

I.C. Golaknath & Ors. Vs State of Punjab

PETITIONER: I.C. GOLAKNATH & Ors.

RESPONDENT: STATE OF PUNJAB

CITATION: 1967 AIR 1643, 1967 SCR(2) 762.

BENCH: Subba Rao, K.N Wanchoo, M. Hidayatullah, J.C Shah, S.M. Sikri, R.S. Bachawat, V. Ramaswami, J.M shelat, Vihishtha Bhargava, G.K Mitter& C.A. Vaidiyalingam.

BRIEF FACTS

1. Many initiatives were being taken to bring land reforms in the states by passing land reform legislations.
2. The petitioner William Golaknath and his brother had 500 Acres of Land in Punjab .
3. Punjab Government passed Punjab Security and Land tenures Act, 1953 that was later on placed in the 9th schedule of the constitution through 17th Constitutional Amendment Act , 1964.
4. 9th Schedule deals with such Acts of Land Reforms that cannot be challenged on Grounds of violation of Fundamental Rights .

5. Petitioner was notified by the state Govt. That he can now possess only 30 Acres of Land out of his 500 Acres of property and rest was to be distributed to tenants.

6. Aggrieved by the said legislation the Petitioner filed a writ under Art.32¹ for the violation of their fundamental Rights that deals with Right to acquire and hold property, 19 (1)(f) , and Art.14 and thus challenged this amendment of the Constitution.

ISSUES BEFORE THE COURT:

1. Whether Fundamental Rights tend to be permanently amendable or not?
2. Whether Amendment comes under the definition of “law” under Art.13(2) of the constitution?

PETITIONER’S ARGUMENTS

1. The Petitioner contended that no act that tries to bring changes in the constitution is constitutional as Constitution of India was drafted by Constituent Assembly and is thus permanent.

¹ INDIA CONST, Art.32.

2. Petitioner contended that amendment is allowed only with respect to basic idea and not all together a new Idea
3. Fundamental Rights are integral part of our Constitution and cannot be taken away by an act of Parliament.
4. Art. 368 mention only the procedure for amending the constitution and do not empower the parliament to amend the Constitution.
5. Art 13 in its Definition of Law includes all types of Laws including Constitutional Amendment.

RESPONDENT'S ARGUMENTS:

1. Respondents contended that Constitutional Amendment is the result of exercise of Sovereign Power and that is different from the legislative power to make laws.
2. Most of the Amendments are the answer to Political Questions and thus are outside the ambit of Judicial Scrutiny.
3. Respondents contended that most of the amendments are as per the changing needs of the society and absence of such provisions will result into rigidity in constitution.
4. Respondents argued there is no as such hierarchy in the Constitution as to the basic and non-basic Provisions all are of equal Importance and equal status.

JUDGMENT:

The Apex Court with the largest Bench and Majority of 6:5 favouring Petitioners wrote their opinions. The Majority had scepticism and uneasiness in their minds about the then course of parliament. The Majority was doubtful that if Sajjan Singh remained law of the land, then a time could come when all the fundamental Rights adopted by our Constituent Assembly will be diluted through amendments and finally extinguished². Thus keeping this probable annihilation of FRs in mind and fearing the gradual Transfer of Democratic India into Totalitarian India majority overruled Sajjan Singh³ and Shankari Prasad⁴ judgments.

- Therefore, to check this colourable exercise of power and save democracy from autocratic actions of Parliament, the majority held that Parliament cannot amend Fundamental rights.

REASONS OF THE DECISION

1. The Supreme Court pronounced that Fundamental Rights are given transcendental position in Indian Constitution and are thus kept out of Reach of Parliament. Court said “Fundamental Rights are the primordial Rights necessary for the development of human Personality”⁵

² <http://lawtimesjournal.in>

³ 1965 AIR 845

⁴ 1951 AIR 458

⁵ <https://indiankanoon.org>

2. The Bench pronounced that even during emergency, Art.19 stands to be suspended by Art.358 while all other Fundamental Rights are available except those specifically suspended by President under Art.359 while proclaiming emergency.

3. Its Parliament's duty to enforce Directive Principles of State Policies without affecting Fundamental Rights.

4. Art.368 not a complete code for amendment procedure as such and it can't be the source of power to amend constitution. Court Ruled that Amendment either under Art.368 or under other Articles are only made by Parliament following the legislative process and are 'LAW' for the purpose of Art.13(2).⁶

5. So, Supreme Court ruled that Parliament cannot take Away or abridge any of the Fundamental Rights, which are 'sacrosanct' in nature under the Procedure mentioned in Art.368.

6. Fundamental Rights cannot be amended for the implementation of Directive Principles of State Policies.

6. Amending Power is not at all sovereign Power of the Parliament.

7. Justice Hidayatullah also supported Prospective Overruling by opining that previous decisions should not be affected by the Ratio Laid down by the present Decision.

⁶ <https://indiankanoon.org>