

Parliament is by law and not its vice versa.

[CASE BRIEF] Indira Nehru Gandhi vs Shri Raj Narain & Anr.

Case name	Indira Nehru Gandhi vs Shri Raj Narain & Anr.
Case number	Civil Appeal No. 887 of 1975
Court	The Supreme Court of India
Bench	Justices A.N. Ray (CJ), H.R. Khanna, K.K. Mathew, M.H. Beg, Y.V. Chandrachud.
Decided on	7 November, 1975
Relevant Act/Sections	Representation of Peoples Act, 1951, 39th Constitutional (Amendment) Act, Article 14 and 368 of the Constitution of India, Representation of People's (Amendment) Act, 1974 & Election Laws (Amendment) Act, 1975.

➤ **Brief Facts and Procedural History:-**

Raj Narain was the political contender against Indira Gandhi for Rae Bareilly Constituency in 1971 Lok Sabha General Elections. Mrs. Gandhi won the election & congress won the house with sweeping majority. However, after the results of the polls, Raj Narain filed a petition before High Court of Allahabad contending that Indira Gandhi has performed Election malpractices.

On **12 June 1975**, The High Court of Allahabad speaking under Justice Jagmohanlal Sinha found Indira Gandhi guilty of misusing government machinery u/s-123(7) of Representative of Peoples Act, 1951. Therefore, the court held that Indira Gandhi cannot continue as the Prime Minister of the nation, further, she cannot contest elections for another six years. Aggrieved by this decision Indira Gandhi went to appeal this ruling of Allahabad High court in Supreme Court. However, SC being in vacation at that point of time granted a conditional stay on execution on **24 June 1975**.

Thereafter, a state of emergency was declared by the then President Fakhrudeen Ali Ahmad citing internal disturbance but the real reason that led to the emergency was the High court judgment in **Raj Narain v. Uttar Pradesh 1975 SCR (3) 333**.

The Supreme Court while granting conditional stay ordered the parties to appear before it on **11 August 1975** however on **10 August 1975** the President of emergency-stricken India passed 39th Constitutional (Amendment) Act, 1971 by inserting Article 329-A to altogether bar the jurisdiction of Supreme Court from entertaining the matter. This amendment made the elections of President, Prime Minister, Vice-President and the Speaker of Lok Sabha unjustifiable in the courts of law.

Therefore, this 39th Amendment was challenged in the Supreme Court in the present matter.

➤ **Issue before the Court:**

1. Whether or not Clause 4 of Article 329 A of the Constitution of India, was constitutionally valid.
2. Whether or not, Representation of the People (Amendment) Act, 1974 and the Election Laws (Amendment) Act, 1975, was constitutionally valid.
3. Whether or not, the election of Indira Gandhi was void.

➤ **Ratio of the Court:**

1. The Honourable Supreme Court applied the basic structure doctrine laid down in the **Keshavananda Bharati v. State of Kerala (1973) 4 SCC 225** . It stated that Clause (4) of Article 329A is liable to be struck down on the ground that it violates the principle of free and fair elections which is a part of the basic structure of the Constitution. It abolishes the forum without providing for another forum for going into the dispute relating to the validity of the election of the appellant and further prescribes that the said dispute shall not be governed by any election law and that the validity of the said election shall be absolute and not consequently be liable to be assailed, and it extinguishes both the right and the remedy to challenge the validity of the aforesaid election. As per Article 329 (b) election disputes are to be presented to such an authority as the legislature may by law provide. The nature of the dispute raised in an election petition is such that it can only be resolved by a judicial process. The said amendment was also violative of the principle of Separation of Powers as it intently transferred a pure judicial function into the hands of legislature. Further, the amendment is also violative of Article 14 as it creates an unequal position for specific members against others.
2. The court also observed that the constitutional validity of a statute depends entirely on the existence of the legislative power, and apart from the limitation laid down in Article 13 there is no other prohibition on the Legislature. According to Article 368 it is within the powers of

Parliament to frame laws with regard to elections. Parliament has power to enumerate and define election expenses. Parliament has power to lay down limits on election expenses. Parliament has power to state whether certain expenses can be included or may be excluded from election expenses. Parliament has power to adopt conclusive proof with regard to matters of appointment, resignation or termination of service. Parliament has power to state what can be considered to be office of profit. Parliament has power to state as to what will and what will not constitute corrupt practice. Parliament has power to enact what will be the ground for disqualification. Parliament has power to define "candidate." These are all legislative policies, and legislative policies do not come under basic structure . Although, court proved that Parliament is by law and not its vice versa. Parliament's recent course to establish its supremacy and the attempt to make itself above the constitution was ruined by the Judiciary. The court upheld the essence of democracy i.e. Free & Fair elections.

3. Furthermore, The Supreme Court held that the word "candidate" in Section 123(7) of The People's Representative (Amendment) Act, 1975, was defined as a person who filed the nomination papers. It was then held that Indira Gandhi filed her nomination papers on 1-2- 1971 and therefore any help that she took from Government officers before that date could not be held to be a corrupt practice . The Court also held that Yashpal Kapoor had given his resignation letter to the President on 13-1-1971, which was accepted by the President on 25-1-1971, and Raj Narain's allegation that Kapoor had made several speeches during 7-1-1971 to 25-1-1971 supporting Indira Gandhi's candidature, lacked any evidence to support that he made those speeches with the approval or on the request of Indira Gandhi. As per Section 77 of The People's Representative Act, 1951, In addition, Expenditure incurred by a political party in connection with the election of the candidates of the party is not a part of the election expenses of the candidate henceforth, it could not be said that she exceeded the limit of authorized expenditure during election campaigning.

➤ **Decision Held:**

1. The five judge bench of the Supreme Court gave its orders regarding the above mentioned issues, in accordance with the reasons mentioned above –
 - i. *It was held that clause '4' and '5' of Article 329 A was unconstitutional as being violative of the basic structure of the Indian Constitution.*

- ii. *Representation of People's (Amendment) Act, 1974 & Election Laws (Amendment) Act, 1975 were considered to be legal, perfectly constitutional and free from all infirmities.*
- iii. *Election of Indira Gandhi, from her constituency Rae Bareilly, was considered to be valid.*

2. The Supreme Court set aside the judgement given by the Allahabad High Court, it removed all corruption charges levied against Indira Gandhi and acquitted her, thereby making her election valid.

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