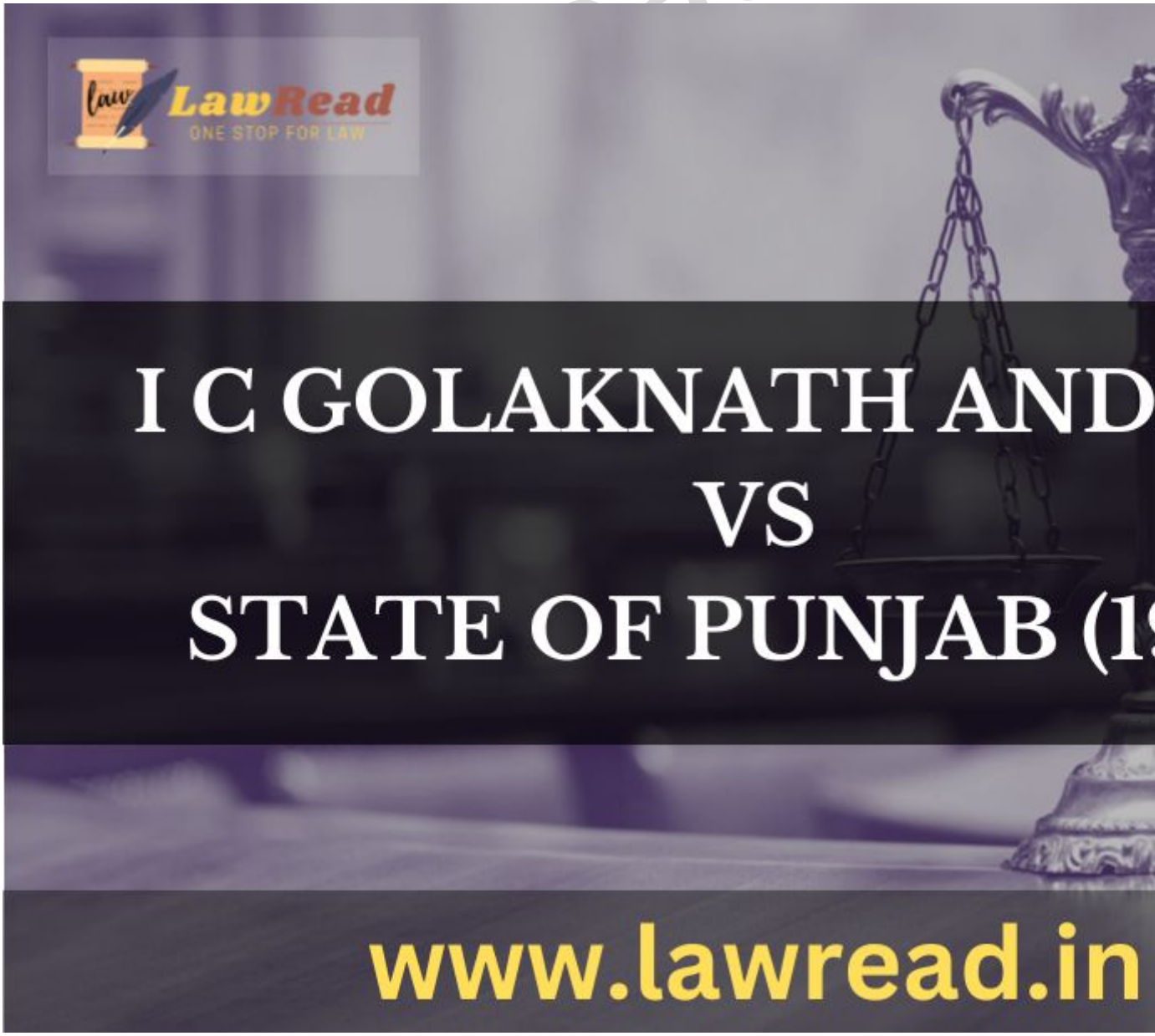
Landmark Judgement

Case : State of Punjab v. I C Golaknath and Ors (1967)



Golaknath v. State of Punjab was one of the most significant rulings in the history of the Indian Constitution. Many questions were addressed in this case, but the most crucial one was whether the Indian Parliament had the authority to change the fundamental rights protected by Part III of the 1950 Indian Constitution. The defendants argued that the Indian Constitution's authors never meant it to be a strict and unyielding document, whereas the petitioners in the case argued that Parliament has no such authority.

In the 1973 Kesvananda Bharati case, the Apex Court's decision that Parliament cannot change basic rights was later overturned. In this instance, it was decided that while the parliament has the authority to amend the constitution, including Part III, it cannot alter the fundamental framework of the document.
Specifics

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Case Name: I. C. Golaknath and Ors v. State of Punjab

Citation: (1967 AIR 1643)

Petitioner: *I.C Golaknath & ors*

Respondent: *State of Punjab*

Date of Judgement: *27/02/1967*

Bench: Rao, K. Subba (CJ), Wanchoo, K.N., Hidayatullah, M., Shah, J.C., Sikri, S.M., Bachawat, R.S., Ramaswami V., Shelat, J.M., Bhargava, Vashishth, Mitter, G.K., Vaidyalingam, C.A. I. The Case's Factual Background

In Jalandhar, Punjab, the petitioners' family, **Henry and William Golaknath,** owned more than 500 acres of farmland. According to the Punjab Security and Land Tenures Act, 1953, the state government ruled that the petitioner brothers could only retain 30 acres of land apiece, with the remaining portion being declared surplus and a few acres going to the tenants. The petitioners contested this state government action in court, and in 1965 their case was ultimately sent to the Apex Court.

The petitioners filed a writ case under **Article 32 of the Indian Constitution, contesting the 1953 legislation on the grounds that it violates their fundamental rights to practice any**

profession, acquire and keep property, and as stated in Article 19(f) and (g). Additionally, as stated in Article 14 of the Constitution, the act deprives people of their right to equality before the law. They wanted the 17th Amendment, which put the Punjab Act of 1953 in the Constitution's ninth schedule and declared it extra vires (beyond the powers of the state government) to restrict citizens' constitutionally granted fundamental rights.

One of the most significant rulings in Indian legal history is the current case of Golaknath v. State of Punjab. In 1967, the court declared that the Parliament could not restrict any of the fundamental rights guaranteed by the Indian Constitution. This decision established jurisprudence around what is known as the doctrine of basic structure.

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II. Concerns

The primary question in the case that was brought before the court was "whether the parliament has the absolute power and the power to amend the fundamental rights enshrined under the constitution or not."

III. The Parties' Contention

Arguments made by the petitioner

The petitioner's attorney contended that the Indian Constitution was created by the Constituent Assembly and endowed with a permanent character by its founding members. No one has the absolute authority to change or attempt to change the Indian Constitution.

Before the court, it was claimed that the phrase "amendment" in question simply refers to a modification in line with the fundamental framework of the Indian Constitution rather than introducing a completely new concept.

Furthermore, it was argued that the parliament could not take away the essential rights protected by part III of the constitution. The Indian Constitution's fundamental rights are its most important and fundamental component; if they are removed or diminished, our constitution would be like a body without a soul.

Additionally, the petitioner stated that the amendment clause found in Article 368 of our constitution does not grant the Parliament the authority to modify the Constitution itself; rather, it merely specifies the process for doing so.

The court was further persuaded that all forms of law, including statutory and constitutional, are covered by Article 13(3)(a)'s definition of "law." Additionally, the state is prohibited by

Article 13(2) from passing legislation that restricts the rights outlined in Part III; any constitutional amendment that does so will be declared illegal and null and void by the court.

Arguments made by the Respondent

Before the Apex court, the respondent's attorney argued that the exercise of its sovereign power results in a constitutional amendment. This use of sovereign power differs from the legislative authority that parliament uses to enact laws or ordinances.

It was claimed that the Indian constitution's authors never intended for it to be inflexible and unyielding.
The goal of proposing a constitutional amendment is to alter the nation's laws as it sees proper for society. They contended that the absence of an amendment clause would render the constitution inflexible.

The Respondent further contended that the Indian Constitution's provisions do not contain any notion of basic or non-basic structure.
They further argued that there is no hierarchy for the enshrined provisions and that all of the constitutional provisions are equal and equally important.

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IV. Decision Made

In the current case, the Supreme Court had the largest constitutional bench ever in 1967. The majority of the bench supported the petitioners' claims in the 6:5 ruling. The majority opinion in the case was written by **Subba Rao, the Chief Justice of India at the time, along with J.C. Shah, S.M. Sikri, J.M. Shelat, and C.A. Vaidiyalingam. Justice Hidayatullah** filed a separate opinion because he concurred with the CJI. **Justices R.S. Bachawat and V. Ramaswami filed distinct minority opinions, whereas Justices K.N. Wanchoo, Vishistha Bhargava, and G.K. Mitter all wrote single minority opinions.**

The Golakh Nath majority opinion demonstrates judges' skepticism regarding the Indian parliament's management at the time. Since 1950, the parliament has often invoked Article 368 of the Constitution and enacted several laws that, in one way or another, infringed people' fundamental rights as protected by Part III of the Constitution.

The majority of the bench was skeptical that the fundamental rights upheld by our founding members of the Constituent Assembly would be altered through a number of modifications if the Sajjan Singh case verdict remained the law of the land.
Considering the issue of such a careless alteration to Part III, it is feared that if this keeps happening, Democratic India may become a totalitarian country. As a result, the majority

reversed the ruling in Sajjan Singh & Shankari Prasad, which gave the Parliament the unrestricted authority to change even Part III of the Indian Constitution.

In the end, it was decided that the parliament had no authority to change the fundamental rights. Since fundamental rights are citizens' most important rights, they should remain outside the purview of parliamentary legislation. Therefore, the court ruled that the parliament cannot change the fundamental rights guaranteed by Part III of the Indian Constitution in order to protect the nation's democracy from the parliament's dictatorial activities. It was noted that fundamental rights are crucial to a person's growth and development and are equivalent to natural rights.

V. Final Thoughts

The Golaknath case is unquestionably crucial to maintaining the value of the fundamental rights protected by the constitutional provisions. The majority bench's decision to give the Indian Constitution rigor is one of the case's main objections, and the current ruling is not without flaws.

First, the court believed that a constituent assembly was required if a constitutional amendment had to be made.

Second, the Supreme Court may have safeguarded all the fundamental elements of the Constitution in such situation, but in this case it only protected the fundamental rights from potential abuse of the absolute power granted to the Parliament.

Due to these complexities, the Golaknath Case's decision was partially overturned in 1973 with the landmark case of Kesavananda Bharati v. Union of India.

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