BLOGS

Learn in a Minute: Article 33 of the Indian Constitution

Ruchika Mohapatra · 18 Feb 2025

Introduction

Article 33 of the Indian Constitution empowers Parliament to restrict or abrogate the fundamental rights of certain categories of individuals serving in the interest of maintaining discipline and ensuring the proper discharge of their duties.

This article ensures that national security and public order are not compromised due to the unrestrained exercise of fundamental rights by specific groups.

Learn in a minute about Article 33 of the Indian Constitution here!

Article 33 of the Indian Constitution

Article 33 of the Indian Constitution states that:

“Parliament may, by law, determine to what extent any of the rights conferred by this Part shall, in their application to—

(a) the members of the Armed Forces; or
(b) the members of the Forces charged with the maintenance of public order; or
(c) persons employed in any bureau or other organization established by the State for purposes of intelligence or counterintelligence; or
(d) persons employed in, or in connection with, the telecommunication systems set up for the purposes of any Force, bureau or organization referred to in clauses (a) to (c),
be restricted or abrogated so as to ensure the proper discharge of their duties and the maintenance of discipline among them.”

Key Features of Article 33 of Indian Constitution

1. Only the Parliament has the authority to make laws under Article 33. State legislatures cannot alter fundamental rights for the mentioned groups. The judiciary can review laws enacted under Article 33 to ensure they are not arbitrary or excessive.
2. Scope of Restriction:
    1. Fundamental Rights under Part III of the Constitution can be restricted or even abrogated.
    2. Fundamental rights are not completely excluded but only modified to the extent necessary for discipline and duty.
    3. The objective is to ensure discipline and duty performance in forces crucial to national security and public order.
3. Target Groups: The article applies to:
    1. Armed Forces (Army, Navy, Air Force).
    2. Police forces responsible for maintaining public order.
    3. Intelligence and counterintelligence agencies like RAW or IB.
    4. Telecommunication systems aiding the forces or intelligence agencies. While fundamental rights are essential, unrestricted application to these groups could conflict with their responsibilities and discipline.

Landmark Cases on Article 33

Union of India v. G.S. Bajwa: The case of Union of India v. G.S. Bajwa dealt with the application and scope of Article 33 of the Indian Constitution, which allows Parliament to restrict or abrogate certain fundamental rights for members of the armed forces to maintain discipline and ensure the effective discharge of their duties.

The petitioner, G.S. Bajwa, a member of the armed forces, challenged the restrictions imposed on his fundamental rights, arguing that they were excessive and violated his constitutional freedoms guaranteed under Part III of the Constitution.

The primary issue in the case was whether the restrictions imposed on Bajwa's fundamental rights were valid under the provisions of Article 33 and whether they were necessary for maintaining discipline and operational efficiency in the armed forces.

The Supreme Court upheld the restrictions on fundamental rights for members of the armed forces, emphasizing the necessity of discipline.

Ex-Captain Harish Uppal v. Union of India: The case of Ex-Captain Harish Uppal v. Union of India centered on the constitutional validity of restrictions imposed on fundamental rights of members of the armed forces under Article 33 of the Indian Constitution.

Ex-Captain Harish Uppal, a former officer of the Indian Army, challenged certain restrictions that were applied to armed forces personnel, arguing that they infringed upon his fundamental rights guaranteed under Part III of the Constitution.

The central issue in this case was whether the restrictions on fundamental rights imposed on armed forces personnel under laws enacted pursuant to Article 33 were valid and whether such restrictions were necessary for ensuring the efficient functioning of the armed forces.

The court ruled that the imposition of restrictions under Article 33 is valid if it ensures the efficient functioning of armed forces.

O.K. Ghosh v. E.X. Joseph: The case of O.K. Ghosh v. E.X. Joseph dealt with the intersection of fundamental rights and the rules governing government employees. It specifically examined whether restrictions imposed on government servants under service rules infringed upon their fundamental rights guaranteed under the Constitution.

The petitioner, O.K. Ghosh, was a government servant who challenged these restrictions, arguing that they were unconstitutional.

The primary question before the Supreme Court was whether the restrictions imposed on government employees under the Conduct Rules, which limited their right to form or join associations, were constitutionally valid.

The Supreme Court highlighted that restrictions under Article 33 must be reasonable and only to the extent required for discipline.

Conclusion

Article 33 strikes a balance between individual rights and collective security. It underscores the principle that while fundamental rights are inviolable, the unique nature of armed forces and allied organizations necessitates specific exceptions. This provision ensures the operational integrity of such forces, aligning individual liberties with national interests. While Parliament has

broad powers, the restrictions must be reasonable and proportional to the objective.