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PRESS LAW IN INDIA



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Short Profile

Binayak Patnaik is a Director at Shri Vaishnav Institute of Law, Indore(M.P.). He has completed M.A., LL.B., LL.M., Ph.D. He has professional experience of 22 years.



ABSTRACT:

The paper while highlighting on the importance of press as well as journalists focuses on the freedom of press--cites different enactments including constitutional provisions and judicial decision on press in India and briefly concludes what the press should be.

KEYWORDS

periodical, radio and television , public interest litigation.

1. INTRODUCTION

IMPORTANCE OF PRESS

Press means publishing and reporting in news paper and periodical, radio and television and other electronic media. Press refers to journalistic profession or journalism. The Press means the activities of a journalist. Press is important particularly the news paper¹. The news item is taken as writ under public interest litigation². Statement of Jefferson "Were it left to me to decide whether we should have government without newspaper or newspaper without government I should not hesitate a moment to prefer the later"

IMPORTANCE OF JOURNALIST

A journalist is a versatile genius who should be widely read and know the world affairs. A journalist is born but not made.

FREEDOM OF PRESS

Statement of Nehru: "I would rather have a completely free Press with all the dangers involved in the wrong use of that freedom, than a suppressed and regulated Press". Press is not a soliloquy but a dialogue. It is a dialogue with the public. Audience is the soul of the Press. So it should be free to the extent of securing public interest. The privilege of freedom of Press should not be misused. Press should be free to the extent allowed by law (law means both enacted law and natural law)³.

Fixing price vis- a- vis page of the newspaper are against the freedom of Press⁴. A detainee is also not prevented from publication if not prejudicial⁵. Unrestricted freedom amounts to uncontrolled license which would lead to disorder and anarchy⁶. Both publisher and editor are responsible whether they have the knowledge or not. There may be exception when the editor may prove his bona-fide⁷. Reasonable restrictions on freedom of Press by the law under the following grounds as contemplated in Art. 19 (2) of the Constitution of India are:

1. Sovereignty and Integrity of India;
2. The security of the state;
3. Friendly relations with foreign states;
4. Public Order;
5. Decency or morality;
6. In relation to contempt of court;
7. Defamation;
8. Incitement to an offence;

Press does not enjoy special privileges. The burden of proof lies with the State to prove that the law so made for reasonable restriction falls within the permissible limit of art 19(2) 8. Art 358 stipulates suspension of provisions of Art 19 including art 19(1) (a) during emergencies. Art: 359 provides suspension of the enforcement of the Rights conferred by part- III during emergencies which includes art 19(1) (a). The court always adopts balanced view in between social control and individual interest. A particular publication is reasonable or not depends on the prevailing condition at that time.

About Press law and judicial decisions
Provisions of the Constitution of India

Preamble of the constitution "We the people of the India, solemnly resolved to constitute India into a Sovereign, Socialist, Secular democratic republic and secure to all citizens:

Justice: Social Economic and Political
Liberty of thought, expression belief faith and worship
Equality of status and opportunity

Article 19 (1) all citizens shall have the right –

(a) To freedom of speech and expression

There is no specific provision in our constitution guaranteeing freedom of Press. But this freedom of Press flows from the wider freedom of expression which is guaranteed by art 19 (1)(a).

It is judicially construed that freedom of expression includes

- a. Freedom to express one's own views⁹.
- b. Freedom to express views of others.
- c. Freedom to write and publish what the writer considers proper.
- d. Freedom to print to disseminate information and avoid restriction on circulation.

Judicial decisions

The threatened demolition of express building is meant to silence the voice of Indian express .It is a threat to freedom of Press and thus violates art. 19(1)(a)& art 32 is maintainable ¹⁰ .

Freedom of speech and expression includes freedom of Press. The Press is public educator .It is the duty of the court to uphold the freedom of Press¹¹ . Art 19(1) (a) is a fundamental right which can be enforceable by Art 32 which itself is a fundamental right.

Right of Press to Interview the Prisoners who are put to death sentence cannot be denied unless there are weighty reasons ¹². Press censorship: There is no provision for censorship of the Press in the Indian constitution. However, Press censorship is adjudicated within the meaning of the art. 19(2).

Different Enactments on Press:

Besides constitutional provisions several law are also made on Press. But in no way they are harsh in putting restriction on freedom of Press. But still safeguards are made in public interest by incorporating various provisions in the said laws.

- a. Official Secrets Act, 1923
- b. The Press and Registration of Books Act ,1867
- c. Copyright Act ,1957
- d. The Delivery of Books and Newspapers (Public libraries) Act ,1954
- e. The Press Council Act,1965

- f.The Press Council Rules, 1979
- g.The Prasar Bharati (Broadcasting Corporation of India) Act, 1990
- h.Defense of India Act, 1962
- i.The Young Person's (Harmful Publications) Act , 1956
- j.The Parliament Proceedings (Protection of Publication) Act, 1956
- k.Sea Customs Act, 1878
- l.Provisions of the Indian Penal Code, 1860
- m.The Indian Telegraph Act, 1885(Relevant Provisions)
- n.The Right to Information Act, 2005
- o.The Press Council (Procedure for Enquiry) Amendment Regulation, 2006
- p.The PCI (Grant of Certified Copies Regulation), 1999
- q.The Cinematograph Act, 1952
- r.The Sports Broadcasting Signals (Mandatory Sharing with Prasar Bharti) Act, 2007
- s.The Cable Television Networks (Regulations) Act, 1995

CONCLUSIONS:

One of the objects of a newspaper is to understand the popular feelings and give expressions to it. There is a need to arouse among the people certain desirable sentiments. The fearlessness to expose popular defects is the genesis of mass media.

Message: "When in doubt leave out"

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- 3.Maneka Gandhi vs.. Union of India AIR 1978 SC 597
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- 5.khudiram vs. state of west Bengal AIR 1975 SC 550
- 6.Express Newspapers vs. Union of India, AIR 1958 SC 578
- 7.DP Mishra vs. Sharma (1971)3 SCR 257
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