



# The Indian Journal for Research in Law and Management

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## KESAVANANDA BHARATI AND ANR. VS. STATE OF KERALA 1973

4 SCC 225

*Sam S. Siryon*

Decided: April 24, 1973

Court: Supreme Court of India

Citation: 1973 4 SCC 25/ AIR 1973 Supreme Court 1461

Bench: Justices; S.M Sikri, A.N. Grover, A.N. Ray, D.G. Palekar, H.R. Khanna, J.M. Shelat, K.K. Mathew, K.S. Hedge, M.H. Beg, P. Jaganmohan Reddy, S.N. Dwivedi, Y.V. Chandrachud

Parties: His Holiness Kesavananda Bharati Sripadagalvaru (Petitioner) vs. State of Kerala and Others (Respondent)

### BACKGROUND OF THE CASE

The present case originated from a challenge to the *Kerala Land Reforms Act, of 1963*<sup>1</sup> which threatened the property of a Hindu Monastery. This issue raised a local dispute which later escalated into a major constitutional battle over the extent of the Indian Parliament's power to amend the constitution. In the 1950s and 1960s, the Kerala State government-initiated land reforms to redistribute land from large landowners to the landless and poor. The *Kerala Land Reforms Act, 1963*, placed a ceiling on the amount of land a person or institution could hold and allowed the government to acquire the surplus.

Sri Kesavananda Bharati who was the head (Pontiff) of the Ender Mutt, a Hindu religious institution in Kasaragod District of Kerala which owned considerable land. The application of the land reforms meant the Mutt would lose a significant portion of its property. However, in

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<sup>1</sup> Kerala Land Reforms Act, (KLRA) Act 1 of 1964, Act of Parliament

February 1970, His Holiness Kesavananda Bharati, represented by the eminent jurist Nani Palkhivala, filed a writ petition in the Hon'ble Supreme Court under *Article 32*<sup>2</sup> of the Constitution.

The petition argued that the Kerala government's actions and relevant land reform amendments violated his fundamental rights, specifically the right to equality (*Article 14*), the right to freedom of religion (*Article 25*), the right to manage religious affairs (*Article 26*), and the right to property as enshrined under *Article 19(1)(f)* and *Article 31*.

While the case was in pendency, the parliament passed the 24<sup>th</sup>, 25<sup>th</sup> and 29<sup>th</sup> Constitutional amendments to assert its supremacy and power to amend any part of the constitution, including fundamental rights. This was a reaction to the previous Supreme Court rulings as in the case of *Golaknath vs. State of Punjab 1967*<sup>3</sup>, which had restricted the parliament's ability to amend fundamental rights.

## QUESTIONS OF LAW

Article 368 of the Indian Constitution on parliament's power to amend any part of the constitution.

Fundamental rights vs Amendment powers (Article 13 and 368), Fundamental Rights (to own and acquire properties and right to practice religious affairs).

24<sup>th</sup> Constitutional Amendment on fundamental rights.

25<sup>th</sup> Constitutional amendment on the right to own properties.

29<sup>th</sup> Constitutional amendment on inclusion of land reform laws in the Ninth Schedule of the Indian Constitution.

## ISSUES OF CONTENTION

Whether the Kerala Land Reforms Act violated fundamental rights (property and religious management) under Articles 19(1) (f), 26, etc.?

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<sup>2</sup> Constitution of India (Article 32, right to approach the Supreme Court for the enforcement of fundamental rights in forms of writs)

<sup>3</sup> *Golaknath vs. State of Punjab* (1967) 2 SCR 762

Whether Article 368 grants Parliament the unlimited powers to amend any part of the Constitution, including Fundamental Rights? And, whether there exist inherent limitations to amendment powers of the Parliament?

Whether Parliament can alter the 'basic structure' or the fundamental rights of the Indian Constitution? And, what constitutes 'Basic Structure' of the Indian Constitution?

Whether the 24<sup>th</sup> constitutional amendment granting parliament the power to amend any part of the constitution including fundamental rights was valid?

Whether the 25<sup>th</sup> constitutional amendment curtailing property rights and Judicial Review as provided through Article 13-C was valid? Or whether the 29<sup>th</sup> constitutional amendment inserting land reform laws in the Ninth Schedule was also valid?

### **ARGUMENTS BY THE PETITIONER**

The legal team led by Senior Advocate Nani Palkhivala argued that the amendments violated fundamental rights and exceeded parliaments amending limits by altering the Constitution's basic structure, and undermining judicial review and property rights.

It was further argued that the amendments infringed upon fundamental rights which are guaranteed by the constitution and that the power to amend the Constitution should not extend to altering the basic structure or essential features of the Constitution itself. That the amendments challenged 24<sup>th</sup>, 25<sup>th</sup> and 29<sup>th</sup> Constitutional Amendment Acts were unconstitutional as they undermined judicial review and separation of powers and that the right to own and acquire properties is a fundamental right that cannot be taken away without due process<sup>4</sup>.

It was also argued by the petitioner that the Parliament cannot amend the Constitution in whatever way they feel like. That unlimited power cannot be granted to them as there are chances of it being misused. The Parliament cannot exercise its power to amend the constitution by changing its basic structure which was earlier held in the case of *Sajjan Singh vs. State of Rajasthan*<sup>5</sup>. Furthermore, the petitioner argued that *Article 368 of the Constitution* did not grant authority to change, amend, or abrogate the basic framework of the Constitution or the fundamental rights of citizens and that the term amendment does not mean the fundamental

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<sup>4</sup> Kesavananda Bharati Case Summary and Impacts, Vijayram December 3, 2025  
<https://vajiramandravi.com/upsc-exam/kesavananda-bharati-case/>

<sup>5</sup> Sajjan Singh vs. State of Rajasthan 1965 SCR (1) 933

identity or framework of the constitution can be altered or destroyed while exercising amending powers. And that the power to amend itself was granted by the constitution and is therefore subjected to inherent limitations set forth therein<sup>6</sup>.

### **ARGUMENTS BY THE RESPONDENTS**

Representing the respondents (State of Kerala and Union of India), it was contended that Parliament has the unlimited power to amend the Constitution under *Article 368*, which was essential for achieving social justice and meeting socio-economic needs. They claimed that there is no distinction between ordinary laws and constitutional amendments and that judicial restraint was thus asserted against legislative supremacy. They further argued that the Kerala Land Reforms Act was a vital instrument in land redistribution and poverty reduction, and that any judicial limit on Parliament would undermine democracy and national progress.

They argued that Parliament's power under *Article 368* is plenary and unrestricted thus it can amend any part of the Constitution including fundamental rights. That the Parliament is the voice of the people and should not be fettered in reshaping the Constitution to address societal needs, making judicial review over amendments an obstacle. And that such unrestricted power is necessary to fulfill constitutional mandates for social and economic development, like land reforms, by removing obstacles to legislations. The Respondents affirmed the constitutionality of the 24<sup>th</sup>, 25<sup>th</sup>, and 29<sup>th</sup> Constitutional amendments arguing that it was necessary to provide a solid anchor to parliament's legislative authority on social justice concerns without encroaching on rights or converting the Constitution into a charter of rights<sup>7</sup>.

### **JUDGEMENT**

The Hon'ble Supreme Court established the "Basic Structure Doctrine", holding that parliament's power to amend the Constitution is not absolute and cannot be used to alter its fundamental features. The Court ruled that while parliament can amend any part of the constitution, it cannot change the basic structure, which includes principles like the rule of law, separation of powers and judicial independence. The Hon'ble Supreme court upheld the 24<sup>th</sup>

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<sup>6</sup> Asthana; Kesavananda Bharati vs. State of Kerala (1973), Case Analysis, Ipleaders, March 26, 2024 [https://blog.ipleaders.in/kbharatikerala/#Petitioners\\_contentions](https://blog.ipleaders.in/kbharatikerala/#Petitioners_contentions)

<sup>7</sup> Akanksha Rajput, Kesavananda Bharati Sripdagalvaru vs. State of Kerala and Anr. NAYA LEGAL <https://www.nayalegal.com/kesavananda-bharati-sripdagalvaru-v-state-of-kerela-and-anr#:~:text=Respondent%20Argument&text=Moreover%2C%20the%20Respondent%20urged%20that,the%20social%20justice%20delivery%20system.>

Constitutional amendment but found parts of the 25<sup>th</sup> Constitutional amendment to be ultra vires (beyond the powers of) the Constitution.

## **IMPACT OF THE JUDGEMENT**

The case established the basic structure doctrine, a pivotal concept in Indian law limiting Parliament's power to amend the Constitution, meaning core principles like democracy, secularism and judicial independence are inviolable, safeguarding the Constitution's essence while allowing for change and strengthening judicial review as a check on legislative power.

The case curbed Parliament's absolute power to amend the Constitution and ensure that amendments respect fundamental rights and values. The ruling affirmed the judiciary's power to strike down constitutional amendments that violates the basic structure, thereby reinforcing judicial oversight. It established elements like democracy, rule of law, separation of powers, secularism, and fundamental rights as part of the basic structure, thereby protecting it from legislative overreach. The doctrine became a bedrock for subsequent rulings such as the *Minerva Mills case of 1980*<sup>8</sup>, which further protected the basic structure.

## **REFERENCES**

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<sup>8</sup> Minerva Mills Ltd. and Ors vs. Union of India and Ors. (1980) 3 SCC 625