

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.

**CASE COMMENTARY ON RIGHT TO DIGITAL
ACCESS AMAR JAIN VS UNION OF INDIA &
OTHERS WRIT PETITION(S) (CIVIL) NO (S). 49/2025**

AUTHORED BY - MR. RAHUL MISHRA

Asst. Professor

Sardar Patel University, Balaghat (M.P.)

CO-AUTHOR - MISS. SHIYA BAREWAR

LL.B – VI SEMESTER

Sardar Patel University, Balaghat (M.P.)

Abstract

Recently the Supreme Court has recognized Digital Access as a fundamental right under Article 21 and has given directions to the Central Government to simplify the KYC process in the interest of persons with disabilities. After this decision, what will be the impact on the rights of persons with disabilities and to implement it, changes will be required in other laws and policies. The analysis of the decision has been done keeping in mind the decision given in the context of this case so that the rights of the disabled people and the policies and laws related to them can be analyzed positively.

Bench: Justice J.B. Pardiwala & Justice R. Mahadevan

Citation:- Writ Petition(s)(Civil) No(s). 49/2025

Summary:

The fundamental rights provided under Part 3 of the Indian Constitution are one of the main features of the Indian Constitution. Directly 6 fundamental rights are available under Part-3 from Articles 12 to 35, in which some rights are available to citizens and some to individuals. Reasonable restrictions can be imposed on these rights, due to which it can be said that these fundamental rights are not absolute but limited, although they are enforceable by the courts, for whose enforcement they can be enforced through a writ by the High Court under Article 226 and by the Supreme Court under Article 32. These rights are mainly similar to the nature of natural rights, that is why the Supreme Court said in the case of M Nagraz vs Union of India

that fundamental rights are not a gift given by the state. The liberal interpretation of the right to life and personal liberty under Article 21 has greatly expanded the possibility of including various rights as fundamental rights. Through the detailed interpretation of the words life and personal liberty, various rights have become available as fundamental rights under Article 21, which mainly include:

Right to travel abroad

Right to medical treatment

Right to livelihood

Right to food etc.

Recently, the Supreme Court in the case of Amar Jain vs. Bharat Sab has recognized the Right to Digital Access as a fundamental right, which will not only strengthen other rights but will also have a positive impact on various rights, policies and laws. The legislature will need many reforms and amendments in this regard, which will prove to be more effective in strengthening the fundamental rights of the citizens.

Background:-

A petition was filed in the Supreme Court on behalf of a group of acid attack victims, Pragma Prason vs Union of India (2024) and Amar Jain vs Union of India and Others (2025) , to draw attention to the practical problems faced in getting digital KYC done. Through this, it was said that how can a person with disabilities due to acid attack complete the digital KYC process, especially when the process also involves visual tasks.

In various digital KYC processes, the KYC process is completed through Face Recognition, Ear Recognition, Eye Recognition, but due to disfigurement of the face and damage to the eyes as a result of an acid attack, the victim has to face problems in getting KYC done and also has to face many technical problems during verification, due to which the above petition was presented before the Supreme Court, on hearing which the division bench of the Supreme Court considered some questions under Article 21 and recognized the right to Digital Access as a fundamental right.

Digital Access & Other Rights

Among the various fundamental rights provided under Part-3 of the Constitution, no right is an independent right in itself. Every right is dependent on other rights in some way or the other. For example, the right to information is a legal right as well as a fundamental right under Article

21. It is interdependent on the right to education under Article 21-A and practical problems arise in implementing the other right without fulfilling one right. The right to digital access will also be dependent on various rights and other rights will also be affected by it.

While hearing the petition, the main questions before the Hon'ble Supreme Court were:

- 1) Whether the right to digital access is included in the KYC process and it cannot be properly obtained by the disabled.
- 2) Whether the right to digital access can be recognized under the right to life which comes under the freedom and physical liberty mentioned under Article 21.

Supreme Court's instructions:-

The Supreme Court, considering both the petitioners together, declared Digital Access as a fundamental right. The Supreme Court also issued instructions to the Central Government to take appropriate and reasonable action regarding digital discrimination so that the interests of rural elderly and other weaker sections of the society are not affected and these groups of people are also protected from digital discrimination and can use the right to Digital Access easily.

Along with this, the Supreme Court also gave instructions to make necessary improvements in the current KYC process. It was specially directed to provide Braille and other audio-visual facilities for visually and auditory handicapped persons.

According to the Supreme Court, In the current context where basic facilities like governance, education, health and economy are being made available through digital platforms, there is a need to re-interpret the right to life under Article 21 according to technology and technical facilities." Thus, the right to digital access was recognized as a fundamental right under Article 21.

Law Related with Right To Digital Access:

In the year 2006, an international convention was organized on the rights of disabled persons, Convention on Rights of Disabled Person 2006, in which emphasis was laid on implementing various types of special rights to disabled persons. In the year 2016, special rights were provided to them in India through the Disability Rights Act 2016. After the implementation of digital access as a fundamental right, special provisions will also be required in the Disability Rights Act, as well as for the necessary improvement in the KYC process, it will be necessary

to make extensive changes in the KYC process in the Aadhaar Act 2009 and the Banking Act.

Apart from this, it will be necessary to simplify the process of various digital processes and biometric verification. During the hearing of acid attack related cases, proper arrangements will have to be made keeping in view the interests of the disabled during the examination through camera proceedings and video conferencing so that they can use their Right to Digital Access conveniently.

There is also a need for relevant changes in the provisions of the Right to Information Act, Banking Act, RBI Act, PWD Act 2016 and BNSS and BNS2023.

The right to equality under Article 14, protection against discrimination under Article 15, freedom or rights under Article 19 and various rights under Article 21 are directly and indirectly dependent on each other and the right to digital access can be implemented only with their help. On this basis, the Hon'ble Supreme Court has drawn the attention of the legislature in its decision towards the main principle.

1. Substantive Equality

2. Digital Divide

1. Substantive Equality:- During the hearing of the petition, Justice Mahadevan said that due to the marks on the face and injury to the eyes during the acid attack, many victims are unable to move their eyes and eyelids properly, due to which they are unable to complete the KYC process and fail to take advantage of various public welfare schemes including banking, which not only lags them behind socially but also creates a sense of inequality, which is contrary to the basic spirit of the right to equality under Article 14. Also, illiteracy, rural environment, lack of information, lack of resources, lack of linguistic knowledge etc. are the reasons for keeping people away from the use of technology, in such a situation it is necessary that the right to digital access should not only be established as a fundamental right, but efforts should also be made to simplify the process like KYC and make it accessible to the general public, especially the disabled.
2. Digital Divide: - Reasons for not being able to use technology for the disabled This becomes a discriminatory problem and discriminates them from others in the society, hence there is a need for Right to Digital Access as a fundamental right.

Conclusion:-

The Supreme Court affirms digital access as a fundamental right under Article 21. However, bridging the digital divide requires inclusive infrastructure and targeted digital literacy. India must uphold its obligations under the UN Convention on the Rights of Persons with Disabilities (CRPD), 2006 and various other International And National Legal Framework to ensure equal digital participation for all.

