

Sajjan Singh v. State of Rajasthan¹

Facts of the Case

The Constitution (Seventeenth Amendment) Act, 1964, inserted various State land reform laws into the Ninth Schedule of the Constitution, thereby immunising them from judicial review. These laws curtailed the right to property, which was then a fundamental right under Part III. Sajjan Singh and other petitioners challenged the validity of the Amendment, arguing that it abridged fundamental rights. They further contended that since the Amendment indirectly affected the jurisdiction of High Courts under Article 226, it required ratification by at least half of the State Legislatures under the proviso to Article 368.

Question of Law

The primary question was whether Parliament's power under Article 368 to amend the Constitution was unlimited and absolute, or subject to implied limitations, particularly whether Parliament could exercise its constituent power to abridge or take away the fundamental rights enshrined in Part III. A secondary procedural question arose as to whether the Seventeenth Amendment required ratification by State Legislatures since it arguably affected the jurisdiction of High Courts.

Judgement

The Supreme Court, by a 3:2 majority, upheld the validity of the Seventeenth Amendment, reaffirming its earlier decision in *Shankari Prasad v. Union of India*. The Court held that Article 368 confers a wide constituent power upon Parliament to amend any part of the Constitution, including the provisions relating to fundamental rights. It further clarified that a constitutional amendment does not fall within the meaning of "law" under Article 13(2), and therefore cannot be challenged on the ground that it abridges fundamental rights.

On the procedural issue, the Court rejected the argument that the Amendment required ratification by State Legislatures. It held that the Seventeenth Amendment did not directly affect the jurisdiction of High Courts under Article 226, and hence, ratification under the proviso to Article 368 was not necessary.

Notably, in separate opinions, Justices Hidayatullah and Mudholkar expressed reservations regarding the scope of Parliament's amending power. They suggested that this power may be inherently limited and hinted that certain basic features of the Constitution could lie beyond the reach of amendment. These observations later contributed to the development of the basic structure doctrine in *Kesavananda Bharati v. State of Kerala*.

¹ AIR 1965 SC 845

Nilabati Behera v. State of Orissa²

Facts of the Case

Nilabati Behera, a mother from Orissa, wrote a letter dated September 14, 1988, which the Supreme Court treated as a writ petition under Article 32 after her son, Suman Lal Behera (aged about 22 years), died in police custody. Suman had been taken into custody by the police in connection with a theft case and was found dead on a railway track the following morning, bearing injuries consistent with a violent death. The State contended that the deceased had escaped from custody and that his death was the result of a train accident. The petitioner argued that the death was due to police brutality while the deceased was in lawful custody, making the State liable for the violation of his fundamental right to life under Article 21.

Question of Law

The key questions before the Court were: whether the Supreme Court could award monetary compensation under Article 32 for violation of fundamental rights by the State, even without a separate civil suit being filed; whether the defence of sovereign immunity available in private law tort proceedings was available to the State when it violated fundamental rights; and what principles governed the quantum of such constitutional compensation.

Judgement

The Supreme Court awarded compensation of Rs. 1,50,000 to the petitioner and an additional Rs. 10,000 to the Supreme Court Legal Aid Committee, holding the State liable for the custodial death, which amounted to a clear violation of Article 21. The Court affirmed and expanded upon its earlier ruling in *Rudal Shah v. State of Bihar*, holding that the power to award monetary compensation under Article 32 (and Article 226) is an acknowledged remedy for constitutional tort. Crucially, the Court held that the defence of sovereign immunity, available in private law under the law of torts, has no place in proceedings under Article 32. The obligation of the State to pay compensation arises from its public law duty to protect fundamental rights, and failure to do so results in liability independent of any private law claim. The Court also clarified that this constitutional remedy is in addition to, and does not preclude, the right to seek damages through a separate civil action. This judgment significantly strengthened the framework for constitutional remedies against custodial violence and State excesses.

² 1993 SCC (2) 746

Waman Rao v. Union of India³

Facts of the Case

Following the landmark decision in *Kesavananda Bharati v. State of Kerala* (1973), which propounded the basic structure doctrine, questions arose about the validity of laws included in the Ninth Schedule before and after that judgment. The Ninth Schedule was introduced by the First Constitutional Amendment (1951) to shield land reform laws from fundamental rights challenges. Over successive amendments, more laws were added to the Schedule. Waman Rao and other petitioners challenged the validity of several Maharashtra agricultural land ceiling laws and their inclusion in the Ninth Schedule, arguing that the *Kesavananda* judgment placed limits on Parliament's power to immunise laws from fundamental rights scrutiny.

Question of Law

The principal question was whether the basic structure doctrine laid down in *Kesavananda Bharati* applied retrospectively to invalidate laws and constitutional amendments placed in the Ninth Schedule before April 24, 1973. A corollary question was whether laws inserted into the Ninth Schedule after that date could still claim blanket immunity from judicial review of fundamental rights violations.

Judgement

Several amendments to the Constitution made before the *Kesavananda Bharati* judgment (April 24, 1973), were challenged because they violated the basic structure doctrine, even though this doctrine had not yet been established. The Supreme Court introduced the "doctrine of prospective overruling," stating that the basic structure doctrine would only apply to amendments made after April 24, 1973. Amendments made before this date could not be reopened or challenged, which provided legal certainty and stability to the constitutional order. However, any future amendments aimed at altering the Ninth Schedule would be subject to basic structure scrutiny. This judgment struck a balance between the need for judicial protection of constitutional values and the principle of legal certainty, allowing past laws to remain in effect while ensuring that future amendments adhere to constitutional safeguards.

³ AIR 1981 SC 271

Joginder Kumar v. State of U.P.⁴

Facts of the Case

Joginder Kumar, a young advocate practising in Ghaziabad, was taken by the police to the office of the Senior Superintendent of Police (SSP), Ghaziabad, for questioning in connection with certain criminal investigations. He was not formally arrested in accordance with legal procedure, nor were the grounds of his detention clearly communicated. His family members, despite making inquiries, were not informed of his whereabouts. Concerned about his illegal detention, a writ petition was filed before the Supreme Court seeking his release. The case brought to light the misuse of police powers of arrest and the practice of detaining individuals without following procedural safeguards.

Question of Law

The constitutional questions related to the scope of Article 21 (right to personal liberty) and Article 22 (protection against arbitrary arrest and detention) in the context of police powers of arrest. The Court was called upon to determine whether the mere existence of legal power to arrest is sufficient justification for its exercise, and to lay down safeguards to prevent arbitrary and unnecessary arrests.

Judgement

The Supreme Court laid down important principles governing arrest and detention, emphasising that the power to arrest must not be exercised mechanically or as a matter of routine. The Court held that no arrest can be made merely because it is lawful for the police officer to do so; the existence of the power to arrest is distinct from the justification for its exercise. An arrest must be based on reasonable satisfaction that it is necessary in the circumstances of the case.

The Court further directed that procedural safeguards must be observed, including: (i) informing the arrested person of the grounds of arrest; (ii) ensuring that a friend, relative, or other person known to the arrestee is informed of the arrest; (iii) making the arrestee aware of this right; and (iv) recording such information in the case diary.

These principles were later elaborated and expanded in *D.K. Basu v. State of West Bengal*. The judgment reaffirmed that personal liberty is a fundamental right and can be curtailed only in accordance with fair, just, and reasonable procedure established by law.

⁴ (1994) 4 SCC 260

Supreme Court Advocates-on-Record Association v. Union of India (*Second Judges' Case*)⁵

Facts of the Case

Following the decision in *S.P. Gupta v. Union of India* (First Judges' Case), which had held that the executive had primacy in judicial appointments and that the opinion of the Chief Justice of India was not binding, concerns arose regarding executive interference and its impact on judicial independence. The Supreme Court Advocates-on-Record Association filed a writ petition seeking reconsideration of this position and a re-examination of the constitutional meaning of "consultation" under Articles 124 and 217. The matter was referred to a nine-judge Constitution Bench.

Question of Law

The central questions were: what is the meaning of "consultation" as used in Articles 124(2) and 217(1) in relation to the appointment of judges, does it imply concurrence or merely advice? Who has primacy in judicial appointments, the executive or the judiciary? Could the First Judges' Case be overruled?

Judgement

The Supreme Court, by a 7:2 majority, overruled the First Judges' Case and held that "consultation" with the Chief Justice of India in Articles 124 and 217 must be understood in a manner that gives primacy to the judiciary. The Court ruled that the opinion of the Chief Justice of India, formed collectively in consultation with the senior-most judges of the Supreme Court, has primacy over the executive in matters of judicial appointments and transfers.

This interpretation led to the emergence of the Collegium System, under which the Chief Justice of India and the senior-most judges collectively make recommendations for appointments to the higher judiciary. (This collegium was later expanded in *In re Presidential Reference* (Third Judges Case) to include the Chief Justice of India and four senior-most judges.)

The judgment marked a significant shift in constitutional interpretation by ensuring judicial primacy in appointments, thereby strengthening the independence of the judiciary and limiting executive discretion.

⁵ (1993) 4 SCC 441

In re Presidential Reference (Third Judges Case)⁶

Facts of the Case

After the decision in *Supreme Court Advocates-on-Record Association v. Union of India* (Second Judges' Case) established the Collegium System, ambiguities arose regarding its functioning — particularly concerning the number of judges who should constitute the collegium for Supreme Court and High Court appointments, the process of consultation, and the handling of differences of opinion within the collegium. The President of India, exercising advisory jurisdiction under Article 143(1), referred nine questions to the Supreme Court seeking clarification on these issues.

Question of Law

The questions referred included: the composition of the collegium for appointments to the Supreme Court and High Courts; the procedure to be followed in case of differences within the collegium; whether the executive could disregard a recommendation reiterated by the collegium; and the manner in which consultation with the Chief Justice of the concerned High Court was to be conducted.

Judgement

The Supreme Court answered the Presidential Reference by refining and expanding the Collegium System. The Court held that the collegium for appointments to the Supreme Court shall consist of the Chief Justice of India and the four senior-most puisne judges. For High Court appointments, the collegium at the Supreme Court level comprises the Chief Justice of India and the two senior-most Supreme Court judges, while the Chief Justice of the concerned High Court is to be consulted as part of the process.

The Court emphasised that the opinion of the collegium must be formed collectively through effective consultation and should be recorded in writing. It further held that if the collegium reiterates a recommendation after it has been returned by the executive for reconsideration, the executive is expected to act in accordance with that recommendation.

This judgment clarified procedural uncertainties and firmly institutionalised the Collegium System, reinforcing judicial primacy in appointments and strengthening the independence of the judiciary.

⁶ (1998) 7 SCC 739

Supreme Court Advocates-on-Record Association v. Union of India (NJAC Case)⁷

Facts of the Case

Parliament enacted the Constitution (Ninety-Ninth Amendment) Act, 2014 and the National Judicial Appointments Commission (NJAC) Act, 2014, replacing the collegium system with a six-member NJAC comprising the Chief Justice of India, two senior-most Supreme Court judges, the Union Law Minister, and two eminent persons. The legislation was ratified by the requisite number of State Legislatures and received Presidential assent. The Supreme Court Advocates-on-Record Association and several other petitioners challenged the constitutional validity of the 99th Amendment and the NJAC Act, arguing that the inclusion of members from outside the judiciary and the provision allowing any two members to block a recommendation undermined judicial independence, which forms part of the basic structure of the Constitution.

Question of Law

The core questions were: whether the 99th Constitutional Amendment, by establishing the NJAC, violated the independence of the judiciary which is part of the basic structure of the Constitution; whether Parliament could, through a constitutional amendment, introduce executive and non-judicial participation in the process of appointment of judges to constitutional courts; and whether the NJAC Act was constitutionally valid.

Judgement

The Supreme Court, by a 4:1 majority (with Justice J. Chelameswar dissenting), struck down both the Constitution (Ninety-Ninth Amendment) Act, 2014 and the NJAC Act, 2014 as unconstitutional. The majority held that the independence of the judiciary is a fundamental aspect of the basic structure of the Constitution, and that the NJAC framework compromised this independence by giving the executive and non-judicial members a significant role in judicial appointments. In particular, the provision allowing any two members of the NJAC to block a recommendation was found to create the possibility of undue influence in the appointments process.

As a consequence, the Court restored the collegium system for judicial appointments. While doing so, it acknowledged the need for greater transparency and accountability in the functioning of the collegium, leading to subsequent proceedings aimed at reforming its working.

⁷ (2016) 5 SCC 1

M.C. Mehta v. Union of India (*Oleum Gas Leak Case*)⁸

Facts of the Case

On December 4–6, 1985, oleum gas leaked from the sulphuric acid plant of Shriram Foods and Fertiliser Industries in Delhi, resulting in the death of an advocate and injuries to several others. A second, smaller leak occurred shortly thereafter. The industrial complex was also engaged in the manufacture of other hazardous chemicals, including chlorine. M.C. Mehta, a public interest lawyer, filed a writ petition under Article 32 of the Constitution seeking closure of the plant and compensation for the victims. The petition also raised the broader issue of the liability of enterprises engaged in inherently dangerous and hazardous activities when accidents cause harm to members of the public.

Question of Law

The primary legal question was whether the rule in *Rylands v. Fletcher* — which imposes strict liability on persons who bring onto their land things likely to do mischief — was an adequate standard to apply in India to cases involving hazardous industries, or whether a more stringent standard of liability was required. A related question concerned the scope of the Supreme Court's powers under Article 32 to grant remedies, including compensation, for violations of fundamental rights.

Judgement

The Supreme Court, in a landmark judgment authored by Chief Justice P.N. Bhagwati, evolved the doctrine of **absolute liability** as a more stringent rule than the English doctrine of strict liability under *Rylands v. Fletcher*. The Court held that where an enterprise is engaged in a hazardous or inherently dangerous activity and harm results to anyone on account of an accident in the operation of such activity, the enterprise is absolutely liable to compensate all those affected.

This liability is not subject to any of the exceptions recognised under the rule in *Rylands v. Fletcher*. The Court further held that the measure of compensation must be commensurate with the magnitude and financial capacity of the enterprise to have a deterrent effect.

The judgment also affirmed that the Supreme Court, in exercise of its jurisdiction under Article 32, can grant monetary compensation as a public law remedy for violation of fundamental rights. This decision became a foundational precedent in Indian environmental law and significantly strengthened the doctrine of enterprise liability for hazardous industries.

⁸ AIR 1987 SC 1086

M.K. Ranjitsinh & Others v. Union of India⁹

Facts of the Case

The petition was originally filed seeking protection and conservation of the Great Indian Bustard (GIB), a critically endangered bird species, and the Lesser Florican. The primary threat identified was the proliferation of overhead high-voltage power transmission lines across the Thar desert region of Rajasthan and Gujarat — the primary habitat of the GIB — which caused bird fatalities through collision and electrocution. A conflict arose between the conservation of the GIB (which required undergrounding of power lines) and India's obligations under international climate change commitments to promote renewable energy (which required extensive transmission infrastructure). The case thus raised the interface between wildlife conservation, environmental protection, and climate change obligations.

Question of Law

The legal questions included: whether Article 21's right to life encompasses a right against the adverse effects of climate change; whether the State has a constitutional obligation to address climate change as part of its duty to protect life and the environment; and how to balance the competing imperatives of wildlife conservation and renewable energy development in light of constitutional and international commitments.

Judgement

The Supreme Court, in its judgment authored by CJI D.Y. Chandrachud (with Justices B.R. Gawai and Sandeep Mehta concurring), explicitly recognised that protection against the adverse effects of climate change forms part of the fundamental rights guaranteed under Articles 14 and 21 of the Constitution. The Court held that the State has a constitutional duty to take effective measures to mitigate climate change and protect citizens from its impacts.

On the specific issue of the Great Indian Bustard, the Court revisited and modified its earlier directions regarding the undergrounding of power transmission lines across approximately 99,000 sq km. It acknowledged that blanket undergrounding was technically and financially impractical and could hinder India's renewable energy goals. Instead, the Court directed the constitution of a high-powered committee to identify areas where undergrounding is feasible and to recommend alternative mitigation measures, including bird diverters and other protective mechanisms.

The judgment is significant for explicitly linking climate change obligations with fundamental rights and for adopting a balanced approach between biodiversity conservation and the promotion of renewable energy.

⁹ Writ Petition (Civil) No. 838 of 2019

Rudal Shah v. State of Bihar¹⁰

Facts of the Case

Rudal Shah was acquitted by the Sessions Court, Muzaffarpur, Bihar in 1968, yet he remained in jail for over fourteen years after his acquittal, being finally released only in 1982. He filed a writ petition before the Supreme Court under Article 32, invoking its habeas corpus jurisdiction, challenging his illegal detention and seeking both his release and compensation for the unlawful imprisonment he had suffered for all those years after acquittal. The State of Bihar contended that the Court did not have jurisdiction to award monetary compensation in a writ petition and that the petitioner's remedy lay in a separate civil suit for damages.

Question of Law

The core legal question was whether the Supreme Court, in exercise of its jurisdiction under Article 32, has the power to award monetary compensation to a person whose fundamental right to life and personal liberty under Article 21 has been violated through illegal and prolonged detention by the State, or whether such a person is confined solely to the remedy of a civil suit.

Judgement

The Supreme Court held, in a path-breaking judgment, that it has the power to award monetary compensation in a writ petition filed under Article 32 for the infringement of fundamental rights. The Court awarded Rs. 30,000 as interim compensation to Rudal Shah (with an additional Rs. 5,000 subsequently directed), observing that confining a person who has been acquitted to a civil suit remedy would render the fundamental right illusory — a mere paper right.

The Court reasoned that the right to move the Supreme Court under Article 32 is itself a fundamental right, and the Court has the authority to fashion appropriate remedies to enforce fundamental rights. This judgment marked a significant shift from traditional private law remedies to the recognition of public law compensation for State violations of fundamental rights, and laid the foundation for the development of constitutional tort jurisprudence in India.

¹⁰ AIR 1983 SC 1086

M.H. Hoskot v. State of Maharashtra¹¹

Facts of the Case

M.H. Hoskot was convicted and sentenced to imprisonment. After his conviction, he sought to file an appeal but was unable to do so effectively because he was not provided with a copy of the judgment in time and did not have access to adequate legal assistance. As an indigent prisoner, he lacked the means to secure legal representation, and the system failed to ensure that he was provided effective legal aid for the purpose of pursuing his appeal. He approached the Supreme Court, contending that his inability to effectively pursue an appeal due to lack of legal assistance and necessary documents amounted to a violation of his fundamental right under Article 21.

Question of Law

The constitutional question was whether the right to free legal aid — particularly for an accused who cannot afford a lawyer — forms a part of the ‘procedure established by law’ under Article 21, and whether the State has a constitutional obligation to provide such assistance to ensure a fair and meaningful process. The Court also examined whether a convicted prisoner has the right to be supplied a copy of the judgment to effectively pursue an appeal where such a remedy is provided by law.

Judgement

The Supreme Court, in a landmark judgment authored by Justice V.R. Krishna Iyer, held that the right to free legal services is a fundamental right implicit in the guarantee of Article 21. The Court observed that the right to life and personal liberty would be rendered meaningless if a person were left to suffer imprisonment without access to legal assistance necessary to challenge the conviction.

The Court held that the State has a constitutional obligation to provide free legal aid to an accused who cannot afford a lawyer, not only at the trial stage but also at the appellate stage, to ensure that the process remains fair, just, and reasonable. It further held that a convicted prisoner is entitled to be supplied a free copy of the judgment to enable him to effectively pursue an appeal.

This judgment, along with *Hussainara Khatoon v. State of Bihar*, contributed significantly to the development of legal aid jurisprudence in India, which was later reflected in statutory frameworks such as the Legal Services Authorities Act, 1987.

¹¹ AIR 1978 SC 1548

All India Judges Association v. Union of India¹²

Facts of the Case

The All India Judges Association filed a writ petition before the Supreme Court, highlighting the poor service conditions of the subordinate judiciary across India — including inadequate pay scales, lack of residential accommodation, poor infrastructure in court buildings, and the absence of a uniform service structure. It was contended that such conditions adversely affected the efficiency and independence of the district and subordinate judiciary, thereby impacting the effective administration of justice. The petition also raised issues concerning the retirement age and pay scales of judicial officers.

Question of Law

The Court was called upon to determine whether the service conditions of subordinate court judges have a bearing on the independence of the judiciary and the effective administration of justice, and what role the Supreme Court could play under its jurisdiction under Articles 32 and 142 in directing improvements to the conditions of service of the subordinate judiciary across the country.

Judgement

The Supreme Court, exercising its jurisdiction under Articles 32 and 142, issued a series of directions to the Union of India and the State Governments to improve the conditions of service of judicial officers in the district and subordinate courts. The Court directed the establishment of appropriate mechanisms to achieve greater uniformity in pay scales and service conditions across the country, along with improvements in infrastructure, library facilities, and provision of residential accommodation.

The Court emphasised that the independence of the subordinate judiciary is as essential as that of the higher judiciary, and that the State has a constitutional obligation to provide adequate resources to ensure the proper functioning of the judicial system. The judgment also initiated a process of continuing judicial supervision, leading to further orders and the eventual constitution of pay commissions to rationalise the service conditions of the subordinate judiciary.

¹² AIR 1992 SC 165

State of Bombay v. Narasu Appa Mali¹³

Facts of the Case

The Bombay Prevention of Hindu Bigamous Marriages Act, 1946, criminalised bigamous marriages among Hindus, making it an offence for a Hindu to contract a second marriage during the subsistence of a valid first marriage. Narasu Appa Mali, a Hindu, was prosecuted under this Act for contracting a bigamous marriage. He challenged the Act on the ground that it was discriminatory insofar as it applied only to Hindus and not to Muslims, who were permitted under their personal law to have multiple wives. The petitioner further contended that such differential treatment violated the guarantee of equality under Article 14, and also argued that Muslim personal law permitting polygamy was itself inconsistent with fundamental rights.

Question of Law

The key constitutional questions were: (i) whether personal laws — specifically Muslim personal law permitting polygamy — constitute ‘laws in force’ or ‘custom and usage’ under Article 13(1) so as to be subject to the test of fundamental rights; and (ii) whether the differential application of anti-bigamy legislation only to Hindus amounted to unconstitutional discrimination under Article 14.

Judgement

The Bombay High Court, in a judgment authored by Chief Justice M.C. Chagla, held that personal laws are not ‘laws in force’ within the meaning of Article 13 and are therefore not subject to the test of fundamental rights. The Court reasoned that personal laws, having developed from religious texts and customary practices, do not fall within the category of laws enacted by a legislature and thus lie outside the scope of Part III of the Constitution.

On the question of discrimination, the Court held that treating Hindus as a separate class for reform was not violative of Article 14. It was observed that the legislature is entitled to undertake social reform in a phased manner and may address different communities at different stages.

This ruling — that personal laws are not subject to fundamental rights scrutiny under Article 13 — has remained influential and controversial, continuing to shape debates on the constitutional validity of personal laws in India.

¹³ AIR 1952 Bom 84

State of Madras v. Champakam Dorairajan¹⁴

Facts of the Case

Champakam Dorairajan, a Brahmin woman from Madras, applied for admission to a Government Medical College but was denied a seat despite securing higher marks than some candidates from other communities who were admitted. The State of Madras was following a 'Communal G.O.' (Government Order), which allocated seats in State educational institutions on a communal basis — reserving seats for Brahmins, non-Brahmin Hindus, Muslims, Anglo-Indians, Christians, and Scheduled Castes — based on communal quotas rather than purely merit-based selection. She challenged this policy primarily under Article 29(2) and also Article 15(1) of the Constitution.

Question of Law

The central constitutional questions were: whether the Communal G.O., which made religion and caste the basis for allocation of seats in State educational institutions, violated Article 29(2) and was inconsistent with Article 15(1); and whether Directive Principles of State Policy, particularly Article 46, could justify such a classification in the face of fundamental rights under Part III.

Judgement

The Supreme Court held that the Communal G.O. violated Article 29(2), which prohibits denial of admission to any citizen to any educational institution maintained by the State or receiving State aid on grounds only of religion, race, caste, language, or any of them. The Court also affirmed that Directive Principles of State Policy cannot override or abridge the fundamental rights guaranteed under Part III of the Constitution.

This landmark ruling led to the enactment of the Constitution (First Amendment) Act, 1951, which inserted Article 15(4), enabling the State to make special provisions for the advancement of socially and educationally backward classes and for Scheduled Castes and Scheduled Tribes, thereby constitutionally enabling reservations in educational institutions.

¹⁴ AIR 1951 SC 226

Ashoka Kumar Thakur v. Union of India¹⁵

Facts of the Case

The Constitution (Ninety-Third Amendment) Act, 2005 inserted clause (5) into Article 15, enabling the State to make special provisions for the advancement of socially and educationally backward classes or Scheduled Castes or Scheduled Tribes in relation to their admission to educational institutions, including private institutions (whether aided or unaided), other than minority educational institutions. Pursuant to this, Parliament enacted the Central Educational Institutions (Reservation in Admission) Act, 2006, providing for 27% reservation for OBCs in Central Educational Institutions. Ashoka Kumar Thakur and others challenged the constitutional validity of the 93rd Amendment and the 2006 Act before the Supreme Court.

Question of Law

The questions before the Court included: whether the 93rd Amendment violated the basic structure of the Constitution; whether the scheme of OBC reservation in educational institutions was constitutionally valid; whether the exclusion of the 'creamy layer' was constitutionally required; and whether the identification of OBCs was based on relevant and contemporaneous data.

Judgement

A Constitution Bench of the Supreme Court upheld the constitutional validity of the Constitution (Ninety-Third Amendment) Act, 2005 and the Central Educational Institutions (Reservation in Admission) Act, 2006, insofar as they applied to Central Educational Institutions. The Court held that the insertion of Article 15(5) did not violate the basic structure of the Constitution.

The Court further held that the exclusion of the 'creamy layer' from OBC reservations is constitutionally mandatory, in line with the principles laid down in *Indra Sawhney v. Union of India*. It also emphasised that the identification of backward classes must be based on relevant and contemporaneous data.

Importantly, the Court did not conclusively adjudicate upon the application of Article 15(5) to private unaided educational institutions, as the 2006 Act in question was confined to Central Educational Institutions.

The Court reiterated that reservation is not a fundamental right but a means to achieve the constitutional goal of substantive equality.

¹⁵ (2008) 6 SCC 1

Janhit Abhiyan v. Union of India (*EWS Reservation Case*)¹⁶

Facts of the Case

The Constitution (One Hundred and Third Amendment) Act, 2019 inserted clauses (6) in Articles 15 and 16, enabling the State to make provisions for up to 10% reservation for Economically Weaker Sections (EWS) of citizens not covered under the existing reservation provisions — that is, those outside the classes mentioned in Articles 15(4) and 16(4). The amendment expressly excluded Scheduled Castes (SCs), Scheduled Tribes (STs), and Other Backward Classes (OBCs) from the scope of EWS reservation. Janhit Abhiyan and other petitioners challenged the amendment, contending that it violated the basic structure of the Constitution, particularly the equality code, by recognising economic criteria as the sole basis for reservation and by excluding already disadvantaged communities from its ambit.

Question of Law

The constitutional questions before the five-judge Constitution Bench were: whether the 103rd Amendment violated the basic structure of the Constitution by breaching the equality code; whether reservation solely based on economic criteria is constitutionally permissible; and whether the exclusion of SCs, STs, and OBCs from the EWS category violates the principles of equality and non-discrimination.

Judgement

The Supreme Court, by a 3:2 majority, upheld the constitutional validity of the Constitution (One Hundred and Third Amendment) Act, 2019. The majority held that the amendment does not violate the basic structure, as the equality code permits the State to recognise economic disadvantage as an independent basis for affirmative action. The Court clarified that reservation is not confined only to socially and educationally backward classes under Articles 15(4) and 16(4), and that a separate category for economically weaker sections is constitutionally permissible.

The majority further held that the exclusion of SCs, STs, and OBCs from the EWS quota does not amount to unconstitutional discrimination, as these groups are already beneficiaries of existing reservation schemes.

In dissent, Justice S. Ravindra Bhat (joined by Justice B.V. Nagarathna) held that the amendment violates the basic structure by undermining the equality code. The dissent emphasised that excluding SCs, STs, and OBCs from a new form of affirmative action is inconsistent with the constitutional commitment to substantive equality and non-discrimination.

¹⁶ (2022) 13 SCC 1

State of Punjab v. Davinder Singh¹⁷

Facts of the Case

The State of Punjab enacted the Punjab Scheduled Castes and Backward Classes (Reservation in Services) Act, 2006, which provided for sub-classification within the Scheduled Caste category by granting preferential treatment to certain communities such as Valmikis and Mazhabi Sikhs in public employment. In *E.V. Chinnaiah v. State of Andhra Pradesh*, a five-judge bench had earlier held that sub-classification within the Scheduled Caste list was constitutionally impermissible on the ground that Scheduled Castes constitute a homogeneous class. The State of Punjab sought reconsideration of this ruling, and the matter was referred to a seven-judge Constitution Bench.

Question of Law

The principal question before the seven-judge bench was whether States have the constitutional power to sub-classify within Scheduled Castes for the purpose of reservation, so as to provide preferential treatment to more backward sub-groups within the SC category, or whether such sub-classification amounts to impermissible interference with the Presidential List under Article 341.

Judgement

The Supreme Court, by a 6:1 majority (with Justice Bela Trivedi dissenting), overruled *E.V. Chinnaiah v. State of Andhra Pradesh* and held that States are constitutionally empowered to sub-classify within the Scheduled Caste category for the purposes of reservation. The majority rejected the view that Scheduled Castes form a homogeneous class and held that differential treatment within the SC category is permissible to ensure equitable distribution of reservation benefits.

The Court clarified that such sub-classification must be based on empirical data and rational criteria, and must remain reasonable and non-exclusionary in its operation. The judgment also endorsed the consideration of the 'creamy layer' principle in the context of Scheduled Castes and, by implication, Scheduled Tribes, subject to appropriate determination in future policy and legal developments.

This decision significantly reshaped the constitutional understanding of reservation by permitting intra-category differentiation to achieve substantive equality within historically disadvantaged groups.

¹⁷ 2024 SCC OnLine SC 1860

Romesh Thappar v. State of Madras¹⁸

Facts of the Case

Romesh Thappar was the printer, publisher, and editor of the English journal Cross Roads, which was printed and published in Bombay. The Government of Madras, acting under Section 9(1-A) of the Madras Maintenance of Public Order Act, 1949, issued an order prohibiting the entry into and circulation of the journal within the State of Madras. The ban was justified on grounds of public safety and the maintenance of public order. Thappar challenged the order before the Supreme Court under Article 32 as an unconstitutional restriction on his fundamental right to freedom of speech and expression under Article 19(1)(a), read with Article 19(2).

Question of Law

The constitutional question was whether the impugned provision of the Madras Maintenance of Public Order Act, which permitted restrictions on grounds of 'public safety' and 'public order', fell within the permissible limitations on free speech under Article 19(2), which at the time allowed restrictions only in relation to security of the State, libel, slander, defamation, contempt of court, decency, and morality.

Judgement

The Supreme Court struck down the impugned provision and held the ban on Cross Roads unconstitutional. The Court held that the grounds specified in Article 19(2), as it then stood, were limited and had to be strictly construed. It emphasised that 'public order' or 'public safety' are distinct from 'security of the State', and since they were not included within Article 19(2) at the time, restrictions based solely on those grounds were unconstitutional.

The Court further held that freedom of the press, though not expressly mentioned in the Constitution, is an integral part of the freedom of speech and expression guaranteed under Article 19(1)(a).

This judgment, along with cases such as *Brij Bhushan v. State of Delhi*, was a major factor leading to the Constitution (First Amendment) Act, 1951, which expanded the scope of permissible restrictions under Article 19(2) to include 'public order' and 'incitement to an offence'.

¹⁸ AIR 1950 SC 124

Hamdard Dawakhana v. Union of India¹⁹

Facts of the Case

Hamdard Dawakhana, a manufacturer of Unani medicines, challenged the constitutional validity of the Drugs and Magic Remedies (Objectionable Advertisements) Act, 1954, which prohibited advertisements of drugs for the treatment of certain diseases and conditions. The petitioner argued that the prohibition on advertising its products — including medicines such as ‘Safi’ — violated its fundamental right to freedom of speech and expression under Article 19(1)(a), and that advertising its commercial products constituted protected speech. The Union of India contended that commercial advertisements were not within the scope of protection under Article 19(1)(a) and that the Act was, in any event, justified in the interest of public health.

Question of Law

The legal questions before the Court were: (i) whether a commercial advertisement for a product constitutes ‘speech and expression’ within the meaning of Article 19(1)(a); (ii) whether such advertisements are entitled to constitutional protection; and (iii) whether the Drugs and Magic Remedies (Objectionable Advertisements) Act, 1954 was a valid exercise of legislative power.

Judgement

The Supreme Court held that commercial advertisements of a purely trade or business nature are not within the scope of protection under Article 19(1)(a), as understood at the time. The Court reasoned that such advertisements are primarily intended to promote trade and commerce rather than to convey ideas or information in the sense protected by the freedom of speech and expression.

Accordingly, the Court upheld the constitutional validity of the Drugs and Magic Remedies (Objectionable Advertisements) Act, 1954, noting that the legislation was aimed at protecting public health by preventing misleading and potentially harmful claims regarding medical treatments.

This case laid down the early restrictive approach to commercial speech in India, which was later revisited in *Tata Press Ltd. v. MTNL*, where the Supreme Court recognised commercial speech as falling within the ambit of Article 19(1)(a), subject to reasonable restrictions.

¹⁹ AIR 1960 SC 554

K.A. Abbas v. Union of India²⁰

Facts of the Case

K.A. Abbas, a well-known Indian filmmaker, applied for a 'U' (Universal) certificate for his documentary film *A Tale of Four Cities*, which depicted the stark contrast between the lives of the rich and the poor in four Indian cities, including scenes from Bombay's red-light district. The Central Board of Film Censors initially granted only an 'A' (Adults only) certificate. Abbas challenged the constitutional validity of the pre-censorship regime for films under the Cinematograph Act, 1952, contending that requiring prior approval before exhibition amounted to an unreasonable restriction on his freedom of speech and expression under Article 19(1)(a).

Question of Law

The central legal questions were: whether the system of pre-censorship of films under the Cinematograph Act, 1952 is constitutionally valid as a reasonable restriction under Article 19(2); and whether the standards governing the grant or refusal of film certification were sufficiently precise to prevent arbitrary exercise of censorship powers.

Judgement

The Supreme Court upheld the constitutional validity of pre-censorship of films under the Cinematograph Act, holding that motion pictures, due to their audio-visual impact and mass appeal, have a more immediate and profound effect on audiences than other forms of expression, thereby justifying a higher degree of regulatory control.

The Court held that pre-censorship of films constitutes a reasonable restriction on freedom of speech and expression under Article 19(2). At the same time, it emphasised that censorship must be guided by clear, definite, and reasonable standards, and should not confer unfettered or arbitrary discretion on the authorities.

The Court directed reconsideration of the certification of Abbas's film in light of these principles. This judgment remains a foundational precedent on the constitutional validity of film censorship and the balance between freedom of expression and regulatory control in India.

²⁰ AIR 1971 SC 481

Tata Press Limited v. Mahanagar Telephone Nigam Limited²¹

Facts of the Case

Tata Press Limited published the *Tata Press Yellow Pages*, a telephone directory containing classified commercial advertisements. Mahanagar Telephone Nigam Limited (MTNL), a government-owned telephone service provider, claimed an exclusive right to publish telephone directories containing commercial advertisements and sought to restrain Tata Press from publishing its directory. MTNL based its claim on an alleged statutory monopoly under the Indian Telegraph Act, 1885. Tata Press challenged this claim and asserted that publishing a telephone directory with commercial advertisements constituted protected commercial speech under Article 19(1)(a).

Question of Law

The key questions before the Court were: whether commercial speech — specifically advertisements published in a commercial telephone directory — is protected under Article 19(1)(a) of the Constitution; and whether MTNL had a statutory monopoly over the publication of classified telephone directories under the Indian Telegraph Act, 1885.

Judgement

The Supreme Court, departing from its earlier restrictive approach in *Hamdard Dawakhana v. Union of India*, held that commercial speech — including commercial advertisements — is protected under Article 19(1)(a). The Court recognised that commercial speech plays an important role in disseminating information to consumers, thereby enabling informed decision-making, and is therefore entitled to constitutional protection, though subject to reasonable restrictions under Article 19(2).

The Court further held that the Indian Telegraph Act, 1885 does not confer any exclusive statutory monopoly upon MTNL to publish classified telephone directories. Accordingly, Tata Press was free to publish its *Yellow Pages*.

This judgment firmly established commercial speech as a protected category of expression under Indian constitutional law, while recognising that it may be subject to greater regulatory control.

²¹ 1995 5 SCC 139

Anuradha Bhasin v. Union of India²²

Facts of the Case

Following the abrogation of Article 370 and the reorganisation of the State of Jammu and Kashmir in August 2019, the Government imposed extensive restrictions in the region, including suspension of internet services and mobile networks. Anuradha Bhasin filed a writ petition before the Supreme Court challenging the communication shutdown as a violation of the freedom of the press and the right to freedom of speech and expression under Article 19(1)(a), contending that the shutdown prevented the publication of her newspaper. A separate petition was filed by Ghulam Nabi Azad highlighting the broader impact of the restrictions on the public. The government initially did not disclose the orders directing the suspension.

Question of Law

The constitutional questions raised were: whether the freedom of speech and expression and the freedom to carry on trade or business through the medium of the internet are protected under Articles 19(1)(a) and 19(1)(g); whether an indefinite suspension of internet services is permissible under the Constitution; and whether the failure to publish the suspension orders violated principles of transparency, the right to know, and access to justice.

Judgement

The Supreme Court held that the freedom of speech and expression and the freedom to carry on trade or business using the internet are constitutionally protected under Articles 19(1)(a) and 19(1)(g). The Court clarified that while access to the internet is not a standalone fundamental right, constitutional freedoms extend to activities carried out through the internet.

The Court further held that any restriction on internet access must satisfy the test of proportionality, including requirements of legality, necessity, and reasonableness. It ruled that an indefinite suspension of internet services is impermissible under the Constitution.

The Court directed the government to publish all orders relating to the suspension of internet services and to subject such orders to periodic review. It also reaffirmed that freedom of the press, including the right to publish and circulate newspapers, is an essential part of Article 19(1)(a).

This judgment is regarded as a landmark in recognising the application of fundamental rights in the digital sphere and in subjecting internet shutdowns to constitutional scrutiny.

²² (2020) 3 SCC 637

Rev. Stainislaus v. State of Madhya Pradesh²³

Facts of the Case

Rev. Stainislaus, a Christian missionary, challenged the constitutional validity of the Madhya Pradesh Dharma Swatantrya Act, 1968, which prohibited conversion from one religion to another by use of force, fraud, or allurement. A similar statute — the Orissa Freedom of Religion Act, 1967 — was also challenged in a connected matter. The petitioners contended that these anti-conversion laws violated the right to ‘propagate’ religion guaranteed under Article 25(1) of the Constitution. They argued that the right to propagate included the right to convert others to one’s religion, and that State regulation of conversions was an impermissible restriction on religious freedom.

Question of Law

The principal question before the Court was whether the right to ‘propagate’ religion under Article 25(1) includes the right to convert another person to one’s religion, and whether laws prohibiting conversion by force, fraud, or allurement are constitutionally valid.

Judgement

The Supreme Court upheld the constitutional validity of both the Madhya Pradesh and Orissa anti-conversion laws. The Court held that the right to ‘propagate’ religion under Article 25(1) means the right to transmit or spread one’s religion by exposition of its tenets, but does not include the right to convert another person.

The Court reasoned that Article 25 guarantees freedom of conscience to every individual, and that permitting conversion by force, fraud, or allurement would infringe upon the freedom of conscience of the person being converted. The State is therefore competent to enact laws regulating or prohibiting such conversions in the interest of public order.

At the same time, the Court made it clear that voluntary conversion arising out of genuine religious conviction, without the use of force, fraud, or inducement, is not prohibited by these laws.

²³ AIR 1977 SC 908

Bijoe Emmanuel v. State of Kerala²⁴

Facts of the Case

Three children — Bijoe Emmanuel and his siblings — belonging to the Jehovah's Witnesses faith were expelled from their school in Kerala for refusing to sing the National Anthem (*Jana Gana Mana*) during the school assembly. The children stood respectfully during the singing but did not sing along, as their religious beliefs — based on their interpretation of scripture — forbade them from singing any song other than those in praise of Jehovah. The State of Kerala justified the expulsion on grounds of maintaining discipline and respect for national symbols. Their father filed a writ petition challenging the expulsion as a violation of the children's fundamental rights.

Question of Law

The questions before the Court were: whether compelling students to sing the National Anthem as a condition of remaining in school violates the right to freedom of conscience and the freedom to profess and practise religion under Article 25(1); and whether the act of standing respectfully without singing constitutes disrespect to the National Anthem under the Prevention of Insults to National Honour Act, 1971.

Judgement

The Supreme Court held that the expulsion of the children violated their fundamental rights, primarily under Article 25(1), with support from Article 19(1)(a). The Court ruled that no individual can be compelled to sing the National Anthem if doing so conflicts with their sincerely held religious beliefs, provided that they do not show any form of disrespect.

The Court clarified that standing respectfully while the National Anthem is sung does not amount to any insult or offence under the Prevention of Insults to National Honour Act, 1971. It emphasised that freedom of conscience is a core constitutional value, and the State cannot compel individuals to act in a manner contrary to their genuine religious convictions.

This judgment is widely regarded as an important precedent affirming religious freedom and the protection of minority rights in India, and it continues to be cited in discussions on the limits of State authority in enforcing expressions of national identity.

²⁴ AIR 1987 SC 748

Javed v. State of Haryana²⁵

Facts of the Case

The State of Haryana enacted the Haryana Panchayati Raj Act, 1994, which disqualified persons having more than two living children (subject to a specified cut-off date) from contesting elections to Panchayati Raj institutions. Javed and other petitioners challenged this two-child norm as an unconstitutional restriction, arguing that it violated their fundamental rights. They contended that the right to procreate forms part of personal liberty under Article 21, and that the State could not attach adverse consequences to the exercise of this choice by restricting eligibility for public office.

Question of Law

The questions before the Court were: whether the two-child norm, as a disqualification for contesting elections to panchayati raj bodies, violated Articles 14 and 21 of the Constitution; and whether the right to procreate under Article 21 is infringed by such a statutory disqualification.

Judgement

The Supreme Court upheld the constitutional validity of the two-child norm. The Court held that the right to contest an election is not a fundamental right but a statutory right, and therefore the legislature is competent to impose reasonable disqualifications on eligibility.

The Court further held that even assuming the existence of a right to procreate under Article 21, the impugned provision does not directly infringe that right. It does not prohibit individuals from having more than two children, but imposes a disqualification in the specific context of eligibility for contesting panchayat elections.

The Court also found that the provision serves a legitimate State objective of promoting family planning and population control, and is neither arbitrary nor unreasonable under Article 14.

The judgment has been subject to criticism in academic and policy discourse for its potential disproportionate impact on vulnerable sections, particularly women and economically disadvantaged groups.

²⁵ (2003) 8 SCC 369

Anoop Baranwal v. Union of India²⁶

Facts of the Case

The Election Commission of India is constituted under Article 324 of the Constitution. In the absence of a law enacted by Parliament governing appointments, the Chief Election Commissioner and Election Commissioners were, in practice, appointed by the President on the advice of the executive. Anoop Baranwal, an advocate, filed a writ petition challenging this practice as inconsistent with the requirement of an independent Election Commission. The petition argued that the existing appointment process rendered the Commission susceptible to executive influence and undermined the constitutional guarantee of free and fair elections.

Question of Law

The questions before the Constitution Bench were: whether the prevailing appointment process for Election Commissioners, effectively controlled by the executive in the absence of a statutory framework, was constitutionally valid; whether the absence of a law enacted by Parliament created a constitutional vacuum; and what mechanism would best secure the independence of the Election Commission.

Judgement

The Supreme Court, by a unanimous five-judge Constitution Bench, held that the independence of the Election Commission is essential to the conduct of free and fair elections. In order to address the absence of a statutory framework, the Court laid down an interim mechanism for appointments.

The Court directed that, until Parliament enacts a law on the subject, the Chief Election Commissioner and Election Commissioners shall be appointed by the President on the advice of a committee comprising the Prime Minister, the Leader of the Opposition in the Lok Sabha (or the leader of the largest opposition party in the absence of a recognised Leader of Opposition), and the Chief Justice of India.

Subsequently, Parliament enacted the Chief Election Commissioner and other Election Commissioners (Appointment, Conditions of Service and Term of Office) Act, 2023, which replaced the Chief Justice of India in the selection committee with a Union Cabinet Minister nominated by the Prime Minister — a development that has attracted significant constitutional debate.

²⁶ (2023) 6 SCC 161

Sita Soren v. Union of India²⁷

Facts of the Case

Sita Soren, a Member of the Jharkhand Legislative Assembly affiliated with the Jharkhand Mukti Morcha, was accused of accepting a bribe from an independent candidate in the 2012 Rajya Sabha elections in exchange for casting her vote in his favour. She was charged with criminal bribery. She claimed immunity from prosecution under Article 194(2) of the Constitution, which grants Members of a State Legislature immunity in respect of anything said or any vote given in the Legislature. She relied on the ruling in *P.V. Narasimha Rao v. State (CBI/SPE)*, where a majority had held that legislators who had taken bribes and subsequently voted or spoken in the House were immune from prosecution.

Question of Law

The question referred to a seven-judge Constitution Bench was whether the majority decision in *P.V. Narasimha Rao v. State (CBI/SPE)* — granting immunity to legislators for acts connected with votes or speeches in the House — was correctly decided, and whether such immunity extends to the offence of bribery in relation to legislative functions under Articles 105(2) and 194(2).

Judgement

The Supreme Court, by a unanimous seven-judge Constitution Bench, overruled the majority decision in *P.V. Narasimha Rao v. State (CBI/SPE)* and held that legislative immunity under Articles 105(2) and 194(2) does not extend to acts of bribery in connection with a vote or speech in the legislature.

The Court held that the constitutional privilege of freedom of speech and voting in Parliament and State Legislatures is intended to protect legislators in the discharge of their legislative functions, and cannot be used as a shield for corrupt practices. It emphasised that bribery is a distinct and complete criminal offence, independent of the act of voting or speaking in the House, and therefore cannot be immunised merely because it is linked to legislative activity.

The Court further clarified that Articles 105(2) and 194(2) are *pari materia* and must be interpreted consistently. The decision marks a significant reaffirmation of constitutional accountability, holding that legislative privilege does not extend to corruption.

²⁷ 2024 INSC 161

Air India v. Nargesh Meerza²⁸

Facts of the Case

Air India's service regulations for Air Hostesses (cabin crew) contained provisions requiring an Air Hostess to retire upon: (i) attaining the age of 35 years; (ii) marrying within the first four years of service (they were required to remain unmarried during this initial period); and (iii) upon first pregnancy. These conditions were challenged by Nargesh Meerza and other Air Hostesses as being violative of Articles 14 and 16 of the Constitution, on the ground that they were arbitrary, discriminatory, and bore no rational nexus to the nature of the job.

Question of Law

The questions before the Court were: whether the service conditions requiring termination upon pregnancy, restricting marriage during the initial years of service, and prescribing a low retirement age violated Articles 14 and 16 as being arbitrary and discriminatory on the basis of sex; and whether such conditions could be justified as reasonable in relation to the nature of employment.

Judgement

The Supreme Court struck down the provision requiring termination of service upon pregnancy as manifestly arbitrary, unreasonable, and violative of Article 14, observing that it was an affront to the dignity of women and had no rational connection with job performance.

The Court also struck down the restriction prohibiting Air Hostesses from marrying within the first four years of service as arbitrary and unconstitutional.

With respect to retirement, the Court found the rigid retirement age of 35 years to be unreasonable and arbitrary, noting that it could be extended at the discretion of the employer, thereby lacking a rational and uniform standard.

The Court further highlighted the disparity between the service conditions of male cabin crew and female Air Hostesses, expressing disapproval of such discriminatory treatment.

This judgment marked an important development in the application of Article 14 to strike down arbitrary and gender-discriminatory service conditions in public employment.

²⁸ AIR 1981 SC 1829

Naz Foundation v. Government of NCT of Delhi²⁹

Facts of the Case

Naz Foundation, an NGO working in the field of HIV/AIDS prevention and sexual health, filed a public interest petition before the Delhi High Court challenging Section 377 of the Indian Penal Code, 1860, which criminalised ‘carnal intercourse against the order of nature’ — interpreted to include consensual sexual acts between adults of the same sex. The petitioner argued that the provision, in its application to consensual adult same-sex relations, violated the fundamental rights to equality, dignity, privacy, and health under Articles 14, 15, 19, and 21. The Union of India adopted a mixed and evolving position during the proceedings, with different departments expressing divergent views.

Question of Law

The constitutional questions were: whether Section 377 IPC, as applied to consensual sexual acts between adults of the same sex in private, violated Articles 14 (equality), 15 (non-discrimination on grounds including sex), 19(1)(a) (freedom of expression), and 21 (right to life, liberty, and dignity); and whether sexual orientation is a constitutionally protected ground against discrimination.

Judgement

The Delhi High Court, in a landmark judgment authored by Chief Justice A.P. Shah, read down Section 377 IPC to decriminalise consensual sexual acts between adults of the same sex. The Court held that, to the extent it criminalised such consensual acts, Section 377 violated Articles 14, 15, and 21 (with support from Article 19).

The Court further held that sexual orientation is a ground analogous to ‘sex’ under Article 15, and that discrimination based on sexual orientation is constitutionally impermissible. It recognised that the rights to dignity, privacy, and autonomy — integral to Article 21 — protect individuals’ choices in matters of intimate relationships.

This judgment was subsequently reversed by the Supreme Court in *Suresh Kumar Koushal v. Naz Foundation*, but the position was ultimately restored by a five-judge Constitution Bench in *Navtej Singh Johar v. Union of India*, which decriminalised consensual same-sex relations.

²⁹ 160 (2009) DLT 277

Supriyo @ Supriya Chakraborty v. Union of India³⁰

Facts of the Case

Following the decriminalisation of consensual same-sex relations in *Navej Singh Johar v. Union of India*, several petitions were filed before the Supreme Court seeking legal recognition of same-sex marriages under the Special Marriage Act, 1954 (SMA) and other personal laws. Supriyo Chakraborty and other petitioners, representing same-sex couples, sought the right to marry under the SMA. The petitioners argued that the exclusion of same-sex couples from the institution of marriage violated their fundamental rights to equality, dignity, and non-discrimination under Articles 14, 15, 19, and 21. The Union of India opposed the recognition of same-sex marriage, contending that marriage is a matter within the legislative domain and that the Constitution does not confer a fundamental right to marry a person of the same sex.

Question of Law

The questions before the five-judge Constitution Bench included: whether there exists a fundamental right to marry under the Constitution, and if so, whether it extends to same-sex couples; whether the Special Marriage Act could be read down or interpreted in a gender-neutral manner to include same-sex marriages; and whether the exclusion of same-sex couples from marriage violates Articles 14, 15, 19, and 21.

Judgement

The Supreme Court, by a 3:2 majority, declined to recognise same-sex marriages or to read the Special Marriage Act as including same-sex couples. The majority held that there is no fundamental right to same-sex marriage under the Constitution, and that any recognition of such a right would require legislative action by Parliament. The Court refused to reinterpret the provisions of the Special Marriage Act, holding that doing so would amount to judicial legislation.

At the same time, the Court unanimously affirmed that LGBTQ+ persons have the fundamental right to form relationships, cohabit, and choose their life partners, as part of their rights under Articles 19 and 21. The Court also directed the Union Government to constitute a committee to examine and recommend measures for extending certain benefits and protections to same-sex couples.

In dissent, Chief Justice D.Y. Chandrachud and Justice S.K. Kaul held that the Constitution protects a broader right to form unions, and that same-sex couples are entitled to recognition of their relationships. The minority favoured recognising civil unions and extending legal protections to such relationships, even if full marriage equality was not judicially declared.

³⁰ (2024) 5 SCC 1

Shilpa Sailesh v. Varun Sreenivasan³¹

Facts of the Case

Shilpa Sailesh and Varun Sreenivasan were a married couple whose marriage had completely broken down, with both parties seeking divorce. However, the Hindu Marriage Act, 1955, does not recognise irretrievable breakdown of marriage as a standalone ground for divorce, and Section 13-B provides for a six-month cooling-off period in cases of divorce by mutual consent. The matter raised the question of whether the Supreme Court could exercise its powers under Article 142 to dissolve a marriage on the ground of irretrievable breakdown and to waive procedural requirements in appropriate cases.

Question of Law

The key constitutional question was whether the Supreme Court, in exercise of its extraordinary jurisdiction under Article 142, can dissolve a marriage on the ground of irretrievable breakdown even though such a ground is not provided under the Hindu Marriage Act; and whether the Court can waive the cooling-off period under Section 13-B in cases of mutual consent divorce.

Judgement

The Supreme Court, by a unanimous five-judge Constitution Bench, held that it has the power under Article 142 to dissolve a marriage on the ground of irretrievable breakdown, even though such a ground is not statutorily recognised under the Hindu Marriage Act. The Court clarified that this power may be exercised in exceptional cases where the marriage has completely and irretrievably broken down, and there is no possibility of reconciliation.

The Court also held that it can waive the six-month cooling-off period under Section 13-B of the Hindu Marriage Act — which is directory in nature, as recognised in *Amardeep Singh v. Harveen Kaur* — where the circumstances indicate that waiting would serve no purpose.

The Court laid down broad factors to guide the exercise of its powers under Article 142, including the duration of the marriage, the period of separation, the existence of pending disputes, attempts at mediation, and the interests of any children involved. It emphasised that irretrievable breakdown must be established on the facts of each case and cannot be presumed.

³¹ (2023) 12 SCC 1

Mohd. Ahmed Khan v. Shah Bano Begum³²

Facts of the Case

Shah Bano Begum, a 62-year-old Muslim woman, was divorced by her husband, Mohd. Ahmed Khan (a senior advocate), after 43 years of marriage, pronounced triple talaq. After the divorce, she sought maintenance under Section 125 of the Code of Criminal Procedure (CrPC), which entitles a wife — including a divorced wife unable to maintain herself — to claim maintenance from her husband. Mohd. Ahmed Khan contended that he had already paid the dower (mehr) amount and that under Muslim Personal Law, his liability was limited to maintenance during the iddat period (approximately three months), after which he had no further obligation.

Question of Law

The questions before the Supreme Court were: whether a divorced Muslim woman who is unable to maintain herself is entitled to claim maintenance from her former husband under Section 125 CrPC beyond the iddat period; whether Section 125 CrPC applies irrespective of Muslim Personal Law; and whether the principles of maintenance recognised under Section 125 are consistent with Islamic law.

Judgement

The Supreme Court, in a unanimous judgment authored by Chief Justice Y.V. Chandrachud, held that Section 125 CrPC is a secular provision applicable to all citizens irrespective of religion, and that a divorced Muslim woman is entitled to maintenance from her former husband beyond the iddat period so long as she is unable to maintain herself.

The Court held that the payment of mehr does not absolve the husband of his obligation to provide maintenance where the divorced wife is unable to sustain herself. It further observed that the principles underlying Section 125 are consistent with the notions of fairness and justice reflected in the Quran.

In an important obiter, the Court referred to Article 44 of the Constitution and expressed the hope that the State would move towards the adoption of a Uniform Civil Code to resolve such conflicts.

The judgment generated significant political and social debate and was followed by the enactment of the Muslim Women (Protection of Rights on Divorce) Act, 1986, which modified the legal position. However, in *Danial Latifi v. Union of India*, the Supreme Court interpreted the 1986 Act in a manner that effectively preserved the substantive protection granted to divorced Muslim women in this case.

³² AIR 1985 SC 945

People's Union for Democratic Rights v. Union of India³³

Facts of the Case

In connection with the construction of stadia and other facilities for the 1982 Asian Games in New Delhi, it was found that workers — including migrant labourers from distant States — were being employed under exploitative conditions: they were being paid wages below the statutory minimum, denied basic amenities, and made to work in unsafe environments. The People's Union for Democratic Rights (PUDR) conducted a study of these conditions and filed a public interest petition before the Supreme Court under Article 32, seeking enforcement of labour welfare laws and constitutional protections for the workers.

Question of Law

The key questions before the Court were: whether payment of wages below the statutory minimum wage amounts to 'forced labour' within the meaning of Article 23; whether economic compulsion arising from poverty can be treated as a form of 'force'; and whether the Supreme Court, in a public interest litigation, can enforce labour welfare laws on behalf of workers who are unable to approach the Court themselves.

Judgement

The Supreme Court, in a landmark judgment authored by Justice P.N. Bhagwati, held that payment of wages below the minimum statutory wage amounts to 'forced labour' within the meaning of Article 23 of the Constitution. The Court reasoned that where a person is compelled to work for less than the minimum wage due to poverty, lack of alternatives, or economic necessity, such compulsion constitutes a form of force, and the labour so extracted is constitutionally prohibited.

The Court thus expanded the concept of 'forced labour' beyond physical coercion to include economic compulsion. It emphasised that Article 23 is a fundamental right enforceable against both the State and private individuals.

The Court issued directions for the effective implementation of labour welfare legislation and affirmed the role of public interest litigation as a mechanism to secure the rights of disadvantaged and vulnerable sections of society.

³³ AIR 1982 SC 1473

Parmanand Katara v. Union of India³⁴

Facts of the Case

Parmanand Katara, a human rights activist, filed a public interest petition before the Supreme Court highlighting the life-threatening practice of doctors and hospitals refusing to provide immediate medical treatment to accident victims and seriously injured persons on the grounds that such cases are 'medico-legal cases' requiring prior police intimation and procedural formalities. He relied on reported instances where victims died while being shifted between hospitals that refused treatment pending police clearance. The petition sought directions to ensure that no person is denied urgent medical care on such grounds.

Question of Law

The core question was whether the right to life under Article 21 includes an obligation to provide immediate medical aid in emergencies, and whether doctors and hospitals — both public and private — are legally bound to treat patients in life-threatening conditions without waiting for police formalities or payment.

Judgement

The Supreme Court held that preservation of human life is of paramount importance and forms an integral part of the right to life under Article 21. It ruled that every doctor, whether in a government or private hospital, has a professional and legal obligation to provide immediate medical assistance to an injured person in an emergency.

The Court made it clear that procedural formalities, including police requirements in medico-legal cases, cannot be allowed to delay or deny life-saving treatment. The primary duty of medical professionals is to save life, and all other considerations are secondary.

The Court also emphasised the State's responsibility to ensure that adequate systems exist for the provision of emergency medical care. This judgment laid the foundation for later developments in Good Samaritan protections and remains a key precedent in safeguarding the right to timely medical treatment.

³⁴ AIR 1989 SC 2039

P. Rathinam v. Union of India³⁵

Facts of the Case

P. Rathinam filed a public interest petition before the Supreme Court challenging the constitutional validity of Section 309 of the Indian Penal Code, 1860, which criminalises an attempt to commit suicide. The provision prescribes punishment of imprisonment or fine for such attempts. The petitioner contended that the right to life under Article 21, which includes the right to live with dignity, also encompasses a negative aspect — the right to die or to end one's life — particularly in situations of extreme suffering. On this basis, Section 309 IPC was challenged as an unconstitutional restriction on personal liberty.

Question of Law

The constitutional question before the Court was whether the right to life under Article 21 includes the right to die, and consequently, whether Section 309 IPC is unconstitutional for criminalising an attempt to commit suicide.

Judgement

A two-judge bench of the Supreme Court held that the right to life under Article 21 includes the right to die. The Court reasoned that the right to live is not merely a compulsion to live but includes the freedom to choose the manner and timing of one's life, thereby recognising a negative aspect of the right.

Accordingly, Section 309 IPC was declared unconstitutional as it penalised individuals who were already in a state of mental distress and in need of care and compassion rather than punishment.

However, this position was subsequently overruled by a Constitution Bench in *Gian Kaur v. State of Punjab*, which held that the right to life under Article 21 does not include the right to die and upheld the constitutional validity of Section 309 IPC.

The issue was later addressed legislatively through the Mental Healthcare Act, 2017, which creates a presumption that a person attempting suicide is under severe stress and therefore should not ordinarily be prosecuted, effectively rendering the provision non-punishable in most cases.

³⁵ (1994) 3 SCC 394

Gian Kaur v. State of Punjab³⁶

Facts of the Case

Gian Kaur and her husband were convicted under Section 306 of the Indian Penal Code (abetment of suicide) for allegedly encouraging Gian Kaur's daughter-in-law to commit suicide. In challenging their conviction, they relied on the earlier ruling in *P. Rathinam v. Union of India*, arguing that if a person has a right to die, then assisting in the exercise of that right should not be punishable. They further contended that since Section 309 IPC (attempt to commit suicide) had been declared unconstitutional in that case, Section 306 — which they argued was dependent on the criminality of suicide — must also be invalid. The matter was referred to a five-judge Constitution Bench to reconsider the correctness of *P. Rathinam*.

Question of Law

The constitutional questions before the Court were: whether the right to life under Article 21 includes the right to die; whether Section 309 IPC (attempt to commit suicide) is constitutionally valid; and whether Section 306 IPC (abetment of suicide) is constitutionally valid.

Judgement

The Supreme Court, by a unanimous five-judge Constitution Bench, overruled *P. Rathinam v. Union of India* and held that the right to life under Article 21 does not include the right to die. The Court reasoned that the right to life is a positive right — a right to live with dignity — and does not include its own extinction.

The Court upheld the constitutional validity of both Section 309 IPC (attempt to commit suicide) and Section 306 IPC (abetment of suicide), clarifying that abetment of suicide is an independent offence and not contingent upon the criminality of suicide itself.

At the same time, the Court drew an important conceptual distinction by observing that the right to die with dignity, in the context of natural death — particularly in cases of terminal illness — may fall within the ambit of Article 21. This observation laid the groundwork for later developments in the law relating to euthanasia and end-of-life decision-making, including *Aruna Ramachandra Shanbaug v. Union of India* and *Common Cause v. Union of India*.

³⁶ (1996) 2 SCC 648

Maqbool Hussain v. State of Bombay³⁷

Facts of the Case

Maqbool Hussain, an Indian national, arrived at the Santa Cruz Airport in Bombay from a foreign country carrying gold in contravention of a notification issued under the Sea Customs Act, 1878. The gold was confiscated by the Customs authorities, and a penalty was imposed under the Act. Subsequently, he was prosecuted under criminal law for the same act of illegal import of gold. He challenged this prosecution on the ground that it violated Article 20(2) of the Constitution, which protects against double jeopardy — that is, being prosecuted and punished more than once for the same offence.

Question of Law

The constitutional question was whether the confiscation of goods and imposition of penalty under the Sea Customs Act constitutes ‘prosecution and punishment’ within the meaning of Article 20(2), so as to bar a subsequent criminal prosecution for the same offence.

Judgement

The Supreme Court held that the confiscation of goods and imposition of a penalty under the Sea Customs Act do not amount to ‘prosecution and punishment’ within the meaning of Article 20(2). The Court clarified that the protection against double jeopardy applies only where a person has been prosecuted before a court of law and punished for an offence.

Since the proceedings before the Customs authorities were departmental in nature and not a prosecution before a court, they did not attract the bar under Article 20(2). Accordingly, the subsequent criminal prosecution for the same act was held to be valid.

This judgment established the principle that departmental or administrative proceedings and criminal prosecutions can coexist without violating the constitutional protection against double jeopardy, provided the earlier proceeding does not amount to a prosecution before a court of law.

³⁷ AIR 1953 SC 325

R.C. Cooper v. Union of India³⁸

Facts of the Case

The Banking Companies (Acquisition and Transfer of Undertakings) Ordinance, 1969 (later replaced by an Act) nationalised 14 major commercial banks in India, including the Central Bank of India and others. R.C. Cooper, a shareholder of the Central Bank of India, challenged the nationalisation on multiple grounds: that the law violated his fundamental right to property under Article 19(1)(f); that the compensation offered for the acquisition of the banks was illusory and did not constitute 'just equivalence' for the property taken; that the legislation was a colourable exercise of power; and that the selective nationalisation of only 14 banks (while leaving others untouched) was arbitrary and violated Article 14.

Question of Law

The constitutional questions were: whether the nationalisation law violated the right to property under Article 19(1)(f) and Article 31(2); whether the compensation provided was constitutionally adequate; whether the law was a colourable piece of legislation; and whether the classification of only certain banks for nationalisation was arbitrary under Article 14.

Judgement

The Supreme Court, by a large majority, struck down the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1969, primarily on the ground that the compensation provisions were illusory and did not amount to real and adequate compensation, thereby violating Article 31(2). The Court emphasised that compensation must bear a reasonable relation to the value of the property acquired.

The Court also held that the impact of the law on the fundamental rights of individuals must be assessed based on its direct effect, rather than merely its object or form. In doing so, it rejected the earlier doctrine that fundamental rights operate in watertight compartments, and recognised that a single law may violate multiple fundamental rights.

The judgment marked a significant shift in constitutional interpretation by establishing that the direct effect of a law on individual rights is determinative, regardless of the subject matter of the legislation.

Following the decision, Parliament enacted a revised bank nationalisation law in 1970 and subsequently introduced constitutional amendments addressing property rights.

³⁸ AIR 1970 SC 564

Mithu Singh v. State of Punjab³⁹

Facts of the Case

Mithu Singh and other prisoners, who were already serving life sentences for various offences, were convicted under Section 303 of the Indian Penal Code, 1860. This provision mandated the death penalty for any person committing murder while serving a life sentence. The mandatory nature of the provision meant that courts had no discretion to impose a lesser sentence, irrespective of the circumstances of the offence or the offender. The petitioners challenged the constitutional validity of Section 303 IPC on the ground that it deprived them of judicial consideration in sentencing.

Question of Law

The constitutional questions were: whether Section 303 IPC, which mandates the death penalty without allowing judicial discretion, violates Articles 14 and 21 of the Constitution; and whether such a mandatory sentencing provision can be considered a fair, just, and reasonable procedure under Article 21.

Judgement

The Supreme Court struck down Section 303 IPC as unconstitutional, holding that it violated both Articles 14 and 21. The Court held that a mandatory death penalty, which denies the court the ability to consider the circumstances of the offence and the offender, is inherently arbitrary and thus violative of Article 14.

The Court further held that such a provision fails the requirement of a fair, just, and reasonable procedure under Article 21. Given that the death penalty is the most severe and irreversible punishment, the sentencing process must allow for individualised consideration of mitigating and aggravating factors.

The judgment reaffirmed the constitutional framework laid down in *Bachan Singh v. State of Punjab*, which requires that the death penalty be imposed only in the “rarest of rare” cases after a careful and balanced assessment.

³⁹ AIR 1983 SC 473