



FACULTY OF JURIDICAL SCIENCES

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Lecture-10



LECTURE 10: Role of Supreme Court

Role of Supreme Court

In one of the earliest judgments, pre-censorship of the press was held to be unconstitutional in **Ramesh Thapar vs. State of Madras**, [(1950) S.C.R. 594] and **Brij Bhushan vs. State of Delhi**, [(1950) S.C.R. 605]. Similarly, there has been lot of differences of opinions regarding indecency and immorality as to what constitutes indecent literature or other expressions through media. Similarly, the law of sedition under section 124A of the I.P.C. was also subjected to dispute in **Kedarnath vs. State of Bihar**, [A.I.R. 1962, S.C. 955] when Supreme Court held the validity of this provision. Under the Freedom of Speech and Expression, there is no separate guarantee of freedom of the press and the same is included in the freedom of expression, which is conferred on all citizens in **Virender vs. State of Punjab** [A.I.R. 1958, SC. 986] and **Sakal Papers vs. Union of India** [A.I.R. 1962 S.C. 305]. It has also been by this judgment that freedom of the press under the Indian Constitution is not higher than the freedom of an ordinary citizen. It is subjected to same limitation as are provided by Article 19(2). It has been held by the Court in the above cases that press is not immune from paying taxes, from following labor laws, regulating services of the employees, law of contempt of the Court, law of defamation. It has been held by the Supreme Court that right of speech and expression includes right to acquire and import ideas and information about the matters of common interests in the case of **Hamdard Dawakhana vs. Union of India** [(1960) 2 S.C.R. 671] and to answer any criticism leveled against one's views through any media [**LIC vs. Union of India**] [A.I.R. 1993 S.C. 171]. This freedom also includes right to impart and receive information through telecasting [**Ministry of Information vs. Cricket Association**] [(1995) 2 S.C.C. 161]. It also includes publication of advertisement and commercial speech [**Tata Press vs. MTNL**] [(1995) 5 S.C.C. 139]. It also covers right to hold telephonic conversation in privacy [**PUCL vs. Union of India**] [(1997) 1 S.C.C. 301]. It is thus quite clear that right to acquire and get information is a fundamental right under the Indian Constitution. In a recent case of **Vineet Narain vs. Union of India** [(1998) 1 ACC 226], the Supreme Court held that considering the wide spread illiteracy of the voters and at the same time there over-all culture and character they need to be well informed about the candidate contesting election as M.P. or MLA so that they are in a position to decide independently to cast their votes in favour of more efficient candidates. The right to get information in a democracy is recognized in all the

countries.

In one of the early decision in the case of **State of UP vs. Raj Narain and Others**[(1975) 4 SCC 428], the Supreme Court of India considered a question whether privilege can be claimed by Government of UP under section 123 of Evidence Act in respect of Blue Book summoned from the Government of UP and certain documents summoned from SP, Police, Raibareilly, UP. The court observed that "In a government of responsibility like ours, where all the agents of the public must be responsible for their conduct, there can be but few secrets. The people of this country have a right to know every public act, everything that is done in a public way, by their public functionaries. They are entitled to know the particulars of every public transaction in all its bearing." In another recent case of **Dinesh Trivedi, M.P. and Others vs. Union of India and Others**[(1997) 4 SCC 306], the Court dealt with citizen's rights to freedom of information and observed as under: - In modern constitutional democracies, it is axiomatic that citizens have a right to know about the affairs of the government which, having been elected by them, seek to formulate sound policies of governance aimed at their welfare. Democracy expects openness and openness is concomitant of a free society and the sunlight is a best disinfectant."

In keeping with its affirmation that freedom of expression is one of the essential foundations of a [democratic] society", the Court has clearly shown a preference for freedom of press. In conclusion, it must be reiterated that the freedom of press and information are fundamental to healthy working of a democracy and therefore, must coexist with the freedom of speech and expression. At the time when the whole world is waking up to the need of the hour India must also rise and join the race of freedom and liberalization. However, as no freedom is absolute, India must put restrictions on these freedoms and must apply contemporary standards rather than international standards in determining the limits. But she must keep in mind that such limits must not be disproportionate with the compelling need. Possibilities for fair comment must be made available by the state and an atmosphere must be created in which neither the informant nor the information seeker has any fear or timidity. Political debates and sharing of ideas must be encouraged because they ensure a healthy government and in turn a healthy society. In the times when India has opened up to the world, it is the right time that she must also re-draft and incorporate provisions in its law to the changing needs - the need to enlarge its fundamental rights. Information does not stop at state borders anymore and therefore, conducive environment

for free flow of information and ideas must be built. India should become well equipped to meet every challenge thrown to her in the world of technology and freedoms.

SELF-TEST QUESTIONS

S.NO	Question	Option (a)	Option (b)	Option (c)	Option (d)
1	In one of the earliest judgments, pre-censorship of the press was held to be unconstitutional	Ramesh Thapar vs. State of Madras	Kedarnath vs. State of Bihar	Virender vs. State of Punjab	Hamdard Dawakhana vs. Union of India
2	The law of sedition under section 124A of the I.P.C. was also subjected to dispute	Kedarnath vs. State of Bihar	Ramesh Thapar vs. State of Madras	Hamdard Dawakhana vs. Union of India	Virender vs. State of Punjab
3	Under the Freedom of Speech and Expression, there is no separate guarantee of freedom of the press and the same is included in the freedom of expression, which is conferred on all citizens	Virender vs. State of Punjab	Kedarnath vs. State of Bihar	Ramesh Thapar vs. State of Madras	Hamdard Dawakhana vs. Union of India
4	freedom of the press under the Indian Constitution is not higher than the freedom of an ordinary citizen.	Sakal Papers vs. Union of India	Virender vs. State of Punjab	Hamdard Dawakhana vs. Union of India	Kedarnath vs. State of Bihar
5	It has been held by the Supreme Court that right of speech and expression includes right to acquire and import ideas and information about the matters of common interests	Hamdard Dawakhan a vs. Union of India	Ramesh Thapar vs. State of Madras	Kedarnath vs. State of Bihar	Virender vs. State of Punjab

Answers: 1-(a),2-(a), 3-(a),4-(a),5-(a)