



The Indian Journal for Research in Law and Management

Open Access Law Journal – Copyright © 2026

Editor-in-Chief – Dr. Muktai Deb Chavan; Publisher – Alden Vas; ISSN: 2583-9896

This is an Open Access article distributed under the terms of the Creative Commons Attribution- Non-Commercial-Share Alike 4.0 International (CC-BY-NC-SA 4.0) License, which permits unrestricted non-commercial use, distribution, and reproduction in any medium provided the original work is properly cited.

CASE COMMENTARY: ANURADHA BHASIN V. UNION OF INDIA (2020)

~*Abhaya*

INTRODUCTION

On 5 August 2019, the Government of India revoked Article 370 of the Constitution, stripping Jammu and Kashmir of its special status. What followed was not merely a political and constitutional upheaval — it was also one of the most sweeping communication blackouts ever imposed in a functioning democracy. Internet services, mobile networks, and landlines were shut down across the region. Movement was restricted. Public gatherings were banned. The Srinagar edition of the Kashmir Times could not be published. For months, 12.5 million people lived in an information vacuum.

It was against this backdrop that Anuradha Bhasin, the Executive Editor of the Kashmir Times, approached the Supreme Court of India under Article 32, challenging the legality of the shutdown. Her petition — along with one filed by Member of Parliament Ghulam Nabi Azad — gave the Supreme Court an opportunity to answer a question that had never been squarely addressed in Indian constitutional law: does the right to access the internet enjoy constitutional protection?

On 10 January 2020, a three-judge bench comprising Justice N.V. Ramana, Justice R. Subhash Reddy, and Justice B.R. Gavai delivered its answer. The result was a landmark judgment — celebrated for its principles, criticised for its restraint, and debated for its impact to this day.

BACKGROUND AND FACTS

Following the abrogation of Article 370, the Jammu and Kashmir administration issued a security advisory directing tourists and pilgrims to leave the region immediately. Within days, schools, offices, and all communication services were shut down. The government cited national security concerns and the risk of public disorder to justify these sweeping measures.

Anuradha Bhasin's petition argued two things: first, that the internet shutdown was illegal because no orders had been publicly issued or published, making judicial challenge effectively impossible; and second, that the shutdown violated the freedom of the press under Article 19(1)(a) of the Constitution, since the Kashmir Times could not function without internet connectivity.

Ghulam Nabi Azad's separate petition raised the additional issue of restrictions on movement, arguing that he was being prevented from visiting his constituency and communicating with his constituents.

Both petitioners sought quashing of all restriction orders and restoration of internet and communication services. They also sought the court to frame guidelines governing the imposition of such restrictions in the future.

ISSUES BEFORE THE COURT

The Supreme Court framed several key issues for determination:

First, whether the freedom of speech and expression and the right to carry on trade and business through the internet are constitutionally protected under Article 19.

Second, whether the government's failure to publish the restriction orders violated the principles of natural justice and the right to seek judicial remedy.

Third, whether the internet shutdown and the imposition of restrictions under Section 144 of the Code of Criminal Procedure were proportionate, necessary, and legally valid.

Fourth, whether the freedom of the press was violated by the communication blackout.

THE JUDGMENT: WHAT THE COURT HELD

The Supreme Court's judgment was simultaneously progressive in principle and restrained in remedy.

On the constitutional question, the court made its most significant holding: the freedom of speech and expression under Article 19(1)(a) and the right to carry on any trade or business under Article 19(1)(g) extend to the medium of the internet. In other words, using the internet to exercise these rights enjoys constitutional protection. This was a critical recognition — for the first time in India, the court placed internet access within the framework of fundamental rights.

However — and this is an important nuance — the court stopped short of declaring internet access itself a standalone fundamental right. It was framed as a derivative right, meaning that internet access is protected only insofar as it is used to exercise an already existing fundamental right like freedom of speech or profession. This distinction would later become a significant point of criticism.

On the question of proportionality, the court applied the test articulated in *K.S. Puttaswamy v. Union of India*, holding that any restriction on fundamental rights must satisfy four conditions: it must be sanctioned by law, it must pursue a legitimate aim, it must be necessary and the least restrictive means available, and it must be proportionate to the harm sought to be prevented. The court held that indefinite internet shutdowns do not satisfy this test.

On the issue of publication of orders, the court was emphatic — any order imposing an internet shutdown must be published so that citizens can challenge it before courts. The government's practice of issuing secret, unpublished orders was held to be constitutionally impermissible.

The court also addressed the misuse of Section 144 of the CrPC, holding that it cannot be used to impose indefinite or excessively broad restrictions. Orders under Section 144 must reflect genuine application of mind, be based on material evidence, and cannot be used as a convenient substitute for proper legislation.

The court further directed that all internet shutdown orders must be reviewed by a government-appointed Review Committee within a specified timeframe, and that shutdowns must not extend beyond what is necessary.

CRITICAL ANALYSIS

The Anuradha Bhasin judgment is rightly celebrated as a watershed moment in Indian digital rights jurisprudence. For the first time, the Supreme Court brought internet access within the constitutional fold and imposed meaningful procedural checks on the government's power to shut down connectivity. The principles of proportionality, transparency, and judicial review that it articulated are constitutionally sound and democratically essential.

However, the judgment has significant limitations that must be honestly acknowledged.

First, the court delivered a principled ruling but provided no immediate relief. Despite finding that indefinite shutdowns are impermissible, the court did not order the restoration of internet services in Jammu and Kashmir at the time of the judgment. The 12.5 million residents of the region — who had already endured months of blackout — continued to suffer without access even after the court ruled in their favour. This gap between principle and remedy is a serious shortcoming.

Second, the court's refusal to declare internet access a standalone fundamental right has practical consequences. By framing it as a derivative right, the court left open the possibility of extensive shutdowns in situations where the government could argue that no specific fundamental right was being exercised through the internet — a threshold that is difficult for ordinary citizens to establish.

Third, and most damingly, the guidelines have not been followed. India earned the dubious distinction of being the world's internet shutdown capital — recording 84 internet shutdowns in 2022 alone, the highest of any country in the world for the fifth consecutive year. State governments continued to impose shutdowns without publishing orders, without constituting Review Committees, and in violation of every procedural safeguard the court had laid down. When the Foundation for Media Professionals — one of the original petitioners — filed a miscellaneous application seeking compliance with the Anuradha Bhasin guidelines, the Supreme Court itself declined to hear it. The watchdog had looked away.

SIGNIFICANCE AND LEGACY

Despite its limitations, *Anuradha Bhasin v. Union of India* remains one of the most important judgments in India's constitutional history for the digital age. It established that the internet is not merely a tool of convenience — it is a medium through which fundamental freedoms are exercised, and any attempt to restrict it must meet the highest constitutional standards.

The judgment has been widely cited in subsequent cases involving digital rights in India and has influenced discourse on internet governance across South Asia. It set the stage for later developments including the Digital Personal Data Protection Act, 2023 and ongoing debates about the Right to Disconnect.

What the judgment ultimately revealed, however, is a deeper institutional problem: India has a judiciary willing to articulate progressive digital rights principles, but a state apparatus that routinely ignores them. The *Anuradha Bhasin* judgment is both a landmark and a reminder — of how far India has come in recognising digital freedoms, and how far it still has to go in actually protecting them.

CONCLUSION

Anuradha Bhasin v. Union of India answered an important constitutional question — yes, internet access used to exercise fundamental rights deserves protection under Article 19. But it also revealed the limits of judicial pronouncement without enforcement. A judgment that sets powerful principles but provides no immediate remedy, and whose guidelines are routinely flouted without consequence, is ultimately only as strong as the political will to comply with it. India's internet shutdown record since 2020 tells its own story. The principles of *Anuradha Bhasin* deserve not just to be celebrated — they deserve to be enforced.

CITATIONS

- *Anuradha Bhasin v. Union of India*, (2020) 3 SCC 637.
- *K.S. Puttaswamy v. Union of India*, (2017) 10 SCC 1.
- *Indian Express Newspapers v. Union of India*, (1985) 1 SCC 641.
- Constitution of India, art. 19(1)(a), 19(1)(g), 19(2), 32.
- Code of Criminal Procedure, No. 2 of 1974, § 144 (India).
- Temporary Suspension of Telecom Services (Public Emergency or Public Safety) Rules, 2017, G.S.R. 1173(E) (India).