LL.B. IV Term

CONSTITUTIONAL LAW - II

Cases Selected and Edited By

Mahavir Singh
Meena S. Panickar
S.K. Singh
Seema Singh
Anju Sinha
Vinod Chauhan
Gautam Kant
Majesh Rana
Anil Kumar Vishwakarma
Pratima Singh

FACULTY OF LAW
UNIVERSITY OF DELHI, DELHI- 110 007
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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:


Topic 1 : Fundamental Rights (General)

(a) ‘State’ under Article 12

02 Pradeep Kumar Biswas v. Indian Institute of Chemical Biology (2002) 5 SCC 111
03 G. Basi Reddy v. International Crops Research Institute, JT 2003 (2) SC 180
04 Zee Telefilms Ltd. v. Union of India (2005) 4 SCC 649
05 State of U.P. v. Radhey Shyam Rai, 2009(3) SCALE 754
06 Jatya Pal Singh v. Union of India (2013) 6SCC 452
07 BCCI v. Cricket Association of Bihar (2015) 3 SCC 251

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

(i) Doctrine of Eclipse

11 Dr. Janet Jeyapaul v. SRM University AIR 2016 SC 73.

(ii) Waiver of Fundamental Rights

12 Bashesher Nath v. CIT, AIR 1959 SC 149
(iii) Severability

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
18.  *Indra Sawhney v. Union of India*, AIR 1993 SC 477 88
AIR 2010 SC 2888

(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


(l) Abolition of Titles (Article 18)

**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
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
39. Narendra Kumar v. Union of India, AIR 1960 SC 430

(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

(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)
e) Protection against arrest and detention (Article 22)
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 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

55. *Islamic Academy of Education v. State of Karnataka*, JT 2003 (7) SC 1

**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)**

58. *Hon’ble Shri Rangnath Mishra v. Union of India*, JT 2003 (7) SC 206

**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

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

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.