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## ***ABOUT US***

WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal providededicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

# **STATE OF WEST BENGAL V. ANWAR ALI SARKAR (1952)**

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## **Abstract**

As we all know that Article 14 of the Indian Constitution grants and guarantees equality before the law and equal protection of law to all the Indian citizens, any kind of discrimination on the basis of caste, creed, religion, sex, place of birth, and etc is a grave violation of the constitution. However it does allow for protective discrimination in order to secure the interest of the weaker sections of the society. The underlying principle here is that the equal treatment of unequals is as bad as unequal treatment of equals. It states that a uniform set of laws will be applied to all those who are in the same position or equals without any kind of discrimination. So Article 14 permits the legislature to reasonably classify persons, objects and transactions with the aim to attain specific purposes provided that such classification must be based on reasonable grounds and must possess a rational base and should not be arbitrary, irrational or artificial. In this case of **State Of West Bengal V. Anwar Ali Sarkar ( 1952 )**, this concept of ***Reasonable Classification*** was called upon question when the West Bengal Government, by a specific state law, West Bengal Special Courts Act, 1950 provided for the setting of special courts for the speedier trial of certain offences or classes of offences as the State Government, may from time to time direct by a general or specific order. In this case comment I have tried to cover all the important aspects of this particular case like its facts, issue, contentions from both the parties involved in the case, rationale, judgement and most importantly the impact of this particular case on our Indian Judicial System. Beside this I have also tried to cover the key concepts of Article 14 such as ***Equality before the Law, Equal Protection Of Law, Reasonable Classification***, and ***Unfettered Discretion***.

## **Keywords:-**

Article 14, Speedier Trial, West Bengal Special Courts Act, 1950, Reasonable Classification, Equality before the Law, Equal Protection Of Law, Judgement.



### **Introduction**

**State Of West Bengal V. Anwar Ali Sarkar ( 1952 )** is the case State of West Bengal V. Anwar Ali Sarkar ( 1952 ) is the case for holding the validity of a state ordinance (West Bengal Special Courts Act, 1950 ) of the West Bengal Government which granted permission for the establishment of special courts to prosecute such offence or class of offences or cases or classes of cases as the State Government by a general or special order stipulated. These courts were then to follow a procedure which was less advantageous to the accused in defending himself than in comparison to the procedure followed by ordinary criminal courts.

### **Facts Of The Case**

In this case the Respondent, Anwar Ali Sarkar was a resident of West Bengal who was suspected to have been involved in all sorts of illegal activities, weapons, possession and dissemination of seditious literature. The Government of West Bengal in 1949 passed an ordinance called the West Bengal Special Courts Ordinance by virtue of which the government was authorized to create special courts to prosecute persons accused of specific offences, including the ones mentioned above. Anwar Ali Sarkar was charged under this ordinance and was to be prosecuted in a special court created under the ordinance itself. Anwar Ali Sarkar challenged the constitutionality of the special court and the above mentioned ordinance in the Calcutta High Court. The High Court also validated the special court and the ordinance. Anwar Ali Sarkar then filed an appeal before the Supreme Court. In the Apex Court the ordinance was held to be invalid as it did not contain any reasonable classification. The court did not give any benchmark or parameter to the clustering of one of the two individuals or cases or crimes, so that it can distinguish from others outside the purview of the Act. It can choose one's case and remit it to the Special Tribunal while leaving another in the same situation to be tried in regular criminal courts. It gave the executive absolute discretion to discriminate. The requirement of speedier trial was held to be too indefinite, uncertain, and vague criterion to form basis of a legitimate and reasonable classification.

### **Key Issues Involved In This Case**

The key issues involved in this case are listed below:-

- 1) Whether the provisions of the concerned Act, are in conflict with constitutional provisions?
- 2) Whether the Act provisions infringed the constitutional rights of the accused?



- 3) Whether the provisions of the Act violated the doctrine of separation of powers?
- 4) Whether the provisions of the Act infringed the right to equality before the law?
- 5) Were the terms of the Act in breach of the right to a fair trial?
- 6) Were the terms of the Act a breach of the right to counsel?

### **Contentions From The Petitioner's Side**

The contentions from the petitioner's side are listed below:-

- 1) The Indian Constitution, under Article 14, extends equal protection by law and equality before the law, both of which are violated by the West Bengal Special Courts Act 1950. For no reason, the Act divides the criminals into two groups:- criminals tried by the special courts and criminals tried by the regular courts.
- 2) The basic right to freedom of speech and expression under article 19(1)(a) of the Constitution is being violated by the Act. The Act violates the right to Freedom of Speech And Expression in a straightforward manner by authorizing the government to investigate, prosecute, and punish people on the basis of their ideas, opinions, and beliefs.
- 3) The Act is a breach of the right to a fair trial under Article 21 of the Constitution. The right to a fair trial by an independent, qualified, and impartial court is denied to the accused under the Act.
- 4) The sacred constitutional notion of the separation of powers is broken with the Act. The Act assigns to the government the authority of setting up special courts, to which the control of the government applies.
- 5) The Constitution's cherished federalism idea is ruptured by the Act. The Act encroaches upon the authority of state governments to apply justice in their domains.

### **Contentions From The Respondent's Side**

Contentions from the respondent's side are listed below:-

- 1) The reply alleged that the Act violated several of the provisions in the Indian Constitution including, Articles 14, 19, and 21. The primary argument raised by the respondent was that the Act offended Article 14 of the Constitution, which prevents discrimination on grounds of sex, caste, religion, colour, or place of birth and promises equality before the law.

- 2) Respondent contended that the Act subjected some classes of persons to trial before special tribunals outside the same procedural protection afforded to ordinary courts, thereby constituting discrimination against them.
- 3) Moreover, the respondent averred that the Act was contrary to Article 19(1)(g) of the Constitution that guarantees freedom to pursue any form of employment or to carry on a business, trade, or profession. The respondent argued that in limiting lawyers' capacity to represent clients in the special courts, the Act impinged on their freedom to practice law.
- 4) Lastly, the respondent complained that Article 21 of the Constitution protecting the Right To Life and Personal Liberty was violated by the Act. Respondent had contended that the Act encroached on people's right to due process of law by forcing them to face special courts that were not subject to the same procedural protections as ordinary courts.

### **Key Legal Provisions Discussed**

The key legal provisions discussed in this case are as follows :-

- **Reasonable Classification :-** Reasonable Classification, Under Article 14, is classification of individuals or cases on different lines by the State is permissible provided that the classification is done in relation to intelligible and differentiated criteria which have a direct relationship with the purpose of the law. For instance, classification of criminal cases on the basis of gravity so that expeditious justice can be provided is permissible subject to the condition that classification criteria (e.g., gravity) has a rational nexus as well as a direct nexus with speedy trials.
- **Unfettered Discretion:-** This is talking about granting an authority complete and unbridled discretion to decide without any predetermined guidelines or limits. In the judgment, Section 5(1) of the concerned Act was objectionable because it allowed the State Government to refer any case to Special Courts without prescribing the criteria, which would lead to arbitrary and unjustified decisions.
- **Article 14 : Equality Before Law vs. Equal Protection of Laws :-**
  - a) **Equality Before Law:-** States that all persons are equal before the law and are liable to be treated alike by the law without any form of discrimination.
  - b) **Equal Protection of Laws:-** Makes sure like persons or cases are treated alike, allowing reasonable differentiation on grounds relevant to the distinction.

### **Legal Reasoning / Rationale Applied By The Court**

- **Doctrine Of Ratio Decidendi :-** The ratio decidendi of the case can be summed up as follows :-
  - a) The constitutional right to a fair trial exists, and the Constitution of India guarantees it; any law depriving or encroaching on that right has to be declared void.
  - b) Special courts may or may not necessarily be unconstitutional but must be compliant with the terms of the Constitution.
  - c) The special courts must be given the same procedural safeguards as ordinary courts, and the same rights and protections must be accorded to the accused as in a normal trial.
  - d) The special courts must be established only in extraordinary circumstances where the ordinary courts are unable to deal with the case appropriately.
  - e) It is for the prosecution to prove the need for a special court, and the court shall have to balance the need for a special court with the rights of the accused.
  - f) In general terms, the ratio decidendi of **State of West Bengal V. Anwar Ali Sarkar, 1952 SC 75** has given important guidelines in regards to the constitutionality of special courts and the rights of the accused in criminal cases.

### **Judgement Delivered By The Court**

Section 5(1) of the West Bengal Special Courts Act 1950, was held to be unconstitutional by the Supreme Court on the grounds that it granted unrestricted power to the government to label cases or offences at its will. Also, the Act did not formulate any policy or rule in respect of the exercise of discretion in the case of classification of cases or offences. The Act established a procedure for trial of special courts which was different from the criminal procedure court's regular procedure for trial of general offences. The intention of the Act and the basis on which classification is done are two different things. What is required is that the intention of the Act, by which it establishes the classification, and the basis for classification must be related to each other. A legislation establishing a categorization is discriminatory only when it has no reasonable basis to justify it. Therefore, no one will assert that they are capable of entering into contracts amongst themselves, even if the legislature decides what age is contempt. No contract may be made dependent upon a person's height or hair colour. That kind of categorization will be subjective. Government instructions or mandates by the government to their authorities are not governed by law. Discrimination is prohibited in the substantive and procedure laws.



### **Conclusion**

The ***State of West Bengal V. Anwar Ali Sarkar ( 1952 )***, Supreme Court ruling continues to be a classic statement of principles laid down under Article 14 of the Indian Constitution. Stating Section 5(1) of the West Bengal Special Courts Act 1950, to be nugatory, the Court sanctioned the demand of legislative clarity together with non-arbitrary differentiation. The decision reiterates the principle that while the State is capable of classifying, any such classification has to be reasonable, non-arbitrary, and directly related to the legislative aim. This ensures that fundamental rights are not sacrificed in the name of administrative efficiency or convenience. In the future, this case is a constitutional jurisprudential touchstone that continues to guide courts and legislatures on how to reconcile the need for expert legislative responses with the constitutional mandate of equality before the law.

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