
CASE ANALYSIS: MINERVA MILLS LTD & ORS. VS. UNION OF INDIA & ORS

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INTRODUCTION:

Minerva Mills Ltd. & Ors. v. Union of India & Ors. is a landmark Judgement that declared Sections 4 and 55 of the 42nd Constitutional Amendment Act unconstitutional and is against the principles of Basic Structure Doctrine and vital features of the Indian Constitution as described in the Kesavananda Bharti v. the State of Kerela¹. The Supreme Court made significant remarks about the application of the basic structure doctrine in the Minerva Mills case. The court determined that the constitution places restrictions on the parliament's ability to amend the Constitution. Because Directive Principles of State Policy cannot take precedence over the Fundamental Rights protected by Part III of the Indian Constitution, the Hon'ble court ruled that Section 4 of the 42nd Constitutional Amendment Act of 1976 called for an amendment to Art. 31(c) of the Indian Constitution, was unconstitutional.

The Constitutional Amendment Act 1976 was enacted by the parliament by snatching away the Fundamental Rights of citizens of a constitutional democratic country in the emergency of 1976. Seven of the amendment's thirteen consequential provisions were created to lessen judicial scrutiny. If a statute implements the "constitution's directive principles of state policy," it cannot be ruled unconstitutional for breaching the rights guaranteed by the Part III of the Constitution of India.²

FACTS OF THE CASE:

1. The petitioner, Minerva Mills Ltd., was a textile company that produced silk clothing in large quantities in the State of Karnataka. By using the authority conferred to it by Section 18-A of the Industries (Development and Regulation) Act, 1951, the Central

¹Kesavananda Bharati Sripadagalvaru & Ors. v. State of Kerala & Anr. (1973) 4 SCC 225.

² Henry C. Hart, "The Indian Constitution: Political Development and Decay" Asian Survey, Apr. 1980, Vol. 20, No. 4 (Apr. 1980) p. 444.

Government mandated the formation of a committee to determine whether Minerva Mills Ltd. met the requirements for designation as a sick industry.

2. Based on the Committee's report, the Central Government directed the National Textile Corporation Ltd., an organization created by the 1951 Act, to acquire Minerva Mills Ltd.
3. Prior to this, the Government of India approved the 39th Constitutional Amendment Act, 1975, during Emergency times, allowing the Nationalization Act of 1974 to be incorporated into the Ninth Schedule of the Indian Constitution.
4. The Ninth Schedule of the Indian Constitution allows certain Statutes/acts to be outside the scope of Judicial Review and cannot be challenged in any court of law.
5. Since the Nationalisation act came under the ambit of the Ninth Schedule of the Indian Constitution, the petitioner here – Minerva Mills Ltd.- could not challenge this particular acquisition and this aspect of the 39th Constitutional Amendment Act.
6. After suffering a defeat in the case of *Indira Nehru Gandhi v. Shri Raj Narain*³, the Parliament approved the 42nd amendment to prevent any legal challenge to constitutional amendments.
7. Following that, a challenge to the takeover was made in the High Court, but the case was dismissed. The corporation was unable to appeal the judgment in court because Section 4 of the 42nd Constitutional Amendment exempts any acts taken to enforce the socialist agenda from judicial scrutiny.
8. As a result, the petitioner filed a writ case in the Supreme Court of India challenging the constitutionality of Sections 4 and 55 of the 1976 Constitutional Amendment.

ISSUES:

1. Do Sections 4 and 55 of the 42nd Constitutional Amendment Act of 1976 infringe upon the essential tenets of the Indian Constitution and undermine its basic structural

³ *Indira Nehru Gandhi v. Shri Raj Narain* 1975 AIR SC 1590.

doctrine?

2. Can directive principles of state policy take precedence over Fundamental rights enshrined in Part III of the Indian Constitution?

JUDGEMENT:

The Hon'ble Court ruled unanimously that Section 4 of the Constitutional Amendment Act of 1976 is unconstitutional because it breaches the Basic Structure Doctrine of the Indian Constitution. Similarly to that, the Court held that the aforementioned amendment's Section 55 was unconstitutional. A 4:1 ratio is used to divide the judgment into the majority and minority opinions. Thus, the Majority and Minority Judgments can be subdivided into two parts:

(1) Constitutionality of Section 55 with respect to amendments made to Art. 368.

(2) Constitutionality of Section 4 with respect to amendments made to Art. 31(c).

MAJORITY JUDGEMENT:

Chief Justice Y.V. Chandrachud delivered the decision with regard to the majority opinion on his own behalf as well as that of Justices Gupta, Untwalia, and Kailasam.

(1) Constitutionality of Section 55 with respect to amendments made to Art. 368:

Justice Chandrachud began his Judgement writing by citing reference to the precedent case i.e., *Kesavananda Bharti v. the State of Kerela*. He stated as follows-

“In *Kesavananda Bharati*, this Court held by a majority that though by Article 368 Parliament is given the power to amend the Constitution, that power cannot be exercised so as to damage the basic features of the Constitution or so as to destroy its basic structure. The question for consideration in this group of petitions under Article 32 is whether Sections 4 and 55 of the Constitution (42nd Amendment) Act, 1976 transgress that limitation on the amending power.”⁴

⁴*Minerva Mills Ltd & Ors. v. Union of India (UOI) & Ors.* 1981 SCR (1) 206 at Para 1.

The amendments made to Article 368 of the Indian Constitution were declared unconstitutional for violating the basic structure of the Indian Constitution or its essential principles and for transgressing the limit on the amending power of the legislature.

The court also declared the said amendment is violative of the principles enshrined in the Preamble of the Constitution of India which is an essential part of the same and expresses the intent of the framers of the Constitution which are essential features of our constitution and cannot be altered by any dispensation through an amending power prescribed under Art. 368 of the Constitution. The court reasoned that the preamble guarantees the people of India a polity with the basic form specified as the Sovereign Democratic Republic. It ensures Justice — social, economic, and political; Liberty of thought, expression, belief, faith, and worship; and Equality of status and opportunity.

The reasoning applied by the court for the same has been described below⁵:

“... No constituent power can conceivably go higher than the sky-high power conferred by clause (5), for it even empowers the Parliament to repeal the provisions of this Constitution”, that is to say, to abrogate the democracy and substitute for it a totally antithetical form of Government....”

Furthermore, clause (4), which barred judicial review in circumstances of constitutional amendments, was ruled unconstitutional because it attempted to render the entirety of Part III unenforceable, so extending the power of the Parliament limited by Article 13.

For Clause (4) the court ruled:

“..... The conferment of the right to destroy the identity of the Constitution coupled with the provision that no Court of law shall pronounce upon the validity of such destruction seems to us a transparent case of transgression of the limitations on the amending power.”⁶

⁵ Id. Para 16.

⁶ Id. Para 21.

Thus, clause 4 of Section 55 of the 46th Constitutional Amendment was declared unconstitutional.

(2) Constitutionality of Section 4 with respect to amendments made to Art. 31(c):

Section 4 of the 42nd Constitutional Amendment Act 1976 amended Article 31(c) of the Indian Constitution which deals with the Saving of laws giving effect to certain directive principles which substituted the words and figures “all or any of the principles laid down in Part IV for the words and figures “the principles specified in Clause (b) or ---Clause (c) of Article 39”. The amendment to Article 31C substantially expanded its scope from the protection of laws established for the purposes of Article 39 (b) and (c) to the protection of all Part IV Articles from challenge under Articles 14 and 19.

Thus, Section 4 of the amendment act subordinated or made Fundamental rights inferior to the Directive Principles of the State policy and made all laws related to Part IV of the Constitution outside the scope of Judicial scrutiny. The Hon’ble court declared it to be invalid. The Majority undertook the task of weighing the DPSPs against Fundamental rights. The reasoning applied by the court is as follows:

“The power to take away the protection of Article 14 is the power to discriminate without a valid basis for classification. By a long series of decisions, this Court has held that Article 14 forbids class legislation but it does not forbid classification. The purpose of withdrawing the protection of Article 14, therefore, can only be to acquire the power to enact class legislation. Then again, regional chauvinism will have a field-day if Article 19(1)(d) is not available to the citizens. Already, there are disturbing trends on a part of the Indian horizon. Those trends will receive strength and encouragement if laws can be passed with immunity, preventing the citizens from exercising their right to move freely throughout the territory of India. The nature and quality of the amendment introduced by Section 4 of the 42nd Amendment is, therefore, such that it virtually tears away the heart of basic fundamental freedoms.”⁷

⁷ Id. Para 61.

Thus, the majority ruled Section 4 of the 42nd Constitutional amendment Act, 1976 to be unconstitutional.

MINORITY JUDGEMENT:

Justice P.N Bhagwati delivered the minority opinionated verdict. He stated his decision using in-depth reasoning and contributed another spectrum to the Majority's opinion. The Judgement was delivered in the Supreme Court Case of Waman Rao v. Union of India⁸. The Judgement also addressed the issues of sections 31A and 31B, however, the author would limit its scope of discussion to the extent of Article 31-C.

Justice P.N. Bhagwati concurred with the majority opinion with respect to the amendments made by Section 55 to Art. 368 of the Indian Constitution. While dissented to the opinion of the majority with respect to the amendments made by Section 4 to Art. 31-C of the Constitution.

(1) Constitutionality of Section 55 with respect to amendments made to Art. 368:

With regard to clause (4) of art. 368 as amended by Section 55 of the amendment act, Justice P.N Bhagwati in determining whether the limited amending power of Parliament and the power of judicial review, with the objective of determining whether any authority under the Constitution has surpassed the boundaries of its powers, Justice P.N. Bhagwati stated with respect to Judicial Review Justice P.N. Bhagwati elucidated as follows:

“.....making Parliament sole judge of the constitutional validity of what it has done and that would, in effect and substance, nullify the limitation on the amending power of Parliament and affect the basic structure of the Constitution. The conclusion must therefore inevitably follow that clause (4) of Article 368 is unconstitutional and void as damaging the basic structure of the Constitution.”⁹

Thus, Clause (4) of Section 55 of the said amendment act was declared unconstitutional by the reasoning that it is transgressing the limits imposed by the Constitution on the legislature by destroying its basic feature that is of the Judicial Review.

⁸ Waman Rao v. Union of India (1981) 2 SCC 362.

⁹ Id. Para 87.

This takes us to Clause (5) of Section 55 of the said amendment act on which Justice Bhagwati reasoned as follows:

“.... This clause seeks to convert a controlled Constitution into an uncontrolled one by removing the limitation on the amending power of Parliament which, as pointed out above, is itself an essential feature of the Constitution and it is therefore violative of the basic structure. I would in the circumstances hold clause (5) of Article 368 to be unconstitutional and void.”¹⁰

Thus, the clause (4) and (5) of Section 55 of the 42nd Constitutional Amendment were declared unconstitutional and void on the grounds that the limited amendment power of the Parliament which is a part of the basic structure doctrine of the Indian Constitution as postulated in the Keshvananda Bharti case and the Judiciary has the power of Judicial review if the parliament has transgressed its limits and passed any legislation or a constitutional amendment which may be in contravention to the Part III of the Indian Constitution i.e., The Fundamental Rights or is violative of the Basic structure of the Constitution.

(1) Constitutionality of Section 4 with respect to amendments made to Art. 31(c):

With respect to the Constitutional validity of Section 4 of the said amendment and examining the inter-relationship between Fundamental Rights and Directive Principles of State policy Justice Bhagwati opined as follows¹¹:

“.... The dynamic provisions of the directive principles fertilise the static provisions of the fundamental rights. The object of the fundamental rights is to protect individual liberty, but can individual liberty be considered in isolation from the socio-economic structure in which it is to operate.....”

Thus, panoramically explaining the validity of the said Section 4 of the Amendment act Hon'ble Justice Bhagwati stated

“..... No law which is really and genuinely for giving effect to a directive principle can be inconsistent with the egalitarian principle and therefore the protection granted to it under the amended Article 31-C against violation of

¹⁰Id. Para 88.

¹¹Id. Para 107.

Article 14 cannot have the effect of damaging the basic structure. I do not, therefore, see how any violation of the basic structure is involved in the amendment of Article 31-C.”

Thus, according to his esteemed opinion and in-depth reasoning for the same Justice Bhagwati declared with respect to the amendment made to Article 31-C through Section 4 of the 42nd Constitutional Amendment Act, 1976 as constitutionally valid and does not violate the Basic Structure Doctrine of the Indian Constitution.

CRITICAL ANALYSIS: *Inter-Relationship Between Fundamental Rights and Directive Principles of State Policies, A Road To Social Revolution In India:*

Part III of the Indian Constitution deals with Fundamental Rights, followed by Part IV- The Directive Principles of State Policy and Part IV-A- Fundamental Duties. What role do these three distinct or unique parts of the Constitution play? The Preamble of the Constitution postulates some of the objectives of the Constitution i.e., JUSTICE- social, economic, and political. EQUALITY- Liberty of thought, dignity, etc. To give shape to all these lofty goals enshrined in the preamble, the framers of the Constitution envisaged PART III, IV, and IV-A of the Constitution.

PART III: The Fundamental Rights, Objective is to promote or protect political democracy.

PART IV: The DPSP's, Objective is to establish and promote social and economic democracy.

PART IV-A: The Fundamental Duties, Objective is to make responsible citizens.

So, Part III and Part IV, Part IV-A although separate, their objective is to concretize and give direction to the State to implement the lofty goals mentioned in the Preamble.

Under Part III of the Constitution, Fundamental Rights are called Negative Obligations of the State. The Constitution is asking the State not to interfere with the liberty or dignity of an individual. The State shall not deny equality before the law and Equal protection of the law or the State shall not discriminate or deprive an individual of his right to life and personal liberty. This means that Fundamental rights are the negative obligations of the State.

In contrast to that, the Directive Principles are called Positive Obligations of the State. Art. 37-51 contains the positive obligations of the State. Here, the Constitution is asking the state to interfere so that e.g., The State is obliged to establish Panchayati Raj institutions in every village and empower it with powers to enable them to function as units of rural local self-government. The Constitution Is asking the State to please interfere so that the citizens of India can have Equal pay for Equal work. The State is mandated to ensure that the material resources are so distributed which would subserve the common good.

Thus, the Fundamental Rights are referred to as Negative Obligations, whereas the DPSPs are referred to as Positive Obligations of the State, with the specific purpose of ensuring the aims enshrined in the preamble are met.¹²

Part III and Part of IV have great significance in the Indian Constitution as they together constitute the aim of achieving the social revolution and are envisaged as the “Conscience of The Constitution”.¹³

The term “Directive Principles of State Policy” refers to the goals the state should consider while developing policies and enacting legislation. As a result, the primary objective is to create a welfare state. They outline the political, social, and economic objectives of the Indian Constitutional system, and serve to further support the idea of a welfare state. These regulations give citizens some non-judicial rights and oblige the government to maximize social welfare and fundamental societal ideals including work, health, and education.¹⁴

The following are the two characteristics of directive principles:

1. Those enumerated in Article 37 of the Indian Constitution.
2. DPSPs are not legally enforceable in court.

Reasons for unenforceability:

1. Time- The State needs ample time to Implement the DPSPs.

¹² Granville Austin, *The Indian Constitution: Corner Stone of the Nation* p. 52.

¹³ Dr. Subhash C. Kashyap, *Constitutional Law of India, Introduction and Background, Articles 1-51A*, Ed. 2 (In 3 Vols.), 2015, pp. 738, 739, 740.

¹⁴ M.P. Jain, *Constitution of India*, 8th Ed. 2019 p. 15

2. The State needs ample amount of resources to implement the same.

Article 31(c) of the Indian Constitution was introduced by Section 3 of the 25th Constitutional Amendment Act of 1971. The amendment was said to have been introduced because it was expedient “to surmount the difficulties placed in the way of giving effect to the directive principles of State Policy” by the court interpretation rules for the like ‘compensation’ for property acquisition or requisitioned for public purposes.¹⁵

This ruling of the Apex Court overturned the landmark Judgement of the Supreme Court *State of Madaras v. Champakan Doirairajan*¹⁶ and the *Kesvananda Bharti* case¹⁷ which held that Art. 31(c) of the Constitutionally valid and the court upheld the intention of the legislation that this article can have an overriding effect over the Fundamental Rights PART III of the Constitution. Prior to the 42nd Constitutional Amendment Act 1976 the Art. 31(c) of stated that if the legislature wants to pass a law to implement Art. 39(b) & and Art. 39(c) and the said law violates Art. 14, 19 and 31 of the Constitution merely of this ground the said law cannot be declared unconstitutional. The intention of the legislation was that it gave superiority to two DPSP’s over three Fundamental rights. Then the infamous 42nd Amendment Act was passed during the period of Emergency which amended Art. 31(c) in such a way that if the State wants to enact a law to effect to one or more Directive Principles and the legislation violates Art. 14, 19 and 31 the said legislation merely on the ground cannot be declared unconstitutional. This altered the inter-relationship between Directive Principles and Fundamental Rights. This was subsequently challenged in this case where the Judicial Review is the part of Basic Structure of the Indian Constitution. The Supreme Court propounded that there is a harmonious relationship between Directive Principles and Fundamental Rights and this harmonious relationship between the two parts is also a part of the Basic Structure Doctrine.

Thus, in this case, the court determined that the Constitution places restrictions on the parliament's ability to amend the Constitution. Because Directive Principles of State Policy cannot take precedence over the Fundamental Rights protected by Part III of the Indian Constitution, the Hon'ble Court ruled that Section 4 of the 42nd Constitutional Amendment Act of 1976 called for an amendment to Art. 31(c) of the Indian Constitution, was unconstitutional. The Supreme Court interpreted the DPSPs and the Fundamental rights in such

¹⁵ Id. 13.

¹⁶ *State of Madaras v. Champakan Doirairajan* AIR 1951 SC 226.

¹⁷ *Supra.* 1.

a way that led to creating a harmonious balance between the two conflicting parts of the Constitution i.e., Part III and Part IV of the Constitution.

CONCLUSION:

This concludes the scope of discussion outlined for this Case analysis. We panoramically delved into various aspects of the landmark case of *Minerva Mills Ltd. v. Union of India*. In this case the Apex court interpreted Part III i.e., The Fundamental Rights, and Part IV- The DPSP's in such way which led to the Harmonious Construction between the two Parts which are significant in the governance of the of our country and are often referred as the A Road to Social Revolution in India. The court held that the power of Judicial Review is one of the essential features of the Basic Structure Doctrine of the Indian Constitution.

