BLOGS

Landmark Judgements on Article 19: Part I

Khushi Malviya · 03 Aug 2023

Edit Introduction Romesh Thappar v. Madras Bijoe Emmanuel v. Kerala Raj Narain v. UP Excel Wear v. UOI Maneka Gandhi v. UOI Conclusion

Introduction

Article 19 outlines the fundamental rights of Indian citizens related to freedom of speech and expression, peaceful assembly, forming associations or unions, free movement within the country, and the right to practice any profession, occupation, trade, or business.

However, these rights are subject to reasonable restrictions imposed by the State in the interest of sovereignty, integrity, security, friendly relations with foreign States, public order, decency, morality, contempt of court, defamation, incitement to an offence, or for protecting the interests of any Scheduled Tribe.

The development of Article 19 by the Indian judiciary has been characterized by a wide interpretation of freedom of speech and expression, while also recognizing reasonable restrictions in the interest of national security and public order.

The judiciary has upheld the right to assemble and form associations peacefully, intervening to protect citizens' rights during protests while curbing violence. Additionally, the right to practice any profession or occupation has been recognized, but subject to reasonable regulations.

Courts have actively protected fundamental rights, ensuring a balance between individual freedoms and societal interests, and have played a crucial role in shaping the understanding and application of these rights in a diverse and democratic society.

Landmark Judgements on Article 19

1. In the landmark case of Romesh Thappar v. The State Of Madras(1950), "Freedom of speech and the press lay at the foundation of all democratic organisations, for without free political discussion no public education, so necessary for the proper functioning of the processes of

popular government, is possible," the Supreme Court stated in its ruling. In this instance, the court determined that the freedom of circulation is equally crucial to the freedom of publication.

2. Bijoe Emmanuel v. State of Kerala (1986) held that he right to speak includes the right to be silent or to utter no words. The Supreme Court maintained the right to silence of three children who were expelled from school for refusing to sing the National Anthem. The Supreme Court ruled that if someone has legitimate conscientious objections based on their religious beliefs, they cannot be forced to sing the National Anthem. As a result, the right to talk and to express oneself encompasses the right to remain silent and to do nothing.
3. In the State of U.P. v. Raj Narain (1975) case, the Supreme Court noted that the right to know is derived from the idea of freedom of speech. The Court further ruled that the citizens of this nation have a right to know about every public act and everything that their public functionaries conduct in a public fashion.Every citizen must have a right to know what their government is doing; this is a fundamental tenet of a democracy. Transparency and accountability in governance can only flourish when the general public is informed of the actions of the government. As a result, the ability to gather and share information is a crucial fundamental right.
4. In the case of Excel Wear v. Union of India (1978), the Supreme Court of India declared Section 25-O of the Industrial Disputes Act, 1947, as unconstitutional and invalid because it violated Article 19(1)(g) of the Constitution.The court held that the right to carry on a business includes the right to shut down the business, and hence, the government's requirement for prior permission to close an industrial undertaking was deemed unconstitutional. However, the court clarified that there is no fundamental right to hold a specific job of one's choice, and the closure of an establishment leading to job loss does not violate the right to carry on an occupation. Additionally, Article 19(1)(g) does not protect dangerous, antisocial, or criminal activities, and individuals cannot claim a right to carry on business with the government. Furthermore, the right to trade does not encompass protection from competition, meaning that the loss of income due to competition in trade does not violate the right to trade under Article 19(1)(g).
5. In the landmark judgment of Maneka Gandhi v. Union of India on January 25, 1978, the Supreme Court delivered a significant interpretation of Article 21, emphasizing the broad scope of "personal liberty" and the welfare state concept in the Preamble. The Court ruled that

the freedom to go abroad is protected under Article 21, and administrative orders, like those under the Passport Act, cannot be challenged for being unfair, unreasonable, or unjust.However, the Court held that authorities must provide valid reasons for actions like impounding passports to avoid arbitrariness. This judgment also overruled the earlier case of A.K. Gopalan and established the “golden triangle” or “trinity” principle, emphasizing the interrelationship of Articles 14, 19, and 21, which should be read together to achieve the principles of natural justice.

Conclusion

Article 19 of the Indian Constitution stands as a cornerstone of democratic values, ensuring vital freedoms for citizens. These fundamental rights, such as freedom of speech, expression, peaceful assembly, and the right to practice any profession, form the bedrock of individual liberties in the country.

While these rights are not absolute and can be curtailed by reasonable restrictions to maintain public order, national security, and the interests of the state, landmark judgments by the Indian judiciary have been instrumental in upholding and defining the contours of these rights.

Through dynamic interpretations and a commitment to protecting fundamental rights, the judiciary has ensured that these liberties are not arbitrarily infringed upon and have evolved to address the ever-changing needs of society. This evolution has enabled citizens to engage in public discourse, freely express their opinions, associate with like-minded individuals, and pursue their chosen occupations, thereby fostering a robust democratic culture that respects the rights and dignity of every citizen.

Also Read: [Landmark Judgements on Article 14]