



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 ON ANURADHA BHASIN V. UNION OF INDIA

Shreyanshi Pathak

(2020) 3 SCC 637 — Supreme Court of India

I. CASE DETAILS

Case Name	Anuradha Bhasin v. Union of India & Ors.
Citation	(2020) 3 SCC 637; W.P. (C) No. 1031 of 2019
Connected Matter	Ghulam Nabi Azad v. Union of India, W.P. (C) No. 1164 of 2019
Court	Supreme Court of India
Bench Strength	Three-Judge Bench (Division Bench)
Coram	Justice N.V. Ramana (author), Justice R. Subhash Reddy, Justice B.R. Gavai
Date of Judgment	10 January 2020
Petitioner	Anuradha Bhasin, Executive Editor, Kashmir Times
Respondent	Union of India
Relevant Provisions	Articles 19(1)(a), 19(1)(g), 19(2), 19(6), 21 and 32 of the Constitution of India; Section 144, Code of Criminal Procedure, 1973; Temporary Suspension of Telecom Services (Public Emergency or Public Safety) Rules, 2017

II. INTRODUCTION

Anuradha Bhasin v. Union of India is a landmark case on internet freedom in India, arising from the communication shutdown in Jammu and Kashmir after Article 370 was abrogated. The case raised a question Indian courts had not clearly answered before: does the freedom of speech under Article 19(1)(a), and the freedom to do business under Article 19(1)(g), include the right to use the internet? The Court said yes. When people use the internet to speak or trade, they exercise rights they already have under Article 19, and those rights do not disappear online. Any order restricting the internet must also survive judicial review and be proportionate. This commentary covers the facts, the arguments on both sides, the Court's reasoning, and a critical look at what the judgment got right and where it fell short.

III. BACKGROUND OF THE CASE

On 5 August 2019, the President issued Constitutional Order 272, extending the Constitution of India to Jammu and Kashmir and ending the special status given under Article 370. Expecting unrest, the government acted first. Section 144 CrPC was imposed, stopping people from gathering in public. At the same time, all communication was cut off — mobile networks, landlines, and the internet, all at once, across the region.

Anuradha Bhasin is the Executive Editor of the Kashmir Times. Without internet access, she could not gather news, verify facts, or send content to print. Her paper's Srinagar edition stopped publishing from 6 August 2019. She moved the Supreme Court under Article 32, arguing that the shutdown violated freedom of the press. Around the same time, Ghulam Nabi Azad, a Member of Parliament, filed a separate petition, saying the restrictions stopped him from travelling to his constituency and reaching the people he represented. The Court combined both petitions and heard them together.

IV. ISSUES BEFORE THE COURT

1. Could the government refuse to show the Court the orders that imposed these restrictions?
2. Does the freedom of speech under Article 19(1)(a), and the freedom to trade under Article 19(1)(g), include the right to use the internet?
3. Were the restrictions imposed under Section 144 CrPC valid, and what limits apply to that power?
4. Can internet access be suspended indefinitely, and if not, what test should decide this?

V. ARGUMENTS ADVANCED BY THE PETITIONERS

The petitioners argued that the restrictions were arbitrary and disproportionate. First, the government could not hide the orders from the public. If people never see an order, they cannot challenge it, and that goes against the rule of law. Second, internet access had become essential for journalism, trade, education, and health. A complete shutdown was far more extreme than needed, especially since the government gave no evidence that a total ban, rather than more targeted steps, was necessary. Third, Section 144 CrPC was meant for short, local emergencies, not open-ended restrictions across an entire region. They also cited a similar Israeli case, *Public Committee Against Torture in Israel v. Government of Israel*, to support a clear proportionality test.

VI. ARGUMENTS ADVANCED BY THE RESPONDENT

The Union of India defended the restrictions on the ground of national security. The region's history of cross-border terrorism made the internet a real risk, since it could be used to organise unlawful gatherings, spread false information, or coordinate militant activity. A complete shutdown was harder to bypass than blocking specific websites one by one. Some orders involved sensitive intelligence and could not be shown in full, and the executive understood the ground situation better than the courts. Finally, the restrictions were being reviewed and eased over time, and the real situation on the ground, not a fixed rule, should decide how long they lasted.

VII. JUDGMENT AND RATIO DECIDENDI

The Court made four key findings. First, the government could not refuse to show its own orders. If people cannot see an order, they cannot challenge it in court. Secrecy could be justified only in narrow, specific situations, not as a general rule.

Second, and most importantly, the Court held that the freedom of speech under Article 19(1)(a), and the freedom to trade under Article 19(1)(g), extend to the internet. This does not make internet access itself a fundamental right. It means that when people use the internet to speak or do business, their existing rights still apply and are still protected.

Third, any restriction on the internet must pass a four-part test: it must have a real, legitimate purpose; it must be logically connected to that purpose; no less extreme option should achieve the same result; and the harm caused must not be out of proportion to the benefit gained. Applying this test, the Court found the total, open-ended internet shutdown disproportionate, and directed the government to review its orders and ensure future ones were public, time-bound, and checked regularly.

Fourth, on Section 144 CrPC, the power is not unlimited. It cannot silence peaceful dissent, must rest on real evidence rather than mere apprehension, and requires officials to apply their minds each time, rather than issuing blanket restrictions. Notably, the Court did not itself order the internet switched back on, leaving that decision to the government within the framework it had just laid down.

VIII. CASE ANALYSIS

A. STRENGTHS OF THE JUDGMENT

The biggest strength of this judgment is that it brought the internet under the protection of Article 19 for the first time, matching the reality that most speech, trade, and journalism today happens online. The Court's insistence on transparency also matters: a secret order that citizens cannot see or challenge goes against the basic idea of the rule of law. By laying down a clear, four-part proportionality test, the Court gave future courts and lawyers a real tool to test government action, instead of leaving the question to guesswork. It also made clear that "national security" cannot be used as an automatic excuse to shut down all judicial questioning.

B. LIMITATIONS AND CRITICISM

Despite this, the judgment has been criticised as a "hollow victory." The Court found the shutdown disproportionate but did not actually end it, instead asking a Review Committee, made up largely of the same officials who had imposed the restrictions, to reconsider them. In practice, the internet stayed suspended, with speeds limited to 2G for months. When people went back to court during the COVID-19 pandemic to ask for 4G restoration, the Court again declined to order it immediately, a decision many saw as going against the very principles set out in *Bhasin* itself. Full 4G was restored only in February 2021, about eighteen months after the original shutdown, showing a real gap between what the judgment said and what actually happened.

C. SIGNIFICANCE AND LEGACY

Even with these gaps, *Anuradha Bhasin* remains India's leading case on internet shutdowns and is cited in almost every later case involving communication restrictions. It made clear that suspending the internet is not something the government can do freely, without any check, giving journalists, activists, and lawyers a real legal basis to challenge future shutdowns.

IX. CONCLUSION

Anuradha Bhasin v. Union of India matters because it brought the internet within the protection of Article 19 for the first time. It made clear that fundamental rights do not disappear simply

because they are exercised online, and that any government order restricting the internet must be public, time-bound, and proportionate. At the same time, the case shows a gap between what courts say and what actually happens next. The Court set out strong principles but left the hard work of enforcing them to the same government whose actions were being questioned. The real test of this judgment, then, is not just what it said, but whether future courts hold the government to the standard it set.

REFERENCES

Anuradha Bhasin v. Union of India, (2020) 3 S.C.C. 637 (India).

Ghulam Nabi Azad v. Union of India, W.P. (C) No. 1164 of 2019 (India).

Constitution of India, arts. 19, 21, 32.

Code of Criminal Procedure, 1973, § 144 (India).

Temporary Suspension of Telecom Services (Public Emergency or Public Safety) Rules, 2017 (India).

Foundation for Media Professionals v. Union Territory of Jammu & Kashmir, (2020) 5 S.C.C. 746 (India).

Public Committee Against Torture in Israel v. Government of Israel, HCJ 769/02 (Isr.).
