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CASE COMMENT: MANEKA GANDHI V. UNION OF INDIA- Shivam Pandey¹**Citation:**

1978 AIR 597; 1978 SCR (2) 621; 1978 SCC (1) 248

Date of judgment:

25/01/1978

Bench:

Beg, M. Hameedullah (Cj), Chandrachud, Y.V., Bhagwati, P.N., Krishnaiyer, V.R. &Untwalia, N.L., Fazalali, S.M. & Kailasam, P.S.

Legal provisions in the issue:**Constitution of India:** - Articles 14,19 (1) (a), 21, 19, 14, 19(1) (a)**Indian Passports Act,1967:** -section- 3,5,6,10(3)(c),10(5)**Introduction**

In the case of ²*Maneka Gandhi v. Union of India*, the landmark principles like natural justice, due process of law, reasonableness, arbitrariness, equity, good faith, and many more were developed. From 1947 to 1970, the Indian judiciary worked with a very narrow approach and delivered a judgment that strictly followed the law books they did not question the credibility of the legal provisions. During this period, the Indian judicial system was very much influenced by the government. But after the advent of landmark case laws like ³*EP Royappa v. State of Karnataka*, ⁴*Kesavanand Bharti v. State Kerala*, and ⁵*ADM Jabalpur v Shivkant Shukla*. So, these were the case laws that fueled Indian judicial activism,

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²AIR 1978 SC 597

³1974 AIR 555

⁴AIR 1973 SC 1461

⁵AIR 1976 SC 1207

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and in the same pattern, the case law of *Maneka Gandhi v. Union of India* introduced some drastic changes in the Indian judiciary and Indian constitutional interpretation methods. Article 21 talks about the protection of any person's life and personal liberty, this article, at the very first instance, seems to be very crisp and short, but as we take a dip into this article, then we will realize how deep this article is. Further, the concept of ⁶*the golden triangle rule* was introduced in this case; this rule creates a direct link between articles 21, 19, and 14. This rule says that if any person has any right violated mentioned in the articles of the Golden Triangle all article will be considered as broken and actions will be taken based on that. The principle of natural justice forms the basic structure of the Indian constitution was said in this case. This case introduced the doctrine of due process of law in the Indian legal system; this case also mentioned that the principle of procedure established by law should not be strictly interpreted and applied in every case and matter coming to the courts. The law made by the parliament and the state legislature should have reasonable nexus between the objective of the law and the matter for which the law was formulated, the concept of reasonability in the law must be followed, and there should be no arbitrariness in the law. So, these are various legal principles that law-making authorities should follow, applied with certain exceptions. This is the main gist of the case in a nutshell.

Facts of the case

- Maneka Gandhi, the petitioner in this case, had her passport issued on June 1st, 1976, as per the passport act 1967. When she was about to go abroad, On July 2nd, 1977, the regional passport authority of New Delhi ordered the seizure of her passport arbitrarily without giving any reasonable ground.
- She then approached the supreme court of India to invoke her writ petition and contend that the government's act of impounding her passport was a direct attack on her fundamental right mentioned under Article 21 of the constitution of India.
- The passport authority, however, replied that the reason for the seizure of her passport could not be mentioned as it is not in the public interest.

Issues

⁶(June 20, 2023, 08:15 AM) <https://www.legalserviceindia.com/legal/article-10701-golden-triangle-of-the-constitution-of-india-articles-14-19-and-21.html>

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- Whether ⁷Article 21, 'protection of the right to life and personal liberty' in its ambit covers the right to go abroad as a part of it?
- Whether section 10 (3)(c) of the Indian passport act of 1967, as mentioned in Article 21, prescribe a 'procedure' before the infringement of their fundamental right.
- Whether the section 10(3)(c) on Indian passport act of 1967 is constitutionally valid?
- Whether the act of seizure of a passport by the passport authority follows the principle of natural justice.

Important arguments

Respondents

- As Article 21 contains the doctrine of ⁸"*procedure established by law*," and as per this doctrine, such procedure does not have to clear the test of reasonability.
- The Indian passport act of 1967 is formulated with due diligence and with proper caution, not giving any notice regarding the seizure of passport by the passport authority because of public interest.
- In the matters of India's internal security and to protect the sovereignty, the government is not bound to mention any reason for any act.
- There was a constant debate over the principle of "*due process of law*," which is an American concept, nowhere written in the Indian constitution, and 'procedure established by law' which is a British concept and mentioned in the Indian constitution under article 21.

Petitioner

- India is a country with a vision of constitutionalism. It supports the principle of natural justice, and a country with this vision should not infringe on the fundamental rights of any person.
- The doctrine of procedure established by law should not operate arbitrarily and with such unreasonable acts.
- The doctrine of due process of law must be taken into consideration.

⁷The constitution of India.

⁸(June 20, 2023, 08:55 AM) <https://www.studyiq.com/articles/procedure-established-by-law-and-due-process-of-law/>

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- SC, in its earlier judgment of ⁹*SatwantSinghSawhney vs D.Ramarathnam* already said that the right to life and personal liberty enshrine the idea of the right to locomotion and travel abroad.
- The government is bound to give the initial information regarding the seizure of the passport.

Judgment:

This is the most vital judgment delivered on 25th January 1978 and completely changed the overall understanding of the Indian constitution.

It was decided in the case that –

1. The scope of Article 21 now became more vast in the respect of ‘personal liberty’, and it should be interpreted widely and avoid restrictive interpretation.
2. Section 10(3)(c) of the Indian passport act of 1967 says that the state can seize the passport of any Indian citizen in the name of national security. This provision is very arbitrary in nature as the passport holder is not provided with any opportunity to know the reason behind the passport seizure.
3. There is an apparent infringement of the most important principle of natural justice, ‘*Audi alteram partem*’.
4. Right to go abroad comes within Article 21 of the Indian constitution.
5. The fundamental right mentioned in part III of the Indian constitution is not distinctive nor mutually exclusive. ‘Any legislation taking away a person’s right to life and personal liberty has to stand a test of one or more of the fundamental rights conferred under article 19.’
6. The hon’ble supreme court of India overruled the judgment in the case of *AK Gopalan v. Union of India* by citing that there is a special relationship between articles 14, 19, and 21. As a result, the rule ‘*golden triangle*’ or ‘*trinity*’ was established.

Analysis

⁹1967 SCR (2) 525

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1. The Supreme of India decided, in this case, to declare Sec. 10(3)(c) of the passport act unconstitutional and to give the other party a fair chance to be heard as per the procedure established by law. This decision of the court was appropriate.
2. The development of the 'golden triangle rule' which mentions there is a direct connection between articles 14, 19, and 21 of the Indian constitution. If the government introduces any law, then it has to be by the provisions of fundamental rights and that act should not be violative of the fundamental right mentioned in part 3rd of the Indian constitution.
3. This broadens the approach of the court to look towards the provisions given under part 3rd of the Indian constitution unlike the view of the court in the previous landmark case like that of *AK Gopalan vs state of Madras* in this case the court's judgment was very formal and narrow but after the 1970's the Indian judiciary transformed itself and judicial activism played a key role in the overall development of the judicial machinery of India.
4. In The case of *Keshwanand Bharti vs the State of Kerala*, the Hon'ble supreme court of India gave the concept of basic structure doctrine which led to curtailing the government's arbitrary actions.
5. In the case of *Maneka Gandhi vs Union of India*, the court gave many doctrines and ideas on which the government's action should be based, and these ideas and concepts are like- natural justice, equity principle, reasonability test, just and fair act, due process of law, the exact meaning of procedure established by law.
6. At last, in the case of *Maneka Gandhi vs. Union of India*, the court promoted and supported the idea of individual freedom and defended the fundamental rights of the person, broadening the scope of Article 21 of the Indian constitution.

Conclusion

The landmark case of *Maneka Gandhi vs. Union of India* collectively developed the scope and area of Article 21. Article 21, which talks about the 'right to life and personal liberty,' is a vital part of the fundamental right and is the source of the human rights laws in India, so its protection and promotion are crucial. Article 21 includes all possible rights that are important for human existence with dignity in this country. The scope of this article is continuously in development, and in this journey, the cases like that of *Maneka Gandhi vs. Union of India* played a key role. As we all know, the judiciary is bound to protect the ideas of the Indian

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constitution. It protects its citizen from all the arbitrary and unreasonable acts of the government, and in this case, it was very clearly done by the hon'ble supreme court of India. Through this case, the supreme court of India interpreted the provisions of part 3rd of the Indian constitution in a very ethical way with the idea of an individual's dignity and honor.



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