

INTERNATIONAL JOURNAL OF LAW
MANAGEMENT & HUMANITIES
[ISSN 2581-5369]

Volume 9 | Issue 3

2026

© 2026 International Journal of Law Management & Humanities

Follow this and additional works at: <https://www.ijlmh.com/>

Under the aegis of VidhiAagaz – Inking Your Brain (<https://www.vidhiaagaz.com/>)

This article is brought to you for free and open access by the International Journal of Law Management & Humanities at VidhiAagaz. It has been accepted for inclusion in the International Journal of Law Management & Humanities after due review.

In case of any suggestions or complaints, kindly contact support@vidhiaagaz.com.

To submit your Manuscript for Publication in the International Journal of Law Management & Humanities, kindly email your Manuscript to submission@ijlmh.com.

Article 142 as a Catalyst for Social and Gender Justice in India

HIMANSHU PRALHAD KANTALE* AND DR. ASHUTOSH PANCHBHAI**

ABSTRACT

The Indian Constitution is not only a legal document but also a document of change, with the goal of a just society. The judiciary has no "purse and sword" like the executive and legislative, but the framers of the Constitution gave the Supreme Court "teeth" by changing draft Article 118 to Article 142. This is meant to give the apex court "plenary" powers to pass any decree or order it may deem "necessary for doing complete justice": a constitutional safety-valve that ensures that the freedom of equity is not allowed to be sacrificed at the altar of procedural rigidity. This research paper attempts to examine the change from the use of Article 142 as a procedural instrument to a "beacon of hope" for marginalised and vulnerable people. Moreover, the Court has applied this extraordinary power to combat overreach by the State, including giving guidance to the State to stop "bulldozer justice" and to ensure the rule of law is maintained. Article 142 has played a key role in combating institutional bias in the military in the context of Gender Justice. The Court's ruling on the categorization of a flawed assessment system that had been adopted for women officers, which resulted in the "systemic denial" of permanent commissions to female officers, went beyond the individual to the institutional level and prevented women from being marginalized by biological stereotyping. Social Justice is a goal, and Article 142 is a means to achieve it.

Keywords: Article 142, Social Justice, Gender Justice

I. INTRODUCTION

It is a recognised notion that to establish peace, social justice must be its base. This shows the paramount significance of social justice in society. The genesis of this notion can be traced to the French Revolution, which was later incorporated after the First World War across various modern Constitutions. For our Founding Fathers and Mothers, independence from the British was the first essential step for rendering social justice and securing for all this essential human right. Our Constitution is based on a social philosophy that is to secure social justice for its citizens. The Preamble of our Constitution is a precursor of social justice. Parts III and IV of

* Author is an LL.M. student at Symbiosis Law School, Pune, Maharashtra, India.

** Author is an Assistant Professor at Symbiosis Law School, Pune, Maharashtra, India.

the Constitution are ways to achieve social justice. According to *Radhakrishna J¹*, Social justice cannot merely be equated with equality before law, but must translate the spirit of the Constitution, which is enshrined in our Preamble. Constitution and DPSP into action. To achieve a just society, the judiciary plays a massive role. The judiciary doesn't have the power of purse as well as of the sword, like other organs of the government. It lacks teeth. To overcome the weakness which federal court had our framers insert draft article 118, which later got converted into Article 142. This gave the judiciary the teeth to enforce the decree and the power to do complete justice, which the federal court lacked.

II. SOCIAL JUSTICE IN THE INDIAN CONTEXT

The Preamble of India, which serves as a guiding spirit of the Indian Constitution, establishes social and economic justice as an inseparable and foundational aspiration of our framers of the Constitution. After skimming over the text of the preamble can come across the presence of the word social justice, which is the aim of our Constitution. It was *Pt. Nehru*, who, while putting forth the objective resolution before the Constituent Assembly for the first time, used the word *social justice* in one of his eight pointers. Before introducing the objective resolution, he issued a dictum that “*Laws are made of words, but this Resolution is something higher than the law*”². Such a statement reflects not only the profundity but also the aphorism that captures an essential truth of a just society. *Dr. Ambedkar*, in his final Constituent Assembly speech, also cautioned that no political democracy will last unless there is social democracy as its base³. According to him, social justice is a tool to create an ideal and just society⁴. Justice is the criterion for judging right and wrong in modern society.

III. JUDICIARY AND SOCIAL JUSTICE

The realisation of justice is the ultimate utility of the law⁵. Social justice is necessary to effectuate a just social order. It means dispensing justice to all the sections of society who have been subjected to injustice and oppression. To translate this conception of justice into reality, Parts III and IV were incorporated into the Constitution⁶.

¹ National Legal Ser.Auth vs Union of India & Ors, (2014) 5 SCC 438

² CONSTITUENT ASSEMBLY DEBATES Volume 1, 13 Dec 1946,

³ Emmanuel, M. (no date) ‘*if hereafter things go wrong, we will have nobody to blame*’, *dr. Ambedkar's final speech in Constituent Assembly, Bar and Bench - Indian Legal news*. Available at: <https://www.barandbench.com/columns/dr-ambedkar-1949-constituent-assembly-speech> (Accessed: 20 May 2026).

⁴ Dr. Vinod Kumar, Ambedkar's Views on Social Justice, Studies in Law and Justice, Volume 3 Number 3 September 2024, ISSN 2958-0382

⁵ Read C.K Allen's work, “Aspects of Justice”, 1958, Pg 80

⁶ Dr. Avtar Singh, Social Justice: An Indian Scenario, Journal of Research in Humanities and Social Science, Volume 9 ~ Issue 12 (2021) pp: 31-37

It was the then *Chief Justice P.N Bhagwati* in *S. P. Gupta's*⁷ case who led to the legal innovation called Public Interest Litigation (PIL) or Social Action Litigation (SAL), noted by famous jurist *Upendra Baxi*⁸. This legal invention, which is exclusive to the Indian legal system, is now being institutionalized. The reason for opting for such unconventional legal recourse was to undo any legal injury where persons or a class of persons are unable to approach the court of law for relief. This is an unorthodox way opted by the judiciary for doing social justice and undoing wrong⁹.

After perusal of *Kesavananda Bharati's* judgment¹⁰ The word social justice has been used *thirty times*, which not only reveals its importance in the Indian socio-legal landscape but also its paramount significance in the Constitutional jurisprudence. One of the illuminating phrases in the judgment, which says “*the Constitution makers had, among others, one dominant objective in view and that was to ameliorate and improve the lot of the common man and to bring about a socio-economic transformation based on principles of social justice,*” emphasis added¹¹. Social justice is considered a part of the basic structure doctrine. The Constitution is a social document. The embodiment of various principles like social, economic, and political in the preamble are the goals to achieve with the help of the Constitution. Social Justice is a solemn commitment; it means that laws must reflect the very aspiration of removing inequalities and that the Constitution's basic structure includes this commitment to social transformation. *Justice Krishna Iyer* in the *Sunil Batra* case quotes that social justice cannot sleep if the Constitution hangs limp where its consumers most need its humanism¹². This cements the idea that social justice is necessary for a humane existence and not a mere animal-like existence. *Madan Lokur J* in *Dr. Ashwani Kumar vs Union of India and Ors* opined that “*Social justice in the Preamble of our Constitution has been given pride of place and for good reason since it is perhaps the most important and significant form of justice.*”¹³.

Justice D.Y Chandrachud, in a concurring opinion in *Indian Young Lawyers Association V State of Kerala*¹⁴, stated the Indian Constitution is a foundational document that, in its text and spirit, aims to achieve social justice and provides the roadmap to effectuate this vision of the

⁷ 1982 2 SCR 365.

⁸ “Upendra Baxi, Taking Suffering Seriously: Social Action Litigation in the Supreme Court of India”, 4 THIRD WORLD LEGAL STUDIES 107, 108-11 (1985).

⁹ “P.N. Bhagwati and C.J. Dias, The Judiciary in India: A Hunger and Thirst for Justice, (2012) 5 NUJS L Rev 171.”

¹⁰ [1973] Supp SCR 1

¹¹ Refer to the *Kesavananda Bharati* case judgment (Supra) pg.286

¹² 1979 SCR (1)

¹³ 2019 (2) SCC 636

¹⁴ 2019 11 SCC 1

Constitution.

The Apex Court in *Sukanya Shantha V Union of India*¹⁵ made a profound proposition of how human dignity forms the cornerstone of social justice and a just, compassionate society. This proactive court's intervention to weed out the hitherto in prison caste-based discrimination showcases the commitment of the judiciary to dispense social justice. In the famous judgment of *State of Punjab v Davinder Singh*¹⁶ Justice B.R Gavai, in his concurring judgment, stated that the concept of social justice is not static but rather dynamic, and it is a living, continuously assessed obligation of the state. Enlarging the horizons of social justice, the ultimate court in *Supriyo v Union of India*¹⁷ where the Supreme Court held that queer people are also equally entitled to the same degree of social justice as others in society, and securing this is our Constitutional morality. The direction issued in this regard to obviate violence and discrimination showcases that social justice transcends and is not limited to gender identity.

Social justice is not just a Constitutional promise but a vow, which is the affirmative duty to actualize it and an obligation of the judiciary because it's the ethos of the great institution to check that no one is deprived of his/her rights. Justice V R Krishna Iyer, a former judge of the Supreme Court of India, says, "*Social justice is not can't but conscience, not verbal borrowing from like documents but the social force of the supreme law*".

IV. ARTICLE 142 A BEACON OF HOPE IN DOING SOCIAL JUSTICE

"*Behind every Constitution lies a moral idea and a moral expectation which needs to be fulfilled by courts*". Owing to India's complex matrix, which comprises different socio-cultural landscapes and includes gender injustice, hierarchy, and social stratification, it becomes a necessity for the apex court to resort to Article 142 to dispense justice to those who have been deprived of it¹⁸. The judgment that will echo till eternity will be for its sublime stance on social justice and rule of law, which had instilled hope in society, in Bilkis Bano's case¹⁹. "*Hope is a good thing, maybe the best of the things, and no good things ever die.*"²⁰. In her case, hope was institutionalized by the Supreme Court with the help of Article 142. After following her case trajectory, one can salute her for showing such tremendous resilience, which was nothing

¹⁵ 2024 INSC 753

¹⁶ 2024 INSC 562

¹⁷ 2023 INSC 920

¹⁸ "Kumar, Shailendra, Sketching the Limits of Article 142 of the Constitution of India: A Constitutional Necessity (December 9, 2020). Kumar, S. (2020). Sketching the Limits of Article 142 of the Constitution of India: A Constitutional Necessity. In S. Khurshid, S. Luthra, L. Malik, & S. Bedi (Eds.), *Judicial Review: Process, Powers, and Problems*" (Essays in Honour of Upendra Baxi) (pp. 365-383). Cambridge: Cambridge University Press, Available at SSRN: <https://ssrn.com/abstract=3745593>

¹⁹ 2024 INSC 24

²⁰ Dialogue from the Shawshank Redemption 1994 movie

shorter than a quest. In this case, Article 142 was used against the favour of eleven convicts²¹. Bilkis was a victim who was exploited by eleven men during the 2002 Gujarat riots²². The Supreme Court division bench of *Nagarathna and Ujjal Bhuyan JJ*, penned down a judgment which authorises the convicts to be sent back to prison within two weeks by quashing their remission order. *Nagarathna J*, in the judgment, made a striking proposition which states that “Justice is supreme and justice ought to be beneficial for the society²³” Here, the apex court cautioned that the courts should be mindful of the content of the word ‘justice’ owing to its role, which is to dispense justice.

To promote societal fairness and equality, social justice and natural justice are foundational notions behind it²⁴. One can infer that social justice also encompasses natural justice. The Supreme Court, in a catena of judgments, has mentioned the importance of natural justice. In *Maneka Gandhi’s case*²⁵, *Justice Bhagwati* observed that Natural justice is a profound humanising principle to ensure justice. In *S.L Kapoor v Jagmohan*²⁶, *Justice Reddy* saw that “Non observance of natural justice is perjurious to any man”. Natural justice is a subset of social justice, and it’s the duty of the court to give a fair hearing. In 2018, a ruling was passed by three judge benches in *Asian Resurfacing of Road Agency Pvt Ltd v CBI (2018)*²⁷, which ruled that in all pending cases where a stay order is operating against civil and criminal trial proceedings, the stay would be automatically vacated at the end of six months unless it is extended by a speaking order²⁸. In December 2023, owing to some reservations on the ruling, *CJI Chandrachud* led bench referred this matter to a five-judge bench. The Supreme Court overruled its previous decision in *High Court Bar Association, Allahabad V State of UP*²⁹, where *Oka J* wrote the majority opinion, which overruled blanket directives. Here, the Supreme Court took a more accountable stance and believed continuing the previous approach of Asian resurfacing would be contrary to the concept of fairness. It also explores the philosophy behind

²¹ *Article 142 can’t be used in favour of Bilkis Bano case convicts: Court* (2024) *www.ndtv.com*. Available at: <https://www.ndtv.com/india-news/article-142-cant-be-used-in-favour-of-bilkis-bano-case-convicts-court-4825344> (Accessed: 20 May 2026).

²² Refer to “Sonia Devi’s, Bilkis Bano Case Study, Research Scholar Guru Nanak Dev University (Gurdaspur Campus), Amritsar (Punjab), the International Journal of Research and Innovation in Applied Science (IJRIAS)”, Vol X Issue V May 2025

²³ *Ibid* (119) (Supra) Para 69, page 248

²⁴ Admin (2023) *Striving for a just society: The importance of social and natural justice - legal vidhiya, Legal Vidhiya -*. Available at: <https://legalvidhiya.com/striving-for-a-just-society-the-importance-of-social-and-natural-justice/> (Accessed: 20 May 2026).

²⁵ 1978 1 SCC 248

²⁶ 1980 4 SCC 379

²⁷ (2018) 16 SCC 299

²⁸ *Validity of automatic vacation of stay orders* (2024) *Supreme Court Observer*. Available at: <https://www.scobserver.in/cases/validity-of-automatic-vacation-of-stay-orders-high-court-bar-association-allahabad-v-the-state-of-uttar-pradesh/> (Accessed: 20 May 2026).

²⁹ 2024 INSC 150

Article 142 that its use is to further the cause of justice and not to defeat it³⁰. If a judicial mind is absent, whether a stay should be extended or not, also devoid of any judicial scrutiny, will result in a miscarriage of justice. If we consider elementary principles of natural justice, which are duly recognised in our jurisprudence, modification of reliefs cannot be done unless a hearing is held with both parties. *Professor Laurence Tribe*³¹ has observed that “*Both from the right to be heard and the right to be told why, are analytically distinct from the right to secure a different outcome; these rights to interchange express the elementary idea that to be a person, rather than a thing, is at least to be consulted about what is done with one*”. The court grounded its decision on the Latin maxim, *actus curiae neminem gravabit*” which translates as no *litigant should be allowed to suffer due to the fault of the Court*. It’s a basic tenet of justice. This judgment protects the interests of successful litigants who got an order in their favour. Another facet on which the Supreme Court touched upon is the exercise of its power under Article 142, which states that it cannot exercise its power to defeat the principles of natural justice³².

“*The loneliest moment in someone’s life is when they are watching their whole world fall apart, and all they can do is stare blankly.*”³³ This is the heart-wrenching line from which one can infer the helplessness or loss of hope in someone’s life. This line most accurately applies to all those people who were completely helpless and can only stare while getting their house demolished. *B.R Gavai J* made an astonishing statement that “*Constitutional Courts cannot sit with folded hands when the executive fails.*”³⁴. In this case, the executive not only failed in protecting the rights of the individuals but was also responsible for taking away their roof by not following the due process of law. Here comes the Supreme Court to rescue its citizens, and in *In Re: Directions in the matter of demolition of structures*,³⁵ also known as the bulldozer demolition case, where the Supreme Court stopped the demolition of the houses with a single stroke of the pen. This case showcased the power of the gavel when backed by Article 142. Here, the court protected the Constitutional right mentioned under Article 300 A, which prevents the deprivation of an individual of their property except by the authority of law³⁶. The division bench of *B.R Gavai and K.V Viswanathan, JJ*, put an end to this tyranny by using its

³⁰ *Ibid* 129 para 19, pg.: 22

³¹ Lawrence H. Tribe, ‘American Constitutional Law’ ((The Foundation Press 1978)

³² Network, L.N. (2024) *The constitutional mandate: High courts’ role in interim relief*, *Live Law*. Available at: <https://www.livelaw.in/law-firms/law-firm-articles/-asian-resurfacing-supreme-court-high-court-bar-association-allahabad-ahlawat-and-associates-253681> (Accessed: 20 May 2026).

³³ F. Scott Fitzgerald an American novelist, essayist, and short story writer.

³⁴ Justice Bhushan Ramkrishna Gavai emphasizes the importance of judicial review in India’s governance during a lecture at Harvard Kennedy School, underlining its role in ensuring executive accountability and shaping policy.

³⁵ (2025) 5 SCC 1

³⁶ Sharma, Aanya, *Breaking Homes, Bypassing Law: A Critical Study of Bulldozer Justice and Article 300A* (April 05, 2026). Available at SSRN: <https://ssrn.com/abstract=6528798> or <http://dx.doi.org/10.2139/ssrn.6528798>

power under Article 142. The judgment begins with the poetic prose of *Poet Pradeep*, which describes the human sentiments of owning one's own house. It has been beautifully observed by *Rosenfeld Michel* that “*wherever law ends, tyranny begins.*”³⁷. This judgment defies the very concept of ‘*might is right*’. A house is not simply a property made from wood, cement, sand, but it's a summation of the collective hope of families that reside in it. The apex court issued guidelines that must be strictly adhered to by the authorities. Resorting to Article 142 to protect its citizens from the state's punitive measures is a classic case of the judiciary's role in dispensing social justice.

Protecting livelihood is also another facet of social justice. In *Anjuman Ishaat-e-Taleem Trust v The State of Maharashtra & Ors* in this case, the court used Article 142 as an instrument to achieve social justice by protecting the livelihood of the experienced teachers. In this case, the court upheld the validity of *TET (Teacher Eligibility Test)* under Section 23 of the RTE Act, 2009, and gave exemption to teachers who have less than five years of service left. The court also provided a window to qualify for the TET exam within the stipulated time of two years. In this case, instead of abruptly removing the teachers, the apex court adopted a more pragmatic approach by considering socio realities. The court outlined the objective behind the RTE Act and stated that this act is anchored on the belief of doing social justice³⁸. This is a perfect case where Article 142 was used to iron out the creases between the strict statutory requirement of the RTE Act and the lived realities of long-serving teachers. The reason behind not dislodging such teachers is the settled legal position that a statute can never be seen as an evil³⁹.

V. ARTICLE 142 AND GENDER JUSTICE

“The highest national goal must be unleashing women's influence in governance. That is the greatest source of societal energy we have kept corked for half a century.” –

- “Mani Shankar Aiyar”

Political philosophers across the globe failed to give a universal definition of justice, and so for gender justice. The term gender justice, which is used interchangeably with the ideas of gender equity, gender equality, and gender empowerment, has rarely been given a crystal-clear definition⁴⁰. But in a general sense, gender justice means that there is no denial of justice or any

³⁷“Rosenfeld, Michel”, “The rule of law and the legitimacy of constitutional democracy.” S. Cal. L. Rev. 74(2000): 1307

³⁸ Ibid Para-86, page-51

³⁹ Ibid para 215

⁴⁰ “Vedic Mangal Agarwal, Muskan Singh Bankura”, “Gender Justice and Indian Labour Laws: A Critical Analysis”, 3.2 JCLJ (2023) 28

kind of discrimination based only on one's gender⁴¹. In an Indian society, being a tolerant, just, and inclusive society, widespread gender injustice is prevalent at various levels and forms⁴². Women were never considered as equals to men and were subjected to negation of parity. It's a deeply rooted notion that man as primary breadwinners and women as house or family caretakers. There is compartmentalisation of gender roles in Indian society. But when the sole earner deserts his family, it's the women which becomes provider of the family. In *Rama Vishawanath Dandge v. State of Maharashtra*⁴³ The division bench consisted of *Kurian and Kaul JJ.* Recognizing the extreme hardship of the appellant, the court used its plenary power under Article 142 and considered this case a special case, and requested the state to accommodate the appellant for the post of peon. The court took the empathetic stance to fulfil its Constitutional mandate by taking into consideration the lived socio reality of the appellant and her three children.

The Supreme Court plays a gender sensitizing role by setting precedents, helping women officers entitling women officers their due. Women officers are subjected to systemic discrimination, and this is where the apex court steps in to negate it. The Supreme Court in *Lt.Col. Nitisha v Union of India*⁴⁴ held that the manner of granting permanent commission to women officers reflects indirect and systemic discrimination⁴⁵. *Dr. D.Y Chandrachud J.*, in his majority opinion, also made a distinction between formal and substantial equality. This case sheds light on the entrenched power hierarchy. This case was crucial in understanding indirect discrimination and how it contributes to discrimination at a systemic level in India.

The Supreme Court, under the aegis of Article 142, protects the interests of women armed officers. In *Lt. Col. Suprita Chandel v Union of India*⁴⁶ the officer was wrongfully deprived of her chance for permanent commission due to a policy amendment that happened in March 2013. *Viswanathan J's* bench by considering her competence while serving as an officer, the court ordered that all the benefits (monetary benefits, perks, including arrears) be extended to the appellant. This case proves that the court will resort to its extraordinary powers to ensure that women officers are not sidelined.

⁴¹ "GENDER JUSTICE – A LEGAL PANORAMA, Talk delivered by Justice Yatindra Singh in the colloquium on 'Gender and Law' organised by the National Judicial Academy, British Council and Allahabad High Court at JTRI Lucknow on 14th October 2001"

⁴² "Poornima Jain's book on GENDER JUSTICE AND INCLUSION" (2018), Rawat Publications,

⁴³ 2018(3) SCT 699; 2018 INSC 608

⁴⁴ 2021 SCC Online SC 261

⁴⁵ *Sco explains: Indirect discrimination in the Army* (2023) *Supreme Court Observer*. Available at: <https://www.scobserver.in/journal/sco-explains-indirect-discrimination-in-the-army/> (Accessed: 20 May 2026).

⁴⁶ 2024 INSC 942

Recently, in *Sucheta EDN V Union of India*⁴⁷ A three-judge bench led by *CJI Surya Kant* observed that the denial of permanent service commission to SSCWOs was not merely based on individual assessment but on flawed parameters. The evaluation framework was strictly applied to women officers, and the same level of depth and rigour was absent in male counterparts. Therefore, owing to this, the court invokes its power under Article 142 and strikes down systemic denial of permanent commission to women officers and grants pensionary benefits to them.

Kant was of the view that at the basis of all conceptions of justice, no matter which culture or religion has inspired them, lies the golden rule that you should treat others as you would want everybody to treat everybody else, including yourself. Our Constitution is a transformative document which has been meticulously crafted to achieve social revolution and to dismantle oppressive power structure, and the apex court's role is massive to achieve such distinct aspirations⁴⁸.

VI. USE OF ARTICLE 142 IN PROTECTING THE VULNERABLE

This section of the research is dedicated to the use of Article 142 as an ultimate hope for the vulnerable section of society. Here, vulnerable includes children, marginalized communities, old-age citizens, and poor students. These are helpless sections of the social strata that lack socio-economic resources to voice their demands, so to rescue them, the court uses Article 142 as a *Brahmastra* to cull out injustice and instil hope in the society.

Article 142 as a protective shield for protecting minors:

Pardiwala J elaborately gave a brief legislative history and scheme behind POCSO in *Just Rights for Children Alliance v S. Harish* (2024)⁴⁹ that the basic intent behind such special criminal legislation is to protect children from sexual exploitation. This issue is a pervasive and deeply rooted issue that has plagued societies across the world and has been a matter of serious concern in India as well. The absence of child-friendly procedural laws and the growing awareness of the long-term psychological impact on the victims underscored the need for a dedicated law. Earlier laws, which include the Indian Penal Code, were more inclined towards the gender of the victim. After the enactment of the POCSO Act, 2012, the concept of child victims has been broadened, which is gender neutral. Also, children who may belong to the

⁴⁷ 2026 Live law SC 284

⁴⁸ "Pant, S., & Bhardwaj, S. (2022). Permanent commission to female officers of armed forces in India: Negating all biological stereotypes & towards transformative constitutionalism 2.0. *International Journal of Health Sciences*", 6(S3), 1696–1704

⁴⁹ 2024 INSC 716

LGBTQ category will also come under the definition of child⁵⁰.

The Supreme Court has consistently invoked its power to facilitate justice where children as victims are involved. Human Dignity is a sacrosanct and inviolable right of every individual's life, even for minors. This is what *Deepak Gupta J* affirmed in *Nipun Saxena v Union of India*⁵¹, where the court took the stance that keeping anonymity of the minor victims throughout judicial proceedings will do the same. The court has considered the social reality whereby society, instead of empathising with the victim, treats them as an 'untouchable'. A minor who has been subjected to sexual oppression needs even more protection than a major victim because a minor victim may not be able to withstand mental harassment and social ostracization⁵². By using its plenary power under Article 142, the supreme promulgated nine binding guidelines, including impetus to protect the identity of a minor victim, an obligation on the media, procedural safeguards to not make any information available in the public domain of the victim, and compensatory provisions. This is a classic case that paved the way for a more child-centric environment in which the anonymity and dignity of the minor victims.

Some compromises are detrimental to society and should not be allowed. This is what the court has done in *Ramji Lal Bairawa v State of Rajasthan*⁵³ where the father of the victim made a compromise to withdraw the case and to settle the dispute. The court didn't concur with this settlement and relied on the Delhi High Court ruling of *Sunil Raikwar v. State and Another*⁵⁴ and choose the deterrent principle to protect the child. *C.T Ravikumar J*, at the start of his judgment, mentions the poetic prose of renowned American poet *H. W. Longfellow*, which defines that some bruises can heal fast, but some may leave a lifelong psychological scar. The court attractively stated that it will not allow such a compromise, and prosecution was allowed to continue against the accused before the trial court. The Court went on to hold that the legislature had incorporated certain statutory presumptions having regard to the seriousness of the offences under the POCSO Act.

"*Hell is empty, and all the devils are here.*"⁵⁵ this line of *William Shakespeare* completely applies to the case *Bhanei Prasad alias Raju v State of Himachal Pradesh*,⁵⁶ where the devil or perpetrator is the minor victim's own father, who was responsible for repeatedly committing

⁵⁰ Refer to "Dr. Halder's" book on "Child sexual abuse and protection laws in India", by Sage Publication 2018

⁵¹ 2019 SCC 703

⁵² Ibid para 30

⁵³ 2024 INSC 846

⁵⁴ 2021 SCC Online Del 258

⁵⁵ "William Shakespeare, Virginia Mason Vaughan, Alden T. Vaughan (1999). "The Tempest: Third Series", p.164, Cengage Learning EMEA"

⁵⁶ 2025 SCC Online SC 1636

penetrative sexual assault on his own daughter. The acts were not isolated incidents but sustained, deliberate assaults within the safety of the home, a place where every child expects protection. When a child is forced to suffer at the hands of her own father, the law must speak in a voice that is resolute and uncompromising. The court cited ancient scripture “*Yatra nāryastu pūjyante ramante tatra devatāḥ, yatra itaastu na pūjyante sarvāstatra aphalāḥ kriyāḥ.*” “*Where women are honoured, divinity flourishes; and where they are dishonoured, all acts become fruitless*”. The court not only upheld the conviction but also compensated the minor victim by relying on the guidelines issued in Nipun Saxena’s Case. This case can be said to be one of the darkest legal episode happened in the current time.

“*The final cause of law is the welfare of society*”⁵⁷. Sometimes the court chooses a restorative form of justice where, instead of resorting to punitive measures, the court tries to maintain the familial unit to sustain. In this regard, the apex court in *K. Kirubakaran v State of Tamil Nadu*⁵⁸ The division bench, consisting of *Dipankar Datta and Augustine Masih JJ*, passed the verdict and chose a nuanced approach that was not divorced from realities. The court quashed the criminal proceedings against the accused, who was married to the victim and was ready to continue to serve as a devoted husband and father. The court has tailored a decision that balances firmness and was also merciful when warranted. The court had drawn its inspiration from *Cardozo J*, who said that “*law aims to ensure not just punishment of the guilty, but also harmony and restoration of the social order*”. The Court stated that “*the founding fathers of the Constitution conferred this Court with the extraordinary power to do ‘complete justice’ in proper cases. This constitutional power stands apart from all other powers and is intended to avoid situations of injustice being caused by the rigid application of law.*”⁵⁹.

A similar type of empathetic stance was taken in *In Re: Right to privacy of adolescents*,⁶⁰ where the division bench comprising *Oka and Bhuyan JJ* came across the systemic delay and how the legal system and the society failed her. *Justice Oka* wrote, “*Though the victim did not treat the incident as a heinous crime, she suffered because of it*”. The court issued a direction to the Bengal government to act as guardian and to provide better shelter to the victim⁶¹. The court made sure that the victim gets proper education and proper nutrition. The court possessed extraordinary jurisdiction under Article 142 for fulfilling its sole object of ensuring that the

⁵⁷ Quote by “Benjamin N. Cardozo, Former Associate Justice of the Supreme Court of United States”.

⁵⁸ 2025 SCC Online SC 2307

⁵⁹ Ibid para 8

⁶⁰ 2025 INSC 778

⁶¹ *POCSO convict spared from jail sentence (2025) Supreme Court Observer. Available at: <https://www.scobserver.in/journal/pocso-convict-spared-from-jail-sentence-supreme-court-justice-delayed/> (Accessed: 20 May 2026).*

highest court of the land would be able to do substantial justice in its truest sense. This judgment in its totality tries to actualise the very concept of ensuring social justice to its citizens.

Using Article 142 for providing relief to students:

The Supreme Court, in a catena of judgments, has used its power in helping students, either relating to regularizing the admission process or in the appointment process. In *Atul Kumar v The Chairman (Joint Seat Allocation Authority)*⁶² and *Others*, the petitioner was denied admission due to a shortage of money. Seeing his diligence in accessing the portal along with his merit, the court invokes its powers to substantiate justice. The court also made sure that the petitioner would be entitled to all the consequential benefits of admission, including allotment of hostel accommodation and other facilities. A similar type of case is of *Sakshi Chauhan v Dr. Yashwant Singh Parmar University of Horticulture & Forestry, Nauni & An*⁶³, where the appellant was deprived of her degree due to the university's own confusion. To avoid irreparable damage to the appellant, the Supreme Court set aside the High Court's order and confirmed her seat in the MSc programme. Article 142 was used to protect a student from administrative chaos, preventing strict eligibility rules from destroying two years of hard work. In *Om Rathod vs The Director General of Health Services*, in the present case, the appellant suffers from lower limb myopathy but is still able to secure an excellent rank in the NEET examination. The selection board denied him the seat, stating that the appellant exceeds 80% threshold related to disability. The loss of valuable time in legal proceedings against authorities led to no vacant seat. D.Y Chandrachud J., by invoking the plenary power, made sure that functional ability should be kept in focus while assessing candidates. The court remarked that “when we allow injustice to occur, we normalize the idea that fundamental rights and freedoms are violable”. The court order to create a supernumerary seat for the appellant. In *Sandeep Gupta v High Court of Judicature at Allahabad Through Its Registrar General*, the⁶⁴ Supreme Court invoked its jurisdiction under Article 142 of the Constitution of India to direct the appointment of candidates who were successful in the Uttar Pradesh Higher Judicial Service selection process despite age-related challenges in peculiar circumstances.

VII. CONCLUSION

K.T Shah's⁶⁵ apprehension that the Constitutional promise of equality and social justice might remain a mere promise on paper was a well think off. But maybe he could not have anticipated

⁶² 2024 INSC 749

⁶³ 2025 INSC 882

⁶⁴ 2020(17) SCC 415

⁶⁵ See CAA Debates 5th Nov 1948 page: 245 vol II

that the emergence of Article 142 would act as a catalyst in achieving the vision of our framers. Furthermore, he also could not have anticipated that with the help of such a potent instrument, the judiciary would not allow the Constitutional promise to be dried on paper but to give actual full effect. Article 142 has been the constitutional safety valve that ensures “complete justice” is not sacrificed at the altar of procedural rigidity. The motto of the Supreme Court is “*Where there is Dharma (Righteous/ Justice), there is victory*”. Doing complete justice is the dharma of the judiciary, and it will continue to uphold the Constitutional ethos, aspirations, and vision that our framers had.
