

SRI SANKARI PRASAD V. UNION OF INDIA

Shreshtha Singh*

INTRODUCTION

One of the court rulings that contributed to the development of the Doctrine of Basic Structure in India was the Shankari Prasad v. Union of India case.¹ The Basic Structure Doctrine can be studied through a number of noteworthy instances, such as Kesavananda Bharti v. the State of Kerala, Sajjan Singh v. the State of Rajasthan, I. C. Golaknath v. the State of Punjab, and Shankari Prasad v. Union of India. The Shankari Prasad Case will be thoroughly discussed in this essay, along with the Zamindari System and the contentious constitutional amendment that sparked the debate over Parliament's ability to amend the Indian Constitution. This specific case resulted from ongoing struggles for sovereignty within the judiciary of independent India. In this instance, the question of whether the parliament can alter the fundamental rights under Article 368 was raised.

This case also involved challenges to the 1951 Constitution's First Amendment, which limited the Fundamental Right to Property under Article 31. The primary contention put forth was that Article 13 prohibits the enactment of laws that will impede on basic rights.

OVERVIEW OF THE CASE

The Shankari Prasad Case of 1951, which resulted from land reforms like the abolition of the Zamindari system, ignited a debate concerning Parliament's modifying power and its conflict with Fundamental Rights. The First Amendment Act, which restricted the freedom to own property, faced resistance. The question of whether the amendments met Article 13(2)'s definition of "law" raised concerns about their constitutional legitimacy. The petitioner contended that the Act's infringement on fundamental rights was a violation of Article 13(2). However, the Court determined that Fundamental Rights might be altered by the Constitution unless they were expressly stated. Constitutional amendments were not included in the restrictive definition of "law" in Article 13(2). Parliament was still able to make changes,

*BENNETT UNIVERSITY, GREATER NOIDA, UTTAR PRADESH.

¹ Shankari Prasad v. Union of India, AIR 1951 SC 458

notably to the Fundamental Rights. The decision set a precedent for future cases involving the Doctrine of Basic Structure.

WHAT WAS THE ZAMINDARI SYSTEM

To appreciate the relevance of this case, one must have a solid understanding of the notion of the zamindari system. The Indian land revenue systems under British control were composed of three primary systems: the Mahalwari, Ryotwari, and Zamindari systems. Lord Cornwallis introduced it to the Bengal, Bihar, Orrisa, and Varanasi regions. It was also known as the system of permanent settlement. The zamindars, who were the proprietors and sometimes referred to as "the landlords," were authorised to collect rent. A low yield made no difference—the peasants were the ones who were supposed to pay this rent. As the rent was divided into eleven parts, ten parts went to the East India Company and one portion to the Zamindars.

FACTS OF THE CASE

In order to abolish the zamindari framework that was widely used throughout India, a few state governments established the Zamindari Abolition Act in order to implement specific agrarian reforms, particularly in Bihar, Uttar Pradesh, and Madhya Pradesh. Such an enactment required the distribution of enormous land holdings owned by wealthy zamindars among the populace. Feeling upset, some Zamindars challenged the rally in court, arguing that it was unlawful and infringed against their fundamental rights, such as the right to property guaranteed to them by Part III of the Constitution. While the high courts in Allahabad, Uttar Pradesh, and Nagpur, Madhya Pradesh, upheld the validity of the state-approved legislation, the Patna high court ruled that the Act passed in Bihar was illegal. Progress resulting from the decisions and appeals recorded by various zamindars in these tribunals was soon to come. In the middle of it, a bill to amend the Constitution was tabled by the Union Parliament in an attempt to halt all lawsuits. After undergoing several modifications, the Bill was ultimately approved by the required majority and became the Constitution (First Amendment) Act of 1951. The Amendment Act was sufficient in that it limited the fundamental right to property and approved the Zamindari Abolition Laws. It was necessary to recall New Articles 31A and 31B in order for the Constitution to sanction the criticised actions. In response, the zamindars filed the present

petitions under Article 32 of the Constitution, requesting a writ under the Supreme Court's scrutiny to test the Amendment Act and declare it invalid and unlawful.²

ISSUES BEFORE THE SUPREME COURT

Is the First Amendment Act that the Parliament passed unconstitutional?

Is it possible for the parliament to change fundamental rights?

Whether the Indian Constitution's Article 13(2) uses the word "law." which also covers legislation aimed at changing the constitution.

ARGUMENTS

From The Appellant Side

The experienced counsel argued that since the two houses of Parliament are the designated bodies with the authority to modify the constitution, the provisional Parliament lacks the authority to do so.

The learned counsel further argued that after a measure is introduced in the house, it cannot be amended since Article 368 is a complete code in and of itself. Since the current bill was admittedly altered in multiple ways by this house, it cannot be claimed that the Amendment Act was enacted in accordance with Article 368's required method.

In the end, learned counsel argued that as land-related issues are covered by List 2[5] of the seventh schedule, only the State Legislature has the authority to enact legislation on the subject; Parliament lacked this authority.

From The Respondent's Side

The respondent's knowledgeable attorney argued that there are three categories of constitutional modifications available:

those to whom a slim majority can have an impact.

those who may be impacted by a special majority as defined by Article 368.

² Supra Note 1

Those that call for resolutions approved by at least half of the States listed in sections A and B of the First Schedule, in addition to the aforementioned special majority, must also be ratified.

Learned counsel stated that the third class, as specified in Article 368, requests a modification to the clause. The President, the two Houses of Parliament, and the Parliament itself were designated as the first class of change.

Learned counsel contended that the petitioner's claim that Article 368's reference to the "two houses" renders it inapplicable to the interim parliament might negate the fundamental intent of Article 379, should it be approved.

Finally, learned counsel refuted the petitioner's claim by arguing that it is wrong to see Article 368 as a comprehensive code unto itself. Certain procedural irregularities existed regarding the timing of a bill's introduction, the notice required for its introduction, the process for passing it through each house of parliament, and the method for getting the president to sign it.

ANALYSIS OF THE JUDGEMENT

The First Amendment Act and its revisions were ruled to be valid by the Supreme Court. Patanjali Shastri J. asserts that legislative authority and constituent power are two distinct concepts. The learned Judge ruled that the amendment approved in the exercise of constituent power did not qualify as "law" as defined by Article 13 and that basic rights were within the scope of modifying power. The petitioners contended that the "law" referred to in Article 13(2) of the Indian Constitution encompasses constitutional amendments; nonetheless, their contention was dismissed by the Supreme Court. The Supreme Court decided that Article 368 grants the power to amend the Constitution without undermining the fundamental freedoms found in Part III. Despite the fact that a constitutional amendment is legislation, the Court decided that there is a clear separation between legislative and constituent jurisdiction. Moreover, it was proclaimed that while constitutional changes produced in the exercise of particular constitutional authority are excluded from the definition of "law" provided in Article 13(2), ordinary laws established in the exercise of specific legislative authority are. The Indian Constitution was not violated by the First Amendment Act's Articles 31 A and B, which were deemed to be valid.

IMPLICATION OF THE JUDGEMENT

Fundamental rights can be lawfully exercised. The court system uses writs to safeguard these fundamental rights.

The fundamental rights or portion may be suspended during the time of emergency under mentioned articles 352 and 356; however, parliament may amend this provision.

The constitutionality of the First Amendment was challenged which restricted the property ownership right.

Supreme Court discarded the arguments that the power of the legislative authority to discard the Constitution rights under mentioned article 368 also included the ability to discard fundamental rights and that the word "law" in Article 13(2) only refers to normal laws made in the exercise of legislative authority, not amendments to the Constitution made for the use of constituent powers. As a result, a constitutional revision is nonetheless legitimate even if it takes away or restricts essential rights.

CONCLUSION

Due to its advancement of the Basic Structure Doctrine, the decision in Shankari Prasad's case was truly significant. Even though it was unable to successfully defend fundamental rights, the Apex Court played a significant role in the creation of the Basic Structure Doctrine. One of the most contentious questions about the Indian Constitution—namely, the Parliament's power to amend the text, especially the chapter on basic rights—was highlighted by this case. This issue was raised again in the Golaknath case, where the Supreme Court reversed its decision in the Shankari Prasad and Sajjan Singh case and held that the Parliament could not abolish the Fundamental Rights and lacked the authority to change Part III of the Constitution. Despite the sensible decision in the Golaknath case, the Supreme Court took a different stance in the Kesavananda Bharti case, which gave rise to the Basic Structure Doctrine. In the Kesavananda Bharti case, the Court determined that although the Constitution might be altered, its basic structure could not. Nonetheless, the minority justices in the Kesavananda Bharti case decided that fundamental rights are unchangeable.