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## **Important Supreme Court Judgements**

**Regd. Office:-A-53, 3<sup>rd</sup> Floor Prashant Vihar Rohini Sector 14  
New Delhi-110085**

**Contact On:9971053929,7275253434**

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# Important Supreme Court Judgements

## 1.A.K. Gopalan Case (1950)

SC contended that there was no violation of Fundamental Rights enshrined in Articles 13, 19, 21 and 22 under the provisions of the Preventive Detention Act, if the detention was as per the procedure established by law. Here, the SC took a narrow view of Article 21.

## 2. Shankari Prasad Case (1951)

This case dealt with the amendability of Fundamental Rights (the First Amendment's validity was challenged). The SC contended that the Parliament's power to amend under Article 368 also includes the power to amend the Fundamental Rights guaranteed in Part III of the Constitution.

## 3. Berubari Union case (1960)

This case was regarding the Parliament's power to transfer the territory of Berubai to Pakistan. The Supreme Court examined Article 3 in detail and held that the Parliament cannot make laws under this article in order to execute the Nehru-Noon agreement. Hence, the 9th Amendment Act was passed to enforce the agreement.

## 4. Golaknath case (1967)

The questions in this case were whether amendment is a law; and whether Fundamental Rights can be amended or not. SC contended that Fundamental Rights are not amenable to the Parliamentary restriction as stated in Article 13, and that to amend the Fundamental rights a new Constituent Assembly would be required. Also stated that Article 368 gives the procedure to amend the Constitution but does not confer on Parliament the power to amend the Constitution.

## 5. Kesavananda Bharati case (1973)

- It was unique for the reason that it brought a shift in the balance of democratic power. Earlier judgements had taken a stand that Parliament could amend even the fundamental rights through a proper legislative process.
- But the present case held that Parliament cannot amend or alter the fundamental structure a '**Basic Structure**' of the constitution.



- Besides, Kesavananda Case was significant in that the Supreme Court ascribed to itself the function of preserving the integrity of the Indian Constitution.
- The 'basic structure doctrine formulated by the court represented the pinnacle of judicial creativity and set a benchmark for other constitutional courts around the world.
- The doctrine ruled that even a constitutional amendment could be invalidated if it impaired the essential features—the basic structure—of the Constitution.

#### **Evolution of the Basic structure doctrine**

- Since the adoption of the Indian Constitution, debates have started regarding the power of the Parliament to amend key provisions of the Constitution.
- In the early years of Independence, the Supreme Court conceded absolute power to Parliament in amending the Constitution, as was seen in the verdicts in the Shankari Prasad case (1951) and Sajjan Singh case (1965).
- This means Parliament had the power to amend any part of the constitution including Fundamental rights.
- However, in the Golaknath case (1967), the Supreme Court held that Parliament could not amend Fundamental Rights, and this power would be only with a Constituent Assembly.
- The Court held that an amendment under Article 368 is "law" within the meaning of Article 13 of the Constitution and therefore if an amendment "takes away or abridges" a Fundamental Right conferred by Part III, it is void.
- To get over the judgments of the Supreme Court in the Golaknath case (1967), RC Cooper case (1970), and Madhavrao Scindia case (1970), the then government headed by Prime Minister Indira Gandhi had enacted major amendments to the Constitution (the 24<sup>th</sup>, 25<sup>th</sup>, 26<sup>th</sup> and 29<sup>th</sup>).
- All four amendments brought by the government were challenged in the Kesavananda Bharati case.

#### **6. Indira Nehru Gandhi v. Raj Narain case (1975)**

The SC applied the theory of basic structure and struck down Clause(4) of article 329-A, which was inserted by the 39th Amendment in 1975 on the grounds that it was beyond the Parliament's amending power as it destroyed the Constitution's basic features.

#### **7. Maneka Gandhi case (1978)**

A main issue in this case was whether the right to go abroad is a part of the Right to Personal Liberty under Article 21. The SC held that it is included in the Right to Personal Liberty. The SC also ruled that the mere existence of an enabling law was not enough to restrain personal liberty. Such a law must also be "just, fair and reasonable."



## 8. Minerva Mills case (1980)

This case again strengthens the Basic Structure doctrine. The judgement struck down 2 changes made to the Constitution by the 42nd Amendment Act 1976, declaring them to be violative of the basic structure. The judgement makes it clear that the Constitution, and not the Parliament is supreme.

## 9. Waman Rao Case (1981)

The SC again reiterated the Basic Structure doctrine. It also drew a line of demarcation as April 24th, 1973 i.e., the date of the Kesavananda Bharati judgement, and held that it should not be applied retrospectively to reopen the validity of any amendment to the Constitution which took place prior to that date.

## 10. Shah Bano Begum case (1985)

- In April 1985, the Supreme Court delivered a judgement on the maintenance a divorced Muslim woman would be entitled to receive from her former husband in the case of **Mohammed Ahmed Khan v. Shah Bano Begum (Shah Bano)**.
- It is seen as one of the milestones in Muslim women's fight for rights in India and the battle against the set Muslim personal law. It laid the ground for thousands of women to make legitimate claims that they were not allowed before.
- While the Supreme Court upheld the right to alimony in the case, the judgment set off a political battle as well as a controversy about the extent to which courts can interfere in Muslim personal law.

## 11. MC Mehta and Union Of India (1986)

This case dealt with 3 issues: Scope of Article 32; rule of Absolute Liability or Rylands vs Fletcher to be followed; issue of compensation. SC held that its power under Article 32 is not restricted to preventive measures, but also remedial measures when rights are violated. It also held that in the case of industries engaged in hazardous or inherently dangerous activities, Absolute Liability was to be followed. Finally, it also said that the amount of compensation must be correlated to the magnitude and capacity of the industry so that it will be a deterrent.

## 12. Indra Sawhney and Union of India (1992)

### Details of the issue:

The case highlighted a major issue. The Indian Constitution recognized social and educational backwardness, however, economic backwardness was missed. In the year 1993, Indira Sawhney filed a



case against Narasimha Rao Government. The case was against the Government allowing just 10 % reservation for economically backward categories of upper castes in various Government jobs.

**The Judgment:**

The Supreme Court in its judgment stated that a 50 % cap was to be imposed on caste-based reservations.

The apex court also upheld separate reservations for OBCs in central government jobs but with the exclusion of the creamy layer. The Judgement also stated that the reservations in appointments under Article 16 (4) of the Constitution would not be applicable to promotions. Judgment implemented, with 27% central government reservation for OBCs. The verdict was however not followed in many states and was again pressed in 1989.

**13. S. R. Bommai case (1994)**

In this judgement, the SC tried to curb the blatant misuse of Article 356 (regarding the imposition of President’s Rule on states).

**14. Vishaka and State of Rajasthan (1997)**

Innovating jurisprudence to **prevent sexual harassment at the workplace.**

- In the context of sexual harassment of women at workplace, judicial activism reached its pinnacle in **Vishaka v. State of Rajasthan (Vishaka).**
- The judgement was unprecedented for several reasons:
  - the Supreme Court acknowledged and relied to a great extent on international treaties that had not been transformed into municipal law;
  - the Supreme Court provided the first authoritative definition of ‘sexual harassment’ in India; and confronted with a statutory vacuum, it went creative and proposed the route of ‘judicial legislation’.
- Since there was no legislation in India related to sexual harassment at the workplace, the court stated that it was free to rely on the **Convention on the Elimination of All Forms of Discrimination against Women (CEDAW—signed by India in 1980)** in interpreting **Articles 14, 15, 19 and 215 of the Constitution.**
  - To justify its decision the court referred to several sources including the **Beijing Statement** of Principles of the Independence of the Judiciary, a decision of the High Court of Australia and its own earlier decisions.



### The Supreme Court set out the following significant guidelines:

- The employer and/or other responsible people in a workplace are duty-bound to prevent or deter sexual harassment and set up processes to resolve, settle, or prosecute in such cases.
- For the first time in India, 'sexual harassment' was defined authoritatively.
  - The definition includes 'such unwelcome sexually determined behaviour (whether directly or by implication) such as: physical contact and advances, a demand or request for sexual favours, sexually coloured remarks, showing pornography, and any other unwelcome physical, verbal or non-verbal conduct of sexual nature'.
- All employers or persons in charge of workplaces must strive to prevent sexual harassment and, if any act amounts to a specific offence under the Indian Penal Code, 1860 or any other law, they must take appropriate action to punish the guilty.
- Even if the act is not considered a legal offence or a breach of service rules, the employer should create appropriate mechanisms so that the complaint is addressed and redressed in a time-bound manner.
- This complaint mechanism must, if necessary, provide a complaints committee, a special counsellor or other support service, such as assuring confidentiality. The complaints committee should be headed by a woman, and at least half its members must be women.
- The employer must sensitize female employees to their rights and prominently notify the court's guidelines.
- Even if a third party is responsible for sexual harassment, the employer must take all steps necessary to support the victim.
- The central and state governments should adopt suitable measures to ensure that private sector employers implement the guidelines.

### 15. Samatha and State of Andhra Pradesh (1997)

This judgement nullified all mining leases granted by the Andhra Pradesh State government in the Scheduled areas and asked it to stop all mining operations. It declared that forest land, tribal land, and government land in scheduled areas could not be leased to private companies or non-tribal for industrial operations. Such activity is only permissible to a government undertaking and tribal people.



## 16. Lily Thomas v Union of India (2000)

Here, the SC held that the second marriage of a Hindu man without divorcing the first wife, even if the man had converted to Islam, is void unless the first marriage had been dissolved according to the Hindu Marriage Act.

## 17. I.R Coelho and State of Tamil Nadu 2007

This judgement held that if a law is included in the 9th Schedule of the Indian Constitution, it can still be examined and confronted in court. The 9th Schedule of the Indian Constitution contains a list of acts and laws which cannot be challenged in a court of law. The Waman Rao ruling ensured that acts and laws mentioned in the IX schedule till 24 April 1973, shall not be changed or challenged, but any attempt to amend or add more acts to that schedule will suffer close inspection and examination by the judiciary system.

## 18. Pedophilia case (2011)

The SC restored the conviction and sentence of 6-year (RI) rigorous imprisonment imposed on 2 UK nationals who were acquitted by the Bombay High Court in a paedophilia case. The court said that “the sexual abuse of children is one of the most heinous crimes.”

## 19. Aruna Shanbaug Case (2011) Right to Die With Dignity

- **Passive euthanasia** is a condition where there is the withdrawal of medical treatment with the deliberate intention to hasten the death of a terminally-ill patient.
- The **Aruna Shanbaug case** triggered the debate on Euthanasia in India.
- A writ petition under Article 32 before the Supreme Court of India was filed, asking for the legalisation of euthanasia so that Aruna’s continued suffering could be terminated by withdrawing medical support.
- Supreme court in 2011 **recognised passive euthanasia** in this case by which it had permitted withdrawal of life-sustaining treatment from patients not in a position to make an informed decision.
- Subsequent to this, in a landmark judgment (2018), the Supreme Court recognised passive euthanasia and “**living will**”.
- A ‘**living will**’ is a concept where a patient can give consent that allows withdrawal of life support systems if the individual is reduced to a permanent vegetative state with no real chance of survival.



## 20. NOTA judgement (2013)

This judgement introduced the NOTA (None-Of-The-Above) option for Indian voters.

## 21. Lily Thomas and Union Of India (2013)

The SC ruled that any MLA, MLC or MP who was found guilty of a crime and given a minimum of 2 year imprisonment would cease to be a member of the House with immediate effect.

## 22. Nirbhaya Case (2014)

Introduction of the Criminal Law (Amendment) Act, 2013 and definition of rape under the Protection of Children from Sexual Offences Act, 2012, the Indian Evidence Act, 1872, Indian Penal Code, 1860 and Code of Criminal Procedures, 1973.

## 23. National Legal Services Authority and Union of India (2014)

- The Supreme Court in **National Legal Services Authority Vs. Union of India (2014)** **recognized them as the “Third Gender”**. In the landmark ruling, Justice K.S Radhakrishnan observed that “recognition of transgenders as a third gender is not a social or medical issue, but a **human rights issue**”.
- The court in its landmark judgement relied on various judgements from foreign courts like New Zealand, Australia, Malaysia, Pakistan, and England.
- The Court made a distinction between **biological sex** and **psychological sex**.
- The Court said no to gender identification based on biological sex and gave full importance to identification based on psychological sex.
- The Court held that transgenders fall within the purview of the Indian Constitution and thus are fully entitled to the rights guaranteed therein.
- Article 14 guarantees equality to “any person” which means man, woman, and transgender, and as such, they are also guaranteed equal protection of the law.
- They have equal rights in employment, health care, education, and civil rights.
- Discrimination on the grounds of sexual orientation and gender identity represents inequality before the law and unequal protection of the law and violates Article 14.
- The Court further added that transgender individuals have freedom of expression under Article 19 whereby they can talk, dress, act, and behave in a manner they like.
- They also have a right to live a life of dignity under Article 21.



## 24. Shayara Bano vs Union of India & Others in 2017

### The details of the issue:

In the year 2016, Shayara Bano was divorced by Rizwan Ahmad after 15 years of marriage through instantaneous triple talaq method or talaq -e bidat. A Writ Petition was filed in the Supreme Cour to hold talaq-e-biddat, polygamy, nikah-halala practiced in Muslim Community as unconstitutional.

Bano also claimed that such practices violated the articles 14, 15, 21, 25 of the Indian Constitution.

### The Judgement:

The Union of India and the women rights organizations like Bebaak Collective and Bhartiya Muslim Mahila Andolan (BMMA) supported Shayara Bano's plea. They agreed that such practices must be labelled unconstitutional. The apex court formed a 5 judge constitutional bench after the plea was accepted. SC stated that triple talaq in any form was illegal. It also declared instant triple talaq as unconstitutional. On 22nd August 2017, the apex court announced a legal ban on Triple Talaq with up to three years jail for the husband.

## 25. Justice K.S. Puttaswamy vs. Union of India (2017)

SC ruled that **Fundamental Right to Privacy** is intrinsic to life and liberty and thus, comes under Article 21 of the Indian constitution.

- Nine judges of this Court assembled to determine whether privacy is a constitutionally protected value. The issue reaches out to the foundation of a constitutional culture based on the protection of human rights and enables this Court to revisit the basic principles on which our Constitution has been founded and their consequences for a way of life it seeks to protect.
- This case presents challenges for constitutional interpretation. If privacy is to be construed as a protected constitutional value, it would redefine in significant ways our concepts of liberty and the entitlements that flow out of its protection.
- The Puttaswamy judgement of 2017 reaffirmed the '**Right to Privacy**' as a **fundamental right in Indian Jurisprudence**. Since then, it has been used as an important precedent in many cases, to emphasize upon the right to privacy as a fundamental right and to clarify the scope of the same.
- The Supreme Court upheld the validity of the **Aadhar Scheme** on the ground that it did not violate the right to privacy of the citizens as minimal biometric data was collected in



the enrolment process and the authentication process is not exposed to the internet.

- The majority upheld the constitutionality of the Aadhaar Act, 2016 barring a few provisions on disclosure of personal information, cognizance of offences and use of the Aadhaar ecosystem by private corporations.
- They relied on the fulfilment of the proportionality test as laid down in the Puttaswamy (2017) judgment.

### **Proportionality Test under Puttaswamy (2017) judgment**

It held that **privacy is a natural right** that inheres in all natural persons, and that the right may be restricted only by state action that passes each of the three tests:

- First, such state action must have a legislative mandate;
- Second, it must be pursuing a legitimate state purpose; and
- Third, it must be proportionate i.e., such state action — both in its nature and extent, must be necessary in a democratic society and the action ought to be the least intrusive of the available alternatives to accomplish the ends

## **26. Navtej Singh Johar vs. Union Of India (2018)**

Decriminalised homosexuality by **striking off parts of Section 377 of the Indian Penal Code (IPC)**

- In **Navtej Singh Johar v. Union of India case**, the Supreme Court of India unanimously held that **Section 377** of the Indian Penal Code 1860 (IPC), which criminalized ‘carnal intercourse against the order of nature’, was **unconstitutional** in so far as it criminalized consensual sexual conduct between adults of the same sex.
- The petition, challenged Section 377 on the ground that it was vague and it violated the constitutional rights to privacy, freedom of expression, equality, human dignity and protection from discrimination guaranteed under Articles 14, 15, 19 and 21 of the Constitution.
- The Court relied upon the judgement in the case of **K.S. Puttaswamy v. Union of India**, which held that denying the LGBT community its right to privacy on the ground that they form a minority of the population would be violative of their fundamental rights, and that sexual orientation forms an inherent part of self-identity and denying the same would be violative of the right to life.

## **27. Indian Young Lawyers Association vs. The State of Kerala (2018)**

- Entry of Females into Sabrimala Temple



- In Sabrimala Temple- a Hindu pilgrimage centre in Kerala, female devotees between the age group of 10 to 50 years were denied entry on the basis of certain customs and usage.
- A Constitution Bench of the apex Court led by CJI Dipak Misra overruled the Kerala High Court's 27-year-old decision that had upheld the restriction on entry of women into the temple.
- The court delivered its verdict in this case by a 4:1 majority which held that the practice violated the fundamental rights to equality, liberty and freedom of religion, Article 14, 15, 19(1), 21 and 25(1).
- The court said, "The dualism that persists in religion by glorifying and venerating women as goddesses on one hand and by imposing rigorous sanctions on the other hand in matters of devotion has to be abandoned. Such a dualistic approach and an entrenched mindset results in indignity to women and the degradation of their status."

## 28. Joseph Shine vs. Union of India (2019): 497 IPC Unconstitutional

- **Adultery is defined under Section 497 of the Indian Penal Code.** Which states that whoever has sexual intercourse with a person who is and whom he knows and reason to believe to be the wife of another man, without the consent or connivance of that man?
- In Joseph Shine v. Union of India (2018), **the Supreme Court held that the offence of adultery was unconstitutional because it was founded on the principle that a woman is her husband's property after marriage**
- The Supreme Court called the law unconstitutional because it **"treats a husband as the master"**.
- The Court held- "Any provision of law affecting individual dignity and equality of women invites the wrath of the Constitution. It's time to say that the husband is not the master of the wife. Legal sovereignty of one sex over other sex is wrong".



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