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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 / Chairman@iledu.in



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**CASE COMMENTARY ON A K GOPALAN VS STATE OF MADRAS****Author** - SEELU HARINI, STUDENT AT ICFAI LAW SCHOOL HYDERABAD**Best Citation** - SEELU HARINI, CASE COMMENTARY ON A K GOPALAN VS STATE OF MADRAS, *Voice of Freedom and Rights*, 1 (1) of 2023, Pg. 82-85, ISBN - 978-81-961120-1-1**ABSTRACT**

The AK Gopalan case was a significant case in Indian constitutional law that addressed the applicability and interpretation of Article 21 of the Constitution. As a result of the Preventive Detention Act of 1950, a communist leader named AK Gopalan was imprisoned. His incarceration, he claimed, violated his fundamental rights, which are guaranteed by Article 21 of the Constitution and include the right to life and personal liberty.

The AK Gopalan case established the idea that the Constitution did not guarantee absolute rights and that constraints on these rights could be imposed in the interests of the State. It also established the idea that the phrase "procedure established by law" indicated that any law that deprives a person of their fundamental rights had to be a legitimate law, but not necessarily a good or fair law.

According to the Supreme Court's decision, the phrase "procedure established by law" in Article 21 suggested that a person's personal freedom might be violated by law that was properly adopted, even if it was capricious or unjust. Furthermore, the Court found that preventive detention was a reasonable restriction on these rights in the interests of public safety and national security, and that Article 21's guarantee of the right to life and personal liberty was not absolute.

KEY WORDS: Constitution, Fundamental Right, Legitimate, Supreme Court, Capricious, Life, Personal Liberty.

Case Title	A.K. Gopalan v. State of Madras. Union of India on 19 may, 1950
Case No	Petition No. 13 of 1950
Citation(s)	AIR 1950 SC 27; 1950 SCR 88
Date of the Judgment	19/05/1950
Jurisdiction	Supreme Court of India
Quorum	Kania, Hiralal J. (CJ) Fazal Ali, Saiyid Sastri, M. Patanjali Mahajan, Mehr Chand Das, Sudhi Ranjan Mukherjea, B.K.
Author of the Judgment	H J Kania
Petitioner	A.K. Gopalan
Respondent	The State of Madras. Union of India
Counsel For Appellant	M. K. Nambiar
Counsel For Respondent	K. Rajah Aiyar (State of Madras) M.C. Setalvad (Union of India)
Applicable laws	Constitution of India, 1950;



Article 13, 19, 21, 22.

I. INTRODUCTION

The A.K. Gopalan case or (Preventive Detention Case) is the Landmark Judgment of Indian Constitution. He was detained, without trial under Section 3(1) of the Preventive Detention Act of 1950. Gopalan challenged the Act's validity, claiming that it infringed on his fundamental rights provided by the Indian Constitution. This case was heard by a Five-Judge bench of Supreme Court of India. The A.K. Gopalan case remains significant in Indian Constitutional Law, as it established the principle that fundamental rights in India are not absolute, but are subject to reasonable restrictions imposed by the state.

II. FACTS

AK Gopalan was a communist leader and member of the Communist Party of India (CPI). In 1950, the Indian government detained Gopalan under the Preventive Detention Act (PDA) of 1950. The PDA allowed the government to detain individuals without trial for a specified period if it was deemed necessary to prevent them from committing certain offenses. Gopalan challenged his detention under the PDA by filing a writ petition in the Supreme Court of India. The Supreme Court of India, in its judgement, held that the right to personal liberty under Article 21 of the Constitution of India is not an absolute right and can be curtailed by law. The Court also held that the grounds of detention need not be disclosed to the detainee and that the judiciary cannot interfere with the executive's decision to detain an individual under the PDA.

The judgement in the AK Gopalan case was widely criticized for being too restrictive of individual rights and for giving the government unchecked powers to detain individuals without trial. The judgement was later overruled by the Supreme Court in the Menaka Gandhi case in 1978, which held that the right to personal liberty

under Article 21 is a fundamental right and cannot be suspended by law.

III. ISSUES

Whether The (PDA) Preventive Detention Act, 1950 violates Article 19,21 of the Indian Constitution? Is there any relation between the articles?

IV. ARGUMENTS

OF PETITIONER: AK Gopalan

Violation of Article 19: Gopalan argued that preventive detention violated his fundamental right to freedom of speech and expression, assembly, association, etc. under Article 19 of the Indian Constitution. He contended that the detention order was passed without any evidence of his alleged activities prejudicial to the maintenance of public order and was therefore arbitrary and violative of his fundamental rights.

Violation of Article 21: Gopalan also argued that preventive detention violated his fundamental right to life and personal liberty under Article 21 of the Indian Constitution. He contended that the right to personal liberty was not limited to physical restraint and also included the right to be free from arbitrary detention without trial.

Separation of powers: Gopalan also argued that the Preventive Detention Act, 1950, violated the doctrine of separation of powers by conferring excessive discretionary powers on the executive to detain individuals without trial. He contended that the Act was ultra vires the Constitution and should be struck down.

OF RESPONDENT: State of Madras

The Preventive Detention Act was necessary for the maintenance of public order and national security, and that it was a reasonable restriction on the right to personal liberty. The right to personal liberty was not absolute and could be curtailed by law for reasons of public order and national security.

The Constitution of India did not explicitly provide for the right to move the courts for a

writ of habeas corpus, and that this right could not be read into the Constitution.

The State had the power to detain a person without trial for an indefinite period if it was satisfied that the person's activities were prejudicial to public order and national security.

The State had the power to classify information as secret and not disclose it to the detainee or the court if it believed that such disclosure would be prejudicial to public order and national security.

V. JUDGMENT

In the AK Gopalan case, the Supreme Court of India delivered a landmark judgment on May 19, 1950, which addressed the constitutional validity of the Preventive Detention Act of 1950.

The court upheld the validity of the Act and held that the law did not violate any of the fundamental rights guaranteed by the Constitution of India. The court also rejected AK Gopalan's argument that the law was discriminatory and violated the equality clause of the Constitution.

Over the years, the Supreme Court of India has revisited the issues raised in the AK Gopalan case and has expanded the scope of judicial review in cases of preventive detention. In subsequent judgments, the court has emphasized the importance of protecting individual liberties and has set guidelines for the proper exercise of preventive detention powers by the state.

VI. CONCLUSION

The AK Gopalan case was a landmark judgment in the constitutional history of India. Although the Supreme Court upheld the validity of the Preventive Detention Act, the decision was significant because it established the principle that fundamental rights could be restricted by law, but only if such laws were reasonable and did not violate the basic structure of the Constitution.

Today, the principles laid down in the AK Gopalan case continue to be relevant in the

Indian constitutional context. The case highlights the importance of protecting individual liberties, and the need for a robust system of checks and balances to ensure that the powers of the state are not abused.

VII. CASE LAWS

1. Maneka Gandhi v. Union of India (1978):
The Supreme Court held that the right to personal liberty was not limited to procedural safeguards, but also included substantive rights such as the right to travel abroad.

2. ADM Jabalpur v. Shivkant Shukla (1976):
The Supreme Court held that during the period of emergency declared by the government in 1975, the right to personal liberty could be suspended, and that even if an order of detention was illegal, it could not be challenged in court.

3. AK Roy v. Union of India (1982):
The Supreme Court held that preventive detention could not be used as a substitute for normal criminal proceedings, and that the grounds of detention must be communicated to the detainee as soon as possible.

4. A.K. Kraipak v. Union of India (1970):
The Supreme Court held that the principles of natural justice, which include the right to a fair hearing and the right to be heard, were an integral part of the right to personal liberty.

5. PUCL v. Union of India (2003):
The Supreme Court held that the right to life and personal liberty could not be suspended even during a state of emergency, and that preventive detention could not be used to stifle legitimate dissent.

6. Kharak Singh v. State of Uttar Pradesh (1963):

7. Kartar Singh v. State of Punjab (1994):
These cases illustrate the evolving jurisprudence on the issue of preventive detention and the scope of fundamental rights in India. While the AK Gopalan case laid down some restrictive principles on the issue of preventive detention, subsequent cases have expanded the scope of individual liberties and have placed greater checks on the powers of the state.



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