

## Kesavananda Bharati Case - Important SC Judgements for UPSC

Many Supreme Court judgements have changed the face of Indian polity and law. These landmark SC judgements are very important segments of the [UPSC syllabus](#). In this series, we bring to you important SC judgments explained and dissected, for the benefit of IAS aspirants. In this article, you can read all about the Kesavananda Bharati case. Get a list of [landmark SC judgements for the UPSC exam](#) in the linked article.

### Kesavananda Bharati Case

#### *Case Summary - Kesavananda Bharati & Others (Petitioners) V State of Kerala (Respondents)*

Kesavananda Bharati & others Versus State of Kerala is certainly one of the leading cases in the constitutional history of India if not the most important judgement of post-independent India and is popularly known as the Fundamental Rights case. The majority judgement in the case was pronounced by S.M.Sikri C. J., Hegde J, Mukherjea J, Shehlat J, Grover J, Jaganmohan Reddy J, Khanna J, and was dissented by *Ray J, Palekar J, Mathew J, Beg J, Dwivedi J and Chandrachud J*. It is rightly said that the judgement in the instant case brought an end to the conflict between the executive and the judiciary and proved to be a saviour of the democratic system and set up in the country. The resultant judgement in the case was a hard-fought legal battle between the two constitutional stalwarts and legal luminaries namely N.A. Palkhivala (who represented Petitioners) and H.M. Seervai (who represented the State of Kerala). The hearing in the case took place for sixty-eight long days and finally, a voluminous 703-page judgement was pronounced on 24<sup>th</sup> April 1973.

#### **Brief Facts**

Kesavananda Bharati was the chief pontiff of the Edneer Mutt, a monastic religious institution located in Kasaragod district, Kerala. Bharati had some land in the Mutt which he owned. The Kerala state government passed the Land Reforms Amendment Act in 1969. As per this Act, the government could acquire some of the lands that belonged to the Mutt. In March 1970, Bharati moved the Supreme Court (under Section 32 of the Constitution) to enforce the rights that were guaranteed to him under:

1. Article 25: Right to practice & propagate religion
2. Article 26: Right to manage religious affairs
3. Article 14: Right to equality
4. Article 19(1)(f): Freedom to acquire property
5. Article 31: Compulsory acquisition of property

Also read: [Right to Freedom of Religion \(Articles 25 - 28\)](#)

The Kerala state government enacted another law, the Kerala Land Reforms (Amendment) Act, 1971 even as the petition was under the court's consideration.

The contentions made by the petitioners brought to the fore the validity of various amendments that were brought in by the Parliament to nullify the effects of *Golaknath v State of Punjab*. The petitioners challenged, in particular, three constitutional amendments - 24<sup>th</sup> Amendment, 25<sup>th</sup> Amendment and 29<sup>th</sup> Amendment and their validity.

#### **Issues before the Court**

- Whether the following are constitutionally valid?

- 24<sup>th</sup> Constitutional (Amendment) Act, 1971
- 25<sup>th</sup> Constitutional (Amendment) Act, 1972
- The extent to which the Parliament can exercise its power to amend the Constitution.

#### ***Contentions of the petitioners:***

- Petitioners contended that the Parliament can't amend the Constitution in a manner they want as their power to do this is limited. The Parliament cannot make an amendment to the Constitution to change its basic structure as was set forth by Justice Mudholkar in the *Sajjan Singh v State of Rajasthan* case.
- They argued that the 24<sup>th</sup> & 25<sup>th</sup> Constitutional Amendments were violative of the [Fundamental Right](#) provided in Article 19(1)(f).

#### ***Contentions of the respondents:***

- The State said that the Parliament's supremacy is the Indian legal system's basic structure and hence, it has boundless power to amend the Constitution. The respondents stressed that in order to fulfil its socio-economic obligations the unlimited power of the Parliament to amend the Constitution must be upheld.

## **Kesavananda Bharati Case Judgement**

- The landmark judgement was delivered on 24<sup>th</sup> April 1973 by a razor-thin majority of 7:6 wherein the majority held that any provision of the Indian Constitution can be amended by the Parliament in order to fulfil its socio-economic obligations that were guaranteed to the citizens as given in the Preamble, provided that such amendment did not change the Constitution's basic structure. The minority, however, in their dissenting opinion, were wary of giving the Parliament unlimited amending power.
- The court held that the 24<sup>th</sup> Constitutional Amendment was entirely valid. But it found the first part of the 25<sup>th</sup> Constitutional Amendment to be *intra vires* and the second part of the same *ultra vires*.

### **Doctrine of Basic Structure**

The [basic structure doctrine](#) states that the Parliament has limitless power to amend the Constitution subject to the condition that such amendments should not change the Constitution's basic structure. The bench did not mention the basic structure of the Constitution and it was left to the interpretation of the courts. This was subsequently laid down in several other judgements by the SC.

The court contended that the term 'amend' mentioned in Article 368 doesn't imply amendments that can alter the Constitution's basic structure. If the Parliament intends to make an amendment with respect to a constitutional provision, such an amendment would necessarily have to undergo the 'basic structure' test.

### **Conclusion**

The case of *Kesavananda Bharati v State of Kerala* as mentioned supra had been heard for 68 days, the arguments commencing on October 31, 1972, and ending on March 23, 1973. The hard work and scholarship that had gone into the preparation of this case were breathtaking. Literally hundreds of cases had been cited and the then Attorney-General had made a comparative chart analysing the provisions of the constitutions of 71 different countries.

The majority of the bench wished to safeguard the Constitution by preserving its basic features. The judgment was based on sound reasoning and it was given after a careful analysis of multifarious aspects. The bench opined that if the Parliament were to get unfettered power to amend, there were chances of that power to be misused, and that governments would change it as per their own preferences and whims. Such limitless powers

vested in the hands of the government would mean that the basic features and also the very essence and spirit of the Indian Constitution could be changed. There was a need for a doctrine which could protect the rights of both the Indian Parliament and Indian citizens; the bench met this need halfway and came up with the basic structure doctrine, that protects the rights of both camps. It is to be noted that while in the US, only 27 amendments have been made, India has seen over one hundred amendments since independence. Despite this big number, the spirit of the Constitution and also the ideas of the Constitution-makers have not been tampered with. It is because of the bench's decision that the identity and spirit of the Constitution have not been lost. This landmark case has given our Constitution stability. Even though the petitioner lost this case partially, the SC ruling in the Kesavananda Bharati case turned out to be a saviour for Indian democracy, and also prevented the Constitution from losing its spirit.