

K.S. PUTTASWAMY VERSUS UNION OF INDIA¹

K.S. Puttaswamy versus Union of India (2017) is a landmark case that established the right to privacy as a fundamental right. The Supreme Court, in its judgment, overturned earlier judgments that denied the right to privacy as a fundamental right. This became a landmark judgment as it served as the basis for various subsequent cases. The case is closely related to *MP Sharma versus Satish Chandra, DM, Delhi (1954)* and *Kharak Singh versus State of Uttar Pradesh (1962)*. The case invoked Articles 14, 19 (1), and 21.

M.P. Sharma v. Satish Chandra (1952) was a case that was primarily centred on the seizure and search of property. After some allegations of embezzlement of funds on the Dalmia Group of Companies, search warrants were issued. The petitioner, M.P. Sharma, moved to the Apex Court against these search warrants, arguing that the search warrant and seizure of documents violated his fundamental right of self-incrimination as well as his right to possess or dispose of property. The petitioners also cited the Fourth Amendment of the US Constitution, which explicitly makes the Right to Privacy a fundamental right. The Court in this case held that there exists nothing sort of Right to Privacy in the Indian Constitution. In *Kharak Singh v. State of Uttar Pradesh (1963)*, the UP Police conducted a surveillance on petitioner Kharak Singh, who was arrested on the grounds of dacoity but was released due to lack of evidence. Kharak Singh moved to the court, arguing that the surveillance violates the right to life and liberty as well as the right to privacy. While the court held that the surveillance was a violation of the right to life and liberty, there existed nothing sort of right to privacy in the Indian Constitution.

The petitioner KS Puttaswamy was a retired Judge of the Karnataka High Court. The case emerged with the AADHAR project of the Government of India, which started in 2012, and sought to make a unique identification number for each and every Indian citizen. This AADHAR number was to be further used as an identification number for the delivery of welfare schemes and services implemented by the Government. The petitioner KS Puttaswamy and various other people challenged the validity of the AADHAR as they argued that it breaches the right to privacy of an individual. The major contention was regarding the biometric data being taken of citizens in the name of AADHAR. A three-judge bench was formed in 2015 to deal with the case. However, the Attorney General speaking on behalf of the Government of India argued that there exists nothing like the right to privacy in the Indian Constitution. The Respondent cited the 1952 M.P. Sharma Case and 1962 Kharak Singh Case. The judges observed that there had been several cases where the right to privacy had been declared as a fundamental right, but all these cases had a bench strength much smaller than the M.P. Sharma and Kharak Singh cases. Due to this reason, the case was given to a Constitution Bench of 9 Judges.

¹ AIR 2017 SUPREME COURT 4161

Question of Law

The Court in this case had only one question, which was whether the Right to Privacy is a Fundamental Right enshrined in Part III of the Constitution. The petitioner had argued that the right is derived from Article 21 and, rather than simply being a narrow right, has wider implications.

Judgment

The court unanimously held that the Right to Privacy is a broad right affecting the mind, body and choices of the individual. It was agreed that it is a Fundamental Right stemming from Article 21, thus helping an individual to live life with dignity. The Court, however, also held that it cannot be categorised as absolute in nature, but rather has to be subjected to some 'reasonable restrictions'. The right it stated can be breached; however, it should stand on the three-fold grounds of need, legality and proportionality between the objective and the means adopted to attain this objective. The Court, in its Judgment, also established that the sexual orientation of individuals also comes under their Right to Privacy. The state had the dual duty of not intruding in the lives of individuals as well as safeguarding their right to privacy. The Judgment became a landmark case and was cited in *Navtej Singh Johar v. Union of India (2018)* that decriminalised same-sex relations in India.