



**HEART OF THE CONSTITUTION  
DURING PANDEMIC**

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**ABSTRACT**

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supreme importance in a democratic society. The right has been held to be the heart of the constitution. Hence, the most organic and progressive provision in our living constitution, the foundation of our laws.

The Heart of the Constitution imbibes in itself the rights necessary to live a dignified life in a democratic society. The present scenario is creating some hard times for the whole world. It has become difficult in this pandemic to carry on the smooth functioning of the very Heart of the Constitution as it is difficult to strike a balance with the shooting expectations of the people.

**CYNOSURE**

“This work from Ramayana by Tulsidas ji is evident of the fact that the profit, loss, life, death, happiness and sorrow are all part and parcel of life but the essence of life is not to give up and one shall always pin the hopes on a great future.

Due to pandemic of 2020 i.e., the widespread of the disease called coronavirus various stratas of the society have been effected ruining their means of livelihood and so their life. Due to this alarming situation, various questions has been raised before the judicial system and the very Heart of the Indian Constitution i.e., Article 21 has played a significant role in these gloomy times. The stratas of the society severely effected are;

Heart of the constitution i.e., Article 21 of the Indian constitution is surviving through these hard times of the pandemic and keeping its very essence intact by serving to the public and making possible for the people to live a dignified life during this hard times also. Hence, Heart of the Indian constitution is keeping its spirit alive to serve the public at large.”

➤ **BPL (Below Poverty line)**

People who are below poverty line or with low economic status are majorly affected as they cannot afford adequate nutritious diet to maintain their health during this crucial time or in the worst circumstances if they are affected than they cannot afford the expenses of the testing of Covid- 19 of further treatment.

**PROLUSION:**

Article 21 reads as;

“No person shall be deprived of his life or personal liberty except according to a procedure established by law.”

In the words of justice P.N. Bhagwati, Article 21 embodies a constitutional value of

In the case of *Shashank Deo Sudhi V. Union Of India & Ors.*, Hon’ble Court modified its earlier order related to free testing for all patients and issued the following directions such as free testing facility for persons



covered under Ayushman Bharat Pradhan Mantra Jan Arogya Yojan. Matters as to whether such benefit can be extended to economically weaker section of the society was left open for consideration by the governments. The Court also directed that private labs shall continue to charge the payment for testing of Covid- 19 from persons who are able to make payment of testing fee as fixed by ICMR. <sup>1</sup>

In these hard times the people who are prone to this deadly disease and are not economically sound shall be tested on minimalistic fee as they also have the place in the heart of the constitution and have all rights to enjoy the Right enshrined in the Article 21 of Indian Constitution.

- Safety and Welfare of Children in protection homes

In this dark times of pandemic the most prone to the deadly disease of coronavirus are children as they have low immunity as of less development of the immunity system. So, the Hon'ble Supreme Court in the case of *In Re Contagion Of Covid- 19 Virus In Children Protection Homes*, issued a slew of directions to various authorities concerned with the welfare of children such as child welfare of children such as child welfare of children such as child welfare committees, government, CCIs to ensure their safety and welfare including taking preventive measures, conducting regular 2eriod22s2g and monitoring, creating 2eriod22s, promote and demonstrate positive hygiene behaviours.<sup>2</sup>

Children are regared as the most significant asset for the society as they are the future of a nation. So, protecting and preserving their health is being considered of major significance as Article 21.

- Animals (Movement of persons for procurement of food)

Due to pandemic, the animals are one who are suffering the most. As the people in lockdown are not stepping out of the house the animals are starving. In this concern, the Hon'ble High Court of kerala in the case of *N. Prakash V. State Of Kerala And Anr.*, held that the citizens choice to rear the pets is traceable to his fundamental right to privacy recognized by the Apex Court in *puttaswamy's* case which in turn is a facet of right under Article 21. In the present case, the the writ petition was allowed and the respondent were directed to permit the petitioner to travel to kochi to procure the said item of cat food, on his producing a self-declaration stating the purpose of his travel.<sup>3</sup>

This case clearly reflects that the life of animals is also the priority and they shall also have decent life and the heart if the constitution imbibes within itself a right to a decent for all as it staes 'no one' sgall be deprived of life and personal liberty.

- Regular bail applications to be entertained only in exceptional urgent circumstances

In the case of *Sopan Ramesh Lanjrekar V. State Of Maharashtra*, Hon'ble Court held that while examining the process involved in disposing the bail application, the Court was

<sup>1</sup> Shashank Deo Sudhi V. Union Of India & Ors., 2020 SCC OnLine SC 358.

<sup>2</sup> In Re Contagion Of Covid- 19 Virus In Children Protection Homes, **Writ Petition (C) No. 1/2020**

<sup>3</sup> N. Prakash V. State Of Kerala And Anr ., W.P. (C)–TMP 28 OF 2020.



of prima facie opinion that once a bail writ is issued, several staff members of the concerned Court and other department of the state are required to complete various formalities. Due to the present lockdown, situation all offices including the offices of the Court are virtually closed. A minimum staff is deputed to deal with urgent business. In such a situation processing of a bail would amount to breach of the order of lockdown. In view of such situation, unless the Court is satisfied that there exist exceptional urgent circumstances, regular bail applications ought not be entertained. Mere fact that the accused is undergoing detention does not constitute urgency.<sup>4</sup>

➤ Safety and well-being of healthcare professionals during Covid-19

One of the most important aspects in these dark times is to maintain the safety of the health care workers and to protect them from catching this deadly disease. Keeping in view this, Hon'ble Supreme Court in the case of *Jerryl Banait V. Union Of India And Anr.*<sup>5</sup> The Court issued the following interim directions to the respondent in reference to pandemic Covid-19 such as ensuring the availability of appropriate personal protective equipment, providing necessary police security to the Doctors and medical staff in Hospitals and places where patients who have been diagnosed Covid-19 or those quarantined are housed and take necessary action. <sup>3</sup> Those persons who obstruct and commit any offence in respect to performance of duties by doctors, medical staff and other government officials deputed to contain Covid-19.<sup>5</sup>

Heart of the Constitution very well imbues in itself the safety of all and it becomes

even more significant when it comes to the people who risk their lives in saving others and working for the betterment of society.

➤ Migrant Workers

Since, the lockdown was imposed by the Government of India many workers who migrated from their native place to work in some other city were now in a bad condition. They were not able to get a decent livelihood at the place where they were living as well as not able to move to their native place. So, to resolve this issue the following guidelines are laid down;

- State/ union territories government shall ensure adequate arrangements of temporary shelters and provision of food etc. for the poor and needy people, including migrant laborers, standard due to lockdown measures in their respective areas;
- The migrant people, who have moved out to reach their homes states/ home towns, must be kept in the nearest shelter by the respective state/union territory government quarantine facilities after proper screening for a minimum period of 14 days as per standard health protocol;
- All the employers, be it in the industry or in the shops and commercial establishments, shall make payment of wages of their workers, at their work places, on the due date, without any deduction, for the period their establishment are under closure during the lockdown.
- Where ever the workers, including the migrants, are living in rented accommodation, the landlords of those properties shall not demand payment of rent for a period of one month.

<sup>4</sup> Sopan Ramesh Lanjrekar V. State Of Maharashtra, 2020 SCC OnLine Bom 468.

<sup>5</sup> *Jerryl Banait V. Union Of India And Anr.*, Writ Petition (Civil) Diary No.10795/2020.



- If any landlord is forcing laborers and students to vacate their premises, they will be liable for action under the act.<sup>6</sup>

➤ Moratorium and NPA

The Government has taken serious step to help people in these hard times as a period of moratorium during which there is lockdown will not be reckoned by banks for the purpose of computation of the 90 days NPA declaration period.

As stated in the case of *Transcon Skycity Pvt. Ltd. And Ors. V. ICICI & Ors.*, Hon'ble Court held that the period during which there is a lockdown will not be reckoned by the ICICI bank for the purpose of computation of the 90 day declaration period. Thus, the relief is co-terminus with lockdown period. The Court also opined that this order will not serve as a precedent for any other case with regard to any other borrower who is in default or any other bank.<sup>7</sup>

Right to life also includes within itself the right to live a dignified life as during the time of a pandemic people are not able to earn their livelihood so are they not able to pay off the interest on the loans taken by them so as to provide them relief moratorium has been issued with some terms and conditions applied.

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### VIRTUAL COURTS SYSTEM

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The Hon'ble Supreme Court while keeping the view the need of the hour has set up "virtual Courts System" as 'administrative justice' is of utmost importance and could not be crumbled in the face of a pandemic. The major advantage of this is especially in terms

<sup>6</sup> Government Of India, Ministry Of Home Affairs.

of time, money and energy saved by the litigants and counsel.

Media as representative of the public are allowed access and can watch the proceedings of all the matters being held before the virtual courts. During the lockdown, judgments have been delivered in total 325 cases, which include 268 connected matters.

This is a major step to keep the judicial system intact at its place and to carry on the smooth functioning of the system as it will strengthen the system and well.

During a pandemic this is one of the most important and much required step as to ensure the smooth functioning of the judicial system is vital so as the health of the people connected with the functioning of the judicial system is concerned. For instance, judges, magistrates, counsels, litigants, etc. are the people who are prone to the disease if they openly go to Courts.

So, to strike a balance between the safety, health of the people and the administration of justice this crucial as well as vital step has been taken by the Hon'ble Supreme Court to establish the virtual Courts system.

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### EPILOGUE

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Article 21 of the Indian constitution states the Right to Life and personal Liberty and it is stated as the Heart of the Indian constitution by justice P.N. Bhagwati as it is a mandatory provision as falls under the Fundamental Rights and it is one of the most progressive provision of the Constitution.

<sup>7</sup> *Transcon Skycity Pvt. Ltd. and Ors. V. ICICI & Ors.*, Writ Petition LD-VC NO. 30 OF 2020.



This inevitable provision of the Indian Constitution as proved its efficiency during these hard times. When the whole world is suffering from deadly disease of Covid- 19, it has proved its vital role by guaranteeing dignified life and basic standard of living to all its people by making their life more simpler during this pandemic. Article 21 has very well proved to be the inevitable part of the constitution during these hard times and Heart of the Constitution is playing its role smoothly during the dark times of this pandemic.

This progressive provision is evident of the fact that our constitution makers have made the Constitution with great care and precision. Keeping in mind the future of the nation and made it efficient to deal with any contingent situation arising thereon. Article 21 of the Indian Constitution is made in consonance with need of the nation and it has proved its vital role during this crucial times.

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