BLOGS

Shankari Prasad v Union of India (1951): First Amendment Case

Shruti chauhan · 18 Nov 2026

Shankari Prasad Singh Deo v Union of India (1951)

Case at a Glance

Shankari Prasad Singh Deo v Union of India, reported as Sri Sankari Prasad Singh Deo v Union of India and State of Bihar and known as the First Amendment case, was the Supreme Court's first ruling on whether Parliament can amend fundamental rights. A five-judge bench unanimously said yes: a constitutional amendment under Article 368 is not "law" under Article 13, so it cannot be struck down for abridging Part III.

Field	Detail
Case	Shankari Prasad Singh Deo v Union of India
Citation	AIR 1951 SC 458; 1952 SCR 89
Bench	5 judges, unanimous: Kania CJ, Patanjali Sastri, Mukherjea, Das and Chandrasekhara Aiyar JJ
Judgment by	Patanjali Sastri J.
Decided	5 October 1951
Challenge	First Amendment Act 1951 (Arts 31A, 31B; Ninth Schedule)
Held	Amendment upheld; an amendment under Art 368 is not "law" under Art 13, so Parliament can amend fundamental rights

Background: the First Amendment, 1951

The Constitution had been in force for barely a year when the government amended it, mainly to protect land reform laws that courts were striking down. The provisional Parliament passed the Constitution (First Amendment) Act, and it received assent on 18 June 1951. It is the first in the list of important constitutional amendments.

Why the amendment was made

After independence, states passed laws to abolish zamindari and redistribute land. In 1951 the Patna High Court struck down the Bihar Land Reforms Act, 1950 as discriminatory under Article 14, in Kameshwar Singh v State of Bihar. Other decisions in 1950 and 1951 had also limited the State on free speech and on caste-based reservation in education. The government responded by amending the Constitution itself.

What the amendment did

- **Article 15(4):** allowed special provisions for socially and educationally backward classes, SCs and STs.
- **Article 19(2):** added "public order", "friendly relations with foreign States" and "incitement to an offence" as grounds for restricting free speech, and required restrictions to be "reasonable".
- **Article 31A:** saved laws for the acquisition of estates (zamindari abolition) from challenge under Articles 14, 19 and 31.
- **Article 31B and the Ninth Schedule:** laws placed in the new Ninth Schedule could not be declared void for violating any fundamental right, even if a court had already struck them down. Thirteen land reform laws were placed in it at the start.

Facts of the Case

Shankari Prasad Singh Deo and other zamindars whose estates were affected by land reform laws in Bihar, Uttar Pradesh and Madhya Pradesh filed writ petitions under Article 32. They challenged the First Amendment itself, and in particular Articles 31A and 31B, which had been inserted to protect those laws.

Their central claim was that Parliament had no power to take away or abridge fundamental rights. Article 13(2) says the State shall not make any "law" that abridges the rights in Part III, and any such law is void. If an amendment is a "law", the First Amendment was void to the extent it cut down the right to property and other rights.

The petitions were heard together by a five-judge Constitution Bench.

Issue Before the Court

The main question was whether a constitutional amendment is "law" within the meaning of Article 13. If it is, Article 13(2) makes it void to the extent it takes away or abridges a fundamental right, and Parliament could never amend Part III to cut down rights.

The petitioners also raised three subsidiary questions:

1. Could the provisional Parliament, a single-chamber body that sat until the first general election, amend the Constitution at all under Article 379?
2. Did Articles 31A and 31B need ratification by half the State legislatures under clause (b) of the proviso to Article 368, because they affected the powers of the High Courts and the Supreme Court under Articles 226, 132 and 136?
3. Could Parliament insert provisions about land, a subject in the State List, through an amendment?

Arguments

The two sides disagreed on the meaning of "law" in Article 13, on the scope of Article 368, and on the powers of the provisional Parliament.

Petitioners	Union of India
An amendment is "law" and void under Art 13(2) if it abridges fundamental rights	Art 13 covers ordinary legislation, not constitutional amendments
Fundamental rights are beyond Parliament's reach	Art 368 gives full power to amend, including Part III

The provisional Parliament could not amend the Constitution	The provisional Parliament had the powers of Parliament under Art 379
Arts 31A and 31B needed ratification by the States under the proviso to Art 368	Arts 31A and 31B did not change the courts' powers, so no ratification was needed

Judgement

On 5 October 1951, the Supreme Court unanimously upheld the First Amendment and dismissed the petitions. Patanjali Sastri J wrote the judgment for the bench.

An amendment is not "law" under Article 13

The Court drew a line between two kinds of power. Ordinary laws are made in the exercise of legislative power, and Article 13(2) applies to them. Amendments under Article 368 are made in the exercise of constituent power, the power to change the Constitution itself. "Law" in Article 13(2) means only the first kind.

The Court read Articles 13 and 368 together. Article 368 is general and in terms covers every provision of the Constitution, with no exception for Part III. If the framers had wanted to put fundamental rights beyond amendment, they would have said so expressly. So Parliament can amend fundamental rights, and such an amendment is valid even if it abridges them.

The other issues

- **Provisional Parliament:** Article 379 gave the provisional Parliament all the powers of Parliament, including the amending power under Article 368. The President had adapted Article 368 under Article 392 to fit a single-chamber body, and that adaptation was valid.
- **Ratification by States:** Articles 31A and 31B did not change the powers of the High Courts or the Supreme Court. They only took certain laws outside Part III. So no ratification was needed under the proviso to Article 368.
- **State List:** an amendment of the Constitution is not legislation under the Seventh Schedule, so the division of subjects between the Union and the States did not stop Parliament from inserting Articles 31A and 31B.

How Later Cases Treated Shankari Prasad

Shankari Prasad was followed in 1965, overruled in 1967, and partly restored in 1973, when the Court accepted that amendments are not "law" but placed the basic structure beyond Parliament's reach.

- **Sajjan Singh v State of Rajasthan (1965):** the Court upheld the 17th Amendment by 3:2 and followed Shankari Prasad. But Hidayatullah J and Mudholkar J doubted it. Mudholkar J asked whether Parliament could change the "basic features" of the Constitution, the first hint of the basic-structure idea.
- **I.C. Golaknath v State of Punjab (1967):** an 11-judge bench overruled Shankari Prasad and Sajjan Singh by 6:5. It held that an amendment is "law" under Article 13, so Parliament cannot take away or abridge fundamental rights. To avoid unsettling past amendments, it applied the ruling only to the future (prospective overruling).
- **24th Amendment (1971):** Parliament reversed Golaknath. It added Article 13(4) and Article 368(3), saying that nothing in Article 13 applies to an amendment made under Article 368, which is the position Shankari Prasad had taken.
- **Kesavananda Bharati v State of Kerala (1973):** a 13-judge bench upheld the 24th Amendment and overruled Golaknath by 7:6. Parliament can amend any part of the Constitution, including fundamental rights, but not its basic structure.

Basic-structure timeline

Case	Year	Question	Holding
Shankari Prasad v Union of India	1951	Can Parliament amend fundamental rights?	Yes; an amendment is not "law" under Art 13
Sajjan Singh v State of Rajasthan	1965	Is the 17th Amendment valid?	Yes; Shankari Prasad followed (two judges doubted it)
I.C. Golaknath v State of Punjab	1967	Is an amendment "law"?	Yes; Parliament cannot abridge fundamental rights (prospective overruling)

Kesavananda Bharati v State of Kerala	1973	Are there limits on the amending power?	Any part can be amended, but not the basic structure; Golaknath overruled
Indira Gandhi v Raj Narain	1975	Is clause 4 of the 39th Amendment valid?	Struck down; free and fair elections are part of the basic structure
Minerva Mills v Union of India	1980	Are ss.4 and 55 of the 42nd Amendment valid?	Struck down; limited amending power is itself basic structure
Waman Rao v Union of India	1981	Are Ninth Schedule laws immune?	Laws added after 24 April 1973 are open to basic-structure review
I.R. Coelho v State of Tamil Nadu	2007	Does Art 31B give total immunity?	No; post-1973 additions are tested against the basic structure, including fundamental rights

Significance for the Basic-Structure Doctrine

Shankari Prasad matters today less for what it decided than for the debate it started. It was the first time the Supreme Court asked whether there are any limits on Parliament's power to amend the Constitution. Every later basic-structure case is an answer to that question.

1. **It created the law-versus-amendment distinction.** Shankari Prasad said amendments are made in constituent power and are not "law" under Article 13. Golaknath rejected this, the 24th Amendment restored it, and Kesavananda Bharati accepted it. That part of Shankari Prasad is good law today.
2. **It left the amending power unlimited, and that is what changed.** Shankari Prasad found no implied limit on Article 368. Kesavananda kept the distinction but found an implied limit: the basic structure cannot be destroyed. In that sense, the basic-structure doctrine is the Court's correction of Shankari Prasad's view that the power is unlimited.
3. **It upheld the Ninth Schedule, which later cases cut back.** Shankari Prasad upheld Article 31B, which made Ninth Schedule laws immune from fundamental rights challenges. Waman Rao (1981) and I.R. Coelho (2007) held that laws added after 24 April 1973 can be tested against the basic structure.

For exams, remember the sequence: Shankari Prasad (amendable), Golaknath (not amendable), 24th Amendment (amendable again), Kesavananda (amendable, except the basic structure).

FAQs

What was held in Shankari Prasad?

In Shankari Prasad Singh Deo v Union of India (1951), a five-judge bench unanimously upheld the First Amendment. It held that a constitutional amendment under Article 368 is made in constituent power and is not "law" under Article 13, so Parliament can amend fundamental rights, including the right to property.

Can Parliament amend fundamental rights?

Yes, but not without limit. Shankari Prasad (1951) said Parliament could amend any fundamental right. Golaknath (1967) said it could not. Since Kesavananda Bharati (1973), Parliament can amend fundamental rights so long as the amendment does not destroy the basic structure of the Constitution.

Was Shankari Prasad overruled?

Yes, by I.C. Golaknath v State of Punjab in 1967. But Golaknath was itself overruled in Kesavananda Bharati (1973), which accepted Shankari Prasad's view that an amendment is not "law" under Article 13. What did not survive is Shankari Prasad's view that the amending power has no limits.

Why is it called the First Amendment case?

Because it was a challenge to the Constitution (First Amendment) Act, 1951, the first amendment to the Indian Constitution. That Act inserted Articles 31A and 31B and the Ninth Schedule to protect land reform laws.

Read More: Sajjan Singh v State of Rajasthan (1965)