

**M.H. HOSKOT Vs STATE OF MAHARASHTRA**

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**Archana K Chandran\*****ABSTRACT**

*The right to free legal representation was first examined in the case of M.H. Hoskot v. State of Maharashtra,<sup>1</sup> and it was determined that it was crucial to educate the underprivileged about their legal obligations under both the Constitution and statutes. Additionally, the State must offer legal aid to members of the underprivileged community who cannot pay the court's fees. This case also illustrates how citizens' fundamental rights were infringed by denying free legal aid to those in need. A few relevant case laws are also stated in this case, which also describes the legal aid services. According to P.N. Baghwati, "Legal aid means providing an arrangement in the society so that the missionary of administration of justice becomes easily accessible and is not out of reach of those who have to resort to it for enforcement of its given to them by law, the poor and illiterate should be able to approach the courts and their ignorance and poverty should not be an impediment in the way of their obtaining justice from the courts. Legal aid should be available to the poor and illiterate, who don't have access to courts. One need not be a litigant to seek aid using legal aid."<sup>2</sup> Legal aid, to put it simply, is the provision of free legal services to the underprivileged masses who are unable to hire an attorney for the conduct of a case or legal proceeding in a court, tribunal, or before an authority. As it is protected by Articles 21 and 39-A of the Indian Constitution, it is a constitutional right.*

**Keywords:** Rights, Legal, Administration.

**INTRODUCTION**

Legal assistance is the provision of free legal services to the most vulnerable members of society who cannot afford to hire an attorney to represent them during a case or other legal proceeding before a court of law, a judicial authority, or any other body. According to Article 39A of the Indian Constitution, the State is responsible for ensuring that the functioning of the legal system promotes justice based on equal opportunities. In particular, the State will provide

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<sup>1</sup> M.H. Hoskot v. State of Maharashtra, AIR 1978 SCC 1548, (1978) 3 SCC 544.

<sup>2</sup> <https://www.legalserviceindia.com/legal/article-82-legal-aid-and-awareness-in-india-issues-and-challenges.html> accessed 23 November 2022.

free legal assistance, through appropriate legislation or plans or any other means, to ensure that opportunities to guarantee justice are not denied to any citizen for reasons of economic or other disabilities. Additionally, there are various articles in the Indian Constitution, such as Article 14 about equality before the law, which states that no citizen of India shall be denied equality before the law or equal protection under the law. This article aids in promoting justice based on equal opportunity for all. Additionally, the Preamble of the Indian Constitution aspires to provide Social, Economic, and Political Justice to all segments of society.

## **BACKGROUND**

When India's Constitution was being drafted, all facets, significance, and need for improving human life were taken into consideration as the Constitution's motto. Out of all of this, the individual's rights and obligations were maintained as the dominating factor. Everyone has the right to justice and the ability to conduct their lives as they see fit. Free legal aid and support are important issues that, during the earliest stages of the Constitution's construction, were not adequately addressed in the wording of the Constitution. Regarding the supremacy of rights, a number of cases were heard and rulings were rendered. A fair legal system is a part of every Indian citizen's right to personal liberty, the bench noted, taking into consideration the precedent set in *Maneka Gandhi v. Union of India*<sup>3</sup> and Articles 19 and 21 as they applied in that case. Therefore, the case we're going to talk about making a history-making decision regarding the necessity of giving prisoners and other needy or impoverished people free legal advice and assistance. According to Articles 142 read with Articles 21 and 39-A of the Indian Constitution, the Courts are empowered to appoint a lawyer for an imprisoned person to ensure that complete justice is served if the prisoner serving a sentence of imprisonment is unable to exercise his statutory or constitutional right of appeal, including the right to special permission to appear. Later, several cases involving prisoners' rights and the right to live in dignity in prison were explored, such as *Hussainara Khatoon v. State of Bihar*,<sup>4</sup> however, the fundamental issues in all of these subsequent cases can be resolved by the *M.H. Hoskot v. State of Maharashtra* case (1978).

## **FACTS OF THE CASE**

The petitioner, Dr. Madhav Hayawadanrao Hoskot, retained his M.Sc. and Ph.D. degrees while working as a Reader at Saurashtra University. He was arrested for the felony of attempting to

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<sup>3</sup> *Maneka Gandhi v. Union of India*, (1978) 1 SCR 621.

<sup>4</sup> *Hussainara Khatoon v. State of Bihar*, (1980) 1 SCC 98.

forge university degree credentials, and he was found guilty of the offense under Sections 417, 467, 471, and 511 of the Indian Penal Code, 1860. Given that he came from a middle-class family, the emphasis of current punishment is on the corrective component, which cannot be disregarded, and the Public Prosecutor had no issues with the common term, he was sentenced to a simple life in prison and a penalty. Following that, the Appellant and the State filed separate appeals with the High Courts. While the State sued to have the sentence of imprisonment increased, the Appellant fought against his conviction. The High Court issued its ruling in 1973, rejecting the appellant's argument and enhancing the sentence by three years of imprisonment. The petitioner filed a Special Leave Petition with the Supreme Court of India in 1978, four years after the High Court's ruling. This delay is justified by the High Court's tardy delivery of the petitioner's copy of the judgment.

### **ISSUE REFERRED TO THE COURT**

- Whether the Supreme Court will uphold the petitioner's special leave petition or not.
- Is Article 21 of the Indian Constitution applicable to the Right to Free Legal Aid?

### **CONTENTIONS**

#### **Arguments in Support of the Petitioner**

- The petitioner's skilled attorney argued that, by Sections 363(2) and 387 of the Code of Criminal Procedure, on December 10, 1973, the petitioner requested a copy of the High Court's decision through the jail administrations. Nevertheless, he never received a copy of the ruling.
- In addition, it was claimed that the petitioner was compelled to file a petition for condonation after getting a second certified copy from the High Court because he had lost his ability to file a Special Leave Petition to appeal.
- The experienced attorney also called attention to the absence of the petitioner's signature on the register for getting a copy of the judgment. It is therefore obvious that the petitioner was never given a copy of the judgment.

#### **Arguments put forth by the respondent**

- The respondent's knowledgeable attorney made an argument that his client wasn't to blame for the holdup.

- According to the argument, a clerk did provide a copy of the High Court's decision but later returned it because it was missing a petition for mercy from the government asking for the sentence to be commuted.
- Due to the aforementioned fact, the petitioner received a copy of the ruling in 1978.

## RELATED PROVISIONS

The Indian Constitution guarantees everyone's right to freedom under Article 19 without regard to their race, caste, or gender. Only Indian nationals and shareholders of a corporation with a registered office in India are eligible for the rights granted by this article.<sup>5</sup>

The Indian Constitution's Article 21, which is a fundamental right, includes the right to equality as well. This right covers things like the denial of discrimination and equality before the law. No citizen may be subjected to discrimination because of their gender, caste, color, creed, or religion. Furthermore, it is a fundamental right that nobody is allowed to violate. If this right is violated, Article 21 is dishonored.<sup>6</sup> Protection from arbitrary arrest and detention is provided by Article 22.<sup>7</sup>

Article 39-A states that the State must ensure that the functioning of the legal system promotes justice based on equal opportunity and must, in particular, provide free legal aid, through appropriate legislation or schemes or in any other way, to ensure that no citizen is denied the opportunity to secure justice because of their financial situation or other disabilities.<sup>8</sup>

According to Article 136, the Supreme Court has the discretion to grant special leave to appeal any judgment, decree, determination, sentence, or order made by any court or tribunal within the Indian subcontinent in any cause or matter. The name of this is "Special Leave Petition" (SLP).<sup>9</sup>

## JUDGMENT

The idea of free legal was debated in the case of Madhav Hayawadanrao Hoskot v. State of Maharashtra and determined to be a part of the Indian Constitution. Because the petitioner

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<sup>5</sup> Article 19(1) of the Constitution of India, 1949.

<sup>6</sup> Article 21 of the Constitution of India, 1949.

<sup>7</sup> Article 22 of the Constitution of India, 1949.

<sup>8</sup> Article 39-A of the Constitution of India, 1949.

<sup>9</sup> Article 136 of the Constitution of India, 1949.

received a copy of the judgment after four years had passed since the High Court's ruling, in this case, a Special Leave Petition was filed by the petitioner.

The petitioner's Special Leave Petition was denied by the Supreme Court because it was unable to intervene in the two lower courts' concurrent rulings. In this case, the Court went into more detail about Article 21. Article 21 of the Constitution states that "no person shall be deprived of his life or personal liberty except following procedure established by law",<sup>10</sup> which refers to a fair and reasonable procedure. It was claimed that "freedom is what freedom does." As a result, the first appeal from the Sessions Court to the High Court exemplifies the value upheld in Article 21.<sup>11</sup>

The case of *Maneka Gandhi v. Union of India* served as an example of how important fair judicial processes are to Article 21 for the Court. The fair legal procedure includes the right to appeal, which is comprised of two essential components: (1) serving the prisoner with a copy of the judgment in time for him to file an appeal; and (2) providing free legal services to a prisoner who is indigent or otherwise unable to obtain legal assistance. These two obligations are set forth by Article 21 for the State.<sup>12</sup> Therefore, any Jailor who knowingly withholds the copy of the judgment and obstructs the court's proceedings breaches Article 21 of the Indian Constitution. The Court also emphasized Article 142 of the Constitution, read with Articles 21 and 39-A, which gives the Court the authority to appoint a lawyer for an imprisoned person to ensure that complete justice is served if the prisoner serving a sentence of imprisonment is unable to exercise his legal or constitutional rights of appeal, including the right to special permission to appear.

## CONCLUSION

Regardless of the gravity of the charged crime, the Supreme Court declared that all low-income defendants should be entitled to free legal representation. Additionally, all three tiers of legal help should be offered for the proper administration of justice, not just the trial stage. The right to free legal help was taken into consideration for the first time in this case. Article 14 (3) of the International Covenant on Civil and Political Rights, which highlights the significance of legal aid for a poor accused, was taken into consideration by Justice Krishna Iyer while delivering the judgment. The petitioner in this case represented himself and did not request

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<sup>10</sup> Ibid.

<sup>11</sup> Supra note 2.

<sup>12</sup> JN Pandey, *Constitutional Law of India*, 325 (55th Edition).

legal assistance. People in India won't be able to safeguard and defend their rights due to poverty and illiteracy, so it was determined that the right to legal assistance is an essential component of fair procedure. The verdict is relevant, in my opinion, because the case goes beyond simply discussing the status of free legal aid and assistance in India and also touches on the prisoner's right to appeal, the authorities' obligations to provide copies of the judgment, and the State's obligation to provide legal services.

