

Romesh Thappar vs State of Madras (1950): Freedom of Speech & the Right to Circulate Ideas

Court: Supreme Court of India **Citation:** 1950 AIR 124; 1950 SCR 594 **Date:** 26 May, 1950 **Bench:** Harilal J. Kania, C.J., Saiyid Fazal Ali, M. Patanjali Sastri, Mehr Chand Mahajan, B.K. Mukherjea and S.R. Das, JJ.

Facts of the Case

Romesh Thappar was the printer, publisher and editor of a weekly journal, Cross Roads, published in Bombay. The Government of Madras, acting under Section 9(1-A) of the Madras Maintenance of Public Order Act, 1949, banned the journal's entry, circulation, sale and distribution within the State of Madras. Thappar filed a petition directly in the Supreme Court under Article 32, arguing that the ban violated his fundamental right to freedom of speech and expression under Article 19(1)(a).

Issues Before the Court

1. Maintainability: could Thappar approach the Supreme Court directly under Article 32, without first moving the Madras High Court?
2. Validity: was Section 9(1-A) of the Madras Maintenance of Public Order Act, 1949 void for being inconsistent with Article 19(1)(a), read with Article 13(1)?

Arguments

Thappar argued that the ban on his journal's circulation directly violated his fundamental right to freedom of speech and expression, and that Section 9(1-A), being framed to protect general public order rather than only the security of the State, went beyond what Article 19(2) permitted. The State's position, reflected in Justice Fazl Ali's dissent, was that the Act's preamble showed it targeted serious threats to peace, and that even if misapplied, this did not make the provision itself unconstitutional.

Decision of the Court

By a majority, the Supreme Court held that freedom of speech and expression under Article 19(1)(a) includes the freedom to circulate ideas, not merely to hold or express them. Section 9(1-A) authorised restrictions for general public order, a ground wider than the security of the State permitted under Article 19(2) at the time, and was therefore unconstitutional. Since its valid and invalid applications could not be separated, the entire section was struck down as void under Article 13(1), and the Madras government's order was quashed. Justice Fazl Ali dissented.

Principle of Law

A law restricting the fundamental right to freedom of speech and expression under Article 19(1)(a) must be narrowly confined to the specific grounds permitted under Article 19(2). A restriction framed to serve a broader purpose than those grounds allow is unconstitutional, and where its valid and invalid parts cannot be separated, the entire provision is void.

Important Legal Provisions

Article 19(1)(a) (freedom of speech and expression); Article 19(2) (permissible restrictions); Article 13(1) (laws inconsistent with Fundamental Rights are void); Article 32 (right to constitutional remedies); Section 9(1-A), Madras Maintenance of Public Order Act, 1949.

Important Observations

The Court observed that Article 32 is itself a guaranteed Fundamental Right, since it is placed within Part III of the Constitution, making the Supreme Court the direct guarantor of Fundamental Rights. It also distinguished between the freedom to hold an opinion and the freedom to circulate it, holding that the latter is equally protected — since an idea confined to one person has little democratic value.

Simple Explanation

The government cannot ban a publication just by claiming it protects public order in general — it can only restrict speech for the specific, narrow reasons the Constitution allows, like the security of the State. A law written too broadly loses its validity entirely.

Teaching Notes

This is one of the first major fundamental-rights judgments after the Constitution came into force (decided within months). Pair it with *A.K. Gopalan v. State of Madras* (decided the same week) for context on how the early Supreme Court approached Part III. The severability/non-severability distinction is a favourite short-answer exam question.

Key Points for Students

- One of the earliest free-speech judgments after the Constitution came into force (May 1950).
- Freedom of speech under Article 19(1)(a) includes the freedom to circulate ideas.
- A restriction must fit strictly within the grounds listed in Article 19(2).
- Non-severability: if valid and invalid parts of a law cannot be separated, the whole law falls.
- Justice Fazl Ali dissented — a rare early dissent on a free-speech question.

Case-Law Video

Watch the video explanation: <https://www.youtube.com/watch?v=Fmg9A1IdU6M>