BLOGS

Anuradha Bhasin v. Union of India: Legality of Internet Shutdown and Free Speech

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Anuradha Bhasin v. Union of India ruled indefinite internet shutdowns unconstitutional, reinforcing digital rights and press freedom.

Introduction

The case of Anuradha Bhasin v. Union of India is a landmark judgment by the Supreme Court of India that examined the delicate balance between national security and freedom of speech and expression and dealt with the legality of internet shutdowns.

Delivered in 2020, this case was pivotal in setting legal precedents on internet shutdowns, the right to access information, and the judicial review of state-imposed restrictions on fundamental rights.

Background of the Case

On August 5, 2019, the Government of India revoked Article 370 of the Constitution, which granted special status to Jammu and Kashmir (J&K). Alongside this move, the government imposed severe restrictions in the region, including a complete internet shutdown, restrictions on movement, and a ban on public gatherings, citing national security concerns and the risk of public disorder.

Anuradha Bhasin, the executive editor of the Kashmir Times, filed a petition challenging the internet shutdown and communication blockade in J&K. She argued that the restrictions on the internet violated the fundamental right to freedom of speech and expression (Article 19(1)(a)) and the right to carry out a profession (Article 19(1)(g)), disproportionately affecting journalists and the general public in the region.

Legal Issues Before the Court

1. Was the indefinite suspension of internet services in Jammu and Kashmir constitutionally valid?
2. Did the government's restrictions violate Articles 19(1)(a) and 19(1)(g) of the Indian Constitution?
3. Does the principle of proportionality apply to Internet shutdowns and government-imposed restrictions on fundamental rights?

Judgment Given in Anuradha Bhasin v. Union of India

On January 10, 2020, the Supreme Court of India, delivered its verdict. The Court did not explicitly strike down the internet restrictions but laid down significant principles regarding the limits of executive power in curbing fundamental rights.

Internet shutdowns and freedom of speech

The Court ruled that freedom of speech and expression includes the right to access the internet. It recognized that in the digital age, the internet plays a crucial role in enabling individuals to exercise their fundamental rights. The judgment observed:

"Freedom of speech and expression through the medium of the internet is an integral part of Article 19(1)(a), and restrictions on such a fundamental right must be constitutionally justified."

Test of Proportionality in Restricting Fundamental Rights

The Court applied the doctrine of proportionality to assess whether the internet restrictions were justified. This doctrine mandates that any restriction on fundamental rights must satisfy four key conditions:

1. The restriction must pursue a legitimate state interest (such as national security or public order).
2. The restriction must be suitable to achieve the intended objective.
3. The measure must be necessary, meaning that no less restrictive means could achieve the same purpose.
4. The restriction should not have a disproportionate impact on fundamental rights.

The Court said that the government could put reasonable limits on people's rights in the name of national security, but these limits must be reviewed by the courts to make sure they don't violate basic rights without a legitimate reason.

Indefinite Internet shutdowns are unconstitutional

The Supreme Court ruled that an indefinite suspension of internet services was impermissible under Indian law. The court mandated a periodic review of any internet shutdown order, emphasizing that it should not be unrestricted.

The Court also stressed how important Section 144 of the Code of Criminal Procedure (CrPC) was. This section, which necessitates strong evidence rather than repeated orders, established these limits.

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Significance of the Judgment

Recognition of the Internet as a fundamental right

The judgment in Anuradha Bhasin v. Union of India was historic as it recognized that access to the internet is a fundamental right linked to freedom of speech and expression under Article 19(1)(a). This recognition placed India among the growing list of jurisdictions worldwide that acknowledge internet access as an essential right in the modern era.

Judicial oversight over executive actions

The case reaffirmed that executive orders imposing restrictions on fundamental rights must be subject to judicial review. The judgment reaffirmed that authorities cannot justify blanket restrictions on vague national security claims, and they must provide detailed reasoning for such measures.

Balancing National Security with Fundamental Rights

While upholding the need for national security measures, the Court clarified that restrictions must be proportionate and should not unduly infringe on fundamental rights. It emphasized the

importance of ensuring democratic accountability when implementing measures that curtail civil liberties.

Impact of the Judgment

The ruling in Anuradha Bhasin v. Union of India set a strong precedent for future cases concerning internet shutdowns, press freedom, and restrictions on fundamental rights. Some immediate impacts included:

- Authorities are now required to justify such restrictions through review mechanisms.
- The ruling requires the public release of orders imposing restrictions.
- Judicial empowerment to review state-imposed curbs—Courts across India have since cited this case to review similar internet shutdowns and restrictions on movement.

Conclusion

The Supreme Court's ruling in Anuradha Bhasin v. Union of India reaffirmed the fundamental role of freedom of speech and access to information in a democratic society. By applying the doctrine of proportionality, the Court established crucial checks on the executive's power to impose indiscriminate restrictions in the name of national security.

While the Court did not immediately restore internet services in Jammu and Kashmir, its ruling provided a framework for challenging arbitrary restrictions in the future. The case remains a landmark in Indian constitutional law, highlighting the judiciary's role in safeguarding civil liberties while addressing legitimate security concerns.

As technology continues to evolve, Anuradha Bhasin v. Union of India will serve as a guiding precedent in shaping digital rights, governmental transparency, and the evolving jurisprudence on freedom of speech in India.