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Indira Gandhi v. Raj Narain Case and How Far this Decision has Helped in Strengthening the Growth of Democratic Institutions?

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ABSTRACT

This research paper is about one of the landmark cases in the Indian Judiciary that guided a lot of subsequent cases and issues on the same topic of discussion. It mentions about the judicial review power of the judiciary in the elections and how emergency was imposed at that time. Finally, a decision was made by the Judiciary that resulted in one that gives direction for similar cases till today.

If the powers of all the three governmental pillars rests in one hand, then it creates a despotic government. It also mentioned about the importance and essence the amount of money that can be spent by the parties has to be looked upon and how the three pillars namely the Executive, Judiciary, and the Legislature work together effectively for diligent functioning of the country. These three organs stand to be not only pillars but also keep an eye on each other's functioning.

The case dealt with one issue regarding elections but a lot of other administrative clarifications and concepts which were not discussed earlier came into picture. It also mentions about any order which has been passed by any administrative authority but there stands a malafide intention that is the order stands against the law of the land then it could directly be held as void and null. In case where arbitrary decisions are made irrespective of aim of public good therein the authority is exceeded and the orders maybe held void.

Hence, the duty to check whether rule made or law passes is in Conscience with Indian Constitution or not, there exists the concept of Judicial Review which decides whether the judgement passes is worth it or within the limits or sense of arbitrariness of the authority.

I. INTRODUCTION

This research paper is about one of the landmark cases in the Indian Judiciary that guided a lot of subsequent cases and issues on the same topic of discussion. It mentions about the judicial review power of the judiciary in the elections and how emergency was imposed at that time.

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Name of the Case: Indira Nehru Gandhi v. Raj Narain

Year: 1975

Citation: 1975 AIR 865

Judges: CJ A N Ray, Justice HR Khanna, Justice KK Mathew, Justice YV Chandrachud and Justice MH Beg.

(A) Importance of judgement

1. It was a landmark judgement because for the first time the elections of a Prime Minister were set aside in the history of Independent India.²
2. It was done through application of basic structure that was held in the Keshvananda Bharti's Case.³
3. There was a retrospective application of the election laws and the elections were nullified.⁴

II. FACTS

1. In the year 1971, General Assembly elections were held where Indira Gandhi campaigned heavily and aggressively for herself and her party that is Congress. As a result of the huge campaigning, Congress got victory by getting 352 out of the total 518 seats.
- Raj Narain who was the leader of the party SSP of Ram Manohar Lohia stood against Indira Gandhi in the area of Rae Bareilly in U.P. He was very confident of their victory and in same excitement and enthusiasm had even organized a triumph rally before the results were declared. Raj Narain was disappointed in the fact that he had lost by a huge margin.
 - He did not accept his defeat and election results but decided to make the results being declared nullified by challenging the same in court. Indira Gandhi was accused by Raj Narain of being corrupt and winning the elections by using malpractices. On April 24th, 1971 Raj Narain had filed a petition challenging the in the High Court of Allahabad.

² Indira Nehru Gandhi v. Raj Narain & Anr by Anchal Chhallani, Last visited on 12.03.2022, <https://www.judicere.in/indira-nehru-gandhi-v-raj-narain-anr/>

³ (1973) 4 SS 225

⁴ 1975 AIR 865

since her election campaign had participation by government officers including people from armed forces and local police. The allegations did not end here but it was said that government vehicles had been used for election campaigning and goods like blanket and liquor were distributed amongst the voters so as to create an influence on them. Due to these reasons and many other expenses, the maximum limit of Rs. 35,000 had also been exceeded by her.⁵

2. The trial judge held that the elections had to be declared void and null on two grounds that firstly, she had taken assistance of Mr. Yashpal Kapoor who was gazette officer of India had aided with similar purposes. This judgment of the Hon'ble High Court was derived on June 12th, 1975 and Indira Gandhi decided to file a cross appeal in the Hon'ble Supreme Court.⁶
3. She was found guilty due to misusing under Section 123(7) of Representatives of Peoples Act of 1951. Because of the offence committed by her, she was barred for six years from contesting elections. The appeal was granted a stay due to Hon'ble Supreme Court being on leave at that time period.⁷
4. A state emergency was then declared by the then President Fakhruddin Ali Ahmed due to the Allahabad High Court's decision on the Election case.⁸
5. Meanwhile, when the cross appeal by Indira Gandhi was pending in the court, the Election Laws (Amendment) Act of 1975 which is also known as the 39th Constitutional Amendment was passed. As a result, parliamentary control was established over appeals pending in the court. Hence, it was a retrospective amendment to the existing laws. The constitutional validity of Representatives of People (Amendment) Act of 1974 was also questioned. Article 329A was added to the Constitution of India.⁹
6. When the 39th Constitutional Amendment was executed and enacted and many members of parliament were arrested under Preventive Detention.¹⁰

⁵The Case That Led To Emergency: Indira Gandhi v. Raj Narain (1975) by Saumya Saxena, Last visited on 18.03.2022, <https://blog.ipleaders.in/emergency-indira-gandhi-v-raj-narain/>

⁶ Indira Gandhi vs. Raj Narain By Sayandeep Chakraborty, last visited on 02.04.2022, <https://lawtimesjournal.in/indira-gandhi-vs-raj-narain/>

⁷ Indira Gandhi vs Raj Narain Case Analysis by Saum, last visited on 10.04.2022 <https://www.legalserviceindia.com/legal/article-2879-indira-gandhi-vs-raj-narain-case-analysis.html>

⁸ Indira Gandhi vs Raj Narain Case Analysis by Saum, last visited on 11.04.2022, <https://www.legalserviceindia.com/legal/article-2879-indira-gandhi-vs-raj-narain-case-analysis.html>

⁹ MAJOR CONSTITUTIONAL AMENDMENTS: PART-2, last visited on 17.04.2022, <https://www.drishtiiias.com/printpdf/major-constitutional-amendments-part-2>

¹⁰ The Case That Led To Emergency: Indira Gandhi v. Raj Narain (1975) by Saumya Saxena, Last visited on 20.03.2022, <https://blog.ipleaders.in/emergency-indira-gandhi-v-raj-narain/>

III. ISSUES RAISED

- Constitutional Validity of Article 329A and the Election Laws (Amendment) Act of 1975 and The Representatives of People (Amendment) Act 1974.

1. The amendments were introduced in two articles that is 71 and 329A and inserted in the ninth schedule to the Representatives of People (Amendment) Act 1974, Representatives of People (Amendment) Act 1951 and the Election Laws (Amendment) Act, 1975.

The new Article 71 gave the powers of regulation of elections of President, Vice President to the Parliament.

Article 329A (1) had six clauses but clause 4,5 and 6 were the ones over which dispute arose.

Article 329A (4) declared that the elections of the Prime Minister Indira Gandhi were outside judicial review, ambit and freed the disputed elections declaring her the Prime Minister and the elections held as valid

Article 329(A) (5) declared that any appeal in any matter related to this particular case shall be declared as null and void and the result of elections shall be declared final, correct and genuine.

Article 329(A) (6) declared that Article 329A shall have predominance or the precedence over the rest of the entire constitution.¹¹

2. It was all done under the ambit and umbrella of Article 368 which gives powers to revise the Constitution of India by expanding it or annulment of any provision as per proper procedure established by law to the Parliament.¹²

3. Respondent also argued that on placing reliance of the judgements of Keshvananda Bharti that Parliament under Article 368 can lay down basic principles the govern the organs of the government.¹³

4. It was therefore held that it is a judgement prerogative under the Article 136 and Article 329 as to whether the determination is valid or not and hence, the amendment referred only tends to disrupt the structure of democracy of the country.¹⁴

5. The theory of basic structure of the Constitution of India of Separation of Powers was being destroyed.¹⁵

¹¹ Indira Gandhi vs. Raj Narain By Sayandeep Chakraborty, last visited on 03.04.2022 <https://lawtimesjournal.in/indira-gandhi-vs-raj-narain/>

¹² Indira Gandhi vs Raj Narain Case Analysis by Saum, last visited on 14.04.2022, <https://www.legalserviceindia.com/legal/article-2879-indira-gandhi-vs-raj-narain-case-analysis.html>

¹³ (1973) 4 SCC 225

¹⁴ (1973) 4 SCC 225, AIR 1975 SC 2299

¹⁵ Basic Structure Doctrine of Indian Constitution - Landmark Cases In Indian Polity, last visited on 18.04.2022,

6. The contents of basic structure of the Indian Constitution were listed by judges are¹⁶

- Supremacy of the Constitution
- Secular Character of Indian Constitution
- Democratic or Republic form of government
- Separation of Powers
- Federal Nature
- Freedom of Individual
- Sovereignty and Unity of India

7. As it was held in *Keshvananda Bharti Case*, it was applied in the case by the Hon'ble Supreme Court and Article 329A was struck down since it hampered the free and fair elections. The only way to resolve a dispute in elections is by judicial review which was destroyed by the Article 329A which was finally struck down.¹⁷

8. The amendment resulted in destruction of Separation of Powers and Judicial Review which were essentials of the basic structure of the Indian Constitution and Article 324A (4) is not in domain of Article 368 but of Judiciary. It destroys the principle of equity.

Raj Narain also claimed that leaders were detained so they could not vote to struck down the act in Parliament and hence it shall be abolished. Court found that this matter was to be dealt both the houses of Parliament and that it cannot interfere and decide the constitutional validity of 39th Amendment. In case of Constitutional Validity, the powers completely depend on legislature in this case.¹⁸

IV. VALIDITY OF ELECTION¹⁹

1. It was held/concluded by the Supreme Court that as per the Section 123(7) of the Representatives of People (Amendment) Act of 1975 a candidate is recognised as a person who files the nomination papers and Indira Gandhi had filed them on February 1, 1971. Hence, any help taken from government officials or armed forces before that

<https://byjus.com/free-ias-prep/landmark-cases-relating-basic-structure-constitution/>

¹⁶ The Case That Led To Emergency: *Indira Gandhi v. Raj Narain* (1975) by Saumya Saxena, Last visited on 22.03.2022, <https://blog.ipleaders.in/emergency-indira-gandhi-v-raj-narain/>

¹⁷ AIR 1975 SC 2299

¹⁸ The Case That Led To Emergency: *Indira Gandhi v. Raj Narain* (1975) by Saumya Saxena, Last visited on 18.03.2022, <https://blog.ipleaders.in/emergency-indira-gandhi-v-raj-narain/>

¹⁹ The Case That Led To Emergency: *Indira Gandhi v. Raj Narain* (1975) by Saumya Saxena, Last visited on 28.03.2022, <https://blog.ipleaders.in/emergency-indira-gandhi-v-raj-narain/>

not amount to any corrupt practice.

2. Yashpal Kapoor had given his resignation on 13.01.1971 after which he ceases to be a government officer and was appointed as agent by Indira Gandhi on 01.01.1971. Hence, the assistance is not a corrupt act.
3. Another allegation by Raj Narain was that Yashpal Kapoor had given multiple speeches from 07.01.1971 to 225.01.1971, however no evidence was found to support the same.
4. Also, as per Section 77 of the Peoples' Representatives Act 1951 it was held that expenses incurred by a political party for purpose of election of candidates is not a part of election expenses of the candidate. Similarly, the expenses on participation in progress are organized by a political party are not to be included in the expenses of the candidate.

V. JUDGEMENT

1. Court found Indira Gandhi guilty of performing corrupt practices along with the gazette officers during the elections held in 1971 under Section 123(7) of the Representation of the People Act, 1951. She had also been disqualified from contesting elections for a period of 6 years. Hence, the 39th Constitutional Law Amendment was struck down.²⁰
2. Separation of power is a vital component and ensures that the Judiciary is free from bias and works independently. Such amendments can also destroy the feature of judicial review along with the democracy. The principle of Natural Justice was violated since the right to fair hearing to a person who challenges an election in court was not provided. The court proved that any organ or law cannot be held above the Rule of Law.²¹
3. The clauses were struck down in the ground that it resulted in violation of free and fair elections which was an essential feature of the Basic Structure of the Indian Constitution. The exclusion and restriction of Judicial Review was also a violation of the basic structure principle. The amendment act was also set aside since it was against Right to Equality as per Article 14 and a sense of arbitrariness would be the result of such clauses. It would also destroy the rule of law.²²
4. Justice H R Khanna had held that democracy is also a part of basic structure. The Supreme Court held that following are basic features as held in case of Keshavananda

²⁰ Indira Nehru Gandhi v. Raj Narain & Anr by Anchal Chhallani, Last visited on 19.03.2022, <https://www.judicere.in/indira-nehru-gandhi-v-raj-narain-anr/#Facts>

²¹ Indira Nehru Gandhi v. Raj Narain & Anr by Anchal Chhallani, Last visited on 15.03.2022, <https://www.judicere.in/indira-nehru-gandhi-v-raj-narain-anr/#Facts>

²² Indira Nehru Gandhi vs Raj Narain case (1975), last visited on 17.04.2022, <https://www.brainyias.com/indira-nehru-gandhi-vs-raj-narain-case-1975/>

Bharti:

- a. Rule of Law
 - b. Democracy
 - c. Judicial Review
5. Justice Chandrachud held that such Amendment would be violative of Separation of Power and the powers of judiciary will be transferred to Legislature. And it is violative of Article 14 creating an unequal position for certain members as against others. Ray C.J. found the violation of Rule of Law in the said case.²³
 6. Mathew J. was of the opinion that it will destroy the basic structure and that a healthy democracy can only function if there is proper possibility of free and fair elections being held and the amendment destroyed it.²⁴
 7. The majority decision adjudged the clause 4 of Article 329 as unconstitutional. The verdict had been delivered on a 3-2 majority where Justice Chandrachud, Justice Mathew and Chief Justice Ray were in favour to declare unconstitutional due to their separate reasons.²⁵

How this decision has helped to strengthen the development of democratic institutions?²⁶

1. The orders that have been passed by the administrative authorities if are found to be of malafide intentions and against the supreme law of the land that is the constitution of India then can be set aside. The rules can be declared ultra-virus or illegal if powers are exceeded so that the Administrative Authorities works only for the benefit of the citizens and not in an arbitrary manner.

2. Judicial Review System in India is one of the widest powers given to Judiciary and it includes the judgements of every amendment to the Indian Constitution also and removal of any amendment that stands violative of the Constitution itself.

3. The efficient working of a state requires discretionary powers and not arbitrary powers. While Dicey confused the two but the discretionary powers are not violative of Rule of Law like the arbitrary powers which destruct the rule of law.

²³ Indira Gandhi vs. Raj Narain By Sayandeep Chakraborty, last visited on 05.04.2022 <https://lawtimesjournal.in/indira-nehru-gandhi-v-raj-narain/>

²⁴ The Case That Led To Emergency: Indira Gandhi v. Raj Narain (1975) by Saumya Saxena, Last visited on 25.03.2022, <https://blog.ipleaders.in/emergency-indira-gandhi-v-raj-narain/>

²⁵ Indira Gandhi vs. Raj Narain By Sayandeep Chakraborty, last visited on 07.04.2022 <https://lawtimesjournal.in/indira-gandhi-vs-raj-narain/>

²⁶ Administrative Law, C.K. TAKWANI, Seventh Edition, Eastern Book Company.

4. Doctrine of Rule of Law is embodied and is very well a part of the Indian Constitution itself and is in fact the essential component of basic structure of the Constitution and as stated in the case of *Keshvananda Bharti v. Union of India* that the basic structure cannot be changed or amended.

5. It was held that Judiciary in comparison to the other two pillars namely Legislature and Executive form to be weak because if there is no liberty given to Judiciary and powers are not separated then the Judiciary can neither work independently nor will be able to review judgements and laws.

6. The Judicial Review is a basic part of Indian Constitution and it was said in support of the case *General Officer Commanding-in Chief v. Subhash Chandra* which stated that making laws is the duty of Legislature which shall be performed judiciously and within its control and limits. Hence, the duty to check whether rule made or law passes is in Conscience with Indian Constitution or not, there exists the concept of Judicial Review which decides whether the judgement passes is worth it or within the limits or sense of arbitrariness exists.

7. If the powers of all the three governmental pillars rests in one hand, then it creates a despotic government. There would be no alienation that the powers are exercised by plurality of hands and not by one individual. 173 despots would surely be oppressive as one despot is.

8. The Constitution of India has the mention of three basic organs of Government namely Legislature, Executive and Judiciary. These three organs have to independently work and in no sphere, there should be a circumstance or event wherein the powers and duties of these organs are exchanged or taken by either organ.

VI. CRITICAL ANALYSIS/CASE COMMENTS/CONCLUSION

In my opinion, the judgement was a brave and landmark one which has resulted in showing direction and light to a lot of other cases related to Separation of Power and Rule of Law. It was also very clearly held that no organ or statute is above Rule of Law. The judgment made a lot of technical points clear as to what is included in the expenses of a candidate and in which all cases can the government officials be a part of the elections. The constitutional validity when was questioned and challenged then the importance of Judicial Review and Separation of Power in the constitution then their importance was highlighted. It was also made finally clear that the major aim and importance of the discussions being held is just fair and free elections with the aim of development of a good democracy in India.
