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ROLE OF PRESS IN STRENGTHENING THE DEMOCRACY IN INDIA

ABSTRACT

“Our liberty depends upon freedom of Press and that cannot be limited without being lost.”

Thomas Jefferson

Since the 19th century, Media is been considered as a fourth pillar of a democracy. It allows the people of a country to be well informed and gives the right to participate in the affairs of a nation. Media is the guardian of the public interest. Democracy cannot be successful without a free press. Free Press is the voice of the citizens of country. Media can make a real difference in the development of a country by making its citizens well informed and educated. Role of Media is not just limited to televisions, newspapers, internet but it also helps to bring out the reality of the investigations in criminal cases. There are numerous scenarios where media has stepped into the shoes of judiciary and disrobe the reality of criminal cases. This paper discusses the importance of the media in developing nations through various constitutional framework and judicial approach in India. This paper also focus on the issue that the power of media cannot be subjected to political pressure or bureaucracy.

Keywords: Mass Media, Constitution, Democracy, Media Trial, Investigation etc.

FREEDOM OF PRESS IN INDIA

Introduction

Today media is considered as a fourth pillar of the State all over the world. The legislature, executive and judiciary are the other three branches of a democratic system. While Legislature prepares the law for the society and the executive takes steps for implementing them, the third stepping-stone is the judiciary, which has to ensure legality of all actions and decisions. The Fourth Estate i.e. the press has to operate within the ambit of the legislative framework and constitutional provision to act in public and national interest. It plays an important role in society. It is the source of information, education and entertainment. It is the watchdog of the government activities

Freedom of press is basically the freedom of individuals to express them through the medium of press. Freedom of press is fundamental to the life of an individual in the democratic society. Democracy cannot function unless the people are well informed and free to participate in the affairs of the nation. Media makes us aware of various social, political and economical activities happening around the world. It is like a mirror, which shows us the bare truth and harsh realities of life. Freedom of Press is a part of freedom of speech and expression that is enshrined under Article 19 of the Constitution of India which is the backbone of any democracy. Most citizens receive their information about what is going on in the government, and how it affects them, through the filter of the media. The media have also played a traditional watchdog in investigating misbehaviour by politicians and bureaucrats. The media is thus a crucial instrument of accountability, in addition to being an instrument of communication. A free press and free media stands on the same footing with an independent judiciary that serve as powerful forces to combat corruption in public and private life.

Freedom of Press under the Indian Constitution

The Indian Constitution does not expressly provide for the freedom of press. It is implicit in the fundamental right of freedom of speech and expression under Article 19 of Constitution. Freedom of speech and expression includes the freedom to propagate one's own views as well as of others and to communicate them to others. Freedom of press includes the right to print and publish news, to distribute or circulate printed matter etc. It also includes the right to comment on public affairs.

In the famous case *Express Newspapers (Bombay) (P) Ltd. v. Union of India*¹ court observed the importance of press. It was held that "In today's free world freedom of press is the heart of social and political intercourse. The press has now assumed the role of the public educator making formal and non-formal education possible in the developing world, where television "

Freedom of Press includes the freedom to propagate ideas, opinions, views of all the masses of a nation. This has been reiterated by the Supreme Court through its various judicial pronouncements. In "*Brij Bhushan v. State of Delhi*"², the Supreme Court declared that Freedom of Speech and Expression includes freedom of propagation of ideas and this freedom is ensured by the freedom of circulation. Similarly in "*Sakal Newspapers v. Union of India*"³, the Supreme Court held that the "right to propagate one's idea is inherent in the concept of freedom of speech and expression. For the purpose of propagating his ideas every citizen has the right to publish them, to disseminate them and to circulate them".

Another aspect of the Freedom of Press is linked with the Freedom to circulate and distribute the information to the people. The right to free speech and expression includes the right not only to publish but also to circulate information and opinion.

¹ (1985) SCC 641

² 1950 AIR 129

³ A.I.R 1962 S.C 305

Right to receive and impart information also comes within the purview of freedom of speech and expression. The expression freedom of speech and expression in Article 19(1)(a) has been held to include the right to acquire information and propagate the same. It includes the right to communicate it through any available media whether print or electronic or audio-visual, such as, advertisement, movie, article or speech etc. This freedom includes the freedom to communicate or circulate one's opinion without interference

In *PUCCL v. Union of India*,⁴ the Supreme Court dealt with this aspect of freedom. The right of the citizens to obtain information on matters relating to public acts flows from the Fundamental Right enshrined in Article 19(1)(a). Securing information on the basic details concerning the candidates contesting for elections to Parliament or State Legislature promotes freedom of expression and therefore the right to information forms an integral part of Article 19(1)(a).

Freedom of press like any other fundamental freedom is not absolute in nature. The fundamental freedoms guaranteed by the Constitution cannot be enjoyed without respecting the restrictions imposed on the rights. Article 19(2) deals with the restrictions imposed on the freedom of speech and expression. As freedom of press comes within the ambit of freedom of speech and expression under Article 19, these restrictions applies to freedom of press as well. It lay down the grounds on which reasonable restrictions can be imposed by the State. These are –

- In the interests of the sovereignty and integrity of India
- The security of the State
- Friendly relations with foreign States
- Public order
- Decency or morality,
- In relation to contempt of Court
- Defamation
- Incitement to an offence

⁴ A.I.R 2003 S.C 3136

Judicial Interpretation

Unlike the American Constitution which guarantees the freedom of Press in express terms through First Amendment, Constitution of India does not guarantee the same freedom expressly. In India, freedom of Press is implied from the freedom of speech and expression guaranteed by Article 19(1)(a). There is no specific provision ensuring freedom of press as such. The Supreme Court has laid emphasis in several cases on the importance of maintaining freedom of press in a democratic society. In *Printers Mysore Ltd. v. Assistant Commercial Tax Officer*⁵ the supreme Court has reiterated that “Though freedom of press is not expressly guaranteed as a fundamental right, it is implicit in the freedom of speech and expression. Freedom of the press has always been a cherished right in all democratic countries and the press has rightly been described as the fourth estate”.

In *Sakal Papers (P) Ltd. v. Union of India*⁶ the Supreme Court held that the right of freedom of speech cannot be taken away with the object of placing restrictions on the business activities of the citizens. Freedom of speech can be restricted only on the grounds mentioned in Article 19(2) of the Constitution. Similarly in *Bennett Coleman & Co. v. Union of India*⁷, the Court maintained that the freedom of press embodies the right of the people to speak and express. The press has the right of free publication and their circulation without any limitation on publication. Freedom lies both in circulation and in content.

In “*S. Ameenul Hasan Rizvi*” v. *Press Council of India*⁸, the Court held that the Freedom of Press will be jeopardised if it is forced and compelled to print a particular news, comment, letter, advertising, etc. In case a newspaper is compelled to print what it does not wish to print, it would violate Article 19(1)(a) of the Constitution. The Government can only impose the restrictions mentioned under Article 19(2). If the State imposes any restrictions other

⁵ (1994) 2 SCC 434

⁶ AIR 1962 SC 305

⁷ AIR 1973 SC 106.

⁸ 2001(91) DLT 492

those mentioned under Article 19(2), the fundamental freedom of speech and expression will be in danger.

In “*Shreya Singhal v. Union of India*”⁹, two girls Shaheen Dhada and Rinu Srinivasan, were arrested by the Mumbai police in 2012 for expressing their displeasure at a bandh called in the wake of Shiv Sena chief Bal Thackeray’s death. The women posted their comments on the Facebook. The arrested women were released later on and it was decided to close the criminal cases against them. But the arrests attracted widespread public protest. The police authorities have misused its power by invoking Section 66A.

Petitioners contended that it violates the freedom of speech and expression. Section 66A of the Information Technology Act, 2000 provides provisions for the arrest of those who post allegedly offensive content on the internet. The Court declared that Section 66A of the Act is unconstitutional in nature by upholding that the fundamental freedom of speech and expression cannot be violated in any case.

The Judgment has increased the scope of the right available to us to express ourselves freely, and limits the power of the State in restraining the fundamental freedom of speech and expression. The Supreme Court has not only given afresh lease of life to free speech in India, but has also performed its role as a constitutional court for Indians.

Media trial

Media is considered as fourth estate of the democracy. Freedom of the media refers to the freedom of people to be informed of public matters. Free and healthy press is essential to the functioning of the democracy. Duty of the press and media is to make the people enlightened over issues relating to public importance. The press is the watchdog of the three organs of the democracy. Freedom of press is not only limited to the statutory and constitutional framework. It plays a pivotal role in the investigation of the criminal cases. Occasionally, owing to the political pressure, innocent people had become subject of harassment of police authorities. It is where the media steps in to keep a check on the abuse of power off bureaucrats.

⁹ (2013) 12 S.C.C 73

In “*Sidhartha Vashisht @ Manu Sharma v. State (National Capital Territory of Delhi)*”¹⁰, popularly known as ‘Jessica Lal’s’ murder case, the accused Manu Sharma, son of Haryana Minister killed Jessica who refused to serve him drinks in the restaurant where she was working. The case was closed due to the lack of evidences against the accused. But case was again put on trial after media had protested against it. Finally, after the huge public outcry, the accused Manu Sharma was convicted. It was observed that the evidences were tampered by the authorities owing to the strong political pressure.

Similarly In “*Santosh Kumar Singh v. CBI*”¹¹, Santosh Kumar, son of an IPS officer, raped and killed his colleague “Priyadarshini Mattoo”. Press played an important role in this case. Accused was acquitted at the first trial but after the interference of the media, the Delhi High Court convicted the accused after span of 7 long years. Also media played a significant role in the case of Dr. Rajesh Talwar v. CBI ¹², popularly known as Aarushi Talwars Murder Case by highlighting the loopholes in the case by which the police authorities were forced to take serious action. This case became a huge sensation for the nation as it uncovers the double murder of 16 year old girl and their domestic help.

The response to a horrific gang rape and murder case has highlighted the power of media to encourage the debate and change the mindset of the people. 23 year old medical student was raped and murdered In New Delhi in 2012 had attracted headlines around the world. This case in Delhi had shocked the nation and became the focus of the print media and the journalists. The Indian media had made a sincere effort to bring this issue to the forefront of the national agenda.

All over the world, the impact of media and social media has been witnessed in recent years. Though the press plays an important role in the democratic society but it has some shortcomings too. There are many instances where Press has to face difficulties as well. Journalists are being continuously attacked for exercising their right of freedom of speech and expression, In recent past, in the *Tehelka Case*, the portal Tehelka.com was forced to shut down completely & its journalists were continuously harassed as the journalists exposed the ‘scam’ in the defence ministry involving Ex-Defence Personnel & Central Government

¹⁰ (2010) 6 SCC 1.

¹¹ (2010) 9 SCC 747

¹² 2013 (82) ACC 303

Ministers. There are many instances where journalists were threatened & even assaulted at times.¹³

Conclusion

Freedom of Press is very essential in a democratic society. It has been given the status of “Fourth Estate”. The Press act as a medium between the Government and the people. Media keeps the people awakened and recently it has become a one of the major instruments of social change. Freedom of Press flows from the right of freedom of speech and expression guaranteed under Article 19 of the Constitution of India. Freedom of speech and expression has a wide horizon. It is not only limited to expressing ones view through words but it also includes circulating ones view by words or in writing or through advertisements and through any other communicational channel.

The word “media” is not just limited to the print media but with the development of technology, it encompasses television, radio, movies and internet. With the advancement of the modern era, the media has acquired a special status in a society. There are numerous instances where media has stepped into the role of judiciary. Media is accused of conducting the trial of the accused and passing the verdict even before the court passes its judgements.

The press has achieved a lot of success in the recent past. Media plays a significant role in forming opinions of the people. It is voice of the voiceless. Citizens receive the information about the new policies, projects, schemes, laws, amendments through media by which they can take part in the functioning of the government and evaluate the actions of the government.

The Press can also make the government bodies accountable. Accountability is very important for successful working of a democracy. A person can forget the promises made by political leaders but a printed newspaper, video, or audio recording will act as a piece of

¹³ Freedom of Press in India, Retrieved from <http://www.legalservicesindia.com/article/article/freedom-of-press-in-india-217-1.html>(last accessed on 20 April 2020)

reminding evidence for both citizens and the government. Press tends to fight against issues like corruption or misuse of power in public or private life.

