

Basic structure of the Constitution

- * The question whether fundamental Rights can be amended by the parliament under Article 368 came for consideration of the Supreme Court within a year of the Constitution coming into force.
- * In the Shankari Prasad case (1951) the constitutional validity of the First Amendment Act (1951), which curtailed the right to property was challenged.
- * The Supreme Court ruled that the power of the parliament to amend the constitution under Article 368 also includes the power to amend fundamental rights.
- * In the Golaknath case (1967), the supreme court reversed its earlier stand. In that case, the constitutional validity of the Seventeenth Amendment Act (1964) which inserted certain state acts in the Ninth Schedule, was challenged.
- * The Supreme Court ruled that the fundamental Rights are given a 'transcendental and immutable' position and hence, the parliament cannot abridge or take away any of these rights.
- * A constitutional amendment act is also a law within the meaning of Article 13 and hence, would be void for violating any of the fundamental Rights.
- * The parliament reacted to the Supreme Court's judgement in the Golaknath

case (1967) by enacting the 24th Amendment Act (1971)

* This Act amended Articles 13 and 368.
* It declared that the parliament has the power to abridge or take away any of the Fundamental Rights under Article 368 and such an act will not be a law under the meaning of Article 13.

* However, in the Kesavananda Bharati Case (1973), the Supreme Court overruled its judgement in the Golak Nath Case (1967).

* It upheld the validity of the 24th Amendment Act (1971) and stated that parliament is empowered to abridge or take away any of the Fundamental Rights.

* At the same time, it laid down a new doctrine of the 'basic structure' of the Constitution.

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