



LL.B. IV Term

CONSTITUTIONAL LAW - II

Cases Selected and Edited By

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Paper : LB - 401 - Constitutional Law - II

*[Fundamental Rights, Directive Principles of State Policy, Civil Servants
and Amendment of the Constitution]*

Prescribed Text: The Constitution of India, 1950

Prescribed Books:

1. Mahendra P. Singh, **V. N. Shukla's Constitution of India** (11th ed., 2008)
2. H.M. Seervai, **Constitutional Law of India** [4th ed., Vol. 1 (1991), Vol. 2 (1993), Vol. 3 (1996)]
3. M.P. Jain, **Indian Constitutional Law** (5th ed., 2003)
4. D.D. Basu, **Shorter Constitution of India** (14th ed., 2009)

Topic 1 : Fundamental Rights (General)

(a) 'State' under Article 12

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| 01 | <i>Som Prakash v. Union of India,</i>
AIR 1981 SC 212 : (1981) 1 SCC 449 | 01 |
| 02 | <i>Pradeep Kumar Biswas v. Indian Institute of Chemical Biology</i>
(2002) 5 SCC 111 | 17 |
| 03 | <i>G. Basi Reddy v. International Crops Research Institute,</i>
JT 2003 (2) SC 180 | 32 |
| 04 | <i>Zee Telefilms Ltd. v. Union of India</i> (2005) 4 SCC 649 | 35 |
| 05 | <i>State of U.P. v. Radhey Shyam Rai,</i> 2009(3) SCALE 754 | 46 |
| 06 | <i>Jatya Pal Singh v. Union of India</i> (2013) 6SCC 452 | |
| 07 | <i>BCCI v. Cricket Association of Bihar</i> (2015)3 SCC 251 | |

(b) 'Law' under Article 13; Also Articles 31A, 31B, 31C, 368

(i) *Doctrine of Eclipse*

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| 08 | <i>Keshavan Madhava Menon v. State of Bombay,</i>
AIR 1955 SC 128 : 1951 SCR 228 | 52 |
| 09 | <i>State of Gujarat v. Sri Ambika Mills,</i> AIR 1974 SC 1300 :
(1974) 4 SCC 656 | 55 |
| 10 | <i>Bhikaji Narain Dhakras v. State of M. P.,</i> AIR 1955 SC 781 | 73 |
| 11 | <i>Dr. Janet Jeyapaul v. SRM University</i> AIR 2016 SC 73. | |

(ii) *Waiver of Fundamental Rights*

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|----|---|--|
| 12 | <i>Bashesher Nath v. CIT,</i> AIR 1959 SC 149 | |
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(iii) Severability

13. *State of Bombay v. F.N. Balsara*, AIR 1951 SC 318

14. *RMDC v. Union of India*, AIR 1957 SC 628

(c) Power of Parliament to modify the fundamental rights (Article 33)

(d) Martial Law (Article 34)

Topic 2 : Right to Equality (Articles 14 – 18)

(a) Equality among Equals; Treating un-equals as equals violates equality clause

(b) Classification as such not completely prohibited: Reasonable Classification Permissible

(c) Single Person may be treated as a separate class

(d) Establishment of Special Courts

(e) Conferment and/or exercise of discretionary or arbitrary power is antithesis of right to equality

(f) Distribution of state largesse

(g) Special provisions for women and children; requirements relating to residence; requirement of a particular religion being professed by the incumbent of an office related to a religious or denominational institution

(h) Protective Discrimination - Reservations in appointments and promotions; Special provisions for socially and educationally backward classes of citizens and for Scheduled Castes and Scheduled Tribes

(i) The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995

(j) The Central Educational Institutions (Reservation in Admission) Act, 2006

15. *Chiranjit Lal Chaudhary v. Union of India*, AIR 1951 SC 41

16. *State of W. B. v. Anwar Ali Sarkar*, AIR 1952 SC 75

17. *Kathi Raning Rawat v. State of Saurashtra*, AIR 1952 SC 123 79

18. *Indra Sawhney v. Union of India*, AIR 1993 SC 477 88

19. *Ashoka Kumar Thakur v. Union of India* (2008) 6 SCC 1

20. *Indra Sawhney v. Union of India*, AIR 2000 SC 498

21. *Ashoka Kumar Thakur v. State of Bihar* (1995) 5 SCC 403 139

22. *Gulshan Prakash v. State of Haryana*, 2009 (14) SCALE 290 : 189
AIR 2010 SC 2888

23. *Avinash Singh Bagri v. Registrar, IIT, Delhi* (2009) 8 SCC 220
 24. *M. Nagraj v. Union of India* (2006) 8 SCC 212 197
 25. *Rohtas Bhankar v. Union of India* (2014) 8 SCC 872
 26. *Pramati Educational & Cultural Trust v. Union of India* (2014) 8 SCC 1
 27. *Modern Dental College & Res. Cen v. State of Madhya Pradesh* (2016) 7 SCC 353
 28. *U.P. Power Corpn. Ltd. v. Rajesh Kumar* (2012) 7 SCC 1

(k) Abolition of Untouchability (Articles 17, 35)

1. The Protection of Civil Rights Act, 1955
2. The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989

29. *State of Karnataka v. Appa Balu Ingale* AIR 1993 SC 1126

30. *Safai Karmachari Andolan v. Union of India*, 27 March 2014

(l) Abolition of Titles (Article 18)

31. *Balaji Raghavan v. Union of India*, AIR 1996 SC 770

Topic 3 : Right to Freedom (Articles 19 - 22)

(a) Right to Freedoms available only to citizens of India; Foreign nationals and artificial persons like bodies corporate (companies) are not citizens either under Part II of the Constitution of India or under the Citizenship Act, 1955

1. Freedom of speech and expression;
2. Freedom to assemble peaceably and without arms;
3. Freedom to form association or unions;
4. Freedom to move freely throughout the territory of India;
5. Freedom to reside and settle in any part of the territory of India;
6. Freedom to practise any profession, or to carry on any occupation, trade or business.

The freedoms are not absolute but subject to reasonable restrictions which can be imposed by law made by the state for the purposes mentioned in clauses (2) to (6) of Article 19. The term 'reasonable restriction' includes total prohibition.

The Right to Information Act, 2005

The Sports Broadcasting Signals (Mandatory Sharing with Prasar Bharati) Act, 2007

32. *Bennett Coleman & Co. v. Union of India*, AIR 1973 SC 106 222
33. *Secretary, Ministry of I & B, State of W. B v. Cricket Association* (1995) 2 SCC 161 237
34. *Shreya Singhal v. Union of India* (2013)12 SCC 73
35. *People's Union for Civil Liberties (PUCL) v. Union of India* (2003) 4 SCC 399
36. *Communist Party of India (M) v. Bharat Kumar* (1998) 1 SCC 201
37. *AIADMK v. Chief Secretary, Government of Tamil Nadu* (2007) 1 SCALE 607
38. *Chindamanrao v. State of M.P.*, AIR 1951 SC 118
39. *Narendra Kumar v. Union of India*, AIR 1960 SC 430
40. *State of Gujarat v. Mirzapur Moti Qureshi Kasab Jamat*, AIR 2006 SC 212 (Cow slaughter)
- (b) Protection in respect of conviction for offences (Article 20)
- (i) Ex-post Facto Law
- (ii) Doctrine of Double Jeopardy
- (iii) Right against Self Incrimination
41. *Smt. Selvi and Ors. v. State of Karnataka*, AIR 2010 SC 1974
- (c) Protection of life and personal liberty (Article 21)
42. *Maneka Gandhi v. Union of India*, AIR 1978 SC 597 254
43. *National Legal Services Authority v Union of India* (2014)5 SCC 438
44. *Animal Welfare Board Of India vs A. Nagaraja & Ors.* (2014)7 SCC 547
45. *A K Roy v. Union of India*, AIR 1982 SC 710
- d) Right to Education (Article 21A)
46. *Pramati Educational and Cultural Trust v. Union of India*,2014.
- e) Protection against arrest and detention (Article 22)
47. *D.K. Basu v. State of West Bengal* (1997) 1 SCC 416 272
48. *People's Union for Civil Rights v. Union of India*, 2003 (10) SCALE 967

Topic 4 : Right against Exploitation (Articles 23, 24)

49. *People's Union for Democratic Rights v. Union of India*, AIR 1982 SC 1473

Topic 5 : Right to Freedom of Religion (Articles 25 – 28)

The Madhya Pradesh Dharma Swatantraya Adhiniyam, 1968; the Orissa Freedom of Religion Act, 1967; the T.N. Prohibition of Forcible Conversion Act, 2002; the Gujarat Freedom of Religion Act, 2003

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| 50. | <i>Seshammal v. State of Tamil Nadu</i> (1972) 2 SCC 11 | 284 |
| 51. | <i>N. Adithayan v. Travancore Devaswom Board</i> (2002) 8 SCC 106 | 297 |
| 52. | <i>Adi Saiva Sivachariyargal Nala Sangam v. The Government of Tamil Nadu</i> (2016)2 SCC 725 | |
| 52. | <i>Commissioner of Police v. Acharya Jagadishwarananda Avadhuta</i> (2004) 12 SCC 770 | 308 |
| 53. | <i>Bijoe Emmanuel v. State of Kerala</i> (1986) 3 SCC 615 | 313 |
| 54. | <i>Rev. Stainislaus v. State of M.P.</i> , AIR 1977 SC 908 | |

Topic 6 : Educational and Cultural Rights (Articles 29, 30)

Right to establish and administer educational institutions – rights of minorities and non-minorities; Degree of State Control in aided and non-aided educational institutions

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| 55. | <i>Islamic Academy of Education v. State of Karnataka</i> , JT 2003 (7) SC 1 | 319 |
| 56. | <i>T.M.A. Pai Foundation v. State of Karnataka</i> , AIR 2003 SC 355 | |
| 57. | <i>P.A. Inamdar v. State of Maharashtra</i> , AIR 2005 SC 3236 | |

Topic 7 : Right to Constitutional Remedies (Article 32)

Power of Judicial Review under Article 32 is a basic feature of the Constitution; Concurrent jurisdiction of the High Courts under Article 226 – Res judicata; Laches, Rule of *locus standi*, Public Interest Litigation; Existence of alternative remedies; Nature and scope of relief

Topic 8 : Fundamental Duties (Article 51A)

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| 58. | <i>Hon'ble Shri Rangnath Mishra v. Union of India</i> , JT 2003 (7) SC 206 | |
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Topic 9 : Directive Principles of State Policy (Articles 36 - 51)

Importance; Relationship, and the effect of inconsistency, between the Fundamental Rights and legislations aimed at implementing the Directive Principles of State Policy. Some significant legislations shall be mentioned

Topic 10 : Civil Servants (Articles 308 - 323)

Doctrine of Pleasure; Power to regulate the recruitment and conditions of service of civil servants; Constitutional Protection to Civil Servants; All India Services

- 59. *Union of India v. Tulsiram Patel*, AIR 1985 SC 1416 : (1985) 3 SCC 398 329
- 60. *J.P. Bansal v. State of Rajasthan*, AIR 2003 SC 1405 (2003) 5 SCC 134
- 61. *Managing Director, ECIL v. B. Karunakar*, AIR 1994 SC 1074
- 62. *T.N. Rangarajan v. Govt. of Tamil Nadu*, AIR 2003 SC 3032

Topic 11 : Amendment of the Constitution (Article 368)

Power and Procedure to amend the Constitution; Limitations on amending Power -Doctrine of Basic Feature/Structure; Judicial Review of Legislations included in the Ninth Schedule

- 63. *I.R. Coelho v. State of Tamil Nadu*, AIR 2007 SC 861 : (2007) 2 SCC 1 349
- 64. *Kesavananda Bharati v. State of Kerala*, AIR 1973 SC 1461
- 65. *Kihoto Hollohon v. Zachillhu*, AIR 1993 SC 4120
- 66. *L. Chandra Kumar v. Union of India*, AIR 1997 SC 1125
- 67. *Madras Bar Association v. Union of India* AIR 2015 SC 1571

IMPORTANT NOTE:

1. The topics and cases given above are not exhaustive. The teachers teaching the course shall be at liberty to add new topics/cases.
2. The students are required to study the legislations as amended up-to-date and consult the latest editions of books.
3. The question papers set for some previous years are printed below for guidance.

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