and void. Consequently, the collegium system became operative again.

- ⦿ *re Kerala Education Bill*, AIR 1958 SC 956

Supreme Court has held that the court is not bound to answer a reference made to it by the President.

- ⦿ *Rajeshwar Singh v. Subrata Roy Sahara*,  
AIR 2014 SC 476

Supreme Court held that jurisdiction of Supreme Court under Article 129 is independent of the provisions of Contempt of Court Act, 1971.

- ⦿ *Delhi Judicial Service Association v. State of Gujarat*, (1991) 4 SCC 406

Supreme Court held that under Article 129 the Supreme Court has power to punish a person for the contempt of itself as well as its subordinate courts.

- ⦿ **Bengal Immunity v. State of Bihar,**  
AIR 1955 SC 661

Supreme Court held that Supreme Court can depart from its previous decisions. The expression 'all courts within the territory of India' means all courts except Supreme Court. Therefore, Supreme Court is not bound by its decision and in proper case it may reverse it.

- ⦿ **State of Jharkhand v. Surendra Kumar Srivastava,**  
(2019) 4 SCC 214

Writ Petition under Article 227 Challenging Judicial Orders are maintainable, but not under Article 226. The Supreme Court reiterated that a writ petition under Article 226 of the Constitution of India seeking writ of certiorari against judicial orders passed by civil courts is not maintainable.

- ⦿ **Rajendra Diwan v. Pradeep Kumar Ranibala,**  
Civil Appeal No. 3613 of 2016 on 10.02.2019

Supreme Court held that State Legislature cannot enact law which affects jurisdiction of Supreme Court

- ⦿ **Anil Kumar v. Union of India & Ors.**  
(2019) 4 SCC 276

The Supreme Court observed that no authority can claim a privilege not to comply with its judgment.

- ⦿ **Rupa Ashok Hurra v. Ashok Hurra,**  
AIR 2002 SC 1771

A curative petition under Supreme Court's inherent power can be filed, seeking review of a decision which has become final after the dismissal of a review petition under Article 137.

## LEGISLATIVE RELATIONS

- ⦿ **A.H. Wadia v. Commissioner of Income Tax,**  
AIR 1949 FC 18

The State Legislature cannot make extra-territorial laws except when there is sufficient connection between the State and the subject matter of legislation.

- ⦿ **State of Bombay v. R.M.D.C.,** AIR 1957 SC 699

Supreme Court held that extra-territorial legislation can be upheld only when there is a sufficient nexus between the object sought to be achieved and the State seeking to achieve them. The connection must be real and not illusory.

- ⦿ **Javed v. State of Haryana,**  
AIR 2003 SC 3057

Supreme Court held that the Constitution gives autonomy to the Centre and the States within their respective fields. The legislation of one State cannot be held to be discriminatory against its citizens simply because Parliament or State Legislatures of other States have not chosen to enact similar laws.

- ⦿ **R.D. Joshi v. Ajit Mills,** AIR 1977 SC 2279

Supreme Court held that the entries in the list must be given wide meaning implying all ancillary and incidental powers. The court held that punitive measures for enforcing social legislation is ancillary measures.

- ⦿ **Prafulla Kumar v. Bank of Commerce, Khulna,**  
AIR 1947 PC 60

The court held that a clear-cut distinction is not possible between the legislative powers of the Union and the State Legislatures because they are bound to overlap. In ascertaining the pith and substance of the Act the court must consider :-  
(a) the object of the Act,  
(b) the scope of the Act and  
(c) the effect as the whole.

- ⦿ **State of Bombay v. F.N. Balsara,** AIR 1951 SC 318

The court held the Bombay Prohibition Act, as valid because the pith and substance of the Act fell in State List even though it incidentally encroached upon the Union List.

⦿ <i>K.C.G. Narayana Deo v. State of Orissa</i> , AIR 1953 SC 375	Colourable Legislation means that though apparently the legislature passing the statute purported to act within the limits of the powers yet in substance it transgressed these powers. The transgression is covert or indirect.
⦿ <i>G.V.K. Industries v. Income Tax Officer</i> , (2011) 4 SCC 36	Any law enacted by Parliament with respect to 'extra-territorial aspects or causes which have no impact on or nexus with India would be ultra vires to Article of the Constitution.
⦿ <i>Javed v. State of Haryana</i> , JT2003 (6) SC 283 AIR 2003 SC 3057	A legislation of one State cannot be held to be discriminatory or suffering from the vice of hostile discrimination simply because the Parliament or State Legislatures of other States have not chosen to enact similar laws.
⦿ <i>K.C. Gajapati Narayan Deo v. State of Orissa</i> , AIR 1956 SC 375	The whole doctrine of colourable legislation is based upon the maxim that you cannot do indirectly what you cannot do directly. The doctrine has reference to the competence and not to the motives, bond fides or mala fides of the legislature.

### FREEDOM OF TRADE AND COMMERCE

⦿ <i>Atiabari Tea Co. v. State of Assam</i> , AIR 1961 SC 232	The object behind the provisions from Article 301-307 is to create and preserve a national economic fibre. It breaks down the border between the States and creates one economic unit. Supreme Court held that imposition of tax or duty in every case would not amount <i>per se</i> to an infringement of Article 301. Taxes <i>simpliciter</i> as opposed to discriminatory taxation is not within the scope of Article 301. If the State Legislature wants to impose compensatory tax then it has to take President's assent under Article 304(b).
⦿ <i>State of Bombay v. R.M.D.C</i> , AIR 1957 SC 699	It was held that protection offered under Article 301 is available to lawful trading activity and does not extend to activities which are <i>res extra commercium</i> .
⦿ <i>Automobile Transport Ltd. v. State of Rajasthan</i> , AIR 1962 SC 1406	Supreme Court recognized the concept of regulatory and compensatory taxes and held that compensatory taxes are outside the purview of Article 301. Regulatory measures imposing compensatory taxes for the use of trading facilities do not come within the purview of restriction contemplated under Article 301 and such measures need not comply with the requirements of Article 304(b).

### EMERGENCY

⦿ <i>A.D.M., Jabalpur v. Shivkant Shukla</i> , AIR 1976 SC 1207	Supreme Court held that during the proclamation of emergency rights under Article 21 can also be suspended and no person shall have any <i>locus standi</i> for enforcement of such right. This case is also known as <i>habeas corpus</i> case.
⦿ <i>Minerva Mills Ltd. v. Union of India</i> , AIR 1980 SC 1789	Supreme Court held that there is no bar to judicial review of the validity of Proclamation of emergency. However, the court's power is limited to examining whether the limitations conferred by the Constitution have been observed or not. If

the satisfaction of the President is absurd, *mala fide* or perverse then it would be liable to be challenged in the court of law.

⦿ **S.R. Bommai v. Union of India, (1994) 3 SCC 1**

Supreme Court held that judicial review of Presidential proclamation is permissible if the allegations of *mala fides* have been leveled in the petition.

The Court laid down the following guidelines:-

- (1) Proclamation dissolving State Legislative Assembly is subject to judicial review;
- (2) President's rule cannot be imposed on the ground of political considerations;
- (3) Imposition of President's rule and dissolution of State Assembly cannot be done together;
- (4) State Assembly can only be dissolved after Parliament approves the proclamation.
- (5) Existence of materials is a pre-condition to form the basis of satisfaction for imposition of President's rule.

⦿ **Rameshwar Prasad v. Union of India, (2006) 2 SCC 1**

Supreme Court held that the Governor while recommending dissolution of Assembly has to annex with the report relevant materials substantiating his decision. In absence of relevant materials it will be considered as a personal opinion of the Governor.

⦿ **Minerva Mills Ltd. v. Union of India, AIR 1980 SC 1789**

There is no bar to judicial review of the validity of a proclamation of emergency issued by the President under Article 352. The court's power is limited only to examining whether the limitations conferred by the Constitution have been observed or not. Where the satisfaction is absurd, perverse, *mala fide* or based on wholly irrelevant considerations, it would be no satisfaction at all and it would be liable to be challenged before a court of law.

## AMENDMENT

⦿ **Shankari Prasad v. Union of India, AIR 1951 SC 458**

The Supreme Court held that power to amend the Constitution including the fundamental rights is contained in Article 368 and the word 'law' in Article 13(2) includes only an ordinary law made in exercise of the legislative power and does not include the constitutional amendment which is made in exercise of constituent power. Constitutional amendment will be valid even if it abridges or takes away any fundamental rights.

⦿ **Sajjan Singh v. State of Rajasthan, AIR 1965 SC 845**

Subsequently in Supreme Court approved the majority judgment in *Shankari Prasad's* case and held that 'amendment of the Constitution' means amendment of all parts of the Constitution.

⦿ **Golaknath v. State of Punjab, AIR 1967 SC 1643**

In Supreme Court prospectively overruled its earlier decisions in *Shankari Prasad's* case and *Sajjan Singh's* case. The court held that Parliament had no power, from the date of decision, to amend Part III of the Constitution so as to take away or abridge Fundamental Rights.

⦿ <b><i>Kesavananda Bharati v. State of Kerala,</i></b> AIR 1973 SC 1461	The validity of the 24 <sup>th</sup> Constitutional Amendment was challenged and Supreme Court held that Parliament can amend any Part of the Constitution but cannot amend basic structure of the constitution.
⦿ <b><i>Minerva Mills v. Union of India</i></b> (1980) AIR 1980 SC 1784	Supreme Court struck down clauses (4) and (5) of Article 368 on the ground that it destroys basic structure of the Constitution as limited amending power is the basic structure of the Constitution.
⦿ <b><i>I.R. Coelho v. State of Tamil Nadu,</i></b> AIR 2007 SC 861	Supreme Court held that any law placed in 9 <sup>th</sup> schedule of the Constitution after April 24, 1974, would be open to challenge in the court of law on the ground that it destroys the basic structure of the Constitution.