

**CASE COMMENT: INDIRA GANDHI VS RAJ NARAIN**

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**Priyanshi Tiwari \*****INTRODUCTION**

The Indira Gandhi vs Raj Narain case was a landmark legal battle in India that had far-reaching political implications. The case was related to the 1971 general election in India, which was contested by Indira Gandhi, who was then the Prime Minister, from the Raebareilly constituency in Uttar Pradesh. Raj Narain, who was also a candidate in the same constituency, filed an election petition against Indira Gandhi, accusing her of several electoral malpractices, including the use of government machinery for election purposes and exceeding the permissible limit on campaign expenses. The case eventually reached the Allahabad High Court, which ruled in favour of Raj Narain, setting aside Indira Gandhi's election victory and disqualifying her from holding any public office for six years. This decision led to widespread protests and political turmoil in the country, as Indira Gandhi's supporters felt that the verdict was politically motivated. Indira Gandhi then appealed against the verdict in the Supreme Court, which upheld the Allahabad High Court's decision, but allowed her to remain in office as Prime Minister, pending an appeal to the court. The case had significant implications for the Indian political landscape, as it led to the imposition of a state of emergency by Indira Gandhi in 1975, during which several civil liberties were suspended and political opposition was suppressed. The emergency period ended in 1977, after the Congress Party, led by Indira Gandhi, was defeated in the general election.

**FACTS OF THE CASE**

In 1971, India held its 5th general election, also known as the Lok Sabha elections. Among the candidates was Smt. Indira Gandhi and Raj Narain both vying for the Raebareilly constituency in Uttar Pradesh. Indira Gandhi was running on the Congress party ticket, while Raj Narain was representing Ram Manohar Lohia's SSP. Despite Raj Narain's optimism about winning the election by a significant margin, the results showed a landslide victory for Indira Gandhi, who secured 352 out of 518 seats and was re-elected as the Prime Minister of India. However, the result was not well-received by Raj Narain, who filed a petition in the Allahabad High Court, accusing Indira Gandhi of bribery, using government machinery for

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election campaigns, and utilizing government resources to gain an unfair advantage in the election.

In addition to Raj Narain's accusations of bribery and the use of government machinery, he also claimed that Indira Gandhi's campaign process violated the election code mentioned in the Representation of People's Act, 1951<sup>1</sup>. Specifically, he alleged that she had exceeded the permissible limit on campaign expenses. Upon investigation, the Allahabad High Court found Indira Gandhi guilty of misusing government resources under Section 123(7)<sup>2</sup> of the Representation of People's Act, 1971. As a result, the court declared her election to be void and ordered that she could not hold the office of Prime Minister. Additionally, she was disqualified from contesting elections for a period of six years. The court's decision created a constitutional crisis for India, as the ruling party was left without a Prime Minister. The Congress party was given twenty days to replace Indira Gandhi and appoint a new Prime Minister. This led to a period of political instability, as the Congress party struggled to find a suitable replacement. Eventually, they appointed Jagjivan Ram as the interim Prime Minister until a permanent replacement could be found.

Indira Gandhi was dissatisfied with the decision of the Allahabad High Court and decided to appeal the judgement to the Supreme Court. However, when she filed her appeal, the Supreme Court was on vacation. Nevertheless, a vacation bench was formed, and it put an exceptional stay on the implementation of the High Court's order until further hearing. During this time, Justice Krishna Iyer, who was part of the vacation bench, passed a stay order that allowed Indira Gandhi to attend Parliament sessions but barred her from participating in debates and voting in the Lok Sabha. As the matter awaited further hearing in the Supreme Court, then-president Fakhruddin Ali Ahmed declared a state of emergency in India on the grounds of internal disturbance. The National Emergency, which lasted from 1975 to 1977, led to the suspension of several civil liberties, including the right to free speech and assembly, and the imposition of press censorship. The emergency period also saw the arrest of several political opposition leaders, including Jayaprakash Narayan and Morarji Desai, who were leading a movement against the government. The imposition of emergency rule by Indira Gandhi's government during this time was highly controversial and remains a contentious issue in Indian politics to this day.

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<sup>1</sup>Representation of People's Act, 1971, India Code (1985).

<sup>2</sup>Representation of People's Act, 1971, § 123(7), India Code (1985).

**ISSUES RAISED IN INDIRA GANDHI VS RAJ NARAIN CASE**

1. Whether Article 329A Clause (4) of the Constitution of India is Valid?
2. Whether Representation of People's (Amendment) Act, 1974 and the Election Laws (Amendment) Act, 1975 Constitutionally Valid?
3. Whether Indira Gandhi's Election Is Valid or Void?

**WHETHER ARTICLE 329A CLAUSE (4) OF THE CONSTITUTION OF INDIA IS VALID?**

The doctrine of Basic Structure was established by the Supreme Court in the Kesvananda Bharati<sup>3</sup> decision. The concept of Basic Structure implies that the amending power of the Parliament is not unlimited and is subject to the restriction that any amendment made to the Constitution must not diminish or violate the fundamental structure of the Constitution. Additionally, the implication of the amendment should not be disruptive in nature to the fundamental structure. The judges specified the contents of the fundamental structure.

- Constitutional supremacy
- Forms of government include republican and democratic.
- The Constitution's secular nature
- The Constitution's federal nature
- Power separation
- India's Unity and Sovereignty
- Individual liberty

As per Article 368<sup>4</sup> of the Constitution, the Parliament has the power to amend the Constitution by expanding, modifying, or repealing any provision following the prescribed method. However, the doctrine of Basic Structure imposes a limitation on this power by mandating that any amendment to the Constitution must not violate or dilute its fundamental structure. In the case of Kesavananda Bharati, the Supreme Court held that Clause (4) of Article 329-A<sup>5</sup> violated the fundamental aspect of free and fair elections, which is an integral

<sup>3</sup> Kesavananda Bharati v. State of Kerala, AIR 1973 SC 1461.

<sup>4</sup> Constitution of India, art. 368.

<sup>5</sup> Constitution of India, art. 329-A, cl. (4).

part of the Constitution's basic structure. The clause was therefore held to be unconstitutional and was struck down. The Court also observed that the only means to address any dispute arising during an election is through judicial review, and Article 329-A deprives the courts of this right.

The doctrine of Basic Structure recognizes that free and fair elections are essential components of democracy, and if an election is won by malpractice, the courts must intervene to ensure justice is served. Therefore, any provision that undermines the fairness of the electoral process is violative of the Constitution's fundamental structure and is liable to be struck down.

In *Kesavananda Bharati vs State of Kerala*, the Court ruled that Article 329A violated the principle of natural justice known as *Audi alterem partem*<sup>6</sup>. This principle ensures that no one should be condemned unheard, and it applies to the right to a fair hearing for anyone challenging an election. The amendment nullified the principle of equality, as there was no reasonable difference between "persons holding office" and "other persons elected to parliament." The Court held that the rule of law is the foundation of democracy, and judicial review is an essential component of the Constitution's basic structure, which cannot be abrogated. In *Anwar Ali Sarkar's case*<sup>7</sup>, the Court established that any classification must be based on an intelligible differentia. This ensures that the rule of law precludes arbitrary actions by the government in any sphere.

### **WHETHER REPRESENTATION OF PEOPLE'S (AMENDMENT) ACT 1974 AND THE ELECTION LAWS (AMENDMENT) ACT 1975 CONSTITUTIONALLY VALID?**

The 39th Amendment<sup>8</sup> to the Constitution was passed despite the absence of several members of Parliament who were detained under preventive detention. The amendment, which eliminated judicial review and separation of powers, violated the essential components of the basic structure of the Constitution. Parliament cannot resolve disputes by amending the Constitution, and Article 324A (4)<sup>9</sup> falls within the jurisdiction of the courts and is not covered by Article 368. The amendment destroyed the concept of equality as there should be no distinction between persons holding high positions and those elected to Parliament.

<sup>6</sup> *Audi alterem partem*, "Black's Law Dictionary (11th ed. 2019).

<sup>7</sup> *Anwar Ali Sarkar v. State of West Bengal*, AIR 1952 SC 75.

<sup>8</sup> The Constitution (Thirty-Ninth Amendment) Act, 1971, India Code (1985)

<sup>9</sup> Constitution of India, art. 324(4).

Raj Narain argued that the statute must be repealed because many opposition leaders were unable to vote in parliamentary proceedings or express their opinions when the 39th amendment was passed due to their preventive detention. However, the court determined that the issue was between both Houses of Parliament, and the court could not intervene to evaluate its constitutional legality. The court also noted that the President did not approve any detention under Articles 352<sup>10</sup> and 359<sup>11</sup>.

The legitimacy of the statute is solely dependent on the existence of legislative powers and the limitations imposed by Article 13<sup>12</sup>, with no other prohibitions. Parliament acted within the powers granted by Article 368<sup>13</sup> when drafting the election rules. Moreover, Parliament has the power to reduce the limitations on election spending and to specify which expenditures are permissible or not. Parliament can also define the office of profit, corruption, and the members' positions. If the legislative modification has a retroactive effect, it is considered a routine exercise that is difficult to accomplish but unavoidable. In such circumstances, discrimination or unfairness based on the retrospective nature of the law is not permissible if the legislation was effective in the past.

### **WAS THE ELECTION OF INDIRA GANDHI VALID?**

In the case of *Indira Gandhi v. Raj Narain*, the Supreme Court made a ruling on the interpretation of Section 123(7) of The People's Representative (Amendment) Act, 1975<sup>14</sup>. The Court concluded that the term "candidate" referred to the individual who filed nomination papers. Therefore, any assistance received by Indira Gandhi from government officials and the armed forces before February 1, 1971, when she registered for nomination, could not be considered corrupt practice.

The Court also considered the role of Yashpal Kapoor, who had resigned from his government office on January 13, 1971. His resignation was recognized on January 25, 1971, and he was appointed as Indira Gandhi's election agent on February 1, 1971. The Court determined that any assistance provided by Kapoor after his resignation from government office was not corrupt. Raj Narain alleged that Kapoor had made speeches in support of Indira Gandhi from January 7 to January 25, 1971. However, the Court found no evidence

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<sup>10</sup> Constitution of India, art. 352.

<sup>11</sup> Constitution of India, art. 359.

<sup>12</sup> Constitution of India, art. 13.

<sup>13</sup> Constitution of India, art. 368.

<sup>14</sup> *Supra* note 3, at § 123(7)

that Kapoor had made these speeches with Indira Gandhi's approval. The Court also clarified that under Section 77<sup>15</sup> of the People's Representative Act of 1951, expenses incurred by a political party for the election of its candidates were not included in the candidate's election expenses. Similarly, participation in a political party's activities would not be included in the candidate's election costs.

### **OBSERVATIONS OF SUPREME COURT**

In the case of *Indira Gandhi v. Raj Narain*, the Supreme Court of India made several observations. Firstly, the court noted that the 39th constitutional amendment was passed during a period when many opposition leaders were in preventative detention, which led to their absence from the parliamentary proceedings. However, the court held that this fact did not necessarily make the amendment unconstitutional.

Secondly, the court stated that the amendment violated the principles of free and fair elections, which are an essential part of the basic structure of the Constitution. The court observed that the amendment eliminated judicial review and the separation of powers, both of which are essential components of the fundamental framework. Furthermore, the court held that the right to a fair hearing of a person challenging the election cannot be denied and that Article 329-A was in violation of the *Audi alterem partem* principle, which is the principle of natural justice according to which no one should be condemned unheard.

Thirdly, the court noted that the amendment destroyed and abrogated the principle of equality for there is no intelligible differentia between 'persons holding office' and 'other persons elected to parliament'. The rule of law is the basis for democracy, and judicial review is the basic structure of the Constitution which cannot be taken away. The court further said that after *Anwar Ali Sarkar's* case, the classification must be based on intelligible differentia. The rule of law excludes arbitrary action in any sphere of the government.

Finally, the court held that the subject matter of the dispute was between both Houses of Parliament and that the court could not intervene and evaluate its constitutional legality. While the court acknowledged that the statute was solely dependent on the presence of legislative powers and the limitations imposed by Article 13, there was no other prohibition, and the Parliament operated within the authorities granted by Article 368 when it drafted the election rules.

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<sup>15</sup> Representation of People Act, 1951, § 77



## JUDGEMENT

On November 7, 1975, the Supreme Court made a historic decision by implementing the ruling of the Kesavananda Bharati case. The Court agreed with the respondent's argument and declared clause (4) of Article 329-A invalid. Mathew J, who delivered the judgment, thought that Article 329-A (4) undermined the fundamental principles of the Constitution. He believed that free and fair elections are the backbone of a healthy democracy, and the amendment in question took away that possibility.

Chandrachud J. also agreed with the decision, stating that the 39th Amendment violated the principle of separation of powers. He believed that the amendment shifted a purely judicial function to the legislature and that it also violated Article 14 by creating inequality among members of Parliament.

Ray C.J. opined that the amendment violated another fundamental principle, the rule of law. Justice Khanna agreed with the decision, stating that the amendment infringed on the principles of free and fair elections. The bench also concluded that the amendment violated the norms of natural justice, particularly Audi alteram partem, by denying a fair hearing to the person contesting the election of the specified members. The Court emphasized that democracy is a cornerstone of the Indian Constitution and that Parliament cannot retroactively pass a bill that recognizes an illegitimate election. They stated that such an action would be an abuse of unchecked power and would undermine the principles of democracy.

## ANALYSIS AND CONCLUSION

The judgment in the Indira Gandhi vs. Raj Narain case was significant as it placed Parliament in its appropriate position in the Constitution and demonstrated that the court is always present to protect the Constitution from Parliament's harmful action. However, despite the validity of the judgment in theory, there were deficiencies in justice, equality, and awareness. The Supreme Court overlooked the reasons for the amendments and determined that the judicial system had no say on the matter when several opposition lawmakers were put under pre-emptive detention and could not vote against the amendment. Indira Gandhi made the amendments to meet her political needs and avoid being found guilty of corruption.

While the court struck down clause 4 of Article 329 as a violation of the essential structure, it upheld the core of democracy, namely free and fair elections. The ruling endorsed both the

Rule of Law and the Separation of Power, making it clear that elections are undoubtedly legal or illegal and cannot be detracted from the Legislature. Overall, the judgment demonstrated that legislation cannot be taken by Parliament while respecting democracy. The insidious attempts made by Indira Gandhi to raise the legislative powers of her Government beyond the Constitution were defeated, and the verdict of the Fundamental Rights Case was both true and accurate.

