BLOGS

Landmark Judgements on Article 19: Part II

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In the last post, we discussed a few landmark judgments on Article 19. In this post, we will discuss the remaining important cases on Article 19.

Indian Express Newspaper v. Union of India

In a case challenging the imposition of import duty on newsprint, the petitioners argued that the new duty adversely affected the costs and circulation of newspapers, thereby crippling their freedom of expression under Article 19(1)(a) and the right to practice any trade or occupation under Article 19(1)(g) of the Indian Constitution.

The Supreme Court of India, while acknowledging that the Constitution does not explicitly mention “freedom of press,” ruled that this freedom is encompassed within Article 19(1)(a). The court emphasized that the press plays a vital role in enhancing public interest by disseminating facts and opinions, enabling a democratic electorate to make responsible decisions.

Therefore, any interference with the freedom of press in the name of public interest must be scrutinized, and it becomes the duty of the courts to uphold this freedom and invalidate any laws or administrative actions that impede it, contrary to the constitutional mandate.

The ruling reaffirmed the significance of a free press in a democratic society and its protection as an essential element of preserving public interest and informed decision-making.

Union of India v. Naveen Jindal

The Supreme Court of India firmly established that flying the National Flag with respect and dignity is not just a symbolic act but a fundamental right protected under Article 19(1)(a) of the Indian Constitution.

The court recognized the act of hoisting the National Flag as an expression and representation of an individual's loyalties, emotions, and sentiments of pride for the nation. It emphasized that the flag serves as a powerful symbol of national identity and patriotism, and its display signifies a deep commitment to the country's values and ideals.

However, the court also acknowledged that, like any other fundamental right, the right to fly the National Flag is not absolute. It can be subject to reasonable restrictions to ensure that its sanctity and significance are preserved.

The court clarified that the National Flag cannot be flown for commercial purposes or any other motives that may trivialize its importance or exploit it for profit. By imposing these acceptable limitations, the court sought to strike a balance between safeguarding the right of citizens to express their allegiance and pride through the display of the National Flag and protecting it from any misuse or improper conduct that could diminish its solemnity and significance.

This judgment reinforced the constitutional importance of the National Flag as a cherished national symbol while upholding the responsible exercise of the right to hoist it with respect and dignity.

Hamdard Dawakhana v. Union of India

In a significant case dealing with the advertisement of prohibited drugs and commodities, the petitioners faced challenges in promoting their product due to objections raised against their advertisements.

The Supreme Court's ruling shed light on the scope of protection under Article 19(1)(a) of the Constitution, which guarantees the freedom of speech and expression. The court emphasized that while commercial speech, including advertising, plays a vital role in disseminating information about products to the public, it cannot extend to encompass obnoxious or harmful advertisements.

The court recognized two key aspects of commercial speech: first, it involves the dissemination of product information, and second, it should be beneficial for the public to receive such information.

Thus, Article 19(1)(a) not only guarantees the right of individuals to express and communicate but also protects the right of the public to receive and access information.

However, the court clarified that the right to receive commercial speech does not cover advertisements promoting prohibited drugs, as they are not considered a legitimate form of expression and fall outside the ambit of protected speech.

Therefore, the court held that an obnoxious advertisement promoting prohibited drugs cannot enjoy the protection of Article 19(1)(a) and can be subject to restrictions in the interest of public health and safety.

Bennett Coleman & Co v. Union of India

According to the Honourable Supreme Court, the right to free speech and expression of the people is embodied in press freedom. “Freedom of the press is both qualitative and quantitative,” it was said. In both circulation and content, freedom exists.

Sushila Saw Mill v. State of Orissa

The Supreme Court upheld the validity of the Orissa Saw Mills and Saw Pit (Control) Act, 1991, which imposed a total ban on carrying out saw milling and sawing operations within designated prohibited areas.

The court recognized that in certain situations, complete prohibition may be necessary to protect vital resources, such as forests, which were of growing public concern. The judgment emphasized that the decision to impose a ban should be based on a fair and reasonable assessment of the potential harm that the legislation aims to address.

For instance, activities like the manufacture or sale of toxic liquors, trafficking in explosives, and certain hazardous trades may warrant complete prohibition to safeguard public safety.

The ruling reaffirmed the principle of striking a balance between protecting the environment and public welfare while considering the extent of the potential harm posed by certain activities that necessitate a complete ban to ensure the greater good of society.

Conclusion

The various cases and judgments discussed highlight the dynamic and evolving nature of the interpretation and application of Article 19 of the Indian Constitution. The judiciary has played a crucial role in safeguarding fundamental rights related to freedom of speech, expression, assembly, association, movement, and the right to practice any profession.

While these rights are essential for a vibrant and thriving democracy, the courts have recognized the need for reasonable restrictions to protect national security, public order, and other legitimate interests.

The judiciary's commitment to upholding individual liberties while balancing societal interests reflects a progressive and responsible approach, ensuring that fundamental rights remain protected and relevant in the ever-changing landscape of a diverse and democratic India.

These landmark judgments have laid the foundation for a robust and inclusive constitutional framework, affirming the fundamental importance of freedom of speech and expression, and the need to uphold the sanctity of national symbols and resources, ultimately fostering a society that respects both individual rights and collective responsibilities.