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INDEPENDENCE OF JUDICIARY

~ *Maanya Jain*

INTRODUCTION

India is a democratic nation where all the pillars are independent of each other. One such pillar is the judiciary of the country. The main aim of the judiciary or the justice system is to dispense justice and maintain the rule of law irrespective of any external or internal forces. It means that the judiciary should give judgments solely based on law or the constitution of the country rather than being under the pressure of the influence of any power. In India, the independence of the judiciary is fulfilled in a variety of ways one such being the appointment of judges in the courts of India, the supremacy of the constitution above any other body, or be it the basic structure doctrine. All these show that independence of the judiciary is necessary to uphold the rule of the land. Thus, independence of the judiciary refers to the supremacy of the judicial system in India without being influenced by any power, authority, or body of the constitution.

WHY IS INDEPENDENCE OF JUDICIARY REQUIRED?

India was, for many years under colonial rule where all its independence was blocked. When India became an independent nation, its main aim was to avoid any hindrance in the powers of the judiciary and the constitution makers did not want the judiciary should dispense justice under the oppression of authority or powers¹. Had this been allowed, the country would not have been as democratic as it is today. The criminals, or even corrupt politicians, could have been released because their power was superior to that of the judiciary. Henceforth, the merit of independence of the judiciary is visible. Another merit of the independence of the judiciary is to maintain law

¹ Chatterjee, A.P. (1973) 'Independence of the Judiciary', *JSTOR*, 2(4).

and regularity in the rule of land. This implies that the country has supreme guiding authority, that is the constitution. An independent judiciary is a path to a free society², it provides stability and ensures the development of all. No individual is treated as superior or inferior, rather everyone is equal. Additionally, the independence of the judicial system is a part of the basic structure doctrine of the constitution and hence, necessary.

PROVISIONS OF CONSTITUTION ABOUT INDEPENDENCE OF JUDICIARY

As mentioned earlier the constitution upholds the value of independence of judiciary. Certain provisions mention the same. One such being is the appointment of judges, which is mentioned under articles 124 to 147 in the Supreme Court. Articles 214 to 231 mention independence in the appointment of Judges of the high courts. The basic structure of the constitution and the preamble cannot be amended, as held in the judicial precedent of the Kesavananda Bharti case also states the independence of the judiciary. Also, the judiciary can strike down any law of the legislature if it finds it against the provisions of the Constitution. Another example is Article 13, which stands as a pillar in evidencing the independence of the judiciary.

CASE LAWS

1. SUPREME COURT AOR & ANR V. UOI³

In the landmark judgment, the court upheld the validity of the independence of the judiciary stating that it is an essential element in a democratic country. The court also said in its judgment that as long judiciary is independent there shall not be any violation of the rights of people, executive or legislature.

2. S.P GUPTA V. UOI⁴

² Singh, M.P. 'Securing the Independence of the Judiciary - The Indian Experience', *Heinonline* [Preprint].

³ Supreme Court AOR V. UOI (1994).

⁴ S.P Gupta v. UOI (1982).

It is another landmark judgment, where the apex court said that the judges should not be under any pressure of external force and should give judgments and decisions fearlessly. This is against the principle of the independence of the judiciary.

3. INDIRA GANDHI V. RAJ NARAIN⁵

This is one landmark case regarding the independence of the judiciary. In this case, the election of Indira Gandhi who was holding the ticket for Lok Sabha elections was challenged. This was done just before the emergency was implemented. The activist, Raj Narain challenged the same because the elections were faulty. The court of law held in favor of Raj Narain stating her elections to be faulty and leave her office. This shows how independent and powerful the judiciary is to uphold the rule of law.

CONCLUSION

An independent judiciary is important for a democratic and free society. The independence of the judiciary ensures that the rule of law and regularity is maintained in society. It also ensures that the laws are up to the needs of society as per change in dynamics in either political or sociological scenarios. India is a liberal and democratic country where the maintenance of law and order is ensured when the judiciary is independent⁶. Had it not been independent in its work, the dispensation of justice would be a difficult task. It's an achievement for India to achieve the independence of the judiciary.

⁵ Indira Gandhi v. Raj Narain (1975).

⁶ Vaidya, N. and Raghuvanshi, R.S. (2010) 'Independence of Judiciary - An Indian Experience', *SSRN* [Preprint].