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**DEMOCRATIC ACCOUNTABILITY OF MEDIA: WITH  
SPECIAL REFERENCE TO UNDER ARTICLE 19(1A) OF  
THE CONSTITUTION PROTECTS AND GUARANTEES  
RIGHT TO FREEDOM OF SPEECH AND EXPRESSION  
TO ALL THE CITIZENS.**

AUTHORED BY - DR.SWATI VINAY SHRIVASTAVA

Constitution is said to be the basic or the fundamental document of a country and is a living document. The Indian Constitution, considered to be the lengthiest Constitution of the world confers certain rights on its individuals. Freedom of speech and expression is one such right which the citizens are entitled to. In a broader analysis, the freedom of speech and expression also includes freedom of Press. Before going into the details of the freedom of Press as guaranteed under the Constitution of India, let us first know that do we mean by freedom of speech and expression.

In a democratic set up, the citizens enjoy certain rights and as mentioned above freedom of speech and expression is one such right which is the prized privilege of the citizens and is a sacred right. Article 19(1) (a) of the Constitution protects and guarantees right of freedom of speech and expression to all citizens.<sup>1</sup> However, this right is not an absolute right, and certain restrictions are also imposed which will be discussed at a later stage. Indian Constitution by guaranteeing freedom of speech and expression, has given the People of India the liberty to express their opinion because it is the cherished goal of every individual in a civilized society. Indian polity has chosen 'democracy' as the basis of their governance and in a democratic society the will of the people is of paramount consideration. That is why, our Preamble starts with the words "We, the People of India" which goes on to specify certain objectives. Liberty of thought and expression is one such objectives which is contained in the Preamble and Article 19(1) (a) contains in detail that noble objective, thereby providing the citizens one of their important rights. The addition of the word 'expression' further strengthens their i.e. the Article not only guarantees the right to speak but also to express their opinion in any form. It is to express one's convictions and opinions or ideas freely, through any communicable medium or visible representation, such as gesture, signs and the like.<sup>2</sup> It thus includes the freedom to hold

opinions without interference and to seek, receive and impart information and ideas through any media regardless of frontiers.<sup>3</sup>

In the words of Justice A.N. Sen these rights are instinctive and natural right of every human being. According to him—

“This freedom of expression, which is indeed a natural right as is expressed in different ways under different circumstances, varies in its nature. The freedom of expression is the birth right of every living creature and is indeed a gift of nature.”<sup>4</sup>

Discovery of truth is an additional value dimension or objective of freedom of speech and expression. Thus, this freedom which is the basis of a democratic process receives much importance in a society which allows active participation of citizens. Honourable Supreme Court in *Life Insurance Corporation v. Manubhai Shah*,<sup>5</sup> rightly observed that—

“Every free citizen has an undoubted right to lay what sentiments he pleases before the public. Freedom to air one’s views is the lifeline of any democratic institution and any attempt to stifle, suffocate or gag this right would sound a death knell to democracy and would help usher in autocracy or dictatorship.”<sup>6</sup>

Further, David Feldman gives the following justification for and limits of freedom of expression in his book ‘Civil Liberties and Human Rights’:

“The liberty to express one’s self freely is important for a number of reasons. Firstly, self-expression is a significant instrument of freedom of conscience and self-fulfilment. Second justification concerns epistemology. Freedom of expression enables people to contribute to debates about social and moral value.....Thirdly the freedom of expression allows political discourse which is necessary in any country which aspires to democracy. And lastly, it facilitates artistic and scholarly endeavours of all sorts.”<sup>7</sup>

Thus, from the above discussion it is clear that the right guaranteed to the citizens to express their opinion freely and without any interference is of enormous value and importance in a democratic society.

This view was again confirmed in the historic Ramlila Maidan incident. In re,<sup>8</sup> delivered in February 2012. In this landmark judgment holding the view that ‘right to speech and expression is an undeniable human right and it is basic human nature to give vent to one’s inner

feelings through speech and expression’, the Supreme Court went on to observe:

“The freedom of speech is the bulwark of democratic Government. This freedom is essential for proper functioning of the democratic process. The freedom of speech and expression is regarded as the first condition of liberty. It occupies a preferred position in the hierarchy of liberties, giving succour and protection to all other liberties. It is the mother of all other liberties. Freedom of speech plays a critical role in the formation of public opinion on social, political and economic matters. Its has been described as a basic human Right’, a ‘natural right’ and the like. With the development of law in India, the right to freedom of speech and expression has taken within its ambit the right to receive information as well as the right of the Press. The framers of the Constitution of India, in unambiguous terms granted the right to freedom of speech and expression and the right to assemble peacefully and without arms. This gave to the citizens of this country a very valuable right, which is the essence of any democratic system. There could be no expression without these rights. Liberty of thought enables liberty of expression. Belief occupies a place higher than thought and expression. Belief of people rests of liberty of thought and expression. Placed as the three angles of a triangle, thought and expression would occupy the two corner angles on the base-line while belief liberties is internally connected to the liberty of expression.”<sup>9</sup>

Mentioning about the sanctity and significance of freedom of speech and expression in a democracy, the Supreme Court said.

“Freedom of speech and expression in a spirited democracy is a highly treasured value. Authors, philosophers and thinkers have considered it as a prized asset to the individuality and overall progression of a thinking society, as it permits argument, allows dissent to have a respectable place, and honours contrary stances. There are proponents who have set it on a higher pedestal than life and not hesitated to barter death for it. Some have condemned compelled silence to ruthless treatment. William Douglas has denounced regulation of free speech like regulating diseased cattle and impure butter. The Court has in many an authority having realised its precious nature and seemingly glorified sanctity has put it in a meticulously structured pyramid. Freedom of speech is treated as the thought of the freest who has not mortgaged his ideas, may be wild, to the artificially cultivated social norms; and transgression thereof is not perceived as a folly. Needless to emphasize, freedom of speech has to be allowed specious castle.”<sup>10</sup>

While discussing the freedom of speech and expression guaranteed in our Constitution, the reference is also made to the First Amendment to the Constitution of the United States of America, which is being considered as a 'bellwether in the pursuit of expanding the horizon of civil liberties.'<sup>11</sup> This Amendment provides for the freedom of speech of Press in the American Bill of Rights. It is said that this Amendment added new dimension to this right of freedom and that too without any limitations.

The first Amendment reads as follows:

“Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the Press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances”

Referring to this Amendment, the Supreme Court observed that the expressions used in formulation of the First Amendment have a wide magnitude and are capable of liberal construction. It further observed that, “the effect of use of these expressions in particular, was that the freedom of speech of Press was considered absolute and free from any restrictions whatsoever. Shortly thereafter, as a result of widening of the power of judicial review, the U.S. Supreme Court preferred to test each case on the touchstone of the rule of ‘clear and present danger’. However, application of this rule was unable to withstand the pace of development of law and, therefore, through its judicial pronouncements, the U.S. Supreme Court applied the doctrine of ‘balancing of interests’.<sup>12</sup>

Applying the ‘balancing of interests’ formula in *Niemotko v. Maryland*, 2 Justice Frankfurter of the American Supreme Court observed, “While the court has emphasised the importance of ‘free speech’, it has also recognised that free speech is not in itself a touchstone. The Constitution is not unmindful of other important interests, such as public order if free expression of ideas is not found to be the overbalancing considerations.<sup>13</sup>

Despite all these, there was also a debate in United States whether the rights conferred by the First Amendment are ‘absolute’ in the sense that the Government may not abridge them at all or whether the First Amendment requires the ‘balancing of competing interests’, in the sense that free speech values and the Government’s competing justification must be isolated and weighted in each case.

Whatever, the case may be, unlike the American Constitution, the freedom of speech and expression as guaranteed by our Constitution under Article 19(1) is not absolute and the State can impose reasonable restrictions on exercise of this right.

### **Media Freedom Included**

After discussing the freedom of speech and expression of the citizens, one question automatically comes to our mind i.e. whether the freedom of speech and expression guaranteed under Article 19(1) (a) of the Constitution includes freedom of Press or not? In a democratic country, media plays an important role so far as communication of information is concerned which keeps the society vibrant. For a healthy society have got sharing of views, free flow of information, free communication and expression plays a crucial role and media, both print and electronic being powerful and important instruments of expression have got a lot to contribute.

Lord Mansfield has defined the liberty of Press to mean “printing without previous licence, subject to the consequences of law.”<sup>14</sup> The freedom of Press is not Confined to newspapers and periodicals, but also include pamphlets, leaflets, circular and every sort of publication which affords a vehicle of information and opinion.<sup>15</sup> Therein lies the importance of a free Press and that is why it is so important and essential in a modern democracy. In the last couple of year we have witnessed the role of the Press in presenting information before us in a beautiful manner, thereby providing a proper platform for the people to debate over such issues. In this process the Press also plays an educative role by performing its duties freely. As it has been rightly pointed out by A.D. Gorwala:

“The Press educates in two ways mainly, by giving the latest news along with its background and an analysis. Its duty is to give shole news without bias, selectivity or distortion. But the real glory of any press is to be found in its most educative part—that is to provide sound comment upon public life in all its aspects. This should be the ‘task of the Press, source of its power.’”<sup>16</sup>

Justice Patanjali Shastri also expressed the same view when he observed that “freedom of speech and of the Press lay the foundation of all democratic organisations, for without free political discussions, no public education, so essential for the proper functioning of the processes of popular Government, is possible.”<sup>17</sup>

The Indian Constitution, unlike the American Constitution, does not expressly mention in Article 19(1) (a) the liberty of the Press i.e. the freedom to print and publish what one pleases without previous permission. But from the time the Constitution was adopted, the Supreme Court through various decisions has time and again confirmed that the freedom of the Press is implicit in freedom of speech and expression as guaranteed under Article 19(1) (a) of the Constitution. However, the non-inclusion of the freedom of Press in the above Article came up for discussion in the Constituent Assembly. The question before the Assembly was whether or not to insert in the Indian Constitution a separate right for the Press as distinct from that of the ordinary citizen. Dr. B.R. Ambedkar, Chairman of the Drafting Committee explained the omission in the following words:

“The Press is merely another way of stating an individual or a citizen. The Press has no special rights which are not to be given or which are not to be exercised by the citizen in his individual capacity. The editor of a Press or the manager are all citizens and, therefore, when they choose to write in newspapers, they are merely exercising their right of expression and in my judgment, therefore, no special mention is necessary of the freedom of the Press at all.”<sup>18</sup>

Thus, it is clear that freedom of Press does not require any special mention as it is inherent in the existing provision and the Press enjoys the same freedom of speech and expression of an individual citizen, neither less nor more. The Media enjoys no special immunity or elevated status compared to the citizen and is subject to the general laws of the land, including taxation and industrial laws. The immunity which the Press enjoys includes and extends to the right to publish, disseminate information and circulation.

Thus, as mentioned earlier, the Supreme Court in its various decisions, while confirming the rights of the Press also struck down certain laws which tried to abridge the freedom of the Press and these judgments are in tune with the first amendment of the American Constitution.<sup>19</sup>

### **Different Aspects of Freedom of Press**

After having discussed the meaning, scope and constitutional status of freedom of Press, it is pertinent here to discuss the different facets of Press freedom as interpreted by the judiciary, especially the Supreme Court of India. Following are the different aspects which have come out of judicial interpretation from time to time.

**(i) Press Freedom and Pre-censorship**

In *Brij Bhushan v. State of Delhi*,<sup>20</sup> must popularly known as “The Organiser case’, the Supreme Court held that imposition of pre-censorship on publication is violative of freedom of speech and expression unless justified under clause (2) of Article 19 of the Constitution.<sup>21</sup> In the above mentioned case, it was alleged that The Organiser, an English Weekly published from Delhi Carried certain communal matters directed against Pakistan. As per the provision of Section 7(1) (c) of the East Punjab Public Safety Act, 1949 as extended to the Province of Delhi, the Chief Commissioner of Delhi, issued an order against the petitioner, the Printer, Publisher and Editor of “The Organiser” directing them to submit, for scrutiny in duplicate before publication till further orders, all communal matter and news and views about Pakistan including photographs and cartoons other than those derived from official sources or supplied by the news agencies. Such and order of pre-censorship was struck down by the Supreme Court and the Court observed that:

“There can be little doubt that imposition of pre-censorship on a journal is a restriction on the liberty of the Press which is an essential part of the freedom of speech and expression declared by Article 19(1)(a).”

The Supreme Court in *Ajay Goswami v. Union of India*,<sup>22</sup> held that blanket ban on publication of obscene materials and articles in order to shield juvenile innocence, cannot be imposed. No news item should be viewed in isolation and publication must be judged as a whole. Maintaining this, the Court held the view that ‘in order to shield minors and children, the State should not forget that the same content of a newspaper might not be offensive to the sensibilities of adult men and women’.

**(ii) Press freedom and circulation**

It has been held that freedom of speech and expression also includes freedom of propagation of ideas or views which is ensured by the ‘freedom of circulation’. Such a matter came to be discussed in the famous case of *Ramesh Thappar v. State of madras*,<sup>23</sup> popularly known as the Crossroad Case. In this case, a ban was imposed upon the entry and circulation of the petitioner’s weekly journal ‘Crossroads’, printed and published in Bombay, by the Provincial Government, in exercise of its powers under Section 9(1-A) of the Madras Maintenance of Public Order Act, 1949. The majority of the apex court struck down the notification banning the entry in to or circulation, sale or distribution in the State of Madras or any part of it of the journal Crossroads, holding the view that:

“...there can be no doubt that freedom of speech and expression includes freedom of propagation of ideas, and the freedom is ensured by the freedom of circulation. Liberty of circulation is as essential to that freedom as the liberty of publication. Indeed without circulation, the publication would be of little value.”

In the above mentioned case,<sup>24</sup> the Supreme Court held the view that Article 19 (1) (a) includes freedom to propagate ideas. Circulation is the lifeline of this freedom and to ban entry of newspaper or stop its circulation is to cut the lifeline of the expression guaranteed by Article 19(1)(a). It can be done on any ground under Article 19(2) but on no other ground.<sup>25</sup>

### **(iii) Press Freedom and Pre-Stoppage of Publication**

In *Virendra v. State of Punjab*,<sup>26</sup> it was held that banning of publication in any newspaper of any matter relating to a particular subject or a class of subjects would be obnoxious to the right of free speech. The court was of the opinion the “if a newspaper is prevented from publishing its own view or the views of its correspondents”, “it is certainly a serious encroachment on the valuable and cherished right to freedom of speech.”

Similarly, in *R. Rajgopal State of Tamil Nadu*,<sup>27</sup> the Supreme Court held that neither the Government nor the officials had any authority to impose a prior restraint upon publication of a material on the ground that such material was likely to be defamatory to them. Thus, “the right to publish the life story of a condemned prisoner, in so far as it appears from the public records, even without his consent or authorisation, has been held to be included in the freedom of the Press guaranteed under Article 19(1) (a) and no prior restraint upon such publication can be imposed. under Article 19(1) (a) and no prior restraint upon such publication can be imposed.

### **(iv) Freedom of Press and restriction on Price and Page**

If any action of the Government adversely affect the circulation of a publication particularly by imposing restrictions on the volume and price of the publication, it will also amount to infringement of right to speech enjoyed by the Press.

In *Sakal Papers (Pvt.) Ltd. V Union of India*,<sup>28</sup> the Supreme Court was of the opinion that the right to propagate his ideas guaranteed in Article 19(1) (a) extended not merely to the matter which he was entitled to circulate but also to the volume of circulation.

In the case, the petitioner challenged the Daily Newspaper (Price and Page) Order, 1960 issued by the Central Government in pursuant to the Newspapers (Price and Page) Act, 1955.<sup>29</sup> Through that order, the Central Government fixed the maximum number of pages that might be published by the newspaper at a price. The petitioner may increase or reduce the price either by increasing or reducing the number of pages. This order was challenged as violative of freedom of speech and expression and a direct infringement of the liberty of the Press. The petitioner contended that the adoption of the order would mean, either in the reduction in the existing number of pages or raising the price. In either case, the volume of circulation of the paper would be affected which is against the liberty of the Press.

Accepting the contention of the petitioner, the Supreme Court struck down the order and held it to be inoperative, since the impugned Act and the order placed restraints on the volume of the circulation. Rejecting the plea of the State justifying the legislation as a restriction on the business activity under Article 19(6), the Court held that the only restrictions which may be imposed on the Press are those which clause (2) of Article 19 permits and no other.

The Court was of the view that the Newspaper Act was intended to affect circulation and thus directly affect the freedom of speech. The act seeks to achieve its object of enabling what are termed the smaller newspaper to seizure larger circulation by provisions, which without disguise are aimed at restricting the circulation of what are termed the larger paper with better financial strength. The impugned law far from being one which merely interferes with the right of freedom of speech incidentally does so directly though it seeks to achieve the end by purporting to regulate the business aspect of a newspaper. Such a course is not permissible, and the court must be ever vigilant in guarding perhaps the most pernicious of all the freedoms guaranteed by our Constitution. The freedom of speech and expression is of paramount importance under a democratic Constitution, which envisages changes in the composition of Legislatures and Government and must be preserved.

Further, when the Government justified the restriction on the ground that since the newsprint was in short supply and has to be imported, it was necessary to restrict and regulate its distribution and use, the Court pointed out that shortage of newsprint can stop with allotment. If the Government rests content with a fair and equitable allotment of the available newsprint to the consumers, no one can quarrel with the policy. Once the allotments are made, newspapers must be left free to determine how they will adjust their newsprint; to determine

their pages, their circulation and their new editions within the quota allotted to them. But what the Government has done under the garb of distribution of newsprint is the control of the growth and circulation of newspapers so that newsprint control has been subverted to Newspaper Control. Freedom lies both in circulation and in content. The impugned newsprint policy denies the newspaper their right of circulation. Even by reducing circulation they are not allowed to increase the number of pages, page area or periodicity. The restrictions are not reasonable restrictions permitted by article 19(2).

Similarly in *Bennett Coleman and co. v. union of India*,<sup>30</sup> the supreme court held that the newspapers should be left free to determine their pages and their circulation. In this case, "The Import Police for Newsprint for 1972-73 along with the Newsprint Control Order, 1962, issued under Section 3 of the Essential Commodities Act, 1955 provided (a) bar on starting newspaper or editions by common ownership unit (b) rigid limitation of ten pages (c) bar on interchangeability within common ownership unit and (d) allowance of 20 cent page increase only to newspapers below ten pages." This Newsprint Policy was struck down by the Supreme Court as being violative of Article 19(1) (a) and it was held that "the Newspapers should be left free to determine their pages, their circulation and their new edition within their quota of newsprint which had been fairly fixed."<sup>31</sup> In the words of the court "freedom of the Press is both qualitative and quantitative, freedom lies both in circulation and in context."

#### **(v) Press Freedom and Levy of Taxes**

In *Indian Express Newspapers (Bombay) Put. Ltd. v. Union of India*, the question was whether Article 19(1) (a) exempts any newspaper from liability under tax laws or industrial laws. In the instant case, the petitioners, who were the publishers of daily newspaper, challenged the validity of the imposition of import duty on newsprint under the Customs Act, 1962 along with the Customs Tariff Act, 1975 and the levy of auxiliary duty under the Finance Act, 1981 on newsprint. They maintained that imposition of such taxes is a burden on them and beyond the capacity of Press industry and as such affected the printing and circulation.

The Supreme Court held the view that "the newspaper industry has not been granted exemption from taxation. The 'Press' has no greater liberty, than `a citizen'. It is liable to pay tax as a citizen pays. Tax paid is used for public services, facilities and amenities. It has to be paid till it is within reasonable limits. The evaluation of validity of a taxing Statute on newsprint and other tax laws are examined on different scales. Any tax on newsprint, if unreasonable, is

likely to hit freedom under 19(1)(a). In the case of Indian Express, custom duty was excessive and heavy enough as such definitely affecting circulation. The quality of writings in newspaper cannot be ground for imposing tax liability. It is in nature of pre-censorship which is prohibited by Article 19(1) (a)."

However, a direction was issued to reconsider the custom duty levied on the newspaper, and this duty was later withdrawn by the Government.

#### **(vi) Press Freedom and Direct Attack on Press**

In *Express Newspapers (Put.) Ltd. v. Union of India*,<sup>32</sup> the petitioners challenged the constitutional validity of a notice of re-entry upon forfeiture of lease and of threatened demolition of the Express building. In this case, the petitioners were allotted, under the agreement of lease, plots of land for construction of its Press building. The Lt. Governor of Delhi alleged that the new Express Building was constructed in contravention of Municipal Corporation laws and served a notice for re-entry and for its demolition. Declaring that from the material available in this case was it sufficient to hold that the impugned notices suffered from arbitrariness and non-application of mind, the Supreme Court held those to be invalid. The Court held the view that "the notice of re-entry upon the forfeiture of lease and of the threatened demolition of the Express Building were intended and meant to silence the voice of Indian Express which constituted a direct and immediate threat to the freedom of the Press and, therefore, violative of Article 19(1) (a) read with Article 14 of the Constitution."<sup>33</sup>

#### **(vii) Freedom of Press and Regulation of Services of Workmen**

In the year 1955, the Government of India enacted a legislation namely the "Working Journalists and other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955"<sup>34</sup> to regulate certain conditions of service of working journalists and other persons employed in newspaper establishments. The validity of the regulation of service conditions was challenged by the petitioner in "*Express Newspapers Ltd. v. Union of India*,<sup>35</sup> maintaining that the said Act would adversely affect financial position of the newspaper and due to their adverse effect the newspaper industry might be compelled to close down. Further it was maintained by the petitioner that the financial burden imposed on the newspaper industry on account of this Act would cripple the resources of the Press and curtail circulation and thereby narrow the scope of dissemination of information and, thus, it was in violation of Article 19(1) (a). But the apex court turned down the contention of the petitioner and held the

Act to be valid. The Court observed that "the object of the Act was the amelioration of the conditions of the workmen in the newspaper industry. The civil consequences visualised by the petitioners dependent on the factors which ght or might not come into play and were, thus, too remote. Court was of the opinion that the Press has no immunity Maintaining from general laws like taxation or industrial laws.

So far as employment of Editorial force was concerned it was maintained in this case that "the freedom of the Press includes the freedom of employment or non-employment of the necessary means of exercising this right, such as freedom of employment in the aditorial force of a newspaper and also freedom from a measure intended or calculated to undermine the independence of the Press by driving it to seek Government aid."<sup>36</sup>

Following the decision of the court in the above mentioned case,<sup>37</sup> the Supreme Court in Indian Express Newspapers (P) Ltd. v. Union of India,<sup>38</sup> held that the units of a newspaper establishment which had branches all over India, could be clubbed together for the purpose of fixation of wages on all India basis.<sup>39</sup>

#### **(viii) Press Freedom and Right to Reply**

Freedom of speech and expression also includes right to reply. The right to reply i.e. the right to get published one's reply in the same news media in which something is published against or in relation to a person is recognised. In Life Insurance Corporation of India v. Manubhai Shah,<sup>40</sup> the Supreme Court held the above view. In this case, the respondent, the executive trustee of the Consumer Education and Research Centre (CERC), Ahmedabad after undertaking research in the working of the Life Insurance Corporation, published a study report titled "A fraud on Policy Holders-A Shocking Story" which portrayed discriminatory practices adopted by the Corporation which adversely affected the interest of large number of policy holders. A counter to the respondent's study paper was prepared by one of the members of the Life Insurance Corporation which was published in the English daily "The Hindu" as an Article which challenged the conclusions of the respondent in his study paper. The respondent prepared a rejoinder to the counter which was published in the same newspaper. The Life Insurance Corporation publishes an in-house journal 'Yogakshema' for the benefit of its members, staff and agents to inform them of its activities. This in-house journal also carried the counter Article prepared by one of its members to the respondents study paper. But when the respondent requested the Life Insurance Corporation to publish the rejoinder to the Counter,

LIC rejected his request maintaining that it is an in house journal. When the respondent approached the Gujarat High Court,<sup>41</sup> the High Court applying the "fairness doctrine" allowed the respondent's writ petition and held that "refusal to publish rejoinder to the counter in its Magazine is both unfair and unreasonable and that it was an in-house journal was no excuse."

The Supreme Court upheld the view<sup>42</sup> of the High Court and maintained that the Life Insurance Corporation was under an obligation to publish the rejoinder once it had published the counter. The trustee (respondent's) fundamental right of speech and expression entitled him to insist that his view on the subject should reach readers Ders so that they have a complete picture rather than a lop-sided or distorted one. Further, the apex court also held the view that since the LIC is created under the Life Insurance Corporation Act, 1956, it is a "State" within the meaning of Article 12 of the Constitution and, therefore, it must function in the best interest of the community. The community was entitled to know whether or not this requirement is complied with by the LIC in its functioning. The Court also held the view that the LIC a monopolistic State instrumentality' which survived on public funds, could not act in an arbitrary manner on the ground that it was a matter of exclusive privilege to publish or refuse to publish in an in-house magazine. However, the court clarified that the LIC is not under an obligation to print any matter that any informed citizen may forward for publication.<sup>43</sup> Taking into consideration the peculiar facts of the case, the present decision has been given.

The 2019 edition of 'Norms of Journalistic conduct' issued by the Press Council of India dealing with 'Right to Reply' by newspapers says--

- (i) The newspaper should promptly and with due prominence, publish either in full or with due editing, free of cost, at the instance of the person affected or feeling aggrieved/or concerned by the impugned publication, a contradiction/reply/clarification or rejoinder sent to the editor in the form of a letter or note. If the editor doubts the truth or factual accuracy of the contradiction/reply/clarification or rejoinder, he shall have liberty to add separately at the end, a brief editorial comment doubting its veracity, but only when this doubt is reasonably founded on unimpeachable documentary or other evidential material in his/her possession. This is a concession which has to be availed of sparingly with due discretion and caution in appropriate cases.

- (ii) However, where the reply/contradiction or rejoinder is being published in compliance with the directions of the Press Council, it is permissible to append a brief editorial note to that effect.
- (iii) Right of rejoinder cannot be claimed through the medium of Press Conference, as publication/coverage of a news of a conference is within the discretionary powers of an editor.
- (iv) Freedom of the Press involves the readers' right to know all sides of an issue of public interest. An editor, therefore, shall not refuse to publish the reply or rejoinder merely on the ground that in his opinion the story published in the newspaper was true. That is an issue to be left to the judgment of the readers. It also does not behove an editor to show contempt towards a reader.
- (v) The Press has to remember that it is not a prosecutor in any investigation

and should be guided by the paramount principle of a person's innocence unless the alleged offence is proved beyond doubt by independent reliable evidence and, therefore, even within the constraint of space, the material facts should find space in the rejoinder so that the public, as the ultimate judge of any matter, is guided by the complete and accurate facts in forming its opinion. The readers' right to know all sides of any issue of public importance is a natural corollary of the freedom enjoyed by the Press in a democracy.

Conclusion & Suggestion: fourth pillar of democracy need some accountability towards public its constitution obligation for the media to play fair n reasonable behaviour. Transparency and accountability needed to make aware citizens of country. Media plays vital role to aware the public about government policies and action. legislative power executive power and judiciary ought to follow the reasonability to system of governance. Transparency, accountability and reasonableness are part of the constitution. None of above are excluded from the constitutional parameters.

- Transparency needs every news and information come forward to public either social political or economic should be very transparent. Likewise, without calculation of TRP rating .as well as sensitize the news for public is coming within the purview of reasonable restriction.
- Reasonableness is a part of article 19 clause (2) to (6) because constitutional freedom is not absolute these restrictions are imposed by the constitution itself.it is a

fundamental norm for the democracy. Restriction can be imposed only by the legislature or by the authority of law. There must be nexus between restriction imposed by the authority and object behind it.

- To identify the restriction and object behind it, it should follow the norms of restriction. Restriction shouldn't be arbitrary and excessive in nature.
- Social values and welfare of the public is prime object of the state, so this object ought to be considered as a privileged.
- All the power of the state either executive or legislation should follow the democracy as an object of the sovereign power.
- The study argues that reasonable constitutional restraints do not weaken democracy; rather they aim to balance freedom with responsibility. Since democracy serves to the people, all its institution including media –must function within the framework of accountability.
- Political bias behaviour of media generates wrong information to public that's the great drawback of media and it never be trusted by people.

It's always against of democratic values, as a part of democracy, media is not constitutionally permissible to work against the democracy.

1. Article 19(1) reads : “All the citizens shall have the right to freedom of speech and expression.”
2. Ramesh Thappar v. State of Madras, AIR 1950 SC 124.
3. Life Insurance Corporation v. Manubhai Shah, AIR SC 171.
4. Justice A.N. Sen, “Freedom of Expression”, Press Council of India Report, January 1989, p. 4
5. A.I.R. 1993 S.C. 171.
6. Life Insurance Corporation of India v. Manubhai Shah, A.I.R. 1993 S.C. 171
7. Cited by the Honourable Supreme Court in Secretary, Ministry of I & B v. Cricket Association of Bengal, A.I.R. 1995 S.C. 1236.
8. (2012) 5 S.C.C. 1.
9. Ramlal Maidan Incident, In re, (2012) 5 S.C.C. 1 at p. 31.
10. Subramanian Swamy v. Union of India, (2016) 7 SCC 221 at pp. 301-02.
11. As per Justice Swatanter Kumar, in Ramlila Maidan Incident, In re, (2012) 5 S.C.C. 1 at p. 29.
12. Ramlila Maidan Incident, In re, (2012) 5 S.C.C. 1 at p. 29. The test of ‘clear and present danger’ which has been referred in this case was laid by Holmes J. in Schenck v. United States, 63L Ed 470 for deciding whether a restriction on free speech was constitutionally valid.
13. 95 L Ed 267.
14. Niemotko v. Maryland, 95 L. Ed. 267 at p. 276.
15. King v. Dean of the State Asaph, (1984) 3 TR 428.
16. Lovel v. City of Griffin, 303 U.S. 444.
17. “The Press as an Educative Factor” in “Freedom of the Press in India”, Edited by A.G. Noorani, 1970 at p. 36
18. Ramesh Thappar v. State of Madras, A.I.R. 1950 S.C. 124 at p. 128.
19. Constituent Assembly Debates, Vol. VII, p. 780.
20. The First Amendment of the American Constitution reads : “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof ; or abridging the freedom of speech, or of the Press ; or the right of the people peaceably to assemble and to petition the Government for a redress of grievances.”
21. A.I.R. 1950 S.C. 129.
22. While Article 19(1) guarantees certain freedoms to the citizens, clause (2) of the said Article puts restrictions on the enjoyment of those freedoms.

23. (2007) 1 S.C.C. 143.
24. A.I.R. 1950 S.C. 124.
25. Ramesh Thappar v. State of Madras, A.I.R. 1950 S.C. 124.
26. It may be recalled here that the entry of the newspaper was banned on the ground of 'public safety' as contained in the 1949 Act, but Article 19(2) does not contain any such ground. Accordingly to avoid such situations in future "public order" as a ground of restriction was added to Article 19(2) by virtue of the First Constitutional Amendment in the year 1951.
27. A.I.R. 1957 S.C. 896.
28. A.I.R. 1995 S.C. 264.
29. A.I.R. 1962 S.C. 305.
30. This Act empowers the Central Government to regulate the prices of the newspapers in relation to their pages and sizes and to regulate the allocation of space for advertisement matter.
31. A.I.R. 1973 S.C. 106.
32. Bennett Coleman and Co. v. Union of India, AIR 1973 SC 106 at p. 129. 3. (1985) 1 S.C.C. 641.
33. A.I.R. 1986 S.C. 515.
34. Article 14 Days "The State shall not deny to any person equality before the law or equal protection of the laws within the territory of India."
35. Act No. 45 of 1955.
36. A.I.R. 1958 S.C. 578.
37. Express Newspapers (P) Ltd. v. Union of India, A.I.R. 1958 S.C. 578.
38. Express Newspapers (P) Ltd. v. Union of India, A.I.R. 1958 S.C. 578.
39. A.I.R. 1995 S.C. 965.
40. The classification of newspapers establishments on all-India basis for the purpose of fixation of wages was held not bad in law and not violative of Article 19(1) (a).
41. (1992) 3 S.C.C. 637.
42. Manubhai Shah v. Life Insurance Corporation of India, [A.I.R.](#) 1981 Guj. 15.
43. Life Insurance Corporation of India v. Manubhai Shah, (1992) 3 S.C.C. 637.
44. Life Insurance Corporation of India v. Manubhai Shab, (1992) 3 S.C.C. 637 at p. 655.



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