



ILE

LEX SPECULUM

VOLUME 1 AND ISSUE 1 OF 2023

INSTITUTE OF LEGAL EDUCATION



ILE LEX SPECULUM

APIS – 3920 – 0036 | ISBN – 978-81-964391-3-2

(Free Publication and Open Access Journal)

Journal's Home Page – <https://ls.iledu.in/>

Journal's Editorial Page – <https://ls.iledu.in/editorial-board/>

Volume 1 and Issue 1 (Access Full Issue on – <https://ls.iledu.in/category/volume-1-and-issue-1-of-2023/>)

### Publisher

Prasanna S,

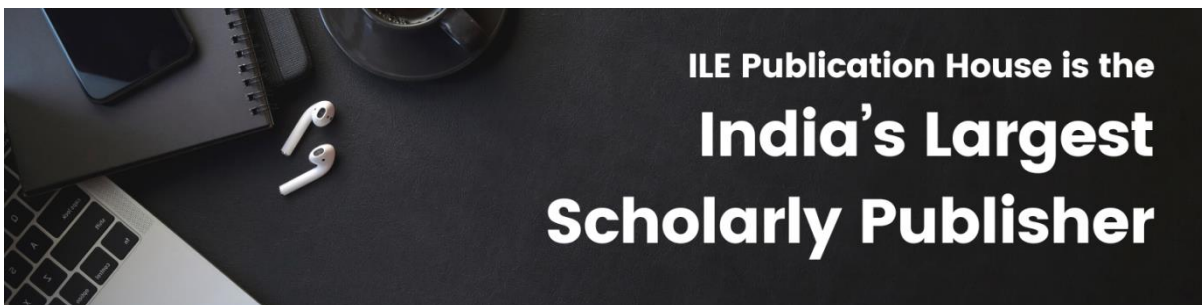
Chairman of Institute of Legal Education (Established by I.L.E. Educational Trust)

No. 08, Arul Nagar, Seera Thoppu,

Maudhanda Kurichi, Srirangam,

Tiruchirappalli – 620102

Phone : +91 94896 71437 – [info@iledu.in](mailto:info@iledu.in) / [Chairman@iledu.in](mailto:Chairman@iledu.in)



© Institute of Legal Education

**Copyright Disclaimer:** All rights are reserve with Institute of Legal Education. No part of the material published on this website (Articles or Research Papers including those published in this journal) may be reproduced, distributed, or transmitted in any form or by any means, including photocopying, recording, or other electronic or mechanical methods, without the prior written permission of the publisher. For more details refer <https://ls.iledu.in/terms-and-condition/>

## CASE COMMENTARY ON INDIRA NEHRU GANDHI (SMT.) VS. RAJ NARAIN & ANR.

**AUTHOR** – V NEERAJA C REDDY, STUDENT AT SCHOOL OF LAW, SATHYABAMA INSTITUTE OF SCIENCE AND TECHNOLOGY

**BEST CITATION** – V NEERAJA C REDDY, CASE COMMENTARY ON INDIRA NEHRU GANDHI (SMT.) VS. RAJ NARAIN & ANR., *ILE LEX SPECULUM (ILE LS)*, 1 (1) OF 2023, PG. 432-435, APIS – 3920 – 0036 | ISBN – 978-81-964391-3-2.

### I. ABSTRACT:

Indira Gandhi V. Raj Narain is a landmark case as it was the time when in the history of independent India Prime minister election was postpone. And it was the first time when the election laws were altered. In the year of 1971 when the parliamentary elections campaigns were aggressively on its way. Indira Gandhi and the opponent candidate Raj Narain campaigned against, and Raj Narain was so convinced that he will win in the in the elections. But when he lost, he refused to accept it and filed a lawsuit against the Indira Gandhi of doing fraudulent crimes during the election rallies. Initially on April 24, 1971, Raj Narain filed a suit before the Allahabad High Court accusing Indira Gandhi that she breached the electoral rules which is given under the Representation of people act of 1952. This paper looks into the detailing of the case and the arguments of both the parties and also a analysis of the judgement.

Case Title	Indira Nehru Gandhi (Smt.) Vs. Raj Narain & Anr. 1975 AIR 1590 1975 SCC (2) 159
Judgement Date	07/11/1975
Court	Hon'ble Supreme Court of India
Appellant	Indira Nehru Gandhi (Smt.)
Respondent	Raj Narain & Anr.
Bench	Justice A.N. Ray H.R. Khanna, K.K. Mathew, M.H. Beg, Y.V. Chandrachud
Citation	1975 AIR 1590 1975 SCC (2) 159
Acts and Sections	Constitution of India, 1950 Representation of people act, 1951

Involved	
----------	--

II. **KEYWORDS:** Election, Representative of people act, 1951, Supreme Court, Constitution.

### III. INTRODUCTION:

#### a) Was the election of Indira Gandhi Valid?

In the year of 1971 Indira Gandhi won the Lok Sabha elections with a total of 352 out of 518. The opposition leader Raj Narain did not accept the defeat and he filed a case against Indira Gandhi to declare the election results null and void. He also claimed that Indira Gandhi used the government cars for her campaigns and provided blankets and alcohols to the citizens to attract vote for her victory. Allahabad High Court found Indira Gandhi guilty of the offences claimed by Raj Narain for exploiting the government property for the election rallies. And the Allahabad court found Indira Gandhi guilty under Section 123(7) of the representation of the people act, 1951. As she got aggrieved by the decision of Allahabad High Court, she filed an appeal with the Supreme Court, but the court was on vacation at the time and granted an execution delay. The then president Fakhruddin Ali Ahmad imposed a state of emergency and on August 10<sup>th</sup> of 1975 39<sup>th</sup> constitutional amendment was passed inserting article 329 A to the constitution which restricted the supreme court from hearing election cases.

#### b) Basic structure of constitution: -

In the landmark case of Kesvanandha Barathi<sup>648</sup>, the Hon'ble Supreme Court established the fundamental structure of constitution and according to it the parliament has absolute right to change the constitution but has one restriction that it must not dilute or violate the fundamental structure of constitution.

### IV. FACTS:

The case of Indira Gandhi v. Raj Narain and Others was based on a direct accusation that

the former prime minister was responsible for appointing misconduct. In the Rai Bareilly Lok Sabha constituency in 1971, Raj Narain opposed Indira Gandhi's decisions. Raj Narain fought openly, going so far as to party even before the surveying findings were known. This sense of assurance changed into a state of shock when he learned that Mrs. Indira Gandhi had been reappointed and that Congress had won with a majority victory.

In light of the outcomes, Raj Narain petitioned the Allahabad High Court and filed a request for a thorough investigation, blaming her for arbitrary neglectful behaviours such as

- Bribery
- Making advantage of state institutions and government machinery

In accordance with Section 123(7) of the Representation of the People Act of 1951, Justice Jagmohan Lal Sinha of the High Court of Allahabad declared Indira Gandhi guilty of squandering public money on June 12, 1975. According to the High Court of Allahabad, Indira Gandhi is ineligible to serve as prime minister for another six years, and she is also ineligible to run for office. The ruling was challenged by Indira Gandhi in court. She was given a conditional stay as the Supreme Court at the time was on vacation.

Following that, President Fakhruddin Ali Ahmed declared an emergency because of internal unrest, but the Raj Narain vs. Uttar Pradesh ruling was what ultimately led to the decision.

The Supreme Court of India ordered both parties to appear before the court on August 11, 1975, but on August 10, 1975, the President signed the 39th constitutional amendment, introducing Article 392 A to the Indian Constitution. Section 392 A states that the Speaker and Prime

<sup>648</sup> Kesavananda barathi V. State of kerala (1973) 4 SCC 225; AIR 1973 SC 1461

Minister's elections cannot be challenged in a court of law; instead, they must be brought before a committee assembled by Parliament. As a result, the Supreme Court was prevented from ruling on the Indira Gandhi case. Therefore, in *Indira Gandhi v. Raj Narain*, the constitutionality of the 39th amendment was contested.

#### V. ISSUES RAISED:

- i. Whether article 328A (4) of the Constitution of India is valid?
- ii. Whether representation of people's (amendment act) and election laws (amendment) act, 1975 are constitutionally valid?
- iii. Whether Indira Gandhi's Election is valid or void?

#### VI. ARGUMENTS BY PETITIONER:

a. Petitioners contented that the constitutions of different nations leave election related disputes to the legislature and also various articles in our Indian Constitution states that the judicial review may be avoided in such instances.

b. They also stated that the majority ruling according to the *Kesvanandha Barathi* case cannot be used to determine the fair elections.

c. They also highlighted that how the meaning of word "amendment" was dealt in the cases of *kesvanandha barathi* and in the *shankari Prasad*<sup>649</sup> case rather than dealing with the scope of electoral conflicts.

d. They lastly claimed that the apart from article 12 our constitution does not acknowledge anywhere about the equality.

#### VII. ARGUMENTS BY REPSONDENT:

a. The petitioner's argument was centric to the 39<sup>th</sup> constitutional amendment which removed the authority of the courts under

election petitions which goes unjust to the judiciary, and they also claimed that the legislatures job is to make and pass laws.

b. The amendment was enacted even when the majority of MP's who could vote in favour or against it.

c. Article 368 does not provide parliament with the authority to change the constitution to determine who can win and lose the election.

#### VIII. JUDGEMENT:

a. The verdict for this case was given on November 7, 1975. In this case the Hon'ble Supreme court reinforced the respondent's contentions and rules that the Article 329 A (4) is invalid.

b. It was also held that the article also damages the core foundation of the constitution and also held that the healthy democracy can only function if free and fair elections are conducted.

c. It was also held in this case that the amendment violates the concept of separation of powers as it intentionally moved the judicial duty into legislature's hands.

d. Also, it ruled that it breached the principles of natural justice and also the principles of free and fair elections.

#### IX. CONCLUSION:

The main objective of the amendment was to reverse the verdict of the Allahabad high court which decided the election victory of Indira Gandhi is illegal. Then immediately the emergency the proclaimed and a constitutional amendment was brought in which subsequently reduced the powers of courts and thus courts cannot interfere into the cases related to the election. The Hon'ble Supreme court was very mindful on the way Indira Gandhi made the corrections to escape from the blame. But in any case, the Hon'ble Supreme court struck sown the Article which was included in the constitutional amendment as it

<sup>649</sup> Sri Sankari Prasad Singh Deo vs Union Of India And State 1951 AIR 458, 1952 SCR 89

was violative of the basic structure of the constitution.

X. REFERRED CASE LAWS:

- a. *I. C Golaknath & Ors Vs. State of Punjab and ors*
- b. *Kesavanandha Barathi Vs. State of kerala*
- c. *Minerva Mills Ltd & ors Vs. Union of India.*

XI. REFERENCE:

- a) <https://www.legalserviceindia.com/legal/article-2879-indira-gandhi-vs-raj-narain-case-analysis.html#:~:text=Indira%20Gandhi%20vs.,to%20kneel%20down%20before%20them.>
- b) <https://legalthirst.com/case-law-indira-gandhi-v-raj-narain-all-you-need-to-know/>
- c) <https://indiankanoon.org/doc/1706770/#:~:text=As%20already%20stated%2C%20under%20these,it%20would%20be%20quite%20unnecessa,ry%2C>
- d) <https://indiankanoon.org/doc/257876/>
- e) <https://lawcorner.in/indira-gandhi-vs-raj-narain-case-analysis/>
- f) <https://indianlegalsolution.com/category/case-comments/>

