
INTERNATIONAL JOURNAL OF ADVANCED LEGAL RESEARCH

CASE COMMENT ON MANEKA GANDHI V. UNION OF INDIA- Rayees¹**Date Of the Case:** 25th January 1978**PETITIONER:** Maneka Gandhi**RESPONDENT:** Union of India (UOI) and Ors.**Hon'ble Judges/Coram:** M. Hameedullah Beg, C.J., N.L. Untwalia, P.N. Bhagwati, P.S. Kailasam, S. Murtaza Fazal Ali, V.R. Krishna Iyer and Y.V. Chandrachud.**Citation(s):** AIR 1978 SC 597; (1978) 1 SCC 248**Important Sections and Articles:** Article 14, Article 19, Article 21 of the the Indian Constitution and Passport Act, 1967: Section 10(3)(c).**•Abstract**

In 1978, a landmark Supreme Court verdict in **Maneka Gandhi v. Union of India** redefined the contours of 'personal liberty' in India. Before this transformative case, **Article 21**, a cornerstone of the Constitution, remained largely unexamined. But when **Maneka Gandhi** challenged the arbitrary seizure of her passport, the Court boldly expanded its scope, elevating individual rights to the forefront of Indian polity and law. This case analysis delves into the judgment's profound implications, not only for **Article 21** but for the entire Chapter III of the Indian Constitution.

¹ Student from Kashmir Law College (Kashmir University)

For general queries or to submit your research for publication, kindly email us at editorial@ijalr.in

<https://www.ijalr.in/>

● Introduction-

Before 1978, India's bedrock right to life and personal liberty seemed fragile, shielded only from the executive's grasp. Then came Maneka Gandhi's case a single woman facing the might of the state, and forever redefined the equation. Her landmark case shattered the boundaries of **Article 21**, piercing the legislative veil and erecting a powerful bulwark against all encroachments on individual freedom. **In one historic verdict, a 7-judge Supreme Court bench on 25th January 1978** not only restored faith in the judiciary but also forged the unbreakable "**golden triangle**," cementing its role as the ultimate sentinel of democracy. This case analysis embarks on a deep dive into this transformative judgment, unveiling its intricate tapestry of reasoning, its enduring legacy for Indian jurisprudence, and its profound impact on the very meaning of liberty in the world's largest democracy. The Court's nuanced reading of "**personal liberty**" in **Maneka Gandhi** not only broadened its scope but also instilled within it a potent dynamism, forever enriching the landscape of Part III's fundamental rights interpretations.

● FACTS OF THE CASE -

In June 1976, **Maneka Gandhi** received her passport under the 1967 Act. Barely a year later, on **July 2, 1977**, a stark missive arrived from the Delhi Regional Passport Office. Without explanation or due process, citing only the nebulous justification of "**public interest**," the state demanded the immediate surrender of **Ms. Gandhi's** passport. This arbitrary seizure, a unilateral act by the External Affairs Ministry, constituted a direct challenge to the fundamental right to personal liberty enshrined in **Article 21** of the Indian Constitution.

Unwilling to accept this violation of her fundamental rights, The Petitioner (**Maneka Gandhi**) challenged the state's action before the Supreme Court. She argued that the passport seizure constituted a direct assault on her "**Right of Personal Liberty**" as guaranteed by **Article 21**. It is pertinent to mention that the Supreme Court in **Satwant Singh Sawhney v. Ramarathnam** case held that the right to travel abroad is well within the ambit of **Article 21**, although the extent to which the Passport Act diluted this particular right was unclear.

For general queries or to submit your research for publication, kindly email us at editorial@ijalr.in

<https://www.ijalr.in/>

• Issues before the Court:

- Whether the Fundamental Rights are absolute or conditional and what is the extent of the territory of such Fundamental Rights provided to the citizens by the Constitution of India?
- Whether 'Right to Travel Abroad' is protected under the umbrella of **Article 21**.
- Determining the scope of “ **Procedure established by Law**”
- Whether the provision laid down in **Section 10(3)(c) of the Passport Act 1967** is violative of Fundamental Rights and if it is whether such legislation is a concrete Law?
- Whether the Impugned order of Regional Passport Officer is in contravention of principles of natural justice?
- What is the Connection between the rights guaranteed under **Article 14, 19 and 21** of the Constitution of India?

CONTENTIONS:**Arguments advanced by Petitioner:**

•Through the administrative order issued on **July 4th, 1977**, seizing the Petitioner's passport potentially impinged upon their fundamental rights enshrined in **Articles 14, 19, and 21 of the Constitution**. These rights encompass freedom of speech and expression, the right to life and personal liberty, the right to travel abroad, and the right to freedom of movement.

•**The provision of Article 14, 19 & 21** are to be read in synchronization and they are not mutually exclusive. These provisions in itself though not explicitly constitutes in itself principles of natural justice. A combined reading of three provisions will give effect to the spirit of the constitution and constitution-makers.

•**Section 10(3)(c) of the Passport Act** raises concerns about potential violations of **Article 21's** guarantee of the right to life and personal liberty.

•An essential constituent of Natural Justice is “**Audi Alteram Partem**” give a chance to be

For general queries or to submit your research for publication, kindly email us at editorial@ijalr.in

<https://www.ijalr.in/>

heard was not granted to the petitioner. While the Indian Constitution does not explicitly use the term "**due process of law**" found in the American legal system, it nonetheless guarantees a "**procedure established by law**" that must be reasonable, fair, and just, and free from arbitrariness.

● **Arguments advanced by Respondent:**

• Justifying the passport confiscation before the court, the respondent cited the petitioner's need to appear before a government committee hearing. However, emphasizing the principles established in the **A.K. Gopalan case**, they further argued that the term "**law**" in **Article 21**, guaranteeing protection of life and personal liberty, cannot be interpreted solely through the lens of government procedures, but must also be evaluated in light of fundamental tenets of natural justice.

• Article 21 contains the phrase "**procedure established by law**" & such procedure does not have to pass the test of responsibility and need not necessarily be in consonance with the Articles 14 & 19. The framers of our Constitution had debates on the American "**due process of law**" versus the British "**procedure established by law**". The marked absence of the due process of law from provision of the Indian Constitution clearly indicates the Constitution makers intention.

RATIONALE:

Before the enactment of the Passport Act 1967, there was no law regulating the passport whenever any person wanted to leave his native place and settle abroad. Also, the executives were entirely discretionary while issuing the passports in an unguided and unchallenged manner. In **Satwant Singh Sawhney v. D Ramarathnam case** the SC stated that – "**personal liberty**" in its ambit, also includes the right of locomotion and travel abroad. Hence, no person can be deprived of such rights, except through procedures established by law. Since the State had not made any law regarding the regulation or prohibiting the rights of a person in such a case, the confiscation of the petitioner's passport is in violation of Article 21 and its grounds being unchallenged and arbitrary, it is also violative of Article 14.

For general queries or to submit your research for publication, kindly email us at editorial@ijalr.in

<https://www.ijalr.in/>

- "**Section 10(3)(c) of the Passports Act, 1967** empowers the state to seize a passport in specific circumstances, such as for national security, foreign relations, or the public interest. However, the authority must document the reason for such action in writing and provide a copy to the passport holder upon request."
- Despite claiming to act in the "**public interest**," the Central Government provided no specific rationale for impounding the petitioner's passport. Subsequent revelations indicated her presence was desired for a commission of inquiry, casting doubt on the stated justification. This lack of transparency and the nebulous grounds for confiscation, inaccessible to the average person, raise concerns about due process and potential abuse of power.
- The fundamental rights enshrined in **Part III of the Constitution** do not exist in isolation, nor are they mutually exclusive. Any law infringing upon personal liberty must withstand scrutiny against various rights guaranteed under Article 19. Similarly, the principle of equality enshrined in **Article 14** must be actively considered alongside due process safeguards to ensure reasonableness in procedures affecting individual liberty.
- While Article 21 employs the phrase "procedure established by law" rather than the well-known "**due process of law**," the latter's core principles, particularly freedom from arbitrariness and irrationality, are deeply embedded within its interpretation. This ensures fairness and justice even when Article 21 employs the phrase "**procedure established by law**" rather than the well-known "due process of law," the latter's core principles, particularly freedom from arbitrariness and irrationality, are deeply embedded within its interpretation. This ensures fairness and justice even when statutes remain silent on specific procedural requirements. Notably, the fundamental natural justice principle of "**audi alteram partem**" (hear the other side) forms a crucial ingredient within this framework, further safeguarding individuals from arbitrary actions affecting their personal liberty.
- **Though Section 10(3)(c) of the Passports Act 1967** empowers authorities with broad discretion, its application in this case doesn't violate any fundamental rights, particularly Article 14's equality guarantee. While "general public interest" appears like a potentially vague basis for action, it is not entirely unrestrained. Guidelines derived from Article 19, such as proportionality and legitimate aim, can be applied to ensure such grounds serve a genuine

For general queries or to submit your research for publication, kindly email us at editorial@ijalr.in

<https://www.ijalr.in/>

public purpose and are not used discriminatorily. This interpretation balances the legitimate needs of the state with individual rights protection, preventing arbitrary or unequal application of the provision.

• While individual fundamental rights are primarily asserted within the territorial jurisdiction of the state, their essence transcends geographical boundaries. Particularly, the right to freedom of speech and expression, an intrinsic human value, cannot be arbitrarily confined to Indian soil. Its scope extends beyond territorial limitations, recognizing its inherent connection to individual liberty and its broader implications for global discourse and human rights. This expansive understanding aligns with the spirit of fundamental rights, which often evolve to encompass unenumerated but essential human values. **Just as freedom of the press finds protection under Article 19(1)(a)** by virtue of its inextricable link to free speech, other fundamental rights may manifest and extend their reach beyond explicit textual limitations to safeguard essential human values and ensure their global resonance.

• The right to go abroad is not a part of the Right to Free Speech and Expression as both have different natures and characters. **A.K. Gopalan case's judgment** was overruled stating that there is a unique relationship between the provisions of Article 14, 19 & 21 and every law must pass the tests of the said provisions. Earlier in **A.K. Gopalan case**, the majority held that these provisions in itself are mutually exclusive. Therefore, to correct its earlier mistake the **Apex Court** held that these provisions are not mutually exclusive and are dependent on each other.

• **Ratio decedendi:**

• Article 14 of the Constitution is not violated by **Section 10(3)(c)** of the Act in question.

• The order issued in the present case is violative of the Principle of Natural Justice. That is the rule of **Audi Alteram Partem**.

• **Section 10(3)(c)** of the Act in question does not violate **Article 19(1)(a)** & **Article 19(1)(g)** or **Article 21** of the Constitution.

• The order issued is a violation of **Article 21** of the Indian Constitution.

For general queries or to submit your research for publication, kindly email us at editorial@ijalr.in

<https://www.ijalr.in/>

● Obiter Dicta:

- The freedom of speech is not geographically bound i.e., **Article 19 (1)(a)** which encompasses within the freedom of speech & expression is not bound only to Indian Territory.
- Whenever we read **Article 21** of the Indian Constitution, it is not to be read in isolation which means that all the procedural requirements & violations and under **Article 21** are to be tested for **Article 14** and **Article 19** also.

● **Critical Analysis:** The momentous judgment in **Maneka Gandhi v. Union of India**, a cornerstone of personal liberty under **Article 21**, arose from the arbitrary confiscation of the petitioner's passport. It marked a shift in the Supreme Court's role, transforming it into a vigilant guardian of the Constitution's essence and the framers' intent. The majority judges affirmed that any legislation or clause must adhere to principles of justice, fairness, and reasonableness. Even established laws could be deemed arbitrary in their absence. They declared that any law infringing upon personal liberty must satisfy the stringent requirements of **Articles 21, 14, and 19**. Furthermore, principles of natural justice, encompassed by **Article 21**, guarantee the right to be heard before a court. This seminal case, unanimously adjudicated by a **seven-judge bench led by Chief Justice M.H. Beg**, shows how important the Supreme Court is in protecting our basic rights. They ruled that fair treatment is a key part of justice, and the spirit of the law, **not just the words, is what truly matters.**

INFERENCE:

The Maneka Gandhi case stands as a landmark in Indian Constitutional history, fundamentally reshaping the understanding of **"life and personal liberty" under Article 21**. By reading Article 21 alongside Articles 14 and 19, the Court significantly broadened the scope of individual liberties, notably by recognizing the right to travel abroad as an integral component of personal liberty and by extending the right to free speech and expression beyond national borders. This expansive interpretation, while sometimes characterized as judicial activism, marked a decisive shift towards a more progressive approach to safeguarding fundamental rights. Notably, the Court redefined **"procedure established by law"** to incorporate the concept of due process, ensuring fairness and reasonableness in state actions affecting individual liberties. The case's legacy is evident in its lasting impact on subsequent jurisprudence, paving the way for the recognition of numerous other

For general queries or to submit your research for publication, kindly email us at editorial@ijalr.in

<https://www.ijalr.in/>

rights within the ambit of **Article 21** and solidifying the judiciary's role as a vital guardian of individual freedoms.



For general queries or to submit your research for publication, kindly email us at editorial@ijalr.in

<https://www.ijalr.in/>

©2024 International Journal of Advanced Legal Research