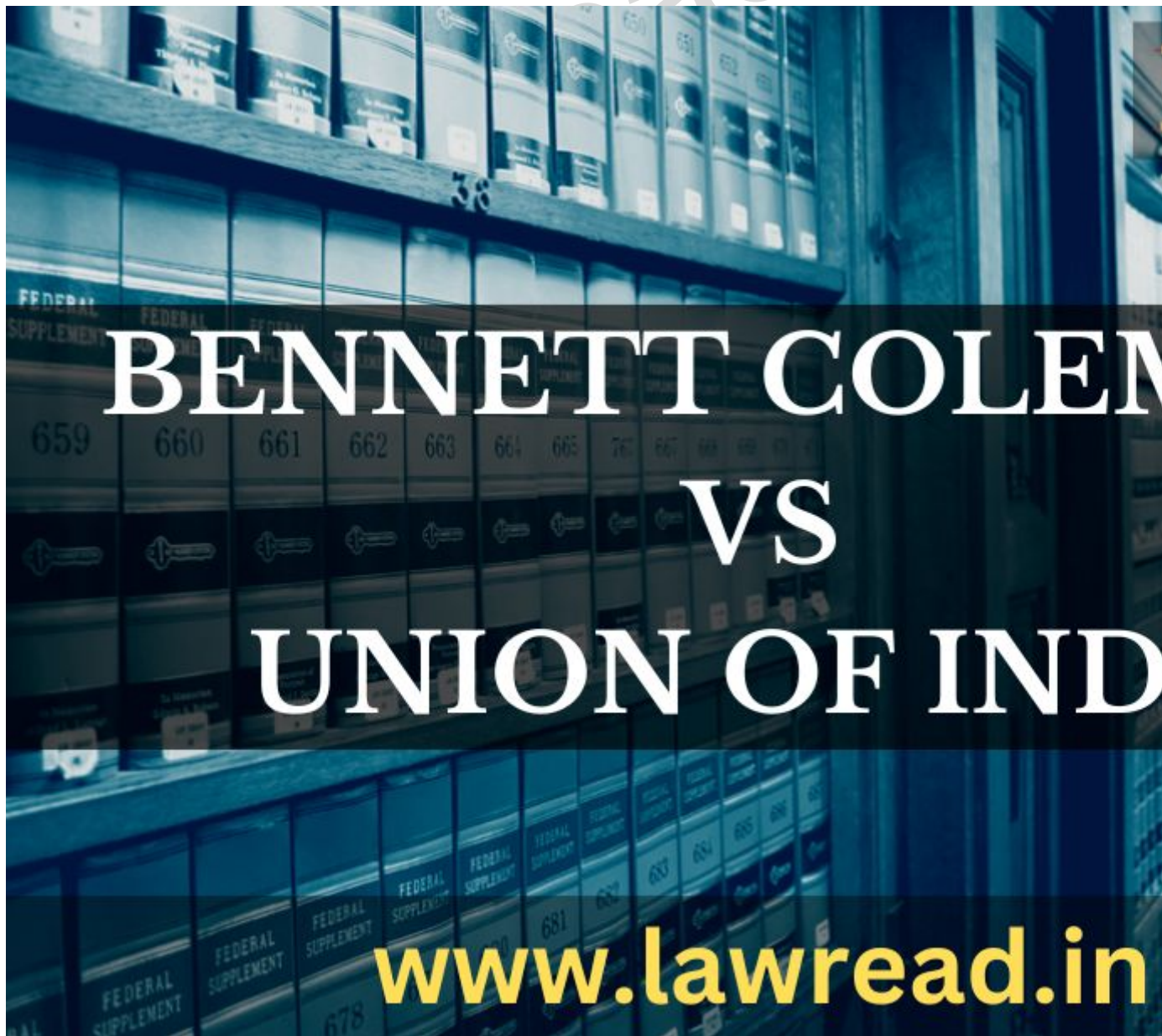


Landmark Judgement

**Union of India v. Bennett Coleman (1973) | Press
Freedom**



The Bennett Coleman v. Union of India case highlights the press's vital role in upholding India's democracy and dynamic Constitution. In this case, the Supreme Court of India ruled that press freedom is a crucial component of the fundamental right to freedom of speech and expression protected by Article 19(1)(a) of the Indian Constitution.

The phrase "freedom of press" refers to everyone's right to print and publish without hindrance from other states or the general public. The press is only entitled to the same privileges as the average citizen. Therefore, the reasonable limitations outlined in Article 19(2) of the Constitution apply to the right to freedom of the press.

Citation: AIR 1973 SC 106

Quorum: 5 Judge Bench

Bench: Hon'ble Chief Justice Mr. S.M. Sikri, Justice A.N Ray, Justice P. Jaganmohan Reddy, Justice Kurian Mathew, Justice. Hameedullah Beg.

Date of Judgement: 30/10/1972

Facts

The petitioners worked for media companies that published newspapers. The restrictions on newspaper imports imposed by the "Import Control Order 1955" and the 1962 Newsprint Order were legally contested by the petitioners.

Furthermore, in **1972–1973**, the legality of the crucial Newsprint and News Print Management Order 1962 policy was called into question. These two measures imposed further restrictions based on four incumbent characteristics: no establishment that owns more than two newspapers, at least one of which is daily, could launch a replacement newspaper; the maximum number of newspapers issued could not surpass 10%.

The number of newspapers may not be growing, with about 20% of them having fewer than ten pages; the interchangeability of newsprint had not permitted between different editions of an equivalent paper or different newspapers of a similar business and agencies.

The government said that by doing this, the monopoly of reputable or large newspaper agencies would find themselves in the market; on the other hand, it might help small newspaper agencies expand within the market.

The majority of newspapers solely include advertisements, despite the existence of numerous large newspaper agencies. The newspaper's news constraints were extremely low.

At that point, it benefited from lowering the 10-page limit that huge newspaper agencies had to publish their advertisements inside, which could not have an impact on the publication of stories.

However, the newspaper policies prohibited the petitioners from establishing peace in circulation, etc., even under the quota cap. This was legally questioned since it violated both **Article 14 and Article 19(1)(a)** of the Indian Constitution. The responses contended that the square measure was only given to natural citizens and that the petitions were unmaintainable since businesses did not respect fundamental rights.

Additionally, the respondents contended that any opposition based on fundamental rights was prohibited by Article 358, the Constitution's "emergency powers" clause.

Problems

Whether or not the petitioners were businesses that might violate fundamental rights was the first consideration.

Does Article 358 of the Indian Constitution prevent the petitioner's facet from challenging the abuses of fundamental rights?

Whether the 1955 Order's mandatory import restrictions on newspapers violated any articles. 19(1)(a) of the Constitution?

Was the newspaper policy covered by Section 5(1) of the Import Management Order 1955?

Was Article 14 and Article 19(1)(a) of the Constitution violated by Clauses 3 and 3A of Section 3 of the Newspaper Order, 1962?

Arguments

It was claimed that the limitations on newspaper development, circulation, and page count were arbitrary and unreasonable under Article 19(I). It was claimed that limitations on newspaper circulation and size directly violated people's right to free speech.

The government refused to let the newspaper to expand its daily newspaper distribution within the allotted newsprint limit. It was suggested that this was not justifiable because the decision to increase page circulation should be made by the relevant newspapers without

requesting an additional quota.

A 20% increase was only permitted for daily publications with fewer than ten pages under the 1972–1973 guideline. It was claimed that these newspapers violated Article 14 since they were discriminatory quota publications with ten or more pages. Newspapers with an average of more than ten pages were said to have a different entitlement than those with ten or fewer pages, and this difference was claimed to be based on an illogical classification.

It was argued that the 10-page limit negated the constitutional right granted by **Article 19(1)(a)** because it prevented newspapers from communicating and disseminating knowledge that was vital and fundamental to democracy. As a result, newspapers suffered financial losses.

In essence, the claim was that the government was actually using a covert print power strategy to dominate media.

The newsprint arrangement was criticized for being based on considerations that went outside the scope of the Import Control Act, the law that governed the allocation. The Act states that the policy should only be applied to imports; it should not be applied to newspaper distribution, control, or output. The policy was also challenged on the grounds that it lacked legal authority and was only an administrative directive.

The government's main argument in favor of the newspaper policy was that it did not "directly and immediately" address the right mentioned in Article 19 and that the restrictions "incidental to the fixation of the quota for newspapers did not constitute a constraint" incidental to the restriction of the freedom of speech and expression.

The government was encouraged to evaluate whether a restriction was reasonable, not the "effect" or "product" of the newsprint policy, but rather whether the policy "directly and immediately" addressed the relevant fundamental right, **specifically Article 19(1)(a)**.

It was contended that the "**subject matter**" of the statute—rather than its "effect or consequence"—was the criteria. The government asserted that "equal distribution of newsprint and rationing of an imported product" are the "subject matter" of the import regulation and do not impede free speech.

Evaluation

On the merits, the Court noted that freedom of the press was an essential component of Article 19(1)(a) and that certain liberties were not defined as a special class by an associate degree. Many people believed that the press was essential to the right to free expression.

Together, the Court concluded that setting quotas would be a good way to address the paper shortage. However, it was not even possible to directly intervene with regard to page limitations and other regulations. The page cap implied that newspapers would either have to reduce news material or lose economic profitability as a result of a decline in advertisements. Due to a decrease in circulation brought on by cumulative prices in the first scenario and a quantitative restriction on the content in the second, this could restrict free speech.

The Court concluded that there were both quantitative and qualitative aspects to press freedom, and that the quantitative restriction had long-standing restrictions on the right to free speech. They might not be viewed as inexpensive limits because they weren't even predicated on a paper shortage.

The Court ruled that the 1972–1973 paper policy was illegal. Nonetheless, the import management order and paper order were not deemed to be the source of those limitations.

Beg, J.

In a concurrence, Beg, J. noted that the Import Control Order, which only allowed for the establishing of quotas and no further intervention, did not apply to the Newsprint Policy of 1972–1973. Because the government action had no legal foundation in the first place, the question of whether the restrictions were reasonable did not come up.

Mathew, J.

In a dissenting opinion, **Mathew, J.** pointed out that there was no explicit content restriction that did not imply a constraint on the right to free speech through a page limit. He maintained that in order to make sure the newspaper was utilized efficiently, it was crucial to keep an eye on it and control how it was distributed.

The strategy increased rather than decreased freedom of speech and expression insofar as it prevented monopolies by a few newspapers and made newsprint consumption efficient. He maintained that the policy was not unconstitutional and disagreed with the majority ruling.

Ray, J. Ray, J. gave the court's opinion. The Supreme Court found that the petitions were reparable as a preliminary question. Relief for infringing the rights of shareholders and

editorial staff (who were also petitioners) could be granted despite the petitioners' status as businesses.

The newspaper policy may be contested as a continuation of the previous year's policy and pertinent orders because the bar below Article 358 did not apply to legislation passed prior to the declaration of emergency.

While operating under **Sections 398 and 402 of the Businesses Act of 1956**, the court has broad authority to issue such directives and orders if it believes they are appropriate and won't violate **Section 255**.

The publication Control Order, which established the minimum amount of pages in the publication, was deemed to be unlawful. The News Paper Control Order was ultimately invalidated by the Supreme Court because it specifically impacted the right to freedom of speech and expression guaranteed by **Article 19(1)(a)** of the Indian Constitution, but not a fair **restriction guaranteed by Article 19(2)** of the same document.