
ARTICLE 19 – LANDMARK JUDGEMENTS

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“Article 19(1)(a) – All citizens shall have the right to freedom of speech and expression”

1. State of Uttar Pradesh v. Raj Narain¹: The Supreme Court has held that Art. 19(1)(a) not only guarantees freedom of speech and expression, it also ensures and comprehends the right of the citizens to know the right to receive information regarding matters of public concern.

2. Printers (Mysore) Ltd. v. Assistant Commercial Tax Officer²: The Supreme Court has reiterated that though freedom of the press is not expressly guaranteed as a fundamental right, it is implicit in the freedom of speech and expression.

3. Maneka Gandhi v. Union of India³: In this landmark judgement, Bhagwati J, has emphasized on the significance of the freedom of speech and expression.

“Article 19(2) – Nothing in sub-clause (a) of clause (1) shall affect the operation of any existing law, or prevent the State from making any law, in so far as such law imposes reasonable restrictions on the exercise of the right conferred by the said sub-clause in the interests of [the sovereignty and integrity of India,]⁴ the security of the State, friendly relations with foreign States, public order, decency or morality, or in relation to contempt of court, defamation or incitement to an offence”⁵

4. Superintendent, Central Prison (Fatehgarh) v. Ram Manohar Lohia⁶: Subba Rao J, speaking for the court, pointed out that the expression “in the interest of public order” though wider than the phrase “for the maintenance of public order” still could not mean that the

¹ 1975 AIR 865, 1975 SCR (3) 333

² 1994 (93) STC 434 (SC)

³ AIR 1978 SC 597

⁴ Ins. by the Constitution (Sixteenth Amendment) Act, 1963, s. 2 (w.e.f. 5-10-1963)

⁵ Subs. by the Constitution (First Amendment) Act, 1951, s. 3, for cl. (2) (with retrospective effect)

⁶ 1960 AIR 633, 1960 SCR (2) 821

existence of any remote or fanciful connection between the impugned act and public order would be sufficient to sustain the validity of the law.

5. O.K. Ghosh v. E.X. Joseph⁷: The Supreme Court has lucidly explained the effect of the clause “in the interests of”.

“Article 19(1)(b) – All citizens shall have the right to assemble peaceably and without arms”

6. Railway Board v. Niranjan Singh⁸: It was held that Railways are entitled to enjoy their properties in the same manner as any private individual subject to such restrictions as may be placed on them by law or usage.

7. D. Anantha Prabhu v. District Collector⁹: It was held that a right to hold public meetings on government property can be created by usage.

“Article 19(3) – Nothing in sub-clause (b) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interests of [the sovereignty and integrity of India or]¹⁰ public order, reasonable restrictions on the exercise of the right conferred by the said sub-clause”

8. Himmat Lal K. Shah v. Police Commissioner¹¹: A rule of banning holding of public meetings on public streets without police permission has been held bad.

“Article 19(1)(c) – All citizens shall have the right to form associations or unions [or co-operative societies]¹²”

9. State of Madras v. V.G. Row¹³: The Supreme Court declared the provision to be unconstitutional for the test to declare an association was unlawful was “subjective” and the

⁷ 1963 AIR 812, 1963 SCR Supl. (1) 789

⁸ 1969 AIR 966, 1969 SCR (3) 548, 1969 SCC (1) 502

⁹ AIR 1975 Ker 117

¹⁰ Ins. by the Constitution (Sixteenth Amendment) Act, 1963, s. 2 (w.e.f. 5-10-1963)

¹¹ 1973 AIR 87, 1973 SCR (2) 266

¹² Ins. by the Constitution (Ninety-seventh Amendment) Act, 2011, s. 2 (w.e.f. 12-1-2012)

¹³ 1952 AIR 196, 1952 SCR 597

factual existence of the grounds was not justiciable.

10. P. Balakotaiah v. Union of India¹⁴: Certain railway employees who belonged to a workers' union sponsored by the communists carried on agitation for a general strike in order to paralyse communications and movement of essential supplies. They were charge-sheeted and their services were terminated.

“Article 19(4) – Nothing in sub-clause (c) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interests of the sovereignty and integrity of India or public order or morality, reasonable restrictions on the exercise of the right conferred by the said sub-clause”

11. Tika Ramji v. State of Uttar Pradesh¹⁵: The Supreme Court observed that assuming that the right to form association “implies a right not to form association, it does not follow that the negative right must also be regarded as a fundamental right”.

“Article 19(1)(d) – All citizens shall have the right to move freely throughout the territory of India”

“Article 19(1)(e) – All citizens shall have the right to reside and settle in any part of the territory of India; [and]¹⁶”

12. Ajay Canu v. Union of India¹⁷: A rule made under Motor Vehicle Act to compulsory wearing a helmet by a person driving a two-wheeler was challenged to be infringement of rights under Article 19(1)(d). It was held that the rule has been framed for the benefit and welfare of a person driving two-wheeler vehicle, hence, is not violative of Article 19(1)(d).

“Article 19(5) – Nothing in [sub-clauses (d) and (e)]¹⁸ of the said clause shall affect the

¹⁴ 1958 AIR 232, 1958 SCR 1052

¹⁵ 1956 AIR 676, 1956 SCR 393

¹⁶ Ins. by the Constitution (Forty-fourth Amendment) Act, 1978, s. 2 (w.e.f. 20-6-1979)

¹⁷ 1988 AIR 2027, 1988 SCR Supl. (2) 632, 1988 SCC (4) 156, JT 1988 (3) 523, 1988 SCALE (2) 556

¹⁸ Subs. by the Constitution (Forty-fourth Amendment) Act, 1978, s. 2 for “sub-clauses (d), (e) and (f)” (w.e.f. 20-6-1979)

operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, reasonable restrictions on the exercise of any of the rights conferred by the said sub-clauses either in the interests of the general public or for the protection of the interests of any Scheduled Tribe”

13. Hari Khemu Gawali v. Deputy Commissioner of Police (Bombay)¹⁹: The Supreme Court held that the law of externment was valid vis-a-vis Article 19(5) as the restrictions had been imposed to protect the public from dangerous and bad characters.

14. State of Uttar Pradesh v. Kaushalya²⁰: The Supreme Court held that the right of movement of prostitutes may be restricted on the grounds of public health and in the interest of public morals.

“Article 19(1)(f)²¹”

“Article 19(1)(g) – All citizens shall have the right to practise any profession, or to carry on any occupation, trade or business”

15. Excel Wear v. Union of India²²: The court emphasized that while there may be greater emphasis on nationalisation and state ownership of industries, private ownership of industries is recognised.

“Article 19(6) – Nothing in sub-clause (g) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interests of the general public, reasonable restrictions on the exercise of the right conferred by the said sub-clause, and, in particular, [nothing in the said sub-clause shall affect the operation of any existing law in so far as it relates to, or prevent the State from making any law relating to, —

(i) the professional or technical qualifications necessary for practising any profession or carrying on any occupation, trade or business, or

¹⁹ 1956 AIR 559, 1956 SCR 506

²⁰ 1964 AIR 416, 1964 SCR (4) 1002

²¹ Sub-clause (f) omitted by ibid

²² 1979 AIR 25, 1979 SCR (1) 1009, 1978 SCC (4) 224

(ii) (ii) the carrying on by the State, or by a corporation owned or controlled by the State, of any trade, business, industry or service, whether to the exclusion, complete or partial, of citizens or otherwise]²³”

16. *New Bihar Biri Leaves Co. v. State of Bihar*²⁴: It was held that the state is not required to justify its trade monopoly as “reasonable restriction” and as being in the “interest of the general public”.

17. *H.C. Narayanappa v. State of Mysore*²⁵: It was held that Article 19(6)(ii) is saving provision; its function is not to create a power, but to immunize the exercise of legislative power falling within its ambit from being attacked under Article 19(1)(g).

18. *Rajasthan State Electricity Board v. Mohan Lal*²⁶: It was held that under Art. 19(6)(ii), a state may create monopoly in its own favour but not in favour of third persons for their benefit.

²³ Subs. by the Constitution (First Amendment) Act, 1951, s. 3, for certain words (w.e.f. 18-6-1951)

²⁴ 1981 AIR 679, 1981 SCR (2) 417, 1981 SCC (1) 537, 1981 SCALE (1)1

²⁵ 1960 AIR 1073, 1960 SCR (3) 742

²⁶ 1967 AIR 1857, 1967 SCR (3) 377