



# Lecture- 09



### **What is meant by the Freedom of Press?**

Freedom of the Press is not mentioned anywhere in the Constitution of India. However, it is present as a right under the meaning of freedom of speech and expression (not directly expressed though) as laid down under Article 19 of the Constitution. If by democracy it is meant that the Government is of the people of the nation, it is by the people and it is for the people, then every citizen must be entitled to participate actively in the democratic process of the nation. Free debates and open discussions about certain matters are not possible unless there is a free and independent press.

The freedom of the press includes one of the pillars of democracy and indeed lies at the foundation of democratic organization. It has been held so by the Supreme Court of India in many decisions that the freedom of the press is a part of the Freedom of Speech and Expression and covered under Article 19(1)(a) of the Constitution of India, the reason for this is that the freedom of the press is nothing but an aspect of freedom of speech and expression. Therefore, it has been rightly explained that although the Press is considered to be a medium for reaching the people's views to the everyone and yet it has to stick to the limitations which are imposed upon them by the Constitution under Article 19(2).

### **Case: Indian Express Newspapers (Bombay) Private Ltd. v. Union of India**

In this case it was established after observing that the term "freedom of press" is not used under Article 19 in its language but it is contained in the form of its essence within Article 19(1)(a) of the Constitution of India, and hence, there can not be any interference with the freedom of press which involves the public interest and security. Therefore, it was concluded that the imposition of censorship of a journal or prohibiting a newspaper from publishing their own views about any issue which involves public interest would amount to a restriction on the press' liberty.

### **The main elements of right to freedom of speech and expression are as under:**

This right is available only to a citizen of India and not to foreign nationals.

The freedom of speech under Article 19(1) (a) includes the right to express one's views and opinions at any issue through any medium, e.g. by words of mouth, writing, printing, picture, film, movie etc.

This right is, however, not absolute and it allows Government to frame laws to impose reasonable restrictions in the interest of sovereignty and integrity of India, security of the state, friendly relations with foreign states, public order, decency and morality and contempt of court, defamation and incitement to an offence.

This restriction on the freedom of speech of any citizen may be imposed as much by an action of the State as by its inaction. Thus, failure on the part of the State to guarantee to all its citizens the fundamental right to freedom of speech and expression would also constitute a violation of Article 19(1)(a).

### **Decided Cases Which Explained Freedom of Speech And Expression**

Over the years, judicial creativity, judicial wisdom and judicial craftsmanship have widened the scope of freedom of speech & expression by including in it the following aspects:

#### **Freedom of Press:**

Democracy can thrive through vigilant eye of Legislature but also care and guidance of public opinion and press par excellence. Freedom of speech include right to propagate one's views through print media or any other communication channel e.g radio, television subject to reasonable restrictions imposed under Article 19(2). Romesh Thappar v. State of Madras(1950 SCR 594, 607; AIR 1950 SC 124),was amongst the earliest cases to be decided by the Supreme Court declaring freedom of press as a part of freedom of speech and expression.

#### **Patanjali Sastri, J., rightly observed that:**

"Freedom of Speech and of Press lay at the foundation of all democratic organizations, for without free political discussion, no public education, so essential for the proper functioning of the process of Government, is possible'.

In the case of **Indian Express v. Union of India**,(1985) 1 SCC 641, it has been held that the Press plays a very significant role in the democratic machinery. The courts have duty to uphold the freedom of press and invalidate all laws and administrative actions that abridge that freedom.

Freedom of Press includes freedom of publication, freedom of circulation and freedom against pre-censorship.

In **Sakal Papers Ltd. v. Union of India**,[AIR 1962 SC 305] the Daily Newspapers (Price and Page) Order, 1960, which fixed the number of pages and size which a newspaper could publish at a price and in **Bennett Coleman and Co. v. Union of India**, [AIR 1973 SC 106; (1972) 2 SCC 788], the validity of the Newsprint Control Order, which fixed the maximum number of pages, was struck down by the Supreme Court of India holding it to be violative of provision of Article 19(1)(a) and not to be reasonable restriction under Article 19(2). The Court struck down the Government's stand that it would help small newspapers to grow."

In the case of **Brij Bhushan v. State of Delhi**(AIR 1950 SC 129), the validity of order imposing pre-censorship on an English Weekly of Delhi, which directed the editor and publisher of a newspaper to submit for scrutiny, in duplicate, before the publication, all communal matters, all the matters and news and views about Pakistan, including photographs, and cartoons, on the ground that it was a restriction on the liberty of the press, was struck down by court.