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“50 YEARS SINCE THE EMERGENCY: REVISITING INDIRA NEHRU GANDHI V. RAJ NARAIN, THE CASE THAT TRIGGERED IT”

-Aakanksha Rajesh¹

ABSTRACT

This article revisits the landmark judgement delivered by the Supreme Court of India, in the matter of *Indira Nebru Gandhi v. Raj Narain (1975)*, which was delivered in the backdrop of the emergency. The article delineates the judgement’s immediate context, its impact on reinforcing the Basic Structure doctrine and its foremost role in shaping electoral jurisprudence and the separation of powers. The article aims to critically analyse how the case, over the past fifty years, has continued to influence democratic institutions and judicial scrutiny in India. Finally, by drawing parallels between the past and the present, the article reflects upon the pressing question- ‘How far have we come?’

THE DAWN OF EMERGENCY

On the dawn of 25th June 1975, India woke up to an astounding communique on All India Radio where the authoritative, cadenced voice of Indira Gandhi announced-

“Brothers and sisters, the President has proclaimed a state of Emergency. There is no reason to be frightened by this. You will all be protected from the deep and widespread conspiracy that has been brewing for some time.”

These words marked the onset of an unprecedented era of political upheaval characterised by a period of suspended democratic freedoms and centralised authority. This year marks 50 years since the emergency, yet its memories remain vividly alive. With the ruling government labelling the historic day as ‘*Samvidhan Hatya Divas*’ (Constitution Murder Day) and the opposition’s counter remark claiming India to be under an ‘undeclared emergency’ for the past 11 years, the debate

¹ 2nd year student of LL.B. (Hons) at IMS Law College, with a keen interest in constitutional law, human rights and public policy.

over democracy, liberty, and civil rights remains as pertinent as ever. Therefore, we must take a stroll down history and revisit the groundbreaking case that triggered the emergency, *Indira Nehru Gandhi v. Raj Narain* (AIR 1975 SC 2299), and its aftermath. We shall also appraise the political and legal developments that took place in the following decades and ultimately contoured the several facets of present-day democracy.

BACKDROP OF EMERGENCY

The proclamation of emergency in the summer of 1975 was indeed an immediate reaction to the Allahabad High Court verdict; nevertheless, the groundwork had been laid much earlier. India's triumph in the 1971 Indo-Pak War established PM Indira Gandhi as a stateswoman of global stature; however, back home, India grappled with economic stagnation. There was an overwhelming influx of 80 lakh refugees from the erstwhile East Pakistan. This created a massive humanitarian challenge, requiring the Indian government to allocate significant resources toward their case. Also, the war itself proved to be a burdensome endeavour. India had to deploy its armed forces and acquire essential supplies, resulting in significant spending on ammunition, fuel and other logistical resources. The situation was further exacerbated by the 1973 oil crisis. When the Arab nations imposed an oil embargo in 1973 during the Yom Kippur War, the sudden spike in global oil prices struck India. Overnight, fuel cost escalated rapidly, throwing the economy off balance. Inflation soared, foreign reserves dwindled, and the government was forced to rethink its plans.

On the political front, the 1971 general elections saw a sweeping victory for Indira Gandhi; however, accusations of electoral malpractices grew exponentially. In the following years, the Indian political landscape was marked by widespread strikes and protests led by Socialist leaders Jayaprakash Narayan and George Fernandes. The slogans of “*Sampoorna Kranti*” and “*Sinhasan khali karo, ke janta aati hai*” reverberated all across the nation.

Then came a verdict that not only altered the trajectory of Indian politics but also raised significant questions about the powers and authority of the judiciary. It sparked the perpetual debate of the Executive vs the Judiciary. The case of *Indira Nehru Gandhi v. Raj Narain* (1975) was exceptional in

the sense that it was the first time in India that the election of a sitting Prime Minister was declared void. It also led to the amendment of the election laws retrospectively to validate the annulled election of the Prime Minister.

RAJ NARAIN V. INDIRA NEHRU GANDHI & ORS. 1975 IN THE HIGH COURT OF ALLAHABAD

On 24th April 1971, Shri Raj Narain, the leader of Ram Manohar Lohia's SSP, filed a petition in the Allahabad High Court challenging the election of Indira Gandhi on the grounds of electoral malpractice. In the elections that took place for the Lok Sabha in 1971, Shri Raj Narain (petitioner) and Smt. Indira Gandhi (respondent no.1) were the principal contenders from the 22 Rae Bareilly Parliamentary constituency. After securing a total of 1,83,309 votes, the respondent was declared elected.

PETITIONER CHALLENGED THE ELECTION ON THE FOLLOWING GROUNDS

- A) Respondent obtained and procured the assistance of Shri. Yashpal Kapur, a Gazetted officer in the Government of India. Thereby, committing a corrupt practice under Section 123(7) of the Representation of the People Act, 1951.
- B) Respondent procured the assistance of the members of the Armed Forces of Union, amounting to corrupt practice under Section 123(7) of the Representation of People Act.
- C) Respondent also procured the services of District Magistrate, Rae Bareilly, the Superintendent of Police, Rae Bareilly and the Home Secretary, U.P. Govt.
- D) Election agent of the respondent freely distributed quilts, blankets, dhotis and liquor among the voters, thus committing bribery under Section 123(1)(A)(b)(ii) of the Representation of People Act.
- E) Respondent made extensive appeals to the religious symbols of cow & calf and thereby committed a corrupt practice under Section 123(3) of the Representation of People Act.
- F) Election agent of the respondent hired and procured several vehicles for the free conveyance of electors to polling booths, amounting to corrupt practices under Section 123(5) of the Representation of People Act.

- G) Respondent authorised expenditure in contravention of Section 77 of Representation of People Act and hence committed a corrupt practice under Section 123(6) of the Act.

DISQUALIFICATION AND APPEAL TO THE SUPREME COURT

Upon due consideration of the submissions made by the parties, the order of Allahabad High Court found the respondent guilty of corrupt practices under Section 123(7) of the Representation of People Act and disqualified her for a period of six years, as provided in Section 8A of the Act.

Subsequently, Indira Gandhi approached the Supreme Court of India, challenging the decision of the Allahabad High Court. The Supreme Court issued an injunction, temporarily staying the order of the High Court. This allowed PM Indira Gandhi to attend parliamentary sessions; however, she was barred from participating in debates and voting in the Lok Sabha. Shortly afterwards, on 25th June, President Fakhrudeen Ali Ahmed made a proclamation of Emergency on the grounds of internal disturbances. The President then proceeded to pass the 39th Constitutional Amendment Act, which inserted Article 329A in the Indian Constitution. The said article provided that the election of the Prime Minister and Speaker cannot be challenged in the court of law, but could only be dealt with by the Committee formed by the Parliament for that purpose.

Shri Raj Narain challenged the constitutional validity of clause (4) of Article 329A on two grounds. First, it damages the Basic Structure of the Constitution. Reliance was placed in support of the contention on the majority view of 7 learned judges in *Keshavananda Bharti Sripadanagalavaru v. State of Kerala* (AIR 1973 SC 1461).

Contentions of the Appellant were as follows-

- A) It was primarily contended that the power to make decisions in election-related matters rests solely with the legislature. Thereby, the judiciary has no power to interfere in the said matters.
- B) Appellants argued that in the absence of any statutory or constitutional provisions regarding election-related disputes, they are not to be dealt with by the judiciary.

- C) In reference to the 39th Constitutional Amendment, it was contended that, as per clause (1) of 329A, no election of either House of Parliament or of the person who holds the office of Prime Minister or who holds the office of Speaker shall be put to question.
- D) Further clause (4) of Article 329A states that the law made by parliament before the 39th constitutional amendment, relating to election petitions, shall not be deemed to be void and will remain valid.
- E) Overall, it was submitted that in the introduction of the 39th Constitutional amendment, the legislature has acted in its sole authority and has not encroached on the power of other organs of government.

Contentions of the respondent were as follows-

- A) First, under Article 368, only general principles governing the organs of the State and the basic principles can be laid down. An amendment of the Constitution does not contemplate any decision in respect of individual cases. Clause (4) of Article 329-A is said to be in exercise of a purely judicial power which is not included in the constituent power conferred by Article 368.
- B) Second, the control over the result of the elections and on the question whether the election of any person is valid or invalid is vested in the judiciary under the provisions of Article 329 and Article 136.
- C) Third, the Amendment destroys and abrogates the principle of equality. It is said that there is no rational basis for differentiation between persons holding high offices and other persons elected to Parliament.
- D) Fourth, the rule of law is the basis for democracy and judicial review. The fourth clause makes the provisions of Part VI of the Representation of the People Act inapplicable to the election of the Prime Minister and the Speaker.
- E) Fifth, Clause (4) destroys not only the principle of judicial review but also the separation of powers.

CONSTITUTIONAL QUESTIONS BEFORE THE APEX COURT

The above-mentioned contentions raised several crucial questions of law before the Hon'ble court-

- (6) What is the scope of amending power guaranteed to the Parliament under Article 368? Can parliament, under its constituent power, exercise what is essentially a judicial power [as in clause (4) of Article 329A]?
- (7) Does clause (4) of Article 329A strip the judiciary of the power of judicial review of elections?
- (8) Does such removal violate the basic structure doctrine and undermine the constitution?
- (9) Does exempting the election of the Prime Minister and Speaker from the scope of judicial review violate the principle of equality before the law?

JUDGEMENT

The Supreme Court of India declared Article 329A inserted by virtue of the 39th Constitutional Amendment Act, as unconstitutional and void. As far as the validity of Indira Gandhi's election was concerned, the court gave ample indication during the course of the hearing that arguments on both law and facts were needed since the issues raised- especially the claim that "rules of the game" had been changed could not be decided without examining facts. The court did not find sufficient evidence substantiating the alleged electoral malpractice, thereby the election of the appellant, Indira Gandhi, was held valid.

Secondly, the court also validated the constitutionality of the two challenged legislations- Representation of People's (Amendment) Act 1974 and the Election Laws (Amendment) Act 1975. The apex court observed that it is well within the purview of the two houses of Parliament to legislate on matters concerning elections. The court upheld the power of parliament under Article 368 and also referred to Article 122, which constitutes one of the parliamentary privileges and hence bars judicial review of parliamentary proceedings.

Finally, while dealing with the issue of the validity of the 39th Constitutional Amendment Act and the insertion of Article 329A clause (4), the court predominantly referred to the landmark judgment of *Keshavananda Bharti v. State of Kerala (1973)* and bolstered the principle of Basic

Structure of the Constitution. The apex court observed that the power of parliament to make amendments under Article 368 is not unrestrained and unlimited. In its reasoning, the court also upheld the principle of natural justice - 'Audi Alteram Partem' (right to be heard). The court emphasised that the said amendment has created an unreasonable divide between the 'persons who hold office' and 'other persons who were elected to the parliament', which is against the rule of intelligible differentia and hence is violative of principles of equality laid down under Article 14 of the Indian Constitution. Conclusively, Indira Gandhi's appeal was allowed, and the High Court judgement was set aside. Raj Narain's cross appeal was dismissed by the court.

SIGNIFICANCE OF THE VERDICT

The case of *Indira Gandhi v. Raj Narain (1975)* was indeed exceptional and unparalleled due to an array of reasons. This constituted the first in the history of the Indian Judiciary where the apex court applied the Basic Structure doctrine to strike down parts of a constitutional amendment. The judgement bolstered the power of judicial review and reaffirmed that courts remain the ultimate guardians of the constitution. Further, the apex court preserved the spirit of free and fair elections and emphasised in its judgment that parliament cannot, through retrospective or targeted amendment, insulate the election of a single individual from judicial scrutiny. The judgement emphasised that the elections are the foundation of democracy and cannot be placed beyond the scope of legal challenge. Thus, the judgment not only set a significant precedent but also stood as an enduring example of the fact that 'No one is above the law'.

Delivered amidst the political turbulence of emergency, it demonstrated that constitutional supremacy and judicial independence endure even under political pressure. The decision was greatly instrumental in shaping the public morality and eventually restored the balance between governmental powers and citizen rights. It not only strengthened public confidence in judiciary's role as a check on executive and legislative excesses but also cemented the idea that democracy in India commands an accountable government which is under law, not above it.

HOW FAR HAVE WE COME?

Half a century has passed since the Supreme Court delivered its judgment in *Indira Nehru Gandhi v. Raj Narain (1975)*. Nevertheless, it remains a cornerstone for constitutional law & electoral

jurisprudence and its doctrines have been cited and applied in several landmark Supreme Court cases, predominantly where the matters of Basic Structure of the constitution and the legitimacy of constitutional amendments are in consideration. The *Minerva Mills Ltd. v. Union of India* (1980) judgement made extensive use of Indira Gandhi's case to support its finding that judicial review is fundamental to the constitutional scheme. It explicitly referenced *Indira Gandhi v. Raj Narain* to demonstrate a clear line of legal reasoning: "*The basic structure doctrine... was not only followed but elaborated and applied in Indira Nebru Gandhi v. Raj Narain, in which amendments that violated the core features of the Constitution were struck down.*" Further, *S.R. Bommai v. Union of India* (1994) relied on both Kesavananda Bharati and Indira Gandhi judgement to discuss constitutional principles governing the use of Article 356 and the President's rule. Similarly, the *Kuldip Nayar v. Union of India* (2006), and other election cases referenced the Indira Gandhi judgment for principles relating to the conduct of elections and the necessity of judicial scrutiny for upholding democratic integrity.

Over the years, the judgement has anchored itself as a guiding principle of ideals of free & fair elections, powers of the executive and judiciary, judicial scrutiny and the overall supremacy of law. India, which prides itself on being the largest democracy in the world, continues to be guided by the values entrenched in the constitution. However, the recent developments in the political domain have compelled us to reevaluate and reconsider the stance. Critics often argue that the modern Indian democracy is under significant threat due to increasing institutional erosion, the passage of draconian laws and persistent allegations of electoral manipulation. Over the past couple of years, instances of rigorous censorship have narrowed the space for constructive criticism and dissent. Journalists and critics often face administrative harassment, self-censorship and threats of violence, undermining the tenets of freedom of speech and expression. Social media and digital communication are heavily monitored and regulated under the amended IT Rules. This has not only diminished the scope of free debate but has enormously contributed to India's dramatic fall in the International Press Freedom indices. Furthermore, the recurrent allegations of 'vote theft' during the 2024 general elections, citing manipulated electoral rolls, fictitious entries, limited transparency in voter data, etc, have placed the integrity of India's elections under unprecedented scrutiny. Moreover, rising religious and social polarisation further threatens the ideals of secularism and peaceful coexistence.

Taken together, these instances fuel a climate of doubt, erosion of public confidence, growing intolerance and diminished checks & balances. It reminds us of the excesses of the emergency era, often described as one of the darkest chapters in the country's democratic history. The pressing question remains- Have we truly learned from the past, or are we treading down the same path again? How far have we really come?

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