BLOGS

ADM Jabalpur v. Shivkant Shukla

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Facts of ADM Jabalpur v. Shivkant Shukla

In ADM Jabalpur v. Shivkant Shukla, the case emerged following the controversial 1975 emergency imposed by Prime Minister Indira Gandhi. After her election to the Lok Sabha was annulled by the Allahabad High Court due to electoral malpractices, Gandhi faced a potential six-year ban from holding office. In response to this political crisis, Gandhi declared a state of emergency on June 26, 1975, and subsequently suspended citizens' rights to approach the Supreme Court under **Article 32** to enforce fundamental rights, including **Articles 14, 21, and 22**, which protect equality, personal liberty, and safeguards against preventive detention.

With the emergency in effect and fundamental rights suspended, the government used the **Maintenance of Internal Security Act (MISA)** to arrest political opponents and critics, such as A.B. Vajpayee, Jayaprakash Narayan, and Morarji Desai. Despite obtaining favorable orders from various High Courts for their release, these detainees found themselves unable to secure their freedom due to the suspension of **Article 32**. The state challenged these High Court orders in the Supreme Court, consolidating the cases under ADM Jabalpur case, leading to a landmark decision that profoundly impacted the interpretation of personal liberties during times of national crisis.

Issues Raised

1. Maintainability of Writ Petition Under Article 226: Whether a writ petition for the issuance of a writ of Habeas Corpus, to ensure personal liberty, is maintainable on the grounds that the order of detention is not valid according to the provisions of the MISA, when read with the orders issued by the President under Article 359(1).

2. Extent of Judicial Scrutiny: If the writ petition under Article 226 is maintainable, what is the extent of judicial scrutiny with respect to the Presidential orders issued under Article 359(1)?

Arguments of the Petitioners (State)

In ADM Jabalpur v. Shivkant Shukla, the State argued that during an emergency, the State's interest in military and economic security takes precedence over all other considerations, granting the Executive extensive powers as envisioned by the Constituent Assembly.

The petitioners contended that **Article 359(1)** of the Constitution explicitly suspends the right to approach the courts for enforcement of fundamental rights, including **Articles 14, 21, and 22**. Therefore, the suspension of these rights was a constitutional mandate, not a scenario of lawlessness.

Additionally, the State maintained that even if the advisory board found insufficient grounds for detention, the State was not obliged to release detainees, highlighting the absolute nature of executive powers during an emergency. They argued that emergency provisions, such as **Articles 358, 359(1), and 359(1A),** were essential for maintaining national security, and suspending the right to enforce **Article 21** was within constitutional bounds and did not imply the absence of the rule of law.

Arguments of the Respondents

The respondents argued that while **Article 359(1)** suspends the enforcement of fundamental rights in the Supreme Court, it does not prevent the enforcement of common law, natural law, or statutory rights in High Courts under **Article 226**.

They contended that executive powers do not expand beyond constitutional limits during an emergency, and allowing the Executive to usurp legislative powers would violate the Constitution's basic structure. They emphasized that rights to life and personal liberty under **Article 21** are not the sole sources of these rights, and the emergency provisions should not be interpreted to allow unchecked executive overreach.

Furthermore, the respondents asserted that the presidential orders and emergency proclamations should not extend to non-fundamental constitutional rights. They argued that the Executive's actions must remain within the scope defined by the legislature, consistent with the principles of

sovereignty, democracy, and republicanism enshrined in the Constitution's Preamble.

They also highlighted that **Section 3 of the MISA** conditions the power to arrest, and any detention that does not meet these conditions should be deemed beyond the Executive's authority.

Judgment

In the case of ADM Jabalpur v. Shivkant Shukla, a majority decision was rendered by a Constitutional Bench comprising Chief Justice A.N. Ray, Justice M.H. Beg, Justice Y.V. Chandrachud, and Justice P.N. Bhagwati, with a powerful dissenting opinion by Justice H.R. Khanna. The Supreme Court, by a majority of 4:1, ruled against the detainees.

Majority Decision:

The majority held that during a state of emergency proclaimed under Article 359(1) of the Indian Constitution, individuals do not have the right to petition the High Court under Article 226 for habeas corpus or any other writ to challenge the legality of their detention.

The court affirmed the validity of Section 16A(9) of the Maintenance of Internal Security Act (MISA). It was ruled that all executive actions must be performed in accordance with laws passed by the parliament, and the court does not possess the power to review the validity of a detention order under MISA.

Additionally, the majority clarified the distinction between Articles 358 and 359, emphasizing that Article 359 suspends the enforcement of fundamental rights and allows for the suspension of any proceedings pending for the enforcement of such rights.

They asserted that the Basic Structure theory cannot be invoked to create a conflict within the constitution and highlighted the importance of viewing Part III of the Constitution from both negative and positive aspects.

Dissenting Judgment by Justice Khanna:

Justice Khanna dissented vehemently, asserting that even during an emergency, individuals cannot be deprived of their right to life and personal liberty without authority of law. He argued that Article 21 is not the sole repository of the right to life and personal liberty, and substantive rights remain intact even when procedural powers are restricted during an emergency. Justice Khanna emphasized the sanctity of life and liberty, advocating for their preservation as a hallmark

of a lawful society.

Analysis of ADM Jabalpur v. Shivkant Shukla

The decision in ADM Jabalpur was widely criticized for its approach to civil liberties and the rule of law. It was seen as a black mark on the judiciary for upholding executive overreach and failing to protect individual rights.

While the majority decision upheld executive power during emergencies, Justice Khanna's dissenting opinion underscored the primacy of individual rights, particularly the right to life and personal liberty. This case highlighted the tension between state security and individual freedoms, and its aftermath led to subsequent judicial developments, including the Right to Privacy judgment in 2017. Despite its flaws, ADM Jabalpur case serves as a reminder of the judiciary's crucial role in safeguarding fundamental rights, especially in times of crisis.

Post-Emergency, the 44th Amendment Act, 1978, was passed, which ensured that Articles 20 and 21 cannot be suspended even during an Emergency, thereby strengthening the protection of fundamental rights.

The judgment was later overruled by the Supreme Court in the case of **K.S. Puttaswamy v. Union of India**, where the Court recognized the importance of privacy and reaffirmed the fundamental rights enshrined in the Constitution.