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Megha Middha, is working as an Assistant Professor of Law in Mody University of Science and Technology, Lakshmangarh, Sikar (Rajasthan). She has an experience in the teaching of almost 3 years. She has completed her graduation in BBA LL.B (H) from Amity University, Rajasthan (Gold Medalist) and did her post-graduation (LL.M in Business Laws) from NLSIU, Bengaluru. Currently, she is enrolled in a Ph.D. course in the Department of Law at Mohanlal Sukhadia University, Udaipur (Rajasthan). She wishes to excel in academics and research and contribute as much as she can to society. Through her interactions with the students, she tries to inculcate a sense of deep thinking power in her students and enlighten and guide them to the fact how they can bring a change to the society

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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



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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 8 Articles in various reputed Law Journals. Conducted 1 Moot 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



learning.

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

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MANEKA GANDHI vs. UNION OF INDIA AIR 1978 SC 597

AUTHORED BY - ARYAMAN DUBEY

Case Analysis

Abstract

The famous and landmark judgement of the case known as Maneka Gandhi vs. Union of India is one of the cases which are deeply rooted in the minds of the citizens of India and especially the law students. The role played by the Supreme Court of India is significant and pivotal in delivering the judgment on this case and decided it in 1978 and established the principle of due process, chance of hearing in the Indian Constitutional law and widens the scope and applicability of article 21 of the Indian Constitution.¹

Introduction

The case of Maneka Gandhi vs. Union of India played a crucial role in shaping a new and wider understanding of Article 21 of the Indian Constitution as the case of Maneka Gandhi vs. Union of India stands on the greater and different footing for its significant and vital role for building a new enhanced understanding of Article 21 of the Indian Constitution by moulding it into a new shape and widening its scope and applicability.

This case give a new interpretation to Article 21 - “Protection of Life and Personal Liberty” , by establishing principles such as principle of due process, chance of hearing etc, which were missing in the Indian Constitution due to the case of A.K. Gopalan vs. State of Madras.²

Brief Facts

On June 1, 1976, the petitioner was issued a passport under the Passport Act, 1967, later on the date of 4th of July, the petitioner received a letter dated 2nd July, 1977 from the Regional Passport Officer in Delhi informing the petitioner that the government of India had decided to impend her

¹ Judicial Approach in Holding an Authority 10th September 2023 as Quasi-Judicial K. VIKRAMAN NAIR

² Law Times Journal 3rd November 2023

passport under Section 10 (3) of the Passport Act in the name of “public interest” She (petitioner) was further instructed to surrender her passport within 7 days from the receipt of the letter sent to her which was a mandatory requirement. After the receiving the said information from the letter the petitioner without giving a thought and wasting any time addressed her issues to the Regional Passport Officer in Delhi requesting him to furnish and provide the petitioner a copy of statement of reasons for making an order of impounding under section 10 (5) of the Passports Act, 1967.

Then on 6th July a reply was sent to the petitioner by the Ministry of External Affairs under the authority of Government of India which stated that the government has decided not to furnish the petitioner as of copy of statement of reasons in the “interest of the general public”, which was again a very vague response to a direct question asked by the petitioner.³

Against such a vague and unsatisfactory response the petitioner filed a writ petition questioning and challenging the legal validity of the act of impounding her passport without stating the reasons and denying in providing an explanation to do so.

Brief Historical Background

The case of Maneka Gandhi vs. Union of India took place at the time of the infamous Emergency period declared in India during 1975-1977 , were various fundamental rights were non operational, citizens were detained without any chance of hearing, no representations, various Habeas Corpus petitions were filed by the family members of the detained to find to trace them.⁴ Many political and historical experts term the period of 1975-1977 as a time were various and significant civil rights were curtailed and held those civil rights non – operative as the citizens witnessed and experienced the exercise of arbitrary power of the administrative authorities.⁵

Political Scenario

The petitioner Maneka Gandhi was a famous journalist and also daughter in law of Indra Gandhi who was then the Prime Minister.

³ Law Times Journal 3rd November 2023

⁴ Judicial Approach in Holding an Authority 10th September 2023 as Quasi-Judicial K. VIKRAMAN NAIR

⁵ Law Corner 12th September 2021 Radhika Maheshwari

The case of Maneka Gandhi vs. Union of India was set against the backdrop of the political unrest and turmoil created during the Emergency period and how the judgment in this case responds to the suppressive and reckless state actions in the Emergency period and how the judgement makes an significant efforts to expand the interpretation of Fundamental Rights mentioned in the Indian Constitution to prevent such power abuses from the state and its administrative authorities in the future.

Key Issues

The key issues addressed and discussed before the Supreme Court were –

The following were the key matters before the Supreme Court:

1. Whether the freedom to go abroad is included in Article 21's right to personal liberty.
2. Whether the Passport Act of 1967 and the acts taken in accordance with it meet the standards of Articles 14, 19, and 21.
3. If natural justice principles apply to administrative acts and if the Passport Act respects these principles.

Relevant Rules

1. Article 14: Right to Equality
2. Article 19(1) (a): Freedom of Speech and Expression
3. Article 21: Right to Personal Liberty
4. Passport Act, 1967ⁱⁱ⁶

Major and Important Findings of the Court⁷

- 1 - “The court while delivering this judgment changed the Constitution's landscape by contending that though the language used in Article 21 is "procedure established by law", such procedure must not be arbitrary and irrational.
- 2 - The Constitution framers never intended that the procedure need not necessarily be fair, just and reasonable.
- 3 - The court overruled the Gopalan case by saying that there exists a special relationship between the provisions of Articles 19, 14 and 21 and each law must pass the tests of the

⁶ The Passports Act, 1967 Indiakanoon

⁷ byjus.com/maneka-gandhi-case-1978-sc-judgements

said provisions.

- 4 - The court declared that the interpretation of "personal liberty" should not be done in a restricted and rigorous meaning, but rather in a liberal and wide sense.
- 5 - The freedom to go abroad (as argued in the Satwant Singh case) is guaranteed by Article 21. The court stated that Sections 10(3)(c) and 10(5) are administrative orders and, as such, can be challenged on the grounds of unreasonableness, mala fide, denial of natural justice, and extra vires".⁸

Judgment

The Supreme Court ruled that the act of impounding Maneka Gandhi's passport by the passport authorities violated her basic rights. The Court concluded that the freedom to go abroad is covered by Article 21's right to personal liberty.

1. A broad reading of "Article 21" in terms of personal liberty was examined. Although the freedom to travel and travel abroad is a basic right, it is not covered by Article 21.
2. The section "10 (3) (c) of the Passport Act did not provide a "procedure" as to the right to a hearing before the passport was detained", and no statement of reasons attached which was a violation of fundamental rights.
3. The legality of "section 10 (3) (c)" was deemed unconstitutional, invalid, and ambiguous because it provides arbitrary authority and so violates the rules and articles of the constitution.
4. The limits imposed by the Passport Authority violated the concept of "audi alteram partem," which reads "to hear the other party."
5. The "section 10 (3) (c) of the Passports Act violated paragraphs 19 (1) (a) and 19 (1) (g)" since no limits can be placed under these articles.

The court highlighted the importance of procedural fairness and the essential need for the government and governmental authorities to afford and provide an opportunity for individuals to be heard before depriving them of their fundamental rights

The Court further emphasised that the principles of natural justice must be observed in circumstances involving the restriction of basic rights.

⁸ Byus Maneka Gandhi vs Union of India

Impact on Indian Law ⁹

The case provided a better and wider scope with an enhanced applicability of the right to personal liberty under article 21 of the Indian Constitution and how the Supreme Court of India held that the right to personal liberty also included the right to lead a meaningful and dignified life and if any law which takes away or deprives the citizens of these fundamental rights such rightⁱⁱⁱs should be taken in the interest of the public and must be reasonable to justify such exercise as well.

A lot of attention and discussion is relied on the importance and need of procedural fairness when exercising any administrative and governmental power and the apex court had clearly held that any procedure established by law must be reasonable and the effected party or person must be provided with an opportunity of hearing before any action is taken against the effected party or person.

Then the apex court also discusses regarding the right to travel abroad since this right this part of an individual's personal liberty and whenever any restriction is imposed, such resection should only be imposed in the security of the state, interest of general public and must also be reasonable. Thus such recognition by the apex court in this case ensured that the individual's freedom to travel internationally was protected as a fundamental right and subjected to reasonable restrictions for the security of the state and the people in it.

The implications of natural justice is observed in various Indian legislations, laws and rules such as in Administrative law, the decision of this case reinforced the principle that the administrative authorities must act fairly, reasonably and in accordance with the principles of natural justice when exercising their administrative duties and governmental powers. Thus the authority and the governmental institutions are supposed to state reason for their decisions and provide a chance of hearing as well and such changes ensured that the decision making process was transparent, increased accountability of the government and can also be a subject of judicial review when needed the courts to intervene to settle the dispute.

⁹ Impact of Maneka Decision : Growing Dimensions of Indian Constitution'al Law pages 3,4,5 - 10th October D. RAJEEV

Analysis

The judgment initially started regarding the action of impounding the passport of the petitioner by the passport authority under the Passport Act of India and the court discusses the constitutional rights involved, including Article 21 which guarantees personal liberty and Article 19 which guarantees the right to freedom of speech and expression and the need of application of natural justice and presence administrative fairness when governmental powers are exercised.

As per the holding of the court, personal liberty under Article 21 includes the freedom to go abroad, and no individual could be denied this right except through the process of law and legal procedure keeping in mind the general interest of the public and the security of the state.

The court points out that Article 21 and Article 19 are not mutually exclusive, and any measure restricting personal liberty must address both articles' concerns. The court had emphasized that the legal method must be fair, just, and reasonable and that arbitrary or repressive measures would contradict natural justice laws hence the state should specify reasons when depriving citizens of their fundamental rights.

The court specifically addresses the Passport Act, which gives the Passport Authority the authority to seize passports for established reasons^{iv}. The court rules that impounding a passport is a quasi-judicial power that affects individuals' fundamental rights. As a result, natural justice principles, such as the “audi alteram partem” norm (the right to be heard), should be implemented. The “major points made by the judges –

- 1) Chief Justice A.N. Ray – Held that all the processes established by law must be fair, just and reasonable but right to personal liberty could, be curtailed and give narrow interpretation.
- 2) Justice H.R. Khanna – He give a dissenting opinion stating that since Article 21 safeguards the right to life and personal liberty and if any law deprive such right them that law must be just and fair and affording chance of haring and due process are essential ingredients of natural law.
- 3) Reaming Judges : Justice P.N. Bhagwati , Y.V. Chandrachud and M.H. Beg – They agreed with Justice H.R. Khanna’s points and highlighted the importance and need of procedural fairness and the need to afford and provide a reasonable opportunity or chance of hearing

to the affected parties before a decision is made against them which may affects their rights”.^v

But the court had recognized a pressing issue that such safeguards such as the “audi alteram partem” rule would potentially act as a hindrance during emergency situations or when prompt action is needed hence the court held agreed that there maybe certain exceptions to the rule of “audi alteram partem”¹⁰ because in some cases it might just paralyze or numb swift administrative actions of the state at time of urgency such as if a dangerous criminal is absconding from the state when the state is forced to take strict actions , including to deprive him of his fundamental rights as well but the court still gives emphasis on the importance of exercise of the rule of “audi alteram partem” and why it should be applied because it affects constitutional rights of the person or parties.

The decision provides an in-depth and better analysis of the constitutional rights and procedural safeguards involved in the impoundment of passports in India under the Passport Act. It states that an individual's liberty is guaranteed and safeguarded by law, including the freedom to travel abroad, and that the state's or government's administrative activities must be in accordance with natural justice principles, including providing an opportunity and the right to be heard by the affected parties before any decision is made, because no law operates in isolation or in vacuum but in tangent with other laws and has to be compatible as well.

The judgment of the court in this case struck down the arbitrary practice of impounding passports without giving any statements of reasons and explained the need and importance of procedural fairness in administrative actions of the state and government because it promotes transparency, accountability and builds a sense of trust also among the citizens in a democracy.

Legal Doctrines and Legal Concepts evolved from this case-

- 1) Right to Personal liberty – The case from its conceptual heavy discussions reformed the tight to personal liberty provided under Article 21 which now also included right to go aboard and foreign travels.

¹⁰ Lexlife.in/2020/05/13/principle-of-natural-justice-reasoned-decision

- 2) Applicability of Article 19 – The apex court in this case provided with an explanation and objective answer that the rights under Article 19 and Article 21 are not mutually exclusive and if there is any statute or legislation containing any law or rule prescribing the procedure to curtail or deprive an individual of his personal liberty then it can still be challenged by the usage of Article 19.
- 3) Reasonableness Doctrine ¹¹–The apex court held that if there is any procedure established by law such as impounding a passport it has to fulfil the requirements and test of reasonableness under the blanket requirements of Article 14 and 21 of the Indian Constitution.
- 4) Natural Justice ¹²¹³¹⁴. The apex court held that both quasi- judicial and administrative bodies in their proceedings provide with an chance or opportunity of hearing and representation, especially when they impact and affect the fundamental rights or rights of an individual .
- 5) Principle of Non - arbitrariness and Equality ¹⁵- The apex court clearly held that the actions of the state and it's while exercising its administrative duties, their actions cannot be arbitrary and should be accordance with the Article 14 of the Indian Constitution and follow the principle of equality as well.
- 6) Audi Alteram Partem Rule and it's exclusions at certain times ¹⁶- The apex court held had recognized and allowed that at the time of urgency, prompt or swift action whichever the situation demands the Audi Alteram Partem Rule or right to be heard maybe excluded but remember the importance of upholding of this rule in administrative actions and functions.
- 7) Fundamental Rights - The apex court held should be read, interpreted and applied in any manner which expands their scope and applied and any narrow approach must be avoided.
- 8) A.K. Gopalan' case overruled – This case was overruled because it provided with a narrow interpretation of personal liberty and in future fundamental rights such as liberty, freedom etc need to be expanded to meet the needs of the future such as in the case of Justice K. S. Puttaswamy (Retd.) V Union of India

¹¹ SCC Online Web Edition Administrative Law Monday, September 18, 2023

¹² SCC Online Web Edition audi alteram partem Monday, September 18, 2023

¹³ SCC Online Web Edition Administrative Law Monday, September 18, 2023

¹⁴ Lexlife.in/2020/05/13/principle-of-natural-justice-reasoned-decision

¹⁵ Lexlife.in/2020/05/13/principle-of-natural-justice-reasoned-decision

¹⁶ SCC Online Web Edition audi alteram partem Monday, September 18, 2023

Conclusion

The Maneka Gandhi vs. Union of India case represents a historic moment in India's constitutional history. The case gives recognition to the right of travel abroad and forged principles of natural justice which act as safeguards for citizens to counter any arbitrary state actions. It signalled the start of a broader, more liberal, and expanded reading of the Constitution, namely Article 21. Even now the case is cited various times in courts across various jurisdictions by people to protect their fundamental rights.

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ⁱ [Maneka Gandhi v. Union of India. \(1978\) 1 SCC 248.pdf](#)

ⁱⁱ The Passports Act, 1967 Indiakanon

ⁱⁱⁱ Impact of Maneka Decision : Growing Dimensions of Indian Constitution'al Law pages 14,15,16,28,29 - 10th October D. RAJEEV

^{iv} [https://www.mondaq.com.India:27thJan2015Passport - Power To Impound And Seize](https://www.mondaq.com.India:27thJan2015Passport-PowerToImpoundAndSeize)

^v [Impact of Maneka Decision Growing Dimensions of Indian Constitutional Law.PDF](#)

^{vi} System of Governance page 2, 3 ,4