

INTERNATIONAL JOURNAL OF LAW MANAGEMENT & HUMANITIES

[ISSN 2581-5369]

Volume 6 | Issue 3

2023

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The Chief Election Commissioner of India Vs. M.R Vijayabhaskar & Ors. [Civil Appeal No. 1767 of 2021]

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ABSTRACT

The paper discussed one of the landmark cases namely, the chief election commissioner of India vs. Mr. Vijayabhaskar & ors. which is particularly based on the validity of recording of oral statements in a legal-proceedings and the right by the media. During the proceedings, another issue emerged after the tarnishing statements made by the high court against the election commission of India which referred to the extent of judicial restraint that has to be exercised in different cases. The original case begins from filing of a petition by an AIADMK candidate to look into the covid 19 protocols and their implementation by ECI. After no such response by ECI and failure to abide by the rules, the same candidate filed another petition under Article 226 in High court. The issue at hand there was the irresponsible and careless handling of crowds during elections by the election commission of India. The major two issues as discussed above emerged during the process of proceedings. Eventually, against those destructive statements made by the concerned high court, the ECI filed a special leave petition in the supreme court where it argued that the courts cannot tarnish the image of ECI in front of the public, it being an independent constitutional body. They also argued that recording of oral proceedings is invalid as they amount not more than just the judicial opinions by the judges shaping people's perceptions unnecessarily. The respondents including the HC of madras and AIADMK leader on the other hand argued on the lines of the right to freedom and speech of media houses in recording oral statements and importance of transparency of proceedings to the public when the shown content is based on the public interest. The various rationale, which is further discussed in the paper was quoted by the hon'ble supreme court of India included importance of judicial restraint to some extent along with upholding of oral statements being shown as they are not a part of core judgement or something that would affect public's perception towards the case at hand. Finally, defects in law were identified by the court by presenting several precedents as discussed to further establish a precedent for the future cases to come. The paper is finalised with the author's brief inference on the judgement delivered and the rationale given by the apex court.

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I. FACTS

In this particular case, there was a special leave petition filed in the Supreme Court of India. This petition was a follow up from the decree passed by the division bench of the High Court of judicature of Madras. That case was filed by AIADMK candidate to look into the covid 19 protocols and their implementation by ECI. After no such response by ECI and failure to abide by the rules, The same candidate filed another petition under article 226 in High court. The issue at hand there was the irresponsible and careless handling of crowd during elections by election commission of India. ²These were legislative assembly elections and the breaking of COVID 19 Protocols in constituency of Tamil Nadu. HC is alleged to have made certain attacking remarks on ECI and held it singularly accountable for the deaths caused by COVID 19 aftermath the elections. ECI also alleged HC to be making baseless arguments and declaring it as a murderer and a sole responsible authority for COVID 19 deaths. These were basically the Oral pronouncements by the concerned HC and were not recorded by Media which is supposed to capture only the written judgements as a part of press.

Special leave petition was filed in response to this by ECI which was aggrieved at various tarnishing statements made by the HC and Inclusion of oral prejudiced statements of HC by media which has destroyed the reputed image of an independent constitutional body i.e., ECI.

II. ISSUES RAISED

- Whether recording of oral statements by media during court proceedings is a constitutional practice which is not void?
- Judicial restraint. Is it necessary in some cases? EIC here was aggrieved by statements made by judiciary against it which tarnished its image in the public discourse.

III. CONTENTION

Arguments on the petitioner's side

Election commission of India filed a special leave petition in Supreme court. It proved its point by making arguments:

- Media reporting of oral statements pronounced in the judicial proceedings can have a propounding negative impact in the public discourse as happened in this case.

² The chief election commissioner of India vs. M.R Vijayabhaskar & Ors. [civil appeal no. 1767 of 2021] " law faculty Law Faculty " law faculty, <https://lawfaculty.in/the-chief-election-commissioner-of-india-vs-m-r-vijayabhaskar-ors-civil-appeal-no-1767-of-2021/?amp=1> (last visited Nov 24, 2022).

- It also alleged that High court being the independent wing of the country should not furnish such tarnishing statements on an independent constitutional body i.e., ECI as it results in prejudice against the body among the masses. Judicial review could not extend to elections.
- Also, with regards to its miscellaneous application in HC, ECI alleged that it has not been evaluated on its merits properly and needs a review by the Supreme court of India.
- A balance was sought between the conduct of judicial precedents and the freedom and conduct of media therein.
- Given that court's views are always reflected in its judgements, still mainstream media includes the oral pronouncements of judges in its reporting among the public which amounts to none other than just the opinion of an institution, thereby outside the ambit of judicial propriety.

Arguments on respondent's side

M.R. Vijaybhaskara was an AIADMK candidate who along with HC of madras formed the respondent's side in this precedent. They formulated following defensive arguments on their act:

- They contended that freedom of speech and expression has been practiced by media in reporting the whole judgement of the court.
- They also say that as far as the oral proceedings are concerned, if they are kept latent from the public, it would amount to opaqueness between the constitutional safeguarding bodies and the public.
- They contended that right to information could be violated due to no transparency of the proceedings.
- Also. ECI is the sole authority regulating conduct of elections thereby making it solely accountable for all the ramifications that people have to face during the elections.
- Also, they argued that the statements were said in public interest and hence does not amount to alleged baseless or prejudiced statements.

IV. RATIONALE

The judgement was laid down by a two-judge bench comprising of Justice DY Chandrachud and Justice M.R. Shah.

Following reasoning was highlighted in the pronounced judgement by the honourable judges of the Supreme Court:

1. **³On judicial independence and its conduct during proceedings**

Yes, the SC sensitized the need of exercising little caution and responsibility by Judges while passing any statement during open court proceedings. This is because the judiciary is one of the most significant authorities upholding constitutional ethos any misstatement can lead to misinterpretation and losing of judicial propriety. So judicial restraint was to some extent upheld however the contention to remove oral proceedings was dismissed as these are statements passed in the moment and does not imply the core judgement or something that public cares of.

2. **Oral records are not the part of official judicial record**

⁴Oral statements in an open court are not a part of any decree or judicial record, thus establishing the fact that their issue of removal is in itself is moot. Also, SC dismissed the ECI's alleging removal of oral records from media reporting in the public discourse as this would be the direct violation of India's constitutional values. As every proceeding being in an open court in itself justifies the reporting of every statement to be made open and transparent to the people and pleaded in the public domain.

3. **Freedom of speech and Expression of Media**

It also emphasised that this is a part of press' right to freedom of speech and expression and cannot be abridged. It is implicitly laid down in article 19(1) (a) of Indian Constitution. Reporting on judicial institution procedures is also admissible under the principles of free speech and expression. Under the law, courts are charged with carrying out significant tasks. Their activity directly influences not only the rights of citizens but also the degree to which they are able to hold the administration accountable for upholding the law. Citizens have a right to guarantee that courts uphold their mandate to serve as a check on arbitrary acts of power.

The ease with which information regarding what takes place in a court over the course of proceedings is made accessible to the public tends to affect individuals' abilities to do so.

³ The Chief Election Commissioner of India Vs. M.R Vijaya Bhaskar Law essentials, <https://lawessential.com/case-comments-1/f/the-chief-election-commissioner-of-india-vs-mr-vijaya-bhaskar?blogcategory=Case+Comments> (last visited Nov 23, 2022).

⁴ The chief election commissioner of India vs. M.R Vijayabhaskar Latest Laws, <https://www.latestlaws.com/latest-caselaw/2021/may/2021-latest-caselaw-236-sc/?cv=1> (last visited Nov 24, 2022).

4. **Balance between Judicial Conduct and independence**

Each judge must have the right to voice his opinion regarding how he views the evidence that is being presented to him. A judge's choice of language depends on how sensitive they are to deception, how well they speak English, and how well they can explain themselves. Nothing is more detrimental to a judge's ability to do his judicial duties than to convince him that he must follow a specific pattern that may or may not be acceptable to the appellate court. He might occasionally go too far. When public interests conflict, the larger one should prevail. In the larger interests of maintaining the integrity of the case, it may be necessary to tolerate an unjustified and unwarranted insult to a witness. The obligation to safeguard the judiciary's independence and let judges freely express themselves in court is at one extreme of the spectrum. The other end of the spectrum, which is equally vital, is that before employing harsh language and caustic criticism of any individual or institution, judicial restraint must be maintained and the power of judges must be kept in check.

V. DEFECTS IN LAW

Various rights and constitutional provisions were pointed out by the supreme court during the deliverance of the judgement in this case. In this process, various defects were identified which were not in good law. So basically ⁵article 19(a) including freedom of press, Article 324⁶ elections being in the ambit of article 13⁷ which lays down Judicial review, ⁸Article 21 and Defamation are some laws that has been in question in the above case.

These also included judicial restraint not balanced with judicial independence, Powers and exercise of judicial review into article 324, Debated pertaining to freedom of press etc. These were highlighted through pinpointing various precedents on which this case was built up as follows:

i. **⁹Express Newspaper limited vs Union of India**—This case was cited by SC to defend on its part, its argument in favour of freedom of press to report every proceeding of the court. In this particular case, two kinds of freedom of press were identified i.e., freedom from and freedom for. Freedom from implies liberty from compulsions and external constraint and freedom for implies the expression of opinions and discussions and rational debates. Thus, with

⁵ INDIA CONST. art. 19, § a.

⁶ INDIA CONST. art. 324.

⁷ INDIA CONST. art. 13.

⁸ INDIA CONST. art. 21.

⁹ Express Newspaper limited vs Union of India, 1986 AIR 515.

this court cited in the vijaybhaskara case that freedom of media is the new reality which has to be accepted by all as this leads to democratic setup in the public domain.

ii. **¹⁰AM Mathur Vs Pramod Kumar Gupta**—By citing this case, SC emphasised on the importance of judicial restraint to some extent while also balancing the independence of the constitutional body. Use of scornful behaviour and harsh language to any witness that comes before the court is totally out of judicial propriety.

iii. **¹¹Naresh Shridhar Mirajkar vs State of Maharashtra---** This was spoken of in order to lay focus on significance of open courts in a democracy.

iv. **¹²Swapnil Tripathi vs Supreme court of India**—Here the three-judge bench emphasised on live streaming of court's proceedings which implies that nothing should be filtered from the public discourse. Keeping this in mind SC in the present case sided with the media reporting and termed it as good in law.

v. **¹³Kashi Nath Roy vs State of Bihar**—This case was cited by SC in vijaybhaskara case in the context of expunging baseless remarks of the courts during oral proceedings. In this, a two-judge bench passed a decree that judges cannot be made function like a robot and controlled every word or action of theirs. Scathing language could be limited and regulated to some extent however justice is being provided by a human being and could be prone to errors. This does not mean that their remarks should be taken as criteria to expunge them and sue them. The same reasoning was cited to correct the defect in the argument put forth by ECI.

VI. INFERENCE

In this instance, the Supreme Court was contacted by the EC in order to seek redressal against the alleged oral comments made by the other constitutional authority (the Madras High Court). There is no indication that the Court has granted any of the reliefs the EC seeks. The media's ability to chronicle court cases has been secured by this ruling. Reporting on court proceedings by the media is a precondition for a stable democracy. Court seems to have been side-lining its arguments to preserving the democratic fabric of the nation rather than reputation of any single constitutional body. ¹⁴Any values enshrined in the constitution especially which forms the basic structure of Indian constitution cannot be ignored in order to rule for defamation or any tort. SC

¹⁰ A.M. Mathur v. Pramod Kumar Gupta, (1990) 2 SCC 533.

¹¹ Naresh Shridhar Mirajkar vs State of Maharashtra, 1 1966 SCR (3) 744.

¹² Swapnil Tripathi vs Supreme court of India, (2010) 4 SCC 653.

¹³ Kashi Nath Roy vs State of Bihar, (1996) 4 SCC 539.

¹⁴ Landmark judgment on media right on reporting oral court proceedings INTO LEGAL WORLD, <https://www.intolegalworld.com/article?title=landmark-judgment-on-media-right-on-reporting-oral-court-proceedings> (last visited Nov 24, 2022).

also stated that the issue of their expungement is irrelevant because these oral statements are not a component of the official record of the proceedings. It is cliché to state that a judicial institution's legitimate opinion is exposed in its judgments and orders, not in its oral observations made during the hearing. Hence, it is evident that a balance is sought between the demands of two constitutional bodies with a slight favour in the high court of madras.
