

AK GOPALAN Vs. STATE OF MADRAS¹

The AK Goapaln case is foundational in Indian law. It dealt with the question of the constitutionality of the Preventive Detention Act. It is a significant case as it demarcated the ambit of not just the preventive detection act but also that of Articles 13, 19 and 21, which were assumed to be violated by the law. It also brought up the juxtaposition of 'Procedure established by law' and 'Due process of law' as laid down in the Indian and American Constitutions, respectively.

Facts of the Case

In December 1947, communist leader A.K. Gopalan was arrested for delivering a violent statement in public. He was held under the Madras Maintenance of Public Order Act while criminal charges were still pending, but the Madras High Court subsequently overturned that detention. Shortly after, in March 1950, the State used Section 3(1) of the Preventive Detention Act, 1950, to issue a new detention order against him. This act involves taking action in advance to stop a potential crime from being committed. Therefore, preventive detention is an action conducted because of a suspicion that the individual in question may have committed some wrongdoing. Gopalan challenged his incarceration as illegal by filing a writ of habeas corpus under [Article 32](#) of the Constitution. He claimed that his fundamental rights under [Articles 19](#) (freedoms), [21](#) (life and personal liberty), and [22](#) (protection in preventative detention cases) had been breached and that he had not been fully informed of the reasons for his arrest.

Gopalan challenged the validity of the Preventive Detention Act order by filing a writ of habeas corpus under Article 32(1) to the Supreme Court. He asserted that he had been imprisoned since 1947 and that the State government had issued a new order for his detention, in violation of his fundamental rights guaranteed by Articles 19 (the right to travel) and 21 (the right to life and personal freedom). He further asserted that his fundamental rights listed in Article 22 of the Constitution were violated because he was not told the reason for his arrest. By arguing that the order was issued using the authority granted by the Preventive Detention Act, the state attempted to defend the incarceration.

Question of Law

The major questions of law raised were regarding the constitutionality of the Preventive Detention Act. It was questioned if the Preventive Detention Act is in violation of [Article 13](#) (laws

¹ AIR 1950 SC 27

inconsistent with or in derogation of fundamental rights), Article 19 (Right to Freedom), Article 21 (Right to life and liberty), and Article 22 (protection against arrest and detention).

Judgement

The Supreme Court, by a majority vote, maintained the legality of the Preventive Detention Act of 1950, with the exception of Section 14, which was declared unconstitutional since it barred detainees from knowing the grounds for their imprisonment. The judges' interpretation of fundamental rights was segmented and highly literal.

They held that it is impossible to read the fundamental rights (Articles 19, 21, 22, etc.) all at once because they are unique and different. The Court did not consider whether the law was reasonable, fair, or just; Article 21 only stipulates that there must be a "procedure established by law" for denying someone their freedom. Since a person's rights are inevitably restricted when they are detained, it was decided that laws pertaining to preventive detention did not fall under the protections of Article 19. Detention could not be contested under Articles 19 or 21 as long as the government complied with Article 22, which was regarded as a comprehensive code on preventative detention.

References

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