50 Years of Kesavananda Bharati Case

Why in news?

The Kesavananda Bharati case which limits the power of parliament to amend the constitution completed 50 years.

What is Kesavananda Bharati case?

- The Kerala government tried to impose restrictions to the management of Edneer mutt property which was headed by Kesavananda Bharati.
- Kesavananda Bharati filed a case in Kerala high court citing restrictions to property management breached the *fundamental right (right to property).*
- The case is known as the ***Kesavananda Bharati Sripadagalvaru & Ors. Vs. State of Kerala & Anr*** and also called *Fundamental Rights Case.*
- The court held that fundamental rights cannot be taken away by parliament by amending the constitution.
- The court upheld the land ceiling law but it drew the line by observing that certain parts are so *inherent and intrinsic* to the Constitution that even Parliament cannot touch it.

What are the effects of Kesavananda Bharati case?

- **Limitation to parliament** - The case has refined the relation between parliament and constitution by limiting the powers to amend the constitution.
- **Expanding judicial powers** - Although the Supreme Court has invoked "basic structure" it has mostly struck down amendments where judicial powers have been curtailed.
- **Doctrine of basic structure** - The Supreme Court in its case judgment laid down the basic structure which cannot be amended by the parliament and the provisions in the basic structure cannot be amended.
- To know more about basic structure click here
- **Judicial review** - In cases such as ***Kihoto Hollohan vs Zachillhu And Others (1992)*** the portion curtailing the judicial review are struck down citing it as part of basic structure.
- **Dilution of separation of power** - The case diluted the separation of powers between the executive and legislative.

What are the cases that have widen the powers of Supreme Court?

- **Kihoto Hollohan vs Zachillhu and Others (1992)** - The only part that was struck down was, decisions of the Speaker relating to disqualification cannot be judicially reviewed.

- Struck down The Constitution Act, 1975, which barred the Supreme Court from hearing a challenge to the election of President, Prime Minister, Vice-President, and Speaker of Lok Sabha.
- **P Sambamurthy v State of Andhra Pradesh (1986)** - SC struck down a portion of the 32nd Amendment (1973), which constituted an Administrative Tribunal for Andhra Pradesh for service matters, taking away the jurisdiction of the High Court.
- **L Chandra Kumar v Union of India (1997)** - Struck down a portion of the 42nd Amendment, which set up administrative tribunals excluding judicial review by High Court.

Quick facts

- Since the Kesavananda Bharati judgment (1973), the Constitution has been amended more than 60 times
- In past 5 decades the Supreme Court has tested constitutional amendments against the doctrine of basic structure in at least 16 cases.
- Kesavananda Bharati case contained the highest constitutional bench (13 members) and longest hearing (68 days) of Supreme Court.

References

1. The Indian Express | About Kesavananda Bharati Case
2. The Indian Express | Effects Of Kesavananda Bharati Case

