

THE KESHAV SINGH CASE: HISTORIC BUT UNRECOGNIZED

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ABSTRACT

The Keshav Singh case is one of the largest bench sitting cases but it is yet unrecognized. This article tries to bring everyone's attention to this historic but unrecognized case. This case shook the whole country from legislature to judiciary to executive. This case is an example of judiciary unity and also teaches the lesson that no sovereign power can intimidate any other branch. This case is an example of the phrase that no matter how long but at the end of the day justice prevails.

Keywords: Kesavananda Bharti, Judge, Constitution.

INTRODUCTION

Everybody knows and talks about the [Kesavananda Bharti](#) case consisting of the largest number of judges but hardly anyone knows that the case of Kesavananda Bharti was assigned to a bench with fewer than half the number of judges who decided the case of Keshav Singh. To take on this case, it took the combined efforts of multiple Supreme Court justices, High Court judges, MPs and MLAs, and, eventually, the Prime Minister and the Chief Justice of India. This is one of the most intriguing cases during Nehru's presidency. This case holds very much importance in the Indian judiciary, but it remained unrecognized.

FACTS ASSOCIATED WITH THIS CASE

This case begins and concludes with Keshav Singh as the primary character, demonstrating how a simple citizen or a local politician shook the country's whole judiciary and executive systems.

WHO WAS KESHAV SINGH?

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Keshav Singh was born in Gorakhpur, Uttar Pradesh. He was either a local politician or a member of the socialist party. The ruling party at the time was the Congress Party. The controversy began when a pamphlet was produced titled "exposing the faults of Narsingh Narain Pandey," suggesting that Pandey (a member of the Congress Party's Legislative Assembly) was corrupt. Three additional individuals signed the pamphlet, which was then distributed in Gorakhpur. This pamphlet also discusses the rights and immunities of the assembly and its members. When Narsingh Pandey learned about the booklet or leaflet, he immediately went to work on a case against Keshav Singh. MLAs from the Congress party, as well as Pandey, were dissatisfied with the leaflet. They alleged that the pamphlet constituted a breach of confidentiality. Singh was summoned to confirm his name and the region of Lucknow's legislative assembly, but he said nothing in response to the charges leveled against him. He stood with his back to the speaker and remained mute when questions were posed to him. Despite his colleagues' attendance and acceptance of a reprimand before the assembly on February 19, 1964, Keshav Singh did not, claiming a lack of funds to travel. Keshav Singh would have had to travel from Gorakhpur to Lucknow by rail for several hours.

Following Keshav Singh's justification, the assembly resolved that whatever that could not be gotten peacefully would have to be obtained by force. Singh was caught and brought before the assembly on March 14. The lawsuit, and the problem, might have ended there if not for the ruling dismissing Keshav Singh's and his attorney's appeal. When the assembly's speaker continues to raise questions, Singh, being Singh, takes the difficult way. The situation worsened after that, and the speaker summoned Congress MLAs to the assembly. Singh had written to the speaker opposing his conviction, confirming the authenticity of the booklet's claims, and decrying the arrest warrant as dictatorial. The MLAs had had enough, and Chief Minister Sucheta Kripalani entered the residence to place Singh under house arrest for seven days. While some members of the assembly desired a harsher penalty (three months) to create a precedent, others were worried that incarceration would be seen as excessively harsh, and Singh should be freed sooner rather than later. Singh was transported to a prison for his week-long punishment after the legislature accepted a resolution in the form recommended by the chief minister. Until March 18, the feud between Singh and Congress MLAs had been restricted to a local political skirmish, at most providing food for rumor in Uttar Pradesh's political circles. The following day, though, things took a turn for the worst. A counsel filed a plea in the Allahabad High Court on Singh's behalf only one day before he was set to be released following

completion of his term, requesting his early release. The petition argued that Singh's detention was unconstitutional since he was not given the right to defend himself after being taken before the court and that the assembly lacks the authority to imprison him. Singh's plea was first heard in the high court at 2:00 p.m. before a bench of Justices Nasrullah Beg and GD Sehgal. Singh's lawyer, B Solomon, stood on his side, while the state government was represented by KN Kapur, an assistant government counsel. The hearing was set to take place an hour later on the same day.

When the matter came up for hearing at 3 p.m., however, Kapur did not show up, and the government was left without representation. Kapur was supposed to be advising the Uttar Pradesh government's secretary to the judicial department on what was going on in the court at the time. It was unclear if his inability to appear in court on time was an accident or a deliberate act. The high court, based on Solomon's facts and reasoning, ruled that his client be freed on bond, subject to several conditions, including that Singh appears in court at all future hearings.

The Uttar Pradesh bureaucracy's initial reaction was to treat the situation as if it were any other. The government was instructed to attend the next hearing in the matter and provide affidavits as usual. On the other side, the assembly's speaker was less pleased with the decree. The attitude of the court, according to the speaker, who is also a lawyer, was in breach of the separation of powers. One of the ways the separation of powers between the legislative, executive, and judiciary was supposed to be preserved was by allowing each branch autonomy in the practice of its primary functions without interference from the others. According to the speaker, the high court's decision undermined the assembly's exclusive capacity to address an infraction of its rights. The speaker went even farther, claiming that those who carried out the order promptly, including Singh, Solomon, and Justices Beg and Sehgal, had violated the assembly's privileges. Others, such as the high court administrative employees who assisted in the filing of the lawsuit, were lucky enough to be spared.

The assembly passed a resolution by an overwhelming majority just two days after the court's ruling that Singh remains in prison and be brought back to the assembly to answer for the petition filed in the high court. Surprisingly, the resolution also demanded that Solomon and the two high court justices be taken into jail and hauled before the assembly to account for their transgressions. The disagreement between Singh and the assembly had devolved into a genuine conflict between constitutional institutions at this point.

The drama might jeopardize the judiciary's independence if the justices agree to speak before the assembly. If they appear and provide a solid defense, on the other hand, the assembly may be constrained to take no further action to avoid being accused of harassing well-intentioned judges. The judges may also file a petition with the top court, but there was no assurance that the judges who heard the petition would face the same fate as the justices who heard it. The resolution was not communicated to Justices Beg and Sehgal through official channels. Instead, they heard about it later that evening on All-India Radio. Any suspicions of a fake story were put to rest the next morning when the resolution was announced in the Northern Indian Patrika. The judges were well aware of the urgency with which they needed to act. They filed petitions in the Allahabad High Court, claiming that the assembly's action violated Article 211 of the Constitution, which prevents state legislatures from debating the behavior of any high court or Supreme Court judge. Justices Beg and Sehgal asked for the resolution against them to be put on hold while the case was still ongoing in court. Advocate and legal scholar Jagdish Swarup, who later became India's solicitor general, represented the Allahabad High Court.

The judges had a tough time with these proceedings. Case distribution is the duty of the chief justice of the high court (or, in his absence, the most senior judge after the top justice). Because Chief Justice MC Desai was unavailable, the case was assigned to the next most senior judge. He was hesitant to do so for fear of the bench suffering the same fate at the hands of the assembly. Finally, Jagdish Swarup presented to the chief justice an unusual solution: all of the high court justices should sit together to hear the case (excluding Justices Beg and Sehgal). This wasn't just a token gesture of support. "If they truly persist in that line of action, the legislature will have to vote to arrest all the judges," the chief justice said. The supreme court has just raised the stakes. It was one thing to try to acquire the custody of two justices; it was quite another to try to get the custody of every judge on the high court.¹

OBSERVATION AND DECISION OF THE COURT

A panel of twenty-eight judges was assigned to hear this case. This was the greatest number of judges ever assigned to a case in a high court or the Supreme Court at the time. This record has stood for more than five decades. Assembly was the next to reply, somewhat backing down from its prior position. The assembly passed a vote requiring Keshav Singh, Solomon, and Justice Beg to participate, while Sehgal was exempted because the assembly's goal at the time

¹ Dr. Chintan Chandrachud, *The Cases that India forgot*.

was to get the facts from them. The chief minister brought the issue to Prime Minister Nehru's notice. It was decided to make a 'presidential reference' to the supreme court, asking the court to rule definitively on the assembly's authority on the one hand, and the courts to rule on the assembly's privileges on the other. A panel of seven judges, chaired by Chief Justice Gajendragadkar, heard the case. Because this case raised issues of principle that extended beyond the state of Uttar Pradesh, the Supreme Court sent notices of hearing to all high courts and state legislatures. The Supreme Court of the United Kingdom recognized Erskine May's famous case textbook on parliamentary privilege as authoritative. The Supreme Court agreed, noting that the assembly's resolution infringed on the independence of the judiciary. Article 211 could not be reduced to a meaningless assertion because it was an important part of the system that permitted courts to make difficult, even if incorrect, decisions without fear of political vengeance. The Supreme Court held that the high court has jurisdiction to hear Keshav Singh's appeal and release him on bail pending a judgment. The parliament lacked the authority to issue an arrest warrant or demand an explanation for Solomon and Justices Beg and Sehgal.

LEGAL ISSUES

Article 211 of the constitution, prohibits discussions of the conduct of any judge of a high court or the Supreme Court in state assemblies.

Article 143 of the constitution enables the President to seek the opinion of the Supreme Court on questions of law and fact.

Article 21 of the Indian constitution. This case deals with the event of a conflict between the right to personal liberty and parliamentary privileges.

Article 211 of the Indian constitution deals with an absolute prohibition on discussion of the conduct of judges of the Supreme Court or High Court in the state legislatures.

Audi alterum partem forms one of the most important parts of this case.

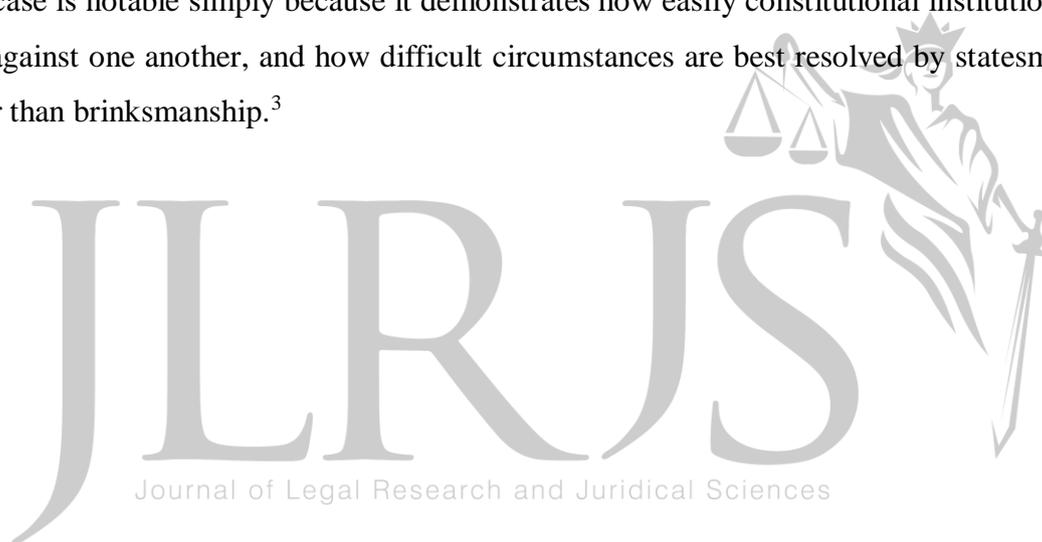
OBSERVATION

This case involves a breach of fundamental rights and a constitutional crisis, but the focus is on judicial bodies' symbolic gestures of solidarity and how they collectively resolved the conflict while maintaining their dignity and protecting citizens' fundamental rights as enshrined

in the Indian constitution. This case highlights the importance of division of powers as one of the constitution's key components, and how each of them may check overreach and respond appropriately. The decision struck a proper balance of authority between two coequal organizations.²

CONCLUSION

The confrontations between the high court and the Uttar Pradesh assembly would never have developed to the amount that they did if it hadn't been for a series of flaws and errors in judgment. Singh's lawyer filed a plea with just one day remaining on Singh's sentence, which was rare. If the government's lawyer had arrived at the high court at 3 p.m., he would have most likely reported the case to the judge, who would have immediately revoked Singh's bail. This case is notable simply because it demonstrates how easily constitutional institutions may turn against one another, and how difficult circumstances are best resolved by statesmanship rather than brinksmanship.³



² State of Punjab and others versus Surinder Kumar and others [AIR 1992 SC 1593].

³ Maneka Gandhi vs. Union of India.