

ಪತ್ರಿಕಾ ತುಣುಕುಗಳು
PAPER CLIPPINGS

12

ಇಲಾಖೆ / ವಿಷಯ : DEPARTMENT / SUBJECT: Chitram

ಪತ್ರಿಕೆಯ ಹೆಸರು : NAME OF THE NEWS PAPER: Times of India ದಿನಾಂಕ : DATE: 07/09/2020

Bharti was one of the nine pillars of the basic structure doctrine

Dhananjay.Mahapatra
@timesgroup.com

New Delhi: A 30-year-old Kesavananda Bharti had walked into the Supreme Court in 1970 with a writ petition challenging the contours of Parliament's power to amend the Constitution which was argued by livewire and legendary lawyer Nani Palkhivala, who then was a youthful 53 year-old.

Indira Gandhi government, which had won a massive mandate in 1971, was keen that through Kesavananda Bharati case, the SC should overturn the subtle limitations the apex court had put on Parliament in amending the Constitution in the Golaknath case of 1967. The SC then had 16 Judges and yet Chief Justice S M Sikri constituted a 13-judge bench, the largest ever till date.

The judgment pronounced on April 24, 1973 was historic as well as tumultuous. Historic because 11 of the 13 judges wrote separate judgments. By a water-tight majority of seven to six the SC ruled that the ruling party with its brute majority in Parliament cannot amend the basic features of the constitution, which famously came to be known as Basic Structure Doctrine.

The seven with Bharti and Palkhivala formed the nine pillars who gave this historic verdict, that has become the sanctimonious touchstone with which the apex court continues to test the validity of laws. Tumultuous, because it angered Gandhi government no ends and it wreaked vengeance on three most senior Judges - JM Selat, K S Hegde and A N Grover - by superseding them and doing a reward-appointment of A N Ray, who was part of the bench but was part of the minority, as the successor of C.J. S M Sikri, who retired a day after the pronouncement of the verdict. The three superseded judges resigned.

Following Kesavananda Bharti's petition, SC had in 1973 ruled that the ruling party with its majority in Parliament cannot amend the basic features of the Constitution, which came to be known as Basic Structure Doctrine



One more judge, Justice HR Khanna was also to pay a price for siding with the majority in Bharati case and aggravating his "crime" against the government by giving the lone dissenting judgment in A D M Jabalpur case in 1976 to rule that even during Emergency right to

life cannot be suspended. He too was superseded by Justice M H Beg to the post of C.JI.

Attorney general K K Venugopal said "Bharati had approached my father MK Nambiar to argue the case. But, because of his ill health, he had guided him to engage Palkhivala as his counsel. Bharti never realised that what he did was going to be so famous and well-known in the country that Judges, lawyers and laymen would continue to recount it even half a century later." "His case was the first of the writ petitions challenging a constitutional amendment. Nani did a tremendous job and came out with flying colours. Result is that three judges were superseded. But, supremacy of the judiciary became established by that judgment," the AG said.

Former attorney general Soli J Sorabjee said, "Kesavananda Bharati did an enormous service to the people of India. The SC's verdict fortifying the basic features of the Constitution and putting it beyond the amending powers of Parliament will be remembered as a tremendous contribution in the evolution of constitutional jurisprudence."

Senior advocate and constitutional expert Abhishek Manu Singhvi said, "Two people made one legal doctrine the pride of India and the envy of the world. They were Bharati and Palkhivala. Their joint contribution in inventing the basic structure doctrine continues to ensure that India can never become a constitutional dictatorship."

ಪತ್ರಿಕಾ ತುಣುಕುಗಳು
PAPER CLIPPINGS

13

ಇಲಾಖೆ / ವಿಷಯ : DEPARTMENT / SUBJECT:

obituary

ಪತ್ರಿಕೆಯ ಹೆಸರು : NAME OF THE NEWS PAPER:

Times of India

ದಿನಾಂಕ : DATE : 7/9/2020

Kesavananda,
seer behind
basic rights
case, dies at 80

Kozhikode: Kesavananda Bharati, the Kerala seer whose petition led to the landmark 1973 Supreme Court judgment on the 'basic structure doctrine' of the Constitution and rights related to religion, equality and property, died at Edneermutt in Kasaragod on Sunday. He was 80 and had been ailing.



Appointed pontiff in 1961 at the age of 19, Bharati went on to become a cause célèbre of constitutional rights when, as a 30-year-old, he walked into the Supreme Court with a writ petition challenging the contours of Parliament's power to amend the Constitution.

The historic case had its genesis in 1969 when Kerala decided to take over land owned by the mutt under the Land Reforms Act. The case opened a debate on the gamut of rights guaranteed under articles 25 (right to practice and propagate religion), 26 (right to manage religious affairs), Article 14 (right to equality), 19(1) (f) (freedom to acquire property) and 31 (compulsory acquisition of property) of the Constitution. TNN

► Continued on page 14

'Seer's support for
Kannada was a source
of strength for activists'

► Continued from page 1

The famed Nani Palkhivala represented Bharati before a 13-member bench headed by then Chief Justice of India SM Sikri. The arguments spanned 68 days and the final 7:6 verdict was delivered in 1973. The verdict upheld the scope for judicial review to ensure that the basic foundation and structure of the Constitution are intact. The court held that though Parliament has the power to amend the Constitution under Article 368, it does not have the authority to alter its basic features.

Later, Bharati told TOI in an interview that he had filed the petition "not because I lost my property but due to the feeling that what the government did was not right".

"One has the right to earn. Whatever he earns may be in the form of cash, kind or property. When the government decided that properties beyond a limit will be taken away, we decided to approach the highest court," he said.

PM Narendra Modi took to Twitter to mourn the seer's death. "We will always remember Pujya Kesavananda Bharati for his contributions towards community service and empowering the downtrodden. He was deeply attached to India's rich culture and our great Constitution. He will continue to inspire generations," Modi said.

Vice-President M Venkaiah Naidu tweeted, "Kesavananda Bharati Swamiji, the seer of Edneer Mutt, was a rare blend of philosopher, classical singer and a cultural icon." The seer, born to Manchthaya Sreedhara Bhatt and Padmavathi Amma, was a proponent of Advaita philosophy and patron of yakshagana. His love for yakshagana saw him run a mela for 15 years and he played the bhagavatha in these shows. The annual yakshagana bhajana and yakshagana talamekka programme he organised were a big draw. He was a classical singer, too. The mutt held many literary programmes under his guidance. His support for Kannada was a source of strength for Kannada activists on either side of the state border, recalled Pradeep Kumar Kalkura, president of Dakshina Kannada district unit of Kannada Sahitya Parishat.