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dr g balakrishnan

Wrote on 21 April 2015

In minerva mills case (1980) hon SC had laid down an important limitation on the power of parliament, that means parliament could not play like a play boy in its views on the very tenets of the constitutional principles and thus limited the powers under Art 368 is a well known fact sirs!



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when justice y v chandrachud said...'let us give to parliament freedom (not license pls note) within the framework of the constitution (is clear that parliament need to balance on the poll vault of the constitution only) to ensure that the blessings of liberty (not license) will be shared by us' mean the parliament has to work with in the fetters of the constitution. sirs!



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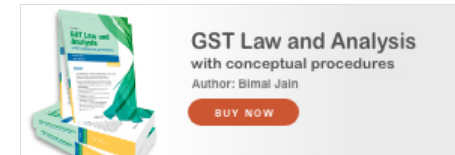
And yet the parliament indeed misbehaved with the fundamental rights of people is no exaggeration at all, which every integrated judge knows!



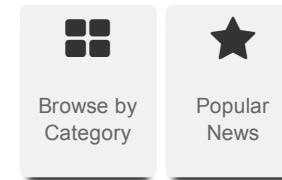
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Even over ruling by kesavananda bharti case the golaknath does not mean in its 69 days hearing, by 13 judges, longest hearing in the history of supreme court, that did not ever say you could mangle the basic tenet of the constitution - the supremacy of the constitution, republican and democratic character reiterated and sovereignty of the country mean vast majority of citizens, not defacto people representatives in the guise of MPs/MLAs could over rule.. even secular character could not be assailed, though demarcation of powers between states and union have to be preserved, no state is a slave to



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any parliament, is an ascertained fact, also 'dignity of individual' must be secured, by the basic freedoms as contained in fundamental rights in the part III of the constitution and mandate to build a welfare state does not mean you would make the citizen a slave of the state, but even directive principles found in part IV, are also declared as the fundamental rights, and that way Part IVA art 51A ..duty of the government to duly observe its obligations to citizens further indicates that all these are not empty promises by any political party in power, but must be to preserve the unity and integrity of the nation, are indeed holistic thoughts assured in Kesavananda Bharati case, sir!



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indeed we must agree art 368 does not give any sweeping power to parliament which is just an art 12 creature, can you ever allow the infant eat its own mother!



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Doctrine of prospective invalidity conceived in Golaknath is really appropriate, why you want to call it not applicable when that American doctrine is as much valid just for the very reason Indian constitution is modelled on the lines of American constitution founders duly followed by Indian constitution founding fathers sir!



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in the name of economic development you could not deprive local domestic agriculturists as also citizens to sacrifice their legitimate healthy food products just to earn some foreign exchange, that kind of political thought is nothing short of Slavery revisited please!



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Even though majority judgement in Golaknath traces that parliamentary power to amend the constitution in the residuary power of legislation never to allow a thinking process that parliament could assume the so-called amending powers as

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unfettered free play, like the other day in 2012 -14 UPA wanted to fetter SC from punishing the MPs found to be politically corrupt to be left scot free, that such ideas are some kind of license that is not the purpose of the well thought out constitution by constitution founders please!

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majority judgement in golaknath though severely criticized by vested interests when the critics simply wanted art 368 shd muzzle the constitutional basic tenets and thus those vested interests felt every constitution though fully deliberated by not a single party political group, but single individual parties wanted to mangle the constitution for their own political personal gains should be restricted by the very citizens only like in US people rose in favour of private property that has been won indeed, indian constitution is also modelled on the lines of american constitution where 'individual rights' have to be protected and thus the citizens zealously guarded their own rights finding political parties would play truant!

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*Wrote on 21 April 2015*

when smt Indira gandhi landed in election trouble, she has to rush to the same supreme court to protect her under the same constitution of india which she tried to muzzle s it not!

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