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Kharak Singh V State Of Up Air 1963 SC 1295

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Facts Of The Case

The Uttar Pradesh Police Department opened a “history sheet” against the petitioner, Kharak Singh, under Chapter 20 of the Uttar Pradesh Police Regulations¹ despite the fact that he was exonerated from a dacoity investigation owing to a lack of evidence. These regulations allowed for the surveillance of people who were habitual offenders or were thought to be developing that habit. Using Regulation 236 of the Uttar Pradesh Police Regulations, the police carried out surveillance that included tracing and verifying the petitioner’s movements, nighttime visits, sporadic officer queries, and covert picketing of his residence. Chapter 20 of the U.P. Police Regulations, which allowed police officers to conduct this kind of surveillance on him, was deemed unconstitutional by the petitioner.

ISSUES

This petition, which was submitted in accordance with Article 32 of the Constitution², contests the constitutionality of Chapter XX of the Uttar Pradesh Police Regulations as well as the authority granted to police officials by its various provisions on the grounds that they violate the rights of citizens protected by Articles 19(1)(d)³ and 21⁴ of the Constitution.

ANALYSIS

The Court considered the legality of each clause of Regulation 236. The Court determined that keeping a vigilant eye on a suspect and surreptitiously filming their activities did not physically impede mobility and that an obstacle to action that is psychological in nature is

¹ Chapter XX, Uttar Pradesh Police Regulations and Police Act 1861

² India Const. art. 32

³ India Const. art. 19(1)(d)

⁴ India Const. art. 21

not covered by Article 19 of the Fourth Amendment (1)(d). Additionally, it did not infringe upon the suspect's "personal liberty" as that term is used in Article 21.

The Court also looked at how the "liberties" in Articles 19(1) and 21 linked to one another. It came to the conclusion that while Article 19(1) dealt with particular freedoms or freedom-related concepts, "the term 'personal liberty' is used as a compendious term in Art. 21 as a compendious term," which took in and constituted the rest. It was argued that the phrase "personal liberty" is intended to serve the constitutional objective of guaranteeing the individual's dignity, as expressed in the Preamble of the Constitution. The Court concluded that clause (b) breached Article 21 and rendered unlawful Regulation 236(b), which allowed for domiciliary visits, based on the information presented above. However, the remainder of Chapter 20 of the U.P. Police Regulations was upheld because "the right to privacy is not a protected right under our Constitution" and attempts to track a person's whereabouts only disturb his privacy.

Another crucial factor to take into account in this scenario is the fact that article 21 is not a fundamental right that would be accessible to the general public. This right is necessary for living comfortably and peacefully. Therefore, as mentioned in India's constitution, this right cannot be denied to common people who do not fit into an exemption group.

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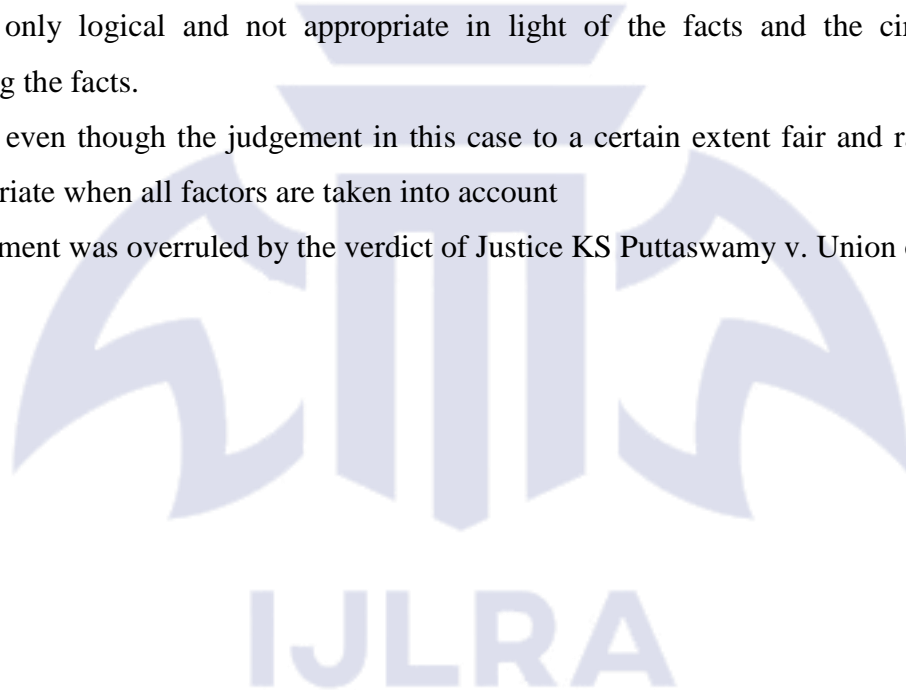
Conclusion

This judgement does not follow the law or the constitution. The laws are not effectively halted in this case. The Indian constitution guarantees a citizen's fundamental rights to privacy and freedom of movement.

Every person born in this nation has the right to exercise their fundamental rights, according to the constitution. It is against the law if this is not properly disclosed to the population. The verdict is only logical and not appropriate in light of the facts and the circumstances surrounding the facts.

Therefore, even though the judgement in this case to a certain extent fair and rational, it is not appropriate when all factors are taken into account

This judgement was overruled by the verdict of Justice KS Puttaswamy v. Union of India⁵.



⁵ Justice KS Puttaswamy v. Union of India (2019) 1 SCC 1