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# **MINERVA MILLS LTD. AND ORS. VS. UNION OF INDIA AND ORS. (1980)**

**By: Pratibha Kumari**

**Case Citation-** AIR 1980 SC 1789

**Petitioner-** Minerva Mills Ltd. and ors.

**Respondent-** Union of India and Ors.

**Date of Judgment-** 31<sup>st</sup> July, 1980

**Bench Constituted-** CJI (then) J. Y.V. Chandrachud, JJ. P.N. Bhagwati, N.L. Untawalia, A.C. Gupta, P.S. Kailasam

## **ABSTRACT-**

Constitution of India did not have specifically defined the term 'Basic Structure'. The term is to be interpreted by Indian judiciary time to time. Not violating the basic structure of Constitution definitely symbolizes the existing of democracy in a country. The idea of basic structure ensures the rights and freedom of citizens of the country. In other words, the principle of Basic structure is to preserve the ultimate goal and ethics of original Constitution. Indian judiciary has such a power to declare any legislation, either made by Parliament or State Legislature, as unconstitutional or void, if infringes the basic structure of Constitution. This doctrine idolizes the true spirit of supreme law (i.e. Constitution). Shankari Prasad case (1951), Sajjan Singh case (1965), I.C. Golaknath Case (1967), Keshavananda Bharati case (1973), Indira Gandhi (1975), Minerva Mills case (1980), Indira Sawhney case (1992), S.R. Bommai Case (1994), etc are all historic judgments in which basic structure was debatable before the Apex Court. Among the above, Keshavananda Bharati judgment set a milestone and in true sense evolved the basic structure concept. This case introduced the doctrine of Basic Structure and the doctrine was further interpreted in Minerva Mills case.

## **INTRODUCTION**

The power of Union Legislature to amend the Constitution was in question since a long time, which was finally adjudicated in the Keshavananda Bharati verdict and onwards cases. Some of

the Basic Structure as propounded by Judiciary via different case laws are- Secularism, Separation of power, Fundamental Rights, Rule of Law, Power of Judicial Review, Free and Fair elections, Limited Powers of Parliament to amend provisions of Constitution, Power of Supreme Court to hear writ petitions u/art. 32 and of High Courts u/art. 226 of Constitution, etc. The Basic structure has not defined in COI, rather, the power to decide that which provision will come under basic structure and which not is in the hands of Supreme Court.

Minerva Mills case judgment is one of the landmark judgment in the history of constitutional law. The Doctrine of Basic Structure concept was strengthened in Minerva Mills case. In the verdict of Mills case, it was laid down that Indian Constitution is founded on the bedrock of balance between Fundamental Rights and Directive principles of State Policy. Prior to Minerva Mills case, basic structure concept was laid down for the first time by 13 judges' bench in Keshavnanda Bharati case (1973). Present case of Minerva Mills was based on challenging the 42<sup>nd</sup> Amendment 1976 which was introduced by Indira Gandhi led Congress Government. Through Minerva Mills case, Supreme Court struck down the sec. 4 and 55 of Constitutional Amendment Act, 1976 (laid down during the emergency) as was violating the basic structure of Constitution.

#### **BRIEF FACTS -**

In the case, petitioner no. 1 was Minerva Mills Ltd. which was a textile company situated in Karnataka. Others co- petitioner were the shareholders of the company. On 20<sup>th</sup> August, 1970, Union Government constituted a committee, following sec. 15 of Industries Development Regulation Act, 1951, in order to make an investigation of the working or functioning of Minerva Mills, as they were of the opinion that there was a considerable drop in the production. After investigation, Committee submitted its report in January, 1971. Based on this report of committee, on 19<sup>th</sup> October, 1971, Central Government made an order authorizing National Textile Corporation Ltd to take over the control and management of Minerva Mills. The order was made under sec. 18A of IRD Act, 1951 by taking the ground that affairs of the company was not properly managed and are against interest of general public. This establishment was nationalized and controlled by Central Government, following the provisions of Sick Textile Undertakings (Nationalization) Act, 1974.

Nationalization Act, 1974 was enacted and inserted by Parliament under Entry 105 in 9<sup>th</sup> Schedule through 39<sup>th</sup> Constitutional (Amendment) Act, 1975, which was immune from any

kind of challenges. In other words, the Act of 1974 was inculcated under 9<sup>th</sup> Schedule and any Act which is made under 9<sup>th</sup> Schedule is out of the purview of court and is not liable for any kind of Judicial Review. This provision was made by Parliament through 42<sup>nd</sup> Constitutional (Amendment) Act, 1976. Moreover, sec. 4 and 55 of 42<sup>nd</sup> Constitutional Amendment Act, 1976 was also challenged in this case. Sec. 4 of Amendment Act, 1976 amended provision of Art. 31-C of Constitution, substituting the words- “the principles specified in cl. b and c of Art. 39” with “all or any of the principles laid down in DPSP”. Sec. 55 of Amendment Act of 1976 included cl. 4 and 5 in Art. 368 of Indian Constitution. The nationalizing of Mills rose dispute among the shareholders as they do not favoured the nationalization of company. Following the dispute, shareholders filed petition in High Court but the petition was rejected. Later on, the petitioners filed the writ petition before Supreme Court under Art. 32 of Constitution.

### **ISSUES RAISED-**

Before the apex court, following challenges were raised-

- Constitutional validity of sec. 4 and 55 of 42<sup>nd</sup> Amendment Act, 1976.
- Order issued by central government dated 19<sup>th</sup> October, 1971 regarding nationalization of Minerva Mills by National Textile Corporation Ltd.
- Priority given to Directive Principles of State Policy over Fundamental Rights

### **ARGUMENTS GIVEN BY PETITIONER -**

- Parliament has the limited power to make amendments in Constitution of India and intrinsic restrictions are imposed within the Constitution itself to restrict the extent of amendments under Art. 368.
- Parliament had the authority to make amendments in Constitution under Art. 368 but should keep in mind that such amendment should not violate the basic structure of Constitution.
- Parliament cannot override the Fundamental Rules in order to achieve the goals set up in Directive Principles of State Policy. Although state is obliged to focus on DPSPs while formulating laws, but it should be done only with the available means.
- Sec. 55 of 42<sup>nd</sup> Amendment Act of 1976, restricts the aggrieved party from seeking legal remedy which ultimately violates the basic feature of democracy.
- Maintenance of harmonious balance between Fundamental Rights and Directive Principles under Part III and Part IV is necessary to secure justice to everyone and in

contrast to it, will lead to great disorder if any of these Part is put at submissive level to that of another.

- The true essence of democracy would be finished if potency of any institution would be made rigid by Constitution. To secure the democratic features, it is necessary to maintain checks and balance between the three pillars (or institutions) of country.
- There is no need to violate Fundamental Rights for achieving the Directive Principles.

#### **ARGUMENTS GIVEN BY RESPONDENT –**

- In order to achieve the goals mentioned in Directive Principles, if state does an unintentional injury to Fundamental Rights, then it is not covered under violation of Basic Structure.
- Directive Principles of State policy plays an important part in administration of country, thus, performing obligations mentioned in the Part IV does not violated any Basic Structure of Constitution. Hence, if, while fulfilling the obligations given under DPSPs does a slight harm to the Fundamental Rights, it cannot be said to be unconstitutional.
- Court should not intervene in such matters as conflict between hierarchies is a problem of academic interest.
- Parliament tries their level best to implement legislations in order to attain the goals mentioned in part IV of Constitution and is thus a supreme legislation making body. Hence, there should not be any intrinsic or implicit restrictions on power of Parliament to amend under Art. 368.

#### **JUDGMENT-**

The judgment in Minerva Mills case was pronounced by Constitutional (5 Judge) Bench headed by the then Chief Justice of India Y. V. Chandrachud and consists of J.J. A. C. Gupta, N. L. Untawalia, P. S. Kaliasam and P.N. Bhagwati. The judgment was given by majority of 4:1 ratio. All the judges except J. Bhagwati were in favour that sec. 4 and 55 of Constitutional Amendment Act, 1976 was unconstitutional and hence must be declared as void for being violating the basic structure of Constitution (as laid down in Keshavananda Bharati case). Bhagwati J. was in favour to declare sec. 55 of Amendment Act as unconstitutional as it give unnecessary power to Parliament to amend laws and absolute immunity to laws made by

Parliament from any kind of judicial review but given dissenting opinion (i.e. against majority) in striking down sec. 4 of Amendment Act, 1976. Sec. 4 of Amendment Act, 1976 provided immunity to any laws made under Art. 31 C not to be challenged on the ground that it violated Art. 14 (Right to Equality) and Art. 19 (Right to Freedom) of Constitution. This clearly symbolizing that DPSP was given superiority status to Fundamental Rights.

Further on, the Apex court unanimously upheld that cl. (4) and (5) of Art. 368 inserted through sec. 55 of Amendment Act as unconstitutional because these two clauses authorizes Parliament with undefined power to modify the constitution and judicial review is not allowed, which could endanger the true spirit of Constitution of India. Both the clauses 4 and 5 are inter- connected with each other. It therefore deprives the third pillar of democracy (i.e. judiciary) from performing its obligation. Court opined that judiciary is the protector of citizens' rights and if the protector is not giving such authority then how people rights could remain protected. Then the country will be controlled by arbitrary legislature and make such rules which will either be out of their jurisdiction or violating Part III of Constitutions and fundamental rights will have no meaning.

### **RATIO DECENDI**

The highest court opined that cl. (4) and (5) inserted in Art. 368 of Constitution of India restrict or limits down the power of court to hear any question or challenge rose against Constitutional Amendment. It prohibits the judiciary not to review any amendment made by Parliament under Art. 368 of Constitution. Apex Court in majority of all 5 judges upheld that sec. 55 of Amendment Act of 1976 as void on the basis that firstly it made difficult for any court to review the legislation made and secondly it gives absolute power to Parliament (under Art. 368) to amend any part of Constitution. Court rightly said that Amendment done by Union Legislature under Art. 368 should pass the Doctrine of Basic Structure test.

The Court unanimously also recognized and explained the importance of maintaining the balance between Fundamental Rights and Directive Principles of State Policy for smooth and good governance. Court opined that entire structure of Constitution largely had its base in Part III (Fundamental Rights) and Part IV (Directive Principles). Maintenance of harmonious relationship between both Part III and IV will secure the justice and putting one part submissive to another will create great mess. It is good that government makes effort to achieve the goals laid down in Part IV but achieving such goals by infringing Fundamental Rights is worst. This

will ultimately shake the foundation of our Constitution. Henceforth, court, strictly pronounced that harmonious balance between Part III and IV is a basic structure and is necessary for maintaining the very spirit of democracy in our country.

Although, Bhagwati J. was not in favour of striking down sec. 4 of Amendment Act of 1976 as he has a separate view that any law made under Art. 31 C should not be at first declare to be void but firstly should check the nexus between the law and DPSPs and if no nexus is found between the two then, the law made could be declared as invalid. He is of opinion that court should follow Doctrine of Pith and Substance and should look into the pith of the law.

### **OBITER DICTA-**

**J. Bhagwati** dissented with the majority view of declaring that sec. 4 of 42<sup>nd</sup> Amendment Act, 1976 as unconstitutional. He while, expressing his views said that if Fundamental Rights provided under Art. 14 and 19 could be kept out and this could be legally made for giving effect to Directive Principles of State Policy mentioned under clauses (b) and (c) of Art. 39 of Indian Constitution without destroying the true essence of Basic Structure, then why these rights which are given under Part III and are called as Fundamental Rights be excluded in order to give effect to DPSPs, for the betterment of our society.

He further perceived that he is having difficulty in apprehending that how the basic structure of Constitution be affected, if a **Modus Vivendi** (*an agreement permitting parties in dispute to co-exist in peace, either permanently or until the dispute finally gets adjudicated*) is evolved for resolving a feasible outlying dispute between the two major parts of Constitution having equal importance. Parliament can decide, by amending Art. 31 C, in regards to conflict, DPSP can prevail over Fundamental mandate under Art. 14 and 19 of Constitution.

<sup>1</sup>He stated- “As regards the explanation of sec. 4 of Amendment Act, 1976 is concerned and further interpretation of Amendment by Art. 31 C, it does not damage the true essence of Basic Structure of Constitution and is intra- vires to the powers of Parliament. Thus, from my point of view, I declare Art. 31 C of Constitution is valid.” Justice Bhagwati’s approach is clearly indicating concern towards socio- economic justice to all.

### **Analysis of Case-**

In the history of Doctrine of Basic Structure, Minerva Mills case had an important status. Through this case, basic structure doctrine could have a wider interpretation. The 5 judges’

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<sup>1</sup> <https://shodhganga.inflibnet.ac.in/>

bench having majority of 4:1 struck down sec. 4 and 55 of 42<sup>nd</sup> Constitutional Amendment Act, 1976 and need for maintaining the harmonious balance between two roots of Constitution i.e. Fundamental Rights (under Part III) and Directive Principles of State Policy (under Part IV). The constitutional bench was right in declaring sec. 4 and 55 of 42<sup>nd</sup> Amendment Act 1976 as unconstitutional because these two sections were conferring unlimited powers over law making body at union level. It is definitely violating one of the basic structures i.e. doctrine of check and balance. Indian Constitution being democratic in nature prevents any kind of dictatorship to exist in country but unfortunately sec. 55 of Act, 1976 (by inserting provision that no judicial review could be done of any law amended under Art. 368 of Constitution) clearly gives absolute power to Union Legislature to amend laws in any way and court cannot intervene in such amendments made.

Mainly Indira Gandhi government brought the 42<sup>nd</sup> Amendment Act, 1976 in order to struck down the verdict given by Apex Court in **Indira Gandhi vs. Raj Narain** case and to enhance the amending power of Parliament by immunizing the amended laws made by Parliament as out of purview of Judicial Review. The Indira Government made something practical which can't be visualized in a democratic country like India. Sec. 4 and 55 of Act of 1976 gave unlimited power to Parliament to amend the whole Constitution (in a way), without having any check over it by watchdog of Constitution. There was an immediate need to strike down sec. 4 and 55 of 42<sup>nd</sup> Amendment Act, 1976 as if it could not be done, then possibility could be there that Parliament could make such amendments which would feed their political greed and cover up their black works.

Through 42<sup>nd</sup> Amendment Act and specially sec. 4 and 55, the Parliament could change the whole structure of Constitution and could turn the democratic country into an authoritarian rule. The whole Constitution is laid down on its basic structure and if any power is given to make such legislations which could destroy the basic structure (i.e. Art. 14 and 19), then the Constitution will have no meaning. Constitution of India is the supreme law of our country and it is very important to have a wider interpretation of its basic structure which is the base on which Constitution is standing. In a tussle between which is the superior, Fundamental Rights or DPSPs, I don't agree with the contentions laid down by government i.e. in order to achieve the goals prescribed in the Directive Principles, if a harm which is not intended, caused to Fundamental Rights, it will not violate basic structure.

The reason behind my disagreement is that Fundamental Rights is itself declared as a Basic structure (in several case laws) and no law or amendments can be made violating it, then further no question should be raised that whether the harm would be of intentional or unintentional type. Amendment made under Art. 368 (4) and (5) of Constitution, should definitely be made liable for judicial review to keep a **check and balance** of powers between the two most important pillar of democracy (i.e. Legislature and Judiciary). Adding to this, taking away the power of judicial review is like taking away the citizen's right to seek constitutional remedy which is the heart and soul of Constitution.

The court had similarly rejected the contentions laid down by Respondent. Further, if we move on to the next issue i.e. maintaining the balance between FRs and DPSPs, I agree with court's verdict in maintaining the sanctity of relationship between these two. Giving superiority to anyone is definitely not good in order to maintain welfare state.

Although, J. Bhagwati's opinion (in upholding the validity of sec. 4 of 42<sup>nd</sup> Amendment Act, 1976) is mainly had a concern over socio- economic justice to all. But, if see wider perspective, then, formulating laws by infringing FRs, to achieve DPSPs is not favouring the maintenance of a balance between them. This would results in irreparable damage to the very spirit of Constitution. Thus, the verdict laid down by 5 constitutional bench (with 4:1 majority) is truly historic and a milestone in striking down sec. 4 and sec. 55 of 42<sup>nd</sup> Constitutional Amendment Act, 1976.

### **CONCLUSION-**

The Minerva Mills case verdict is another epic judgment where the nation's highest court further interpreted the doctrine of Basic Structure which was laid down in prior case of Keshavananda Bharati (1973). The bench finally struck down the 42<sup>nd</sup> Amendment Act, 1976 (sec. 4 and 55) and restricted the absolute power of Parliament which was given by the aforesaid mentioned Amendment Act of 1976 and preserved the Judicial Review of courts. Parliament had been trying hard to prove its supremacy over other pillars of Constitution since Golaknath case. Basically to restrict the judgment in Keshavananda Bharti case, Indira Government brought the 42<sup>nd</sup> Amendment Act in 1976 to provide Parliament power to amend the constitution which was outside the purview of Judicial Review and cannot be challenged even if violating Art. 14 and 19 of COI.

This drastic law was challenged by Minerva Mills praying to court to declare it as

unconstitutional. However, J. Bhagwati was not in favour of declaring sec. 4 of 42<sup>nd</sup> Amendment Act as unconstitutional. The court further elucidated to maintain the harmonious relation between Part III and IV of Constitution and it is necessary not to violate the FRs in order to achieve goals given under DPSPs. Anything which destroys the nexus between FRs and DPSPs will be considered as violation of Basic Structure of Constitution.

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