

# INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS



Open Access, Refereed Journal Multi Disciplinary  
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**AMENDMENTS UNDER THE PART-III OF THE  
CONSTITUTION: A CRITICAL ANALYSIS OF THE POWER  
OF A PARLIAMENT TO AMEND CONSTITUTION UNDER  
ARTICLE-368 AND THE BASIC STRUCTURE DOCTRINE**

AUTHORED BY - HARSH PASI

**Abstract**

When we talk about the Indian constitution one word comes in our mind that is “supreme” means no one above it. Similarly, our constitution is the supreme law of the land it means state will work according to the provisions that are mention under the constitution. In India constitution is sovereign in nature that means no one can go beyond it, even it is parliament of India, but in other countries like Britain, there parliament is supreme whatever their parliament made they have to follow. When we talk about the laws, means to govern the society, law always made for to regulate the society. Framers of Indian constitution knew that society is not rigid but dynamic in nature, that is why they added the provision of amendments under Article-368 of the Indian constitution which talks about the procedure of amendments, it also talk about the power to amend the constitution by parliament but there are also certain limitation that are imposed by the constitution as well as our constitution follows the Rule of law although it is not expressly mentioned in the constitution but if parliament made any provision that violates or ultra versus to the constitution then we have a right to take constitutional remedies i.e., under Article 13, 32 and 226, and challenge that act in court of law. In India powers are divided between three organs i.e., Legislator, Executive and Judiciary, legislator works to make laws, executive works to execute the laws and judiciary works to interpret those laws, among all three organs judiciary plays a crucial role, because judiciary has a power to declare all those law void which violates the provisions of constitution. There are various cases in which court declare laws void irrespective whether it is codified or not. Fundamental rights are the basic rights of the citizen and it is very difficult to amend theses rights but there are some amendments i.e., Amendments 1<sup>st</sup>, 4<sup>th</sup>, 17<sup>th</sup>, 24<sup>th</sup>, 25<sup>th</sup>, 29<sup>th</sup> and 42<sup>nd</sup> which were debatable till the Landmark Judgement came that is Kesavananda Bharti, its plays a crucial role in the Indian jurisprudence, it also gave the basic structure doctrine that parliament cannot even touch, and we will also discuss some case laws in which court not expressly but impliedly define “Basic

Structure Doctrine”. This article also talks about the term “Law” and Amendment under Article 368 of the Constitution.

**Keywords:** “Law” and Amendment, Basic Structure Doctrine, Limitations, Power to Amend.

## Introduction

In India, the amendment under the Article-368 has always been a debatable topic since 1951 when the first-time question raised whether parliament can amend the constitution or not. Article 368 of Indian constitution talk about the power and procedure of amendment, means what procedure will parliament adopt while amending or changing the constitution, this article is also talks about limitations of parliament power. Does original constitution mentioned the word “POWER” if not then under which amendment this word added? Amendments are important under the constitution according changing needs of the society, but the question is at what extent, and this is a debatable topic. While framing the constitution, framers knew how the rights are important for the development of society and country as well, therefore, they put important and the basic human rights under the Part-III of the constitution that can hardly amend or change before came the term basic structure, framers already mentioned the term basic structure not expressly but impliedly, while putting the basic human rights under Part-III i.e., Article.21 (Right to life) and Article.14 (Right to equality). There are various amendments that are related to Article 368 and Part-III of the constitution. This article will also discuss about the use of judicial review and explain how it is important for society.

## Research Problem

This article will study the power of parliament under article 368 of constitution, whether the power is absolute in nature or not. whether the term “power” already mentioned under article 368 or not, if not then through which amendment this term added. If the term power was not mentioned earlier then on what grounds court held 1<sup>st</sup> constitution amendment valid. What is the basic structure doctrine, which case gave this term basic structure, was it already mentioned, can basic feature be amended, has court or constitution mentioned what are the provision comes under basic structure. What is the scope of article 31A and 31B, and what is scope of article 13(2), harmonious construction.

## Research Question

- Can Parliament make Amendments under Part-III of the Constitution?
- Is Parliament power to Amend the Constitution is absolute in nature or there are any restrictions on it?
- Has the court mentioned that what are the provisions comes under ambit of basic structure?
- Is Fundamental Rights and Basic structure being same?

## SHANKARY PRASAD CASE / 1<sup>ST</sup> CAA

After the getting independence from the colonial rule, framer of the constitution, define the state as a welfare state who based on egalitarian concept. After post-independence land reform became a major issue that is also called abolishment of zamindari system, in which large area of land hold by the certain group of people because of that many states introduced the land reforms act or abolishment of zamindari act such as Uttar Pradesh, Madhya Pradesh and Bihar, and same had been challenged on the ground that it is violating our fundamental rights filed by the zamindar to protect their landholding rights. Therefore, different high court courts gave opposite judgement to each other. This became a issue when Patina High Court render invalid the Bihar land Reform Act 1950, on the other hand Allahabad High court (Uttar Pradesh), Nagpur High Court (Madhya Pradesh) validate the constitutionality of the act. When the central government saw all this contriving judgement against the Land Reforms Act, it was becoming a difficult to implement Directive Principle and create an egalitarian society, those judgement was challenging and reducing the power of government. Therefore, parliament first time amend the Constitution by the 1<sup>st</sup> Constitutional Amendment Act 1951, by Amended the Article 31 and added 31A and 31B, this amendment curtailing the Article 31 which talk about Right to property by imposing some restriction under these new amended clauses. **Article-31A. Saving of laws providing for acquisition of estates, etc** (1) Notwithstanding anything contained in article 13, no law providing for (a) the acquisition by the State of any estate or of any rights therein or the extinguishments or modification of any such rights, or (b) the taking over of the management of any property by the Stale for a limited period either in the public interest or in order to secure the proper management of the property, or (c) the amalgamation of two or more corporations either in the public interest or in order to secure the proper management of any of the corporations, or (d) the extinguishment or modification of any rights of managing agents, secretaries and treasurers, managing directors, directors or managers of corporations, or of any

voting rights of shareholders thereof, or (e) the extinguishment or modification of any rights accruing by virtue of any agreement, lease or licence for the purpose of searching for, or winning, any mineral or mineral oil, or the premature termination or cancellation of any such agreement, lease or licence,

- shall be deemed to be void on the ground that it is inconsistent with, or takes away or abridges any of the rights conferred by article 14 or article 19:
- Provided that where such law is a law made by the Legislature of a State, the provisions of this article shall not apply thereto unless such law, having been reserved for the consideration of the President, has received his assent:
- Provided further that where any law makes any provision for the acquisition by the State of any estate and where any land comprised therein is held by a person under his personal cultivation, it shall not be lawful for the State to acquire any portion of such land as is within the ceiling limit applicable to him under any law for the time being in force or any building or structure standing thereon or appurtenant thereto, unless the law relating to the acquisition of such land, building or structure, provides for payment of compensation at a rate which shall not be less than the market value thereof.<sup>1</sup>

Basically, it means if parliament bring any such law on above five clauses, court cannot declare void on the basis that it is violative of Article 14 and 19.

#### **Article-31B. validation of certain Acts and Regulations. -**

Without prejudice to the generality of the provisions contained in article 31A, none of the Acts and Regulations specified in the Ninth Schedule nor any of the provisions thereof shall be deemed to be void, or ever to have become void, on the ground that such Act, Regulation or provision is inconsistent with, or takes away or abridges any of the rights conferred by any provisions of this Part, and notwithstanding any judgment, decree or order of any court or tribunal to the contrary, each of the said Acts and Regulations shall, subject to the power of any competent Legislature to repeal or amend it, continue in force.<sup>2</sup>

Same year in the case of Shankari prasad vs. union of India, the validity of this amendment has challenged, it was argued that the parliament did not have a right to amend Fundamental rights,

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<sup>1</sup> Article 31A in Constitution of India, Indian Kanoon, <https://indiankanoon.org/doc/660119/> (accessed on December 25, 2024)

<sup>2</sup> Article 31B in Constitution of India, Indian Kanoon, [Article 31B in Constitution of India](#) (accessed on December 25, 2024)

amendment is unconstitutional. In this case supreme court uphold the validity of the 1<sup>st</sup> Constitutional Amendment act, by stating that Article 13(2), the word “Law” deals with ordinary legislative power not constitutional power, the word “Law” means alternate law made by the parliament the amendment, article 13(2) does not include amendment rather it includes any alternate or any new law. Therefore, it was held that parliament have a power to amend the fundamental rights. In this case court narrow the scope of article 13(2), court held that the word amendment is different from the law. It was held that under Article 13(2), “Law” means rule and regulation for the ordinary legislative power and not includes amendment under article 368, if any amendment comes under article 368, we do not consider it law. Therefore, it was held that parliament can amend Fundamental Rights. In this case Court also used doctrine Harmonious Construction, in which Court interpreted both provisions i.e., Fundamental rights and Directive Principle of State policy (DPSP) in such manner that both do not incorporate each other, it means court said that parliament can amend Fundamental Rights in such manner that beneficial public at large, 1<sup>st</sup> Constitutional Amendment which insert article 31A that added to create equality in the society i.e., to enforce other Fundamental Right (Article 14) and to enforce DPSP. It was also held that Article 31A and Article 31B do not violate the power of High court under Article 226 and supreme Court power under Article 132 and 136 of the Constitution, and no ratification requires in the matter of amendment under Article 368 of the constitution. Court upholds the validity of 1<sup>st</sup> Constitutional Amendment Act, 1951.

### **SAJJAN SINGH/ 17<sup>th</sup> CAA**

After so many cases related to land reform, Parliament brought 1<sup>st</sup> Constitutional Amendment Act 1951, which insert 31A and 31B under the Part-III of the constitution, to strengthen the zamindari abolishment laws. In 1955, Parliament again amends the constitution by 4<sup>th</sup> Amendment act, in which Article 31A was amended. This amendment strengthens the property acquisition right of the state, government will decide the compensation, you cannot challenge the compensation amount, four new laws were added under 9<sup>th</sup> schedule. After the 1<sup>st</sup> Amendment Act when states started acquisition of land, due to no clear definition of the term ‘estate’ many states differently interpreted the term estate as well as many land reform provision were not added under article 31A, several laws were made by the state legislature were challenged and stuck down by the court because that was violating article 14 and 19. Therefore, in 1964 parliament introduced (17<sup>th</sup> Amendment) in which they again amended the Article 31A and further define the article and term “estate” they gave wider definition of estate. Added any land under Ryotwari Settlement and also included other land. They further define

they made prohibition of acquisition of land under personal cultivation unless the market value of the land is paid as compensation and further 44 more State Acts added in the 9<sup>th</sup> schedule. The group of Landlord have been filed a writ petitioned under Article 32 and challenged the validity of (17<sup>th</sup> constitutional Amendment) Act 1964. There was various issue raised on the validity of 17<sup>th</sup> Amendment, as same raised in the Shankari Prasad case. Petitioner argued that,

- This amendment deals with land matter and parliament has no right to make legislation in the land matters, therefore this amendment is not valid.
- They also argued that this amendment is depriving court to do judicial review.
- They argued that High Court power under Article 226 is likely to be affected by the 17<sup>th</sup> Amendment, hence it is invalid.
- This Amendment affected the petitioner and the intervener by one or other of the mentioned Acts in the 9<sup>th</sup> schedule.
- They contended that “Land” comes under the State list not Union list, hence it was unconstitutional, because it was harming the principle of ‘Separation of Power.

Held that the 17<sup>th</sup> constitutional Amendment is valid, it is not violating Article 13(2), and again held that Amendment does not come under the term “Law”. Article 31A is valid, and they use the doctrine ‘Pith and Substance’ means to find the true nature of such Act, in this case by using ‘Pith and substance’ doctrine court held that the objective of amendment under fundamental Rights was to create egalitarian society and achieve the socio-economic goals. Further they stated the impugned Act does not affect the power of Article 226. Court also held that there was no reasonable excuse to re-examine the Shankari Prasad Case. The court also stated that Union Government wanted to protect state laws from the judicial reviews by putting those acts under 9<sup>th</sup> schedule not taking state power.

This case also important because there was a dissenting opinion of **Justice M. Hidayatullah**, that played an important role in the Golaknath case. He contended that the term “Law” does not exclude Amendments, amendments and law should be read together both are not different.

Finally, it was held 17<sup>th</sup> constitutional Amendment Act 1964 valid. Parliament can Amend the Constitution even Fundamental Rights. Article 13(2), term “Law” does not include Amendments under Article 368. Once again it was held that Article 31A and 31B was valid. Majority judgement 3:2, dissenting judgement would become a majority judgement in Golaknath case. Finally, it was held that parliament can amend Fundamental Rights.

## IC GOLAKNATH VS. STATE OF PUNJAB, 1967

In 1964, Parliament passed (17<sup>th</sup> Constitutional Amendment) Act, in which the term “estate” defined and 44 State Acts inserted in the 9<sup>th</sup> schedule. Among 44 Acts, there was one act which was Punjab Security and Land Tenures Act 1953, was challenged in the Golak Nath Case. In this case there were two brothers Henery and William Golaknath who hold 500 acres farmland in Jalandhar, Punjab. Under the Punjab Security and Land Tenures Act 1953, Punjab Government passed an order that the both brothers could keep 30 acres each, few would go to tenants and rest of the land declared surplus. The said Act was challenged by the Golak Nath family and the same they filled writ petition under Article 32. Various argument was raised in this case on the petitioner side. they contended that this Act violated their right to acquire and hold property and practice any profession under Article 19(1)(f), (g) as well as right to equality under Article 14 of the constitution. This Act not even challenged the validity of 17<sup>th</sup> Amendment but also previous cases in which parliament declared supreme. Eleven judge large bench was constituted.

Argument raised by the petitioner:

- They stated that Constitution was drafted by the Constituent Assembly and constitution is in permanent nature, no can try or change this.
- Fundamental Rights are the basic human rights of a citizen which cannot be taken away.
- They contended that the Article 368 talk about the procedure to Amend the constitution not Power.
- They contended that the term “Law” under Article 13(2) includes Amendment, amendments are not outside the scope of law.

Decision held by the Court:

- Fundamental Rights are the basic Human rights and the essential rights of the citizen; therefore, Parliament cannot violate the Fundamental Rights.
- The Amendment under Article 368 would consider as “Law” under Article 13(2), amendment and law reads same.
- Court also held that Article 368 talk about procedure not Power to Amend.
- Amendment under Fundamental Rights which abridges the Basic rights of people would be declare void.

- Court also held that the Fundamental Rights and The Natural Rights are same. There is no difference, means no one can violate the natural rights of citizen.
- Held that parliament power is not absolute there are some restrictions on it.

Finally, it was held that Parliament cannot Amend the Fundamental rights, parliament does not have a power the amend. They contended that the term “Law” includes Amendment under Article 368. In this case Justice M Hidayatullah dissenting opinion became majority opinion, finally this case overruled both previous judgements i.e., Shankari Prasa and Sajjan Singh.

### **24<sup>th</sup> Constitutional Amendment Act, 1971**

As we know there is huge clash for power between Parliament and Judiciary and it is not new, we witnessed all-previous cases. In Golaknath judgement Judicially curtailed the Parliament power to Amend to Fundamental rights and the constitution. After Golaknath case Parliament passed 24<sup>th</sup> AA, which brought Amendment under Article 13 and Article 368.

- Earlier Article 368 was talking about procedure to amend not defined the term “Power”. In this amendment Parliament added the term “Power”, now it is “power and Procedure to Amend Constitution.
- They brought an Amendment under Article 13 and Added clause (4) which said that nothing in this article would apply to any amendment under article 368, it means court could not do judicial review of any amendment under article 368.
- Parliament also amended article 368 and added clause (3) which said that nothing in this article 13 shall apply to article 368.

Finally, Parliament got its power back. This amendment completely reduced the power of judicial review means judicially could interfere or could not be challenge whatever amendment would happen under article 368 the constitution, after this amendment the validity of 24<sup>th</sup> CAA was upheld in the Kesavnanda Bharti case and new doctrine form or maybe court interpreted the exact meaning of constitution or fundamental rights.

### **25<sup>th</sup> Constitutional Amendment Act 1971**

This case was brought in the response of Bank Nationalization Case. In this case Court held that right to get compensation is a constitutional right, and compensation must be reasonable. In 1971, Parliament brought 24<sup>th</sup> CAA 1971, in which they amend article 31 and stated that if property acquired by the state for the public purpose under article 19(1)(f), then whatever

compensation state would pay others have to accept and the same you could not take it to court. They further added clause (c) under article 31, which contended that if any law passed to implement Directive Principle of State Policy under article 39(b) and (c) that shall not be declared void on the ground that it violates or abridges article 14, 19 and 31. Any law passed to implement Article 39(b) and (c) would be immune from judicial review.

## **29<sup>TH</sup> CONSTITUTIONAL AMENDMENT ACT, 1972**

In the year 1972, parliament brought an amendment which was 29<sup>th</sup> Amendment, through this amendment they put Kerala Land Reforms Act under 9<sup>th</sup> schedule that means now it was outside the scope of Judicial Review, later it was challenged in the famous Case Kesavananda Bharti case in 1973.

## **KESAVANANDA BHARTI CASE /BASIC STRUCTURE DOCTRINE (1973)**

Now this battle became between judicially and Parliament, during these cases we have seen the principle of “Separation of Power” means three organs of state i.e., Executive, Legislature and Judiciary, if these two organs of state that is executive and legislative made any law which is against the constitution then in that case judiciary have a power to review that Act/Law or interpret. In the Golaknath case Parliament was defeated by the judicially in the battle of power then Parliament brought 24<sup>th</sup> and 25<sup>th</sup> amendment in which they re-gained their power. In the year 1973, Kesavananda Bharti vs. State of Kerala case came before Supreme Court, it was also a landmark case in Indian history, in this case the petitioner (Kesavananda Bharti) he was a Shankaracharya of Edneer Mutt, where he hold certain part of land, in 1969 Kerala Government brought an amendment under Kerala Land reform Act and ordered that certain part of land of Edneer Mutt transfer to Government and after in 1972 Parliament put this act under 9<sup>th</sup> schedule by 29<sup>th</sup> Amendment. This was challenged by the kesavananda Bharti and filled petition under Article 32, challenged the validity of Kerala Land Reform Act and it was said that it violated my Right under Article 26 (freedom to manage religious affairs), Article 14 (right to equality) and Article 31 (right to property) this time Right to Property was not removed. He also challenged the validity of 24<sup>th</sup> and 25<sup>th</sup> Amendment act. In this case 13 judge large bench was constituted, judgement ratio 7:6. It was held that the Parliament have a right amend constitution even Fundamental Rights, Apex court upheld the validity of 24<sup>th</sup> Amendment act except Judicial Review court, Court also held that Parliament can amend entire

Constitution, even Preamble that was amended in 1976 in 42<sup>nd</sup> Amendment Act but they cannot touch basic structure of Constitution. Court introduced “Basic Structure Doctrine” in the Kesavananda Bahrti case, however it was first used in the Golaknath case by M.K. Nambiar and other counsel from the petitioner side. Hence it was not defined what was basic structure, it was also held that court can do Judicial Review if they find any law contrary. It was said that neither Parliament nor Judicially won this case but the Indian Democracy.

### **INDIRA GANDHI VS. RAJ NARAIN**

This case we also refer as an Emergency Case and it was also important in context of Judicial review. In a Democratic Country election plays a most important role so it is very important that election should free and fair and we can also say this free-fair election is part of basic fundamental structure. In 1971, Lok Sabha election happened in which Indira Gandhi was contesting from Rae Bareilly and Raj Narain was contesting from opposition side, Indira Gandhi was representing Congress Party and Raj Narain was representing Ram Manohar Lohia’s SSP. In the Lok Sabha election Indira Gandhi won by 352 seats out of 518 seats, it was a major victory for Mrs. Gandhi. Raj Narain who was dissatisfied with the election result filled a petition to Allahabad High Court and challenged the election under Representation Of People Act 1951, Mr, Narain made an allegation that she violates the Representation of People Act and he alleged that during the election Prime Minister Indira Gandhi misuse the state machinery, use Government vehicle, distributed goods and used Government officer to win the election. Prime Minister Indira Gandhi was found guilty by the Allahabad High Court and it was held by the court that she was guilty under section-123(7) of Representation of People Act, and it was also held that she could not hold Prime Minister position and disqualified for 6 years to contest election. Mrs. Gandhi was dissatisfied with the High Court decision so she filed petition to Apex court due to vacation of court passed a temporary stay order on Allahabad High court Judgement and also stated that Mrs. Gandhi could attend Parliament Proceedings but could not participate in the parliamentary proceedings, during this case Parliament passed 39<sup>th</sup> Amendment Act 1975, by this amendment Article 329A introduced and this Act immune the Prime Minister and Lok Sabha Speaker election from Judicial review basically this amendment again made restrictions on Judiciary. Finally, it was held that the Prime Minister Indira Gandhi not guilty because lack of evidence and she could continue as a prime Minister, 39<sup>th</sup> amendment declared invalid because it was violating the basic structure of the Constitution, free and fair election and judicial review was a part of basic structure, 39<sup>th</sup> amendment violated the principle of “Rule of Law” it is a foundation of Democracy. Supreme

Court also highlighted the “Audi Alterem Partem” means right to hear, it is a part of natural Justice.

### **42<sup>nd</sup> Amendment Act, 1976**

in 1976, Parliament brought 42<sup>nd</sup> Amendment Act in which they amended Article 368 of the Constitution and inserted clause (4) and (5), which clearly said that Parliament has exclusive power to amend any part of the constitution as well as there was no limitation on it. By this amendment Parliament made clear that We are supreme not Judiciary.

### **MINERVA MILLS VS UNION OF INDIA**

Minerva Mills was a textile mill located at Bengaluru, Karnataka. In the year 1970, due to sharp fall in production of Minerva Mills, Government appointed a committee under section 15 of the industries development Act, 1951, and committee submitted the report to Central Government in 1971. Central Government ordered National textile corporation which is the govt body to take control over administration of Minerva Mills. The Word “Nationalization” was inserted under 9<sup>th</sup> schedule through 39<sup>th</sup> Amendment Act, 1975 that means now it is outside the scope of Judicial review. During emergency Parliament brought 42<sup>nd</sup> Amendment Act, 1976 and amended article 368 and Article 31C.

#### **Petitioner Argued that:**

- Petitioner argued that clause (4) and (5) of article 368 which were added through 42<sup>nd</sup> amendment was unconstitutional, because these two clauses removed the power of Judicial review and violated the Basic structure of the Consti.
- Petitioner argued that Article 31c was invalid because it made Directive Principle of State Policy supreme over Fundamental Rights.

It was held that these two clauses that was clause (4) and (5) of article 368 was unconstitutional, violated the basic structure of the Constitution. Supreme court also held that we need to make Harmonious Construction Between DPSP and Fundamental Rights, both are equally important for a societal development.

## Conclusion

Like oxygen for a human body same Fundamental Rights are also important for better functioning of society, mentioned in the Part-III of the constitution, these are basic human rights that can hardly infringe by the state. For the better functioning of a society, to create egalitarian society and to protect Fundamental rights of a citizen, Government implement some policies that sometimes violate other fundamental rights. Same happened in the Shankri Prasad VS. Union of India, 1951, in this case 1<sup>st</sup> CAA was challenged that related to Zamindari Abolishment Act (Land Reform), In 1<sup>st</sup> Amendment Parliament made Article 31 as a limited right by inserting Article 31A and 31B and the 9<sup>th</sup> schedule in Constitution. In Shankari Prasad Case Judiciary upheld the validity of the 1<sup>st</sup> CAA,1951 and made it cleared that the term “Law” under Article 13(2) does not include Amendment. In the year 1965 another case came into the highlight that was Sajjan Singh case which challenged the 17<sup>th</sup> constitutional Amendment Act 1964, which added other 44 state Acts under the 9<sup>th</sup> schedule, again Parliament won the case. In the year 1967. First time in the Golaknath case Judiciary overturned the Judgement of both the cases i.e., Shankri Prasad and Sajjan Singh Case and held that Parliament did not have exclusive power to amend Fundamental Rights, under Article the term “Law” also included Amendment and First the time the term “Basic Structure” used in this case. After this Judgement it was became a race of Power between Judiciary and Parliament, in the year 1971, Parliament brought 24<sup>th</sup> and 25<sup>th</sup> Amendment Act, basically in these amendments Government Restricted the Power of Judicial Review and declared that Parliament was supreme. After these Amendments and cases land mark case came that was Kesavananda Bharti case, it is a land mark and most important case of Indian history, therefore this case upholds the validity of 24<sup>th</sup> amendment and said that Parliament can amend Constitution even Fundamental rights but could not touch “Basic structure” of the constitution but this case did not define the what are the rights and provision come under this doctrine, basic structure define time to time in cases. In 1976, Parliament brought 42<sup>nd</sup> Amendment Act which amended Article 368 and added (4) and (5) which said that Parliament has exclusive power to amend the constitution and there was no limitation, in the Minerva Mills case it was declared that both clauses were unconstitutional and, in this case, court said that both DPSP and Fundamental Rights are important the country development we should make a balance between both by harmonious construction. Finally, it was held that constitution is supreme, constitution made Parliament not Parliament made Constitution, so if parliament want to amend constitution, they have to ensure they are not violating basic structure of Constitution.

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