

Shankari Prasad vs Union of India (1951): Can Parliament Amend Fundamental Rights?

Court: Supreme Court of India **Citation:** AIR 1951 SC 458 **Date:** 05 October, 1951 **Bench:** H.J. Kania, C.J., M. Patanjali Sastri, B.K. Mukherjea, Sudhi Ranjan Das and N. Chandrasekhara Aiyar, JJ.

Facts of the Case

State legislatures in Bihar, Uttar Pradesh and Madhya Pradesh passed zamindari-abolition / land-reform Acts to redistribute land from large landholders to landless farmers. Zamindars challenged these laws as violating their Fundamental Rights; High Courts gave conflicting rulings (Patna struck the Bihar Act down, Allahabad and Nagpur upheld similar laws). To protect the reforms, Parliament passed the Constitution (First Amendment) Act, 1951, adding Articles 31A and 31B and the Ninth Schedule. The zamindars then challenged this Amendment itself before the Supreme Court under Article 32.

Issues Before the Court

Is the Constitution (First Amendment) Act, 1951 — which introduced Articles 31A and 31B — ultra vires and unconstitutional? At its core: does the word "law" in Article 13(2) include a constitutional amendment made under Article 368?

Arguments

The petitioners argued: (1) the provisional Parliament under Article 379 lacked power to amend the Constitution; (2) Article 368 is an incomplete procedural code, so gaps invalidate the amendment; (3) Articles 31A/31B indirectly affected the courts' powers under Articles 132, 136 and 226, requiring State ratification; (4) no such ratification was obtained. Underlying all of this: a constitutional amendment is "law" under Article 13(2), so it cannot abridge Fundamental Rights.

Decision of the Court

The Supreme Court dismissed the petitions and upheld the Constitution (First Amendment) Act, 1951 in full. It held that the provisional Parliament had full power to amend the Constitution; that gaps in Article 368's procedure could be filled by each House's own rules; that Articles 31A and 31B did not reduce the courts' jurisdiction (they simply removed certain matters from Part III's scope) and so required no ratification; and, most importantly, that "law" in Article 13(2) means ordinary legislation, not a constitutional amendment made under Article 368's constituent power.

Principle of Law

Fundamental Rights are protected against ordinary legislative laws under Article 13(2), but not against constitutional amendments validly made under Article 368. Parliament can amend any part of the Constitution, including Fundamental Rights, provided it follows the correct amending procedure.

Important Legal Provisions

Article 13(2) (laws inconsistent with Fundamental Rights are void); Article 368 (Parliament's power and procedure to amend the Constitution); Article 379 (the provisional Parliament); Articles 31A and 31B and the Ninth Schedule (as inserted by the First Amendment); Articles 132, 136 and 226 (jurisdiction of the Supreme Court and High Courts).

Important Observations

The Court observed that the makers of the Constitution never intended Fundamental Rights to be permanently unchangeable, and that Article 368 grants Parliament a distinct "constituent power" to amend the Constitution, separate from its ordinary law-making power — so the restriction in Article 13(2) on ordinary "law" does not reach a constitutional amendment at all.

Simple Explanation

An ordinary law cannot touch Fundamental Rights, but a constitutional amendment — a special, higher kind of law-making — can, as long as Parliament follows the proper amendment procedure in Article 368.

Teaching Notes

Always teach this as the first link in a four-case chain: Shankari Prasad (1951, Parliament CAN amend) → Sajjan Singh (1965, followed) → Golaknath (1967, REVERSED — Parliament CANNOT amend Fundamental Rights) → Kesavananda Bharati (1973, middle path — CAN amend, but not the basic structure). Students frequently mix up which case said what; anchoring each case to its year and its one-line holding prevents this.

Key Points for Students

- The FIRST case testing whether Parliament can amend Fundamental Rights.
- Held: a constitutional amendment is NOT "law" under Article 13(2).
- Upheld the Constitution (First Amendment) Act, 1951 in full.
- Introduced and validated Articles 31A, 31B and the Ninth Schedule.
- Starting point for Sajjan Singh, Golaknath and Kesavananda Bharati.

Case-Law Video

Watch the video explanation: <https://www.youtube.com/watch?v=tJ97q0ybBOM>