
CASE COMMENT ON MANEKA GANDHI V. UNION OF INDIA

Pooja Kumari, Chanakya National Law University, Patna

Introduction:

This case analysis is conducted to examine the historic ruling of *Maneka Gandhi v Union of India*, which broadened the reach of Article 21 of the Constitution and aided in reshaping the structure of Indian politics and law.

“Personal Liberty” basically means freedom from any kind of bodily restraint or such coercion which is outside the authority of law. This article discusses the landmark case of *Maneka Gandhi vs. Union of India*¹, popularly we know it as *Maneka Gandhi’s case* or *Personal Liberty case*. This case is not a landmark one only with respect to analyzing the paradigms of Article 21 of the Constitution, but it also provided a completely novel perspective or new approach to Chapter III of the Indian Constitution.

Prior to the decision in this case, Article 21 granted the right to life and personal liberty primarily against arbitrary administrative action but not against the legislative action. This case simply turned the pages around and expanded the protection from legislative actions or measures.

This case is recognized as one of the best verdicts rendered by the Supreme Court since it helped in regaining people’s belief in the judicial system and constitutional values. In this landmark judgement, the Supreme Court introduce and incorporate the “Golden Triangle” rule, strengthening its stand as the guarantor or caretaker of democracy.

The decision pronounced by the Honorable Supreme Court on January 25, 1978, signaled the launch of a new phase of the various paradigms of fundamental rights granted by the Constitution. This decision changed the face of the Indian Constitution and marked a new phase

¹ AIR 1978 SC 597.

in the growth of personal liberty. The ruling serves as a light of paradise, giving new paradigms and approaches to the fundamental rights referred under Part III of the Constitution.

Background:

The Passport Act of 1967 was brought into effect in the wake of ruling in *Satwant Singh Sawhney v. D. Ramarathnam*, wherein the Supreme Court had ruled that no one could be denied of their right to travel abroad without following a lawful procedure i.e. “procedure established by law”, as Article 21 of the Indian Constitution specifically guarantees the freedom to travel abroad.

On June 1, 1976, Maneka Gandhi, the petitioner of the present case, received a passport in accordance with the laws. In accordance with section 10(3)(c) of the Act, the Regional Passport Officer, Delhi, posted a letter on July 2, 1977, forcing the petitioner to surrender her passport before the authorities within seven days of receiving the letter. Thereafter, the petitioner requested for a copy of the statement of reasons for the seizure order as provided under section 10(5) of the Act to which the Ministry of External Affairs of the Government of India promptly denied stating that the copy cannot be provided in the public interest.

The petitioner Maneka Gandhi who was a journalist by profession, then filed a plea before the Supreme Court under Article 32 of the Indian Constitution. This case popularly known as *Maneka Gandhi v. Union of India*, established a watershed moment in Indian history as it brought to light various concerns which were directly conflicted in the case of *A.K. Gopalan v. State of Madras*, such as the scope of the clause “procedure established by law” and its nexus with arbitrariness, reason, and justice. In *Maneka Gandhi v. Union of India*, the court agreed with Justice Faizal Ali’s dissenting decision in *A.K. Gopalan v. State of Madras*, holding that “procedure established by law” must be “just”, “reasonable”, “fair”, and “free of arbitrariness.”

Facts:

The passport was issued to Ms. Maneka Gandhi on June 1, 1976, under the Act named as Passport Act of 1967 and on July 2, 1977, the Regional Passport Office in New Delhi ordered for seizure of her issued passport. The alleged petitioner was not even notified of the grounds or reasons for the one-sided decision or the arbitrary arrest made by the External Affairs Ministry in the public interest.

Thereafter invoking the Supreme Court's writ jurisdiction, the petitioner contended that action of the state while seizing her passport shows a clear infringement of her right guaranteed under Article 21, that is, Right of Personal Liberty. It is remarkable thing that Court in this case has given reference of the case *Satwant Singh Sawhney v. Ramarathnam*² wherein right to travel abroad is covered under the protections of Article 21, even though it was not clear that up to what extent the Passport Act diluted or encroached upon this specific right.

In response, the authorities stated that it is not in the "interest of the general public" to disclose the reasons. The petitioner responded by filing a writ suit under Article 32, claiming that Section 10(3)(c) of the Passport Act clearly violated the fundamental rights as given under Articles 14, 19, and 21 of the Constitution.

Issues:

The major issues decided by the court:

- a) Whether the nature of fundamental rights is absolute or are they conditional in nature and what is the limit to the scope of such Rights granted to Indian citizens by the Constitution?
- b) Whether the alleged right, that is, Right to Travel Abroad covered within the interpretations of Article 21 protections?
- c) Is there any relationship or nexus between the Articles 14, 19, and 21 of the Indian Constitution?
- d) Determination of meaning and scope of the word "Procedure established by Law".
- e) Is the alleged section of the Passport Act of 1967, that is, Section 10(3)(c) is violating the fundamental rights, and if the answer is in affirmative then whether such legislative enactment is enforceable or not?
- f) Whether the alleged impugned order given by the Regional Passport Officer against the natural justice principles?

² AIR 1967 SC 1836.

Arguments advanced by the Petitioners:

- a) By seizing the passport of the said petitioner, that is, Maneka Gandhi in pursuant to the administrative order issued by the passport authority, the State has clearly violated and encroached upon the Petitioner's fundamental rights such as right to life and personal liberty, freedom of speech and expression, the right to travel abroad, and freedom of movement.
- b) The clauses of Fundamental Rights given under Articles 14, 19, and 21 are complementary to each other and therefore it should be interpreted harmoniously with one another without any conflict. The actual spirit of constitutionalism and the principles of natural justice can only be observed through a cumulative reading of the said clauses and subsequent interpretation as they are mutually inclusive with one another.
- c) Although India may not have embraced and officially accepted the American notion of the clause "due process of law," still it requires that the legal process should be "just," "fair" and "reasonable" and in no case, it shall be arbitrary.
- d) The alleged section of the Passport Act is violative of Article 21 only to the extent it infringes upon the right to life and personal liberty guaranteed under broad connotations of Article 21.
- e) Audi Alteram Partem, or the right to a fair hearing, is universally acknowledged as an essential element of natural justice principles. The notion or idea of natural justice is clearly embodied within the spirit of the Fundamental Rights, even though they are not explicitly stated anywhere in the provisions of the Constitution.

Arguments given by the Respondents:

- a) Firstly, the respondent in its defense informed the court that the passport of the alleged petitioner was seized because the petitioner "had to appear before a government committee for a hearing."
- b) Thereafter respondent of the present case also contended that the term 'law' under Article 21 cannot be interpreted in the line of fundamental principles of natural justice

thereby emphasizing the decision given in *A.K Gopalan v. State of Madras*³.

- c) As per the phrase “procedure established by law” used under Article 21, it is not a mandate that such procedure should pass the “test of reasonability” or shall be in consonance with Articles 14 and 19.
- d) The makers of our Indian Constitution, that is, the members of the Constituent Assembly had lengthy discussions with respect to both the clauses i.e. the British concept of “procedure established by law” and the American concept of due process of law. The apparent omission of the clause due process of law in the final constitution amply demonstrates the intent of the framers.

Judgement:

The Apex Court in its ruling clearly held the Section 10(3)(c) of the Passport Act of 1967 to be void on the ground that it was violative of Article 14 of the Indian Constitution by conferring broad and unquestionable powers to the passport authority. It clearly violates Article 14 of the Constitution also because it does not provide an opportunity to hear the injured party or to produce his defense. It was also deemed a violation of Article 21 because it did not assert the phrase “procedure” as indicated in the article, and the current procedure adopted was not at all apt and reasonable. However, the court herein denied to provide any formal ruling on the petition and decided that the petitioner’s passport would be in custody of the authorities until they deem fit.

The landscape of the Constitution of India was reshaped by this landmark decision delivered on January 25, 1978. This ruling immensely expanded the horizon of Article 21 and achieved the objective of transforming India into a welfare state as enshrined in our Preamble. The panel of seven judges rendered the unanimous decision. Prior to the Passport Act of 1967, there was no legislation controlling the issuing of passport for such persons who wished to settle abroad from their native country. Additionally, the executives while issuing the passports were entrusted with the complete discretionary power, hence they acted in an arbitrary and unquestionable manner.

³ AIR 1950 SC 27.

It has already been ruled by the apex court in *Satwant Singh Sawhney v. D Ramarathnam*⁴ that the freedom to move around and travel overseas is included within the definition of personal liberty. Therefore, no one can have their rights taken away from them other than by following legal procedures. Though the State had not passed any legislation restricting or prohibiting an individual's rights in this kind of situation, still the seizure of the petitioner's passport without citing any reason is in clear violation of Article 21. And since the reason for the seizure was arbitrary and unquestioned, therefore it also violated Article 14.

Furthermore, section 10(3) clause (c) of the Passports Act, 1967 states that the authority must produce in writing the reason for the seizure and to procure a record copy to the passport holder, if requested and when the state determines that it is necessary to confiscate or impound the passport of a person or for that matter initiate some other type of action for the sake of either the national security, friendly ties with other countries, sovereignty and integrity, or for the interest of general public.

Additionally, the petitioner was also informed about the fact that the action was taken in lieu of the public interest by the Central Government, but it was later discovered that the respondents felt her presence before a commission of inquiry was necessary as the proceedings must go on. The Central Government never provided any explanation for the impoundment of the petitioner's passport. It was made clear that the decision was not made in the public interest and that an average person would not be able to comprehend the rationale behind withholding this information or the reasons behind her passport being seized.

The fundamental rights guaranteed by Part III of the Constitution are neither unique nor exclusive of one another. Any legislation that takes away someone's personal freedom must pass muster with respect to one or more of the essential liberties guaranteed by Article 19. The process ought to project the idea of reasonableness. Article 21 refers to "procedure established by law" rather than "due process of law," which is supposed to have processes free from arbitrary and unreasonable decisions. Even in cases when a statute is silent, it cannot be deemed unfair or unjust since there is a clear-cut violation of the fundamental tenet of natural justice particularly the principle of "audi alteram partem."

⁴ AIR 1967 SC 1836.

It is true that when an individual's right is infringed or jeopardized, especially by the State, those rights are sought after. However, it cannot be said that the exercise of the right to freedom of speech and expression is only limited to India. The mere fact that the state can only act within its ambit or authority does not imply that fundamental rights are likely constrained. It is probable that even though it is not stated clearly in our Constitution, many rights pertaining to human values are nonetheless safeguarded by fundamental rights. For instance, even if it is not stated expressly in Article 19(1)(a), press freedom is protected by that clause. The freedom to travel does not include the freedom of speech or expression because the two are distinct rights.

In this landmark judgement "A.K. Gopalan" ruling was quashed, holding that every statute must pass the reasonable tests of the articles and that there is a unique nexus between the provisions of Articles 14, 19, and 21. The majority judges in Gopalan's case already decided that these clauses are mutually incompatible. Consequently, to rectify its previous error, the court decided that these clauses are interdependent and do not conflict with one another. In other words, we can also say that the dissenting opinion of A.K Gopalan's case became the ruling of Maneka Gandhi Case.

Critical Analysis and Personal View:

The landmark decision of this case still serves as a cornerstone of the Right to Personal Liberty guaranteed by Article 21 of the Constitution.

Following this judgment, the Supreme Court fulfilled its role as guarantor to preserve the spirit of the Constitution and the goals of the framers. According to the major panel of judges, any legislation or provision must be "just," "fair," and "reasonable;" otherwise, in any given situation, even the established or universally accepted law can also be declared arbitrary

The court ordered that every law which robs someone of their personal freedom must pass muster with "Article 21", "Article 14", and "Article 19" of the Constitution. Additionally, "Article 21" protects natural justice principles, guaranteeing that everyone has the right to speak up in court. Furthermore, the "golden triangle principle" needs to be applied to deem any state action or legislation unconstitutional.

A seven-judge panel of the Apex Court, including "M.H. Beg (CJI), Y.V. Chandrachud, V.R. Krishna Iyer, P.N. Bhagwati, N.L. Untwalia, S. Murtaga Fazal Ali, and P.S. Kailasam,"

unanimously decided against the arbitrary act of impounded passport. The Bench of the Supreme Court delivered the historic judgement of *Maneka Gandhi v. Union of India* decision so flawlessly that it left no stones unturned. Justice is precisely the idea of a fair trial, which was the case in this instance. Lastly, justice can be ensured by balancing the spirit of the law, not just by its formality.

Conclusion:

This very case has been held as a landmark one because it provided a fresh and incredibly different understanding of what life and personal liberty under Article 21 of the Constitution meant. It also broadened the scope of freedom of speech and expression, so that the right is no longer limited by the nation's territorial bounds

It encompasses practically the whole world, in fact. As a result, there was a great role of judicial activism in this case, which also added a new chapter in the history of fundamental rights and Article 21. The case commonly known as the "Golden Triangle Case" had simultaneous challenges to Articles 14, 19, and 21 jointly which were effectively addressed by the Supreme Court.

The people's confidence in the legal system was restored by virtue of this ruling, which also provided assurance that their fundamental rights under Part III would be upheld. The court reversed its earlier ruling given in *Gopalan* case, which further maintained that a person's right to life and personal liberty might be restricted or prohibited by a lawful procedure, even if it was unfair and unreasonable. The court rejected this orthodox viewpoint in this instance, ruling that the "procedure established by law" indicates such a course of action which is ultimately "reasonable," "fair," and "just."

This landmark decision quashed the clear and basic meaning of "procedure established by law" and for the very first time incorporated the application of phrase "due process of law" into the Indian legal system. The court also recognized that the freedom to travel abroad is an essential component of the right to liberty and hence if this very right is denied to the individuals, then liberty is distorted. By this decision, the court enlarged the horizon of Article 21 of the Constitution and made it a mandate to interpret Article 21 in such a manner that best serves the people's interests.