

BLOGS

Right to Protest in India: What the Law Says and What is the Take of Supreme Court?

Shruti chauhan · 12 Oct 2026

On Sunday, October 11, 2026, the Supreme Court did something it rarely does. A Bench held a special sitting on a holiday to answer a deceptively simple question: can you be detained for walking peacefully towards Jantar Mantar?

The answer matters far beyond one weekend. It tests how far the right to protest in India goes, and where the State's power to stop a protest must end.

Let's understand the law in easy language, the cases that built it, and the Delhi developments testing it right now. It is current as of October 12, 2026, and the situation is still unfolding.

The right to protest in India flows from [Article 19](#), is open to citizens who assemble peaceably and without arms, and can be limited by reasonable restrictions. On October 11, the Supreme Court directed that no one be detained except by procedure established by law, and that metro, rail and internet services run normally, subject to public order needs.

Is Protest a Fundamental Right in India?

The Constitution never uses the word "protest". The right is read into [Article 19](#) instead.

[Article 19\(1\)\(a\)](#) protects freedom of speech and expression. [Article 19\(1\)\(b\)](#) protects the right of citizens to assemble peaceably and without arms. Together, they cover marches, dharnas, sit ins and public meetings.

[Article 21](#) adds another layer. Personal liberty and dignity are protected against arbitrary police action, as the Ramlila Maidan case shows below.

Two limits are built into the text. The right belongs to citizens, and the assembly must be peaceful and unarmed.

Where the Right to Protest in India Ends: Reasonable Restrictions

[Article 19\(3\)](#) allows reasonable restrictions on assembly in the interests of the sovereignty and integrity of India or public order. This is the legal door through which the State restricts protests.

The State's main tool is the prohibitory order. [Section 144 of the CrPC](#) allowed a magistrate to issue urgent orders against nuisance or apprehended danger. Its successor is [Section 163 of the Bharatiya Nagarik Suraksha Sanhita, 2023](#), or BNSS.

These orders are meant to be temporary. An order cannot remain in force for more than two months, though the State Government can extend it by up to six months to prevent danger to life or a riot.

Important Cases on Right to Protest

Case	What it held
<i>Himat Lal K. Shah v Commissioner of Police</i> (1973)	The State may regulate public meetings but cannot arbitrarily prohibit peaceful assemblies.
<i>In re Ramlila Maidan Incident</i> (2012)	A midnight police action against a sleeping gathering, after a Section 144 order, was arbitrary and contrary to law.
<i>Mazdoor Kisan Shakti Sangathan v Union of India</i> (2018)	No complete ban on protests at Jantar Mantar or Boat Club. Police must frame guidelines on numbers and distance from sensitive buildings.
<i>Anuradha Bhasin v Union of India</i> (2020)	Restrictions on movement and internet access must be necessary, proportionate, published and open to review.
<i>Amit Sahni v Commissioner of Police</i> (2020)	Protests cannot occupy public roads indefinitely and must happen at designated places.

The pattern is clear. The Court protects the right, but it is not absolute. Time and place can be regulated, yet blanket bans and heavy handed force fail the test.

In the Jantar Mantar case, the Court was dealing with Delhi Police renewing [Section 144](#) orders in Central Delhi every sixty days. It said the police could regulate protests, but not ban them completely.

What Is Happening in Delhi Right Now

June to July 2026: The Cockroach Janta Party (CJP), a youth led movement, and student groups held demonstrations at Jantar Mantar against the NEET paper leak. FIRs followed the July 20 protest.

September 1: The Supreme Court used [Article 142](#) to quash the FIRs and barred new ones, except against 2,873 individuals the Delhi Police said had serious criminal antecedents.

October 9: The Court declined to reopen the matter. It said it used [Article 142](#) only to spare young students and their parents the ordeal of prolonged criminal proceedings.

October 10 and 11: New protests were called against Chief Election Commissioner Gyanesh Kumar, with demands for his resignation and a halt to the Special Intensive Revision of electoral rolls. The police imposed prohibitory orders under [Section 163](#) of the BNSS, with heavy security deployment.

According to reports, more than 100 protesters were detained on Sunday alone. CJP leaders were released by an executive magistrate on the condition that there would be no breach of peace for one year. The CJP says it signed no bond restricting protest.

October 12: Opposition parties planned a march to the Supreme Court to hand a memorandum to the Chief Justice. The CJP said it would seek police permission for a peaceful protest at Jantar Mantar.

What the Supreme Court Ordered on Sunday

A Bench of Justices Joymalya Bagchi and V. Mohana heard two matters together. One was a habeas corpus petition by Senior Advocate Menaka Guruswamy against the detention of political leaders. The other was a contempt petition alleging violation of the Court's October 9 order, which said there should be no complete prohibition on metro and train services.

The petitioner told the Court of reports of thousands of detentions. The Solicitor General submitted that the habeas petition may no longer survive, since the detained persons had been

released.

The Court gave four directions:

1. No person is to be detained except by procedure established by law, particularly in the case of assemblies of peaceful and unarmed persons beyond the area where [Section 163 BNSS](#) orders operate.
2. Delhi Metro and rail services are to run on their normal schedule, unless restrictions are needed for public order under [Article 19\(2\)](#).
3. People must be free to move around the city, subject to traffic regulations.
4. Internet services are not to be disrupted, subject to law and order conditions.

The Court also issued notice on the contempt petition. The merits are yet to be decided, and these directions operate in the interim.

Illustration: A group of students walks peacefully and unarmed towards a protest site, from a point outside the area under a [Section 163](#) order. Under Sunday's directions, the police cannot simply detain them. Any detention must follow the procedure established by law.

Questions Still Open

Can a prohibitory order justify detaining peaceful marchers? The Sunday order suggests not, where the assembly is peaceful and outside the notified area.

Were transport and internet curbs proportionate? The Anuradha Bhasin test of necessity, proportionality and review is likely to matter in the contempt hearing.

Can release be conditioned on a year of good behaviour? The CJP says such a condition cannot bar a peaceful protest. This is a question for another day.

What safeguards apply to detainees? [Article 22](#) requires that an arrested person be told the grounds of arrest and produced before a Magistrate within 24 hours. Preventive detention laws have their own rules.

Where can people protest? The Jantar Mantar and Shaheen Bagh cases say protests belong at designated places. The CJP is now seeking police permission for a Jantar Mantar date.

The State's position is that prohibitory orders were needed to maintain public order. The protesters say their assemblies were peaceful. The Court has not ruled on that dispute.

The Exam Angle for CLAT PG and Judiciary Aspirants

The right to protest in India is a natural source of passage based questions. Revise [Article 19\(1\)\(a\)](#), [Article 19\(1\)\(b\)](#) and [Article 19\(3\)](#), together with [Article 21](#) and [Article 22](#).

Know the shift from [Section 144 CrPC](#) to [Section 163 BNSS](#), including the two month limit.

Remember the five cases in the table, especially the rule that the right to protest is real but not absolute.

Also revise [Article 142](#), since the September 1 order quashing the FIRs is a recent example of its use. Treat Sunday's directions as interim, not as a final ruling.