

UNION OF INDIA VS. ASSOCIATION FOR DEMOCRATIC REFORMS¹

Union of India versus Association of Democratic Reforms is a landmark case that transformed the Indian democracy. Dating back to 2002, the case aimed at mandating the disclosure of criminal records, financial assets and educational qualifications of candidates to ensure transparency and accountability in the elections. The case invoked Article 19, which guarantees the Right to freedom of speech and expression and Article 21, which protects the right to life and liberty of the citizens regarding disclosure of Information.

The case has its roots in a PIL filed by the Association of Democratic Reforms, a Delhi-based non-profit NGO, aimed at political and Electoral reforms. Electoral corruption was rampant in 1990s India with indiscriminate use of Money and Muscle power to win elections. ADR was formed by a group of professors from IIM Ahmedabad, aimed to empower citizens and make elections free and fair. In 1999, ADR filed a PIL in the Delhi High Court to mandate that the criminal records, educational qualifications, and financial assets of individuals running in elections should be made public. The Delhi High Court upheld the decision in favour of the petitioners, mandating the disclosure of necessary information. The Union of India challenged this decision in the Supreme Court, arguing that neither the High Court nor the Election Commission has the right to have information like this regarding a candidate. Additionally, the petitioner also argued that the citizens of the country do not possess the right to information.

Question of Law

The major question of law was regarding the ambit of Article 19, Article 21 and Article 324. It was contended that Article 19, which guarantees the right to freedom of speech and expression, also means the right to information. Also right to privacy, which is derived from the Right to life and liberty, was questioned in this case. Deliberations were made on whether the candidate's right to privacy superimposes the public interest or not. Article 324 of the Indian Constitution deals with the supervision and direction of elections to be done by the Election Commission. It was also discussed whether the Election Commission has been vested with any power that it can ask for the disclosure of information demanded of the candidates.

Judgment

The Supreme Court upheld the Judgment of the Delhi High Court, arguing that the disclosure of such information is pivotal for the transparency and functioning of Democracy. Interpreting Article 324, the court argued that the article is outside the operations of the Legislature, and power is vested in the Election Commission. The Election Commission thus enjoys absolute power and can demand the information from candidates even if there is no such statute. The Supreme Court

¹ AIR 2002 SUPREME COURT 2112

also held that the right to information is an intrinsic part of the Right to freedom of speech and expression. The citizens, according to the judges, deserve to know about their representative, and thus the information should be made public. Additionally, it also held that such information does not breach the right to privacy of the candidates as it has a direct impact on public interests.

Union of India v. ADR is a crucial juncture in Indian electoral politics. It resulted in making the election much more transparent by disclosing information such as criminal records, educational qualifications and financial assets of candidates.