

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS



Open Access, Refereed Journal Multi-Disciplinary
Peer Reviewed

www.ijlra.com

DISCLAIMER

No part of this publication may be reproduced or copied in any form by any means without prior written permission of Managing Editor of IJLRA. The views expressed in this publication are purely personal opinions of the authors and do not reflect the views of the Editorial Team of IJLRA.

Though every effort has been made to ensure that the information in Volume II Issue 7 is accurate and appropriately cited/referenced, neither the Editorial Board nor IJLRA shall be held liable or responsible in any manner whatsoever for any consequences for any action taken by anyone on the basis of information in the Journal.

Copyright © International Journal for Legal Research & Analysis

EDITORIALTEAM

EDITORS

Dr. Samrat Datta

Dr. Samrat Datta Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Samrat Datta is currently associated with Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Datta has completed his graduation i.e., B.A.LL.B. from Law College Dehradun, Hemvati Nandan Bahuguna Garhwal University, Srinagar, Uttarakhand. He is an alumnus of KIIT University, Bhubaneswar where he pursued his post-graduation (LL.M.) in Criminal Law and subsequently completed his Ph.D. in Police Law and Information Technology from the Pacific Academy of Higher Education and Research University, Udaipur in 2020. His area of interest and research is Criminal and Police Law. Dr. Datta has a teaching experience of 7 years in various law schools across North India and has held administrative positions like Academic Coordinator, Centre Superintendent for Examinations, Deputy Controller of Examinations, Member of the Proctorial Board



Dr. Namita Jain

Head & Associate Professor

School of Law, JECRC University, Jaipur Ph.D. (Commercial Law) LL.M., UGC -NET Post Graduation Diploma in Taxation law and Practice, Bachelor of Commerce.

Teaching Experience: 12 years, AWARDS AND RECOGNITION of Dr. Namita Jain are - ICF Global Excellence Award 2020 in the category of educationalist by I Can Foundation, India. India Women Empowerment Award in the category of "Emerging Excellence in Academics by Prime Time & Utkrisht Bharat Foundation, New Delhi. (2020). Conferred in FL Book of Top 21 Record Holders in the category of education by Fashion Lifestyle Magazine, New Delhi. (2020). Certificate of Appreciation for organizing and managing the Professional Development Training Program on IPR in Collaboration with Trade Innovations Services, Jaipur on March 14th, 2019



Mrs.S.Kalpana

Assistant professor of Law

Mrs.S.Kalpana, presently Assistant professor of Law, VelTech Rangarajan Dr.Sagunthala R & D Institute of Science and Technology, Avadi. Formerly Assistant professor of Law, Vels University in the year 2019 to 2020, Worked as Guest Faculty, Chennai Dr.Ambedkar Law College, Pudupakkam. Published one book. Published 8Articles in various reputed Law Journals. Conducted 1Moot court competition and participated in nearly 80 National and International seminars and webinars conducted on various subjects of Law. Did ML in Criminal Law and Criminal Justice Administration. 10 paper presentations in various National and International seminars. Attended more than 10 FDP programs. Ph.D. in Law pursuing.



Avinash Kumar



Avinash Kumar has completed his Ph.D. in International Investment Law from the Dept. of Law & Governance, Central University of South Bihar. His research work is on "International Investment Agreement and State's right to regulate Foreign Investment." He qualified UGC-NET and has been selected for the prestigious ICSSR Doctoral Fellowship. He is an alumnus of the Faculty of Law, University of Delhi. Formerly he has been elected as Students Union President of Law Centre-1, University of Delhi. Moreover, he completed his LL.M. from the University of Delhi (2014-16), dissertation on "Cross-border Merger & Acquisition"; LL.B. from the University of Delhi (2011-14), and B.A. (Hons.) from Maharaja Agrasen College, University of Delhi. He has also obtained P.G. Diploma in IPR from the Indian Society of International Law, New Delhi. He has qualified UGC – NET examination and has been awarded ICSSR – Doctoral Fellowship. He has published six-plus articles and presented 9 plus papers in national and international seminars/conferences. He participated in several workshops on research methodology and teaching and learning.

ABOUT US

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS
ISSN

2582-6433 is an Online Journal is Monthly, Peer Review, Academic Journal, Published online, that seeks to provide an interactive platform for the publication of Short Articles, Long Articles, Book Review, Case Comments, Research Papers, Essay in the field of Law & Multidisciplinary issue. Our aim is to upgrade the level of interaction and discourse about contemporary issues of law. We are eager to become a highly cited academic publication, through quality contributions from students, academics, professionals from the industry, the bar and the bench. INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS ISSN 2582-6433 welcomes contributions from all legal branches, as long as the work is original, unpublished and is in consonance with the submission guidelines.

JUDICIAL SAFEGUARDS FOR REFUGEES IN INDIA: AN ANALYSIS OF KEY JUDGMENTS AND THEIR IMPACT

AUTHORED BY - MS. UMMUL WARRAH

Assistant Professor

School of Law, Woxsen University, Hyderabad

Abstract:

India has seen a significant number of migrants over the years, despite not being a signatory to the 1951 Refugee Convention. In the absence of a clear legislative framework for refugee protection, the Indian court has emerged as an important institution for defending refugee rights. Courts have upheld humane treatment and protection from arbitrary deportation by using constitutional safeguards such as Article 21's right to life and personal liberty. This chapter looks at the judiciary's proactive role in interpreting international norms, balancing national security with humanitarian concerns, and closing legislative gaps to defend refugees' rights and dignity in India.

Keywords: *Courts, Migrants, National Security, Personal Liberty, Refugee.*

Judicial Safeguards for Refugees in India: An Analysis of Key Judgments and Their Impact

“To deny people their human rights is to challenge their very humanity”

- NELSON MANDELA

Introduction

India has not been a signatory to 1951 Convention or 1967 Protocol due to which India does not have any obligations in regard to refugees, as it is well known principle of international law that ‘agreement do not harm third parties’, i.e *Pacta tertiis nec nocent nec prosunt*. India has willfully submitted itself to other instrument of human rights such as UDHR, CEDAW, ICCPR, ICESCR, which casts obligation on India to foster respect to human rights of individuals being a part of global community. In the absence of any robust safeguards available to refugees they are living in devastating conditions all over India. Albeit the Constitution of India provides them some safeguards, but they are not sufficient for refugees because there has been no

distinction made for procurement of rights for refugees.¹

If there is any tension in the country because of which people have threat of being persecuted because of armed conflicts, civil wars or terrorist activities, disparege citizens life, due to which they flee from their country to secure their lives. India from the independence itself has recorded mass influx of refugees. Though India giving value to principle of '*atithi devo bhava*' which means guest is equivalent to God, does not return refugees at the frontier itself but reluctant behavior of India in signing 1951 Convention or 1967 Protocol signifies that it does not want to admit obligations towards refugees officially.² In India rights and status of refugees depends on the sweet will of the state itself. Courts have always watched over the rights of refugees but also at times due to lack of evidence it has put them in custody as well.³

The most important right of refugee, i.e non refoulement is also in dormant stage in India, though UNHCR, Courts, NHRC and other NGO's have always tried to secure refugees in such condition.⁴ Refugees are treated as a burden on the state whereas they are in suffering because they are not even subject to minimal rights. Person identification, food security, health, education, privacy, religion, are all intrinsic parts of a human subsistence and the absence of all those rights makes a person's life worthless.⁵

Role of Judiciary

Judiciary in India has always tried to protect the right of human rights to a greater extent. Judiciary has been regarded as the caretaker of all the rights of people. Though India follows 'the rule of law' and 'the principles of natural justice' but it has been overlooked in the matter of refugees, but Court has actively participated for adherence to it.

¹ Komal Rastogi, *What Is the Legal Status of Refugees in India*, (Apr 20, 2016), <https://blog.iplayers.in/legal-status-refugees-india/>.

² Supra note 3.

³ State v. Eva Massar Musa Ahmed, FIR No. 330/01, Court of Metropolitan Magistrate, New Delhi, Decided on June 3, 2002 http://www.refworld.org/type,CASELAW,IND_MMM,,3f4b90bd4,0.html.

⁴ Human Rights of Refugees in Indian Legal Regime and Role of Judiciary, 228 & 229, http://shodhganga.inflibnet.ac.in/bitstream/10603/128419/15/12_chapter%204.pdf.

⁵ Refugees in India have to fend for themselves – we've been talking to them about how they manage, (Oct 11, 2017) <https://theconversation.com/refugees-in-india-have-to-fend-for-themselves-weve-been-talking-to-them-about-how-they-manage-84215>.

Supreme Court

Refugees often are subject to sentencing and fines but in some cases they are lucky enough to file either an appeal in that matter or if it is in violation of rights provided to all persons under part III of the Constitution of India then a writ can be filed under the jurisdiction of Supreme Court by the virtue of Art. 32 of the Indian Constitution.⁶ It provides “Remedies for enforcement of rights conferred by this Part (Fundamental Rights, Part III of the Indian Constitution)

(1) The right to move to the Supreme Court by appropriate proceedings for the enforcement of the rights conferred by this Part is guaranteed⁷

(2) The Supreme Court shall have power to issue directions or orders or writs, including writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari, whichever may be appropriate, for the enforcement of any of the rights conferred by this Part⁸

(3) Without prejudice to the powers conferred on the Supreme Court by clause (1) and (2), Parliament may by law empower any other court to exercise within the local limits of its jurisdiction all or any of the powers exercising by the Supreme Court under clause (2)⁹

(4) The right guaranteed by this Art. shall not be suspended except as otherwise provided for by this Constitution.”¹⁰

The significance of incorporating Art. 32 in the Constitution was explained by Dr. B.R. Ambedkar¹¹:

"If I was asked to name any particular Art. in this constitution as the most important-an Art. without which this constitution would be a nullity-I could not refer to any other Art. except this one i.e. Art. 32. It is the very soul of the constitution and the very heart of it"

The two important case decisions by the Apex Court on the status of refugees have taken as precedent by the other courts¹² which restricted the rights of refugees firstly, *Hans Muller of Nurenburg v. Superintendent, Presidency Jail, Calcutta and others*¹³ in this case SC declared that the Foreigners Act confers uninterrupted power on the Central Government to expel a foreigner and no limit on this power has been provided by the Constitution itself and second

⁶ Khudiram Chakma v. Union of India (1994) Supp. (1) SCC 615.

⁷INDIA CONST. Art. 32

⁸ Ibid.

⁹ Ibid.

¹⁰ Ibid.

¹¹Narender Kumar, "Constitutional Law of India", 2004, p. 329, as cited in http://shodhganga.inflibnet.ac.in/bitstream/10603/128419/15/12_chapter%204.pdf

¹² Art 141 of the Indian Constitution.

¹³ SC, 1955 AIR 367.

one was, *Louis De Raedt v. UOI and others*¹⁴ in this SC observed that the fundamental rights of the refugees is limited to Art. 21 for life and liberty only and does not provide the right to reside and settle in India¹⁵ which is applicable to citizens of India only.

Though these cases failed to provide any distinction between foreigners and the refugees, it was used as precedent by courts for many years but the Chakma cases changed the standard of refugee status in India.

*State of Arunachal Pradesh v. Khudiram Chakma*¹⁶, this case was filed against the decision given by the Gauhati High Court¹⁷ where it was held that: Chakmas are not citizens of India, state government order was lawful, Chakmas does not possess any right to acquire land in the territory of India and compensation has to be given to Chakmas for their work in previous land. Two separate Special Leave Petitions were filed by the parties, where Chakmas filed for first three orders while the state government was against the order of compensation.¹⁸

The Chakmas argued that they were citizens of India under Section 6-A of the Citizenship Act, 1955, but it was not accepted by the SC in favor of Chakmas because they did not fulfill the essential conditions under Section 6-A of the said Act. Also, in second objection the SC favored the contention of the state government because Chakmas were considered as foreigners in the territory of India, under the Foreigners Act 1946 and their movement can be controlled in a particular territory in any protected place. Also, the right of possess the land was not legal. Only in the last order of the court SC upheld the position of Chakmas as refugee in reference to Art. 14 of the UDHR. But no considerable distinction was made between foreigners and refugees.¹⁹

After this decision Chakmas started facing lots of political pressures within the state of Arunachal Pradesh. Finally, the matter came before the NHRC, which was a matter of rival contentions by central and state government regarding citizenship of Chakmas, but lastly writ

¹⁴ SC, 1991 AIR 1886.

¹⁵ Art 19(1) (e).

¹⁶ Supreme Court of India, AIR 1994 SC 1461.

¹⁷ AIR 1992 Gau 105.

¹⁸ Narender Kumar, "Constitutional Law of India", 2004, p. 329, as cited in http://shodhganga.inflibnet.ac.in/bitstream/10603/128419/15/12_chapter%204.pdf

¹⁹ Ibid.

of mandamus was issued requesting of NHRC, under Section 18 of the Protection of the Human Rights Act, 1993. In *NHRC v. State of Arunachal Pradesh*, safety of life and liberty of Chakmas was guaranteed by the SC by issuing directions to the state government that the life and personal liberty of Chakmas has to be protected, if required with the help of para-military force, eviction from their homes must be in accordance of law, applications of citizenship to be forwarded to the Central Government by the Collector and no eviction of Chakmas to be done during the pendency of the proceedings. This case was different from earlier one because in this case the Central Government was willing to give them the status of citizens under Section 5 (1) (a) of the Citizenship Act, 1955²⁰.

Although the directions were implemented by the state, the grant of citizenship is still pending. In the case of *Committee for Citizenship Rights of the Chakmas of Arunachal Pradesh and ors v. State of Arunachal Pradesh and ors*²¹ in the SC, where it was contended that no citizenship has been given to Chakmas. The UOI contend that it had taken the decision for the grant of citizenship but application of citizenships of Chakmas has not been forwarded to Ministry of Home Affairs. The SC ordered that within three months from the date of the orders citizenship to Chakmas has to be given in accordance with law.

Chakmas are still not provided with their citizenship till present year 2018 while the decision of the SC was given in the year 2015.²²

High Courts

High Courts in India have also dealt with number of cases concerning determination of refugee status. Refugees in India do not have any substantial rights, but without the intervention of the courts no procedural safeguards are provided to them with due respect to procedure established by law.

Khudiram Chakma v. UT of Arunachal Pradesh and ors, the petitioners contended that they have migrated from East Pakistan (Bangladesh in present) due to ethnic disturbances in 1964. They were provided with shelter in Assam in a government camp, later shifted to Bettiah, Bihar

²⁰ SC (1996) 1 SCC 742,

²¹ SC, WP (Civil) No. 510 of 2007

²² Can't implement SC order on Chakma-Hajong citizenship: Kiren Rijiju, TOI, (Sep 20, 2017), <https://timesofindia.indiatimes.com/india/cant-impose-sc-order-on-chakma-hajong-citizenship/Art.show/60758191.cms>.

and lastly to Arunachal Pradesh in 1966. The family for their survival of livelihood negotiated with the local Raja to provide them with some land for cultivation. Later they were ordered by the state government to shift from this village to the other village's vacant land.²³

There were four issues in this case, in the first issue was of claim of being a citizen of India but in reference to the Citizenship Act, 1955 it was decided they are foreigners only residing in India. On second issue, direction by government to move to the other places was also upheld in due to respect of the Foreigners Act, 1946 and the Foreigners Order, 1948 and relied on Regulation 5 of 1873, Scheduled District Act 1974, which gives right to natives only for acquiring land in the territory of India. On third matter, the court upheld the validity of decision taken by the government which is not in contravention of the Constitution of India or any other laws dealing with the foreigners. But on the fourth contention presented by Chakmas regarding compensation for their work they have done in earlier land, court adopted a humanitarian approach and ordered compensation to Chakmas. Court also ordered that they must be provided with basic facilities before shifting over there.²⁴ Later the order was challenged by Chakmas in the Supreme Court of India.

In *Committee for Citizenship Rights of the Chakmas of Arunachal Pradesh and ors v. State of Arunachal Pradesh and ors*, petitioner submitted application for obtaining asylum in India. She flees from his home country Myanmar where Myanmar army created a barbaric situation. She was indicted by the Chief Judicial Magistrate under different Sections of the Foreigners Act, 1948 and by serving her sentence in jail. She presented a request to the High Court to decide that she ought not to be sent back to Myanmar in the wake of serving her sentence and that she be given a chance to visit UNHCR to look for refuge in India. The Court supported her and requested the State not to extradite her for a time of a month after the consummation of her sentence to empower her to look for asylum in India.²⁵

Again, in the case of *Bogyi v. UOI*, the petitioner filed petition for seeking asylum in India who is a subject of Myanmar who entered India to escape persecution. He is likewise an under-preliminary detainee charged under different Areas of the Foreigners Act, 1948. He presented an appeal to grant him permission to visit New Delhi in the meantime of the proceedings to

²³ Art 141 of the Indian Constitution.

²⁴ Ibid.

²⁵ High Court of Gauhati (Imphal Bench), Civil Rule No. 981 of 1989.

look for shelter. The court requested the candidate with the idea that if the petitioner succeeds in getting refugee status, he will not serve any sentence in jail in the present body of evidence leveled against him.²⁶

In the case of *Seyed Ata Mohamamdi v. UOI and Ors* which included a request of to the court not to oust the applicant to his State *i.e* Iran. Amid the hearing of the case the applicant was allowed an exile status by UNHCR. Based on the exile declaration, the Government of India created an impression that there was no need of expelling him to Iran and that he could go to any nation he wished under the resettlement program. Because of this announcement, the court discarded the appeal.²⁷

In another case *Mohammad Sadiq v. UOI and Ors*, the candidate was a displaced person of Afghan who got an outcast endorsement from UNHCR in New Delhi in 1987. This outcast endorsement was reached on a yearly premise until 1999. In 1998 the candidate got the order from the government under Sec. 3(2)(c) of the Foreigners Act, 1948 to leave India at the very latest by May 15, 1998, and not to return to India thereafter. The petitioner fought that he had not been given any opportunity for a hearing previously the request was issued, and that because of the disturbing scenario in Afghanistan he was not ready to return there as he dreaded he would endure violation in that manner again. The candidate asked that the request be subdued as an infringement of the standards of normal equity that he will be permitted to dwell in India as a displaced person, what's more, that a heading be issued to exclude the applicant and other such evacuees, as a class or depiction of foreigners, from the application of the Foreigners Act, 1946. The court must allow when any displaced person is requested to leave the nation, he/she should be allowed an opportunity for a hearing: notwithstanding, the degree of the fulfilling right to be heard will depend upon the certainties and conditions involved in each case. Further, the court held that the determination of such right is with the Foreign Registration Officer, New Delhi is a substantial arrange by virtue of the exercises of the applicant, which is biased to the security of India and a sensible chance of hearing must be given to him.²⁸

In *Ktaer Abbas Habib Al Qutaiji and Anr v. UOI and Ors*, the applicants were Iraqi displaced

²⁶ High Court of Gauhati, Civil Rule No. 1847/89.

²⁷ High Court of Bombay, A.D. 1458 of 1994.

²⁸ High Court of Delhi, 1998 (47) DRJ 74.

people who entered India in 1996 and were along these lines allowed displaced person status by UNHCR in New Delhi. The candidates requested to be handed over to UNHCR as opposed to being expelled to Iraq. The court for this situation reflected eagerly upon universal law standards of non-refoulement and India's commitments under different human rights instruments. At long last, based on the guideline of non-refoulement and mankind, the court requested for the petitioners that they cannot be ousted from India until December 31, 1998, and requested the respondents to consider the appeal according to the law laid down in the judgment.²⁹

In *Dongh Lian Kham and Ors v. Union of India and Ors*, the two applicants were residents of Myanmar having a place with the ethnic Jew people group. They entered India in 2009 also, 2011 separately alongside their families and were issued outcast declarations by UNHCR in New Delhi substantial until 2017. based on the outcast testament issued by UNHCR, the MHA issued them with LTVs. The candidates were sentenced under the Narcotic Drugs and Psychotropic Substances Act, 1985 by a court and served jail terms. After their discharge from jail, the MHA confined them in a camp and began methodology for expelling. The candidates thought that if they somehow managed to be expelled to Myanmar, they would confront mistreatment, and their lives would be undermined. The MHA fought that given the conviction of the applicants, they spoke of the risk to the security of the country, and that their indulgence in drugs likewise represented a risk to the social fabric, so the choice was taken by the MHA to oust them. The petitioners asked that the MHA decision be suppressed on the grounds that they were exiles with rights under Art. 21 and Art. 14 of the Constitution of India, and in the light of the guidelines of non-refoulement of standard universal law. The court must look into the matter that the government can remove any outsider from India and there is no law or art. of the Constitution that can regulate these acts of the government. Be that as it may, the restriction of expulsion of outcasts to a nation where they will confront oppression can be viewed as a certification under Art. 21 of the Constitution of India, as non-refoulement secures the life and freedom of an individual, independent of his/her nationality. At last, the court, with regards to the preservation of the rights of the persons concerned, in social life and their family status, decided that the MHA, in meeting with UNHCR, should discover a chance to extradite the candidates to a third nation other than Myanmar and that the candidates should not be expelled from India until the point that a choice is made on this issue.³⁰

²⁹High Court of Gujarat, 1999 Cri.L.J 919.

³⁰ High Court of Delhi, 226 (2016) DLT 208.

In another case *Aung Thant Min v. UOI* the petitioner had already been allowed previously for the safeguards by request of the High Court of Gauhati to look for exile status from UNHCR. The petitioner properly got the status and the evacuee testament. The present request of preceded the court to guide the government to issue him a leave visa to move to Canada under the UNHCR resettlement plans. The Government of India had no objection to this request, and the Government of Manipur is pulling back the case against the petitioner under the Foreigners Act, 1946. Accordingly, by going through the facts and the circumstances, the court requested the legislature to issue a leave visa to the candidate.³¹

In *Saifullah Bajwa v. UOI*, Petitioner went to the court with a demand to pull back a writ appeal to against the Government of India as the applicants had been conceded resettlement by UNHCR.³² This case initially preceded another bench of the High Court in 2008 with a demand to guide the government to give safe haven to the petitioners as they had been aggrieved in Pakistan and to hand them over to the care of UNHCR in New Delhi. All things considered; it was uncovered that the Government of India was not slanted to allow haven and put the petitioners in Tihar Correctional facility. The court requested that UNHCR be permitted to intercede and coordinate the legislature not to oust the applicants to their original State. At long last, the applicants were given the opportunity to resettle in another nation by UNHCR, and the appeal to be withdrawn.³³ Because of *Kalavathy v. State of Tamil Nadu*, the division seat of Madras High Court managed the dispute of the applicants that the detainment under Section 3(2)(e) of the Foreigners Act, 1946 is infringing upon Art.s 14, 21 and 22 of the Constitution of India. The State of Tamil Nadu was blamed for requesting evacuees of Sri Lankan origin to dwell in exceptional camps. The state fought that exclusive a little extent of the Sri Lankan outcasts who may have affiliation with aggressor associations in Sri Lanka were requested to remain in exceptional camps. The court, thinking about the rival conflicts, held that characterizing evacuees and requesting them to remain in uncommon camps does not violate the art. of the Constitution, and hence the State has the power under the Foreigners Act 1948 to do as such and further that it's anything but an aggregate limitation of the development of the foreigner.³⁴

In *Yogeswari v. The State of Tamil Nadu*, the child of the petitioner was kept under Sec. 3(2)(e) of the Foreigners Act, 1946. The prisoner is a Sri Lankan evacuee who was allowed certain

³¹ High Court of Delhi, W.P. (CRL) 110 of 1998.

³² High Court of Delhi, W.P. (CRL) 465/2011.

³³ High Court of Delhi, W.P. (CRL) 1470/2008.

³⁴ High Court of Madras, 1995-2-LW(Cr)690.

safeguards by the court of skillful ward for charges against him under various Sections of the Indian Penal Code. Be that as it may, before his discharge from jail the prisoner got a confinement arranged under the Outsiders Act. The court for this situation held that confinement under the Outsiders Act must be in consistence with Art. 21 and Art. 22(4) of the Constitution of India and that as a pre-established Act it doesn't contain protections, and along these lines the division seat of the court subdued the confinement order under the Foreigners Act.³⁵

In *Premavathy v. State of Tamil Nadu*, it was chosen by the division seat of Madras High Court, where comparative disputes were raised by the candidates, that the state was confining them under Area 3(2)(e) of the Foreigners Act 1948 infringing upon their rights contained under Art. 14, 21 and 22 of the Constitution of India. The two past repudiating judgments of the division seat of Madras High Court, one in *Kalavathy* and another in *Yogeswari*, set the phase for this case. Be that as it may, for this situation the division seat favored the *Kalavathy* case also, held that limiting the development of the refugees by the request of the State under Sec. 3(2)(e) of the Foreigners Act cannot be named preventive confinement and does not disregard the Art. under the Constitution of India. In any case, the court eventually guided the state to audit those confinement choices at regular intervals and to give more facilities to the uncommon camps.³⁶

In *Digvijay Bit v. UOI & Anr* the petitioner goes to the court with a demand to guide the legislature to give sustenance to the offspring of Sri Lankan displaced people who are staying and considering in a private school in Karnataka. The Government of Karnataka orchestrated the supply of nourishment, and in this manner the court discarded the petition without talking about its legitimacy.³⁷

In *Smt. Shishuwala Buddy and Anr v. UOI and Ors*, the petitioners—mother and child—were natives of East Pakistan who came to India amid the 1971 war as displaced people. They were rehabilitated in a displaced person camp yet later moved to their relative's living arrangement in Madhya Pradesh. The second candidate examined up to bachelor's level in India and was chosen in the Panchayat decision in 1983 from Madhya Pradesh. After the decision, the applicants were captured by the police for extradition to Bangladesh. The applicants requested a direction to limit the respondents from regarding them as remote country also what's more, from arresting them for extradition outside India. The court, in the wake of considering the provisions of the

³⁵ High Court of Madras, Habeas Corpus Petition No. 971 of 2001.

³⁶ High Court of Madras, 2004 Cri.L.J 1475.

³⁷ High Court of Karnataka at Bangalore, WAN No. 354 of 1994.

Citizenship Act, 1955, held that the applicants were not nationals of India but rather were yet outsiders. It was the discretion of the Government of India to choose whether they would be permitted to remain in India on helpful grounds, and the candidates had statutory cures under the Citizenship Act, 1955. With these perceptions the court expelled the appeal.³⁸

On account of *Sasikumar v. State of Tamil Nadu* the candidate was conceived in 1987 in Trichy Government Doctor's facility. The guardians of the candidate were displaced people who came to India after the episode of war in Sri Lanka. The candidate tested the legitimacy of the request of detention in a camp for Sri Lankan evacuees passed on September 4, 2008, under Sec. 3(2)(e) of the Foreigners Act, 1946, as the applicant from a national of India by birth under Sec. 3(1)(a) of the Citizenship Act, 1955. The government battled that the applicant is a Sri Lankan native and can be confined under the Foreigners Act, 1946. Be that as it may, the court, after precisely considering the arrangements of the Citizenship Act, 1955, held that the petitioner is a subject of India by birth as he was conceived before the cut-off date of July 1, 1987. The court did not uphold the request of confinement by the state government.³⁹

Conclusion

The Indian judiciary plays an important role in defending refugees' rights and dignity, especially in the absence of a comprehensive domestic legal framework. Indian courts have frequently functioned as crucial protectors of refugee rights by interpreting constitutional legislation in a progressive manner while adhering to international humanitarian norms. The judiciary's actions ensure that refugees are neither proclaimed stateless nor subjected to arbitrary detention and deportation, thereby safeguarding fundamental human rights. Despite these efforts, challenges continue due to legislative gaps, inconsistent policies, and complex sociopolitical realities. To create a more logical and humane refugee protection system, the courts' proactive approach must be supplemented with strong legal and executive sensitivity. Finally, the court remains an important component in India's commitment to international refugee protection norms, balancing national interests with compassion and justice for those fleeing persecution.

³⁸ High Court of Madhya Pradesh, AIR 1989 MP 254.

³⁹ High Court of Madras (Madurai Bench), W.P. (MD) No. 10080 of 2008 and M.P (MD) No. 2 of 2008.