

50 years of Kesavananda Bharati case

April 24, 2023

In news— April 24 2023 marks 50 years since the Supreme Court delivered its verdict in the landmark Kesavananda Bharati case, ruling that Parliament cannot amend the basic structure of the Constitution.

Background:

- **The case had its roots in Golaknath vs State of Punjab**, in which the Supreme Court in an 11-member bench, ruled that Parliament could not curtail any fundamental right guaranteed under the Constitution.
- To nullify the **Golaknath verdict**, **Parliament enacted the 24th Amendment to the Constitution, laying down that its powers to amend the Constitution were unrestricted and unlimited.**
- Two years after Golaknath, the government nationalised a big portion of the banking system but the compensation to existing shareholders was minimal.
- In the **Rustom Cooper vs Union of India** (Bank Nationalisation case) the Supreme Court struck down the compensation offered, while upholding the government's right to nationalisation.
- The 25th Amendment made many changes in Article 31 (dealing with compulsory acquisition of property) following the Bank Nationalisation case.
- The 26th Amendment terminated the privileges and privy purses of the ex-rulers of the former princely states, which was aimed at getting over the Supreme Court's ruling in the privy purses case.
- Meanwhile, Kesavananda Bharati had moved the top court on 21 March 1970 against the land reforms law passed by the Kerala government with an objective to distribute

land among landless farmers.

- He had contended that the land reforms law by the government was an attempt to impose restrictions on the management of the mutt's property, which was the only source of income for his ashram.
- The then Senior advocate Nani Palkhivala, representing Swamiji extended the ambit of the case and challenged the series of constitutional amendments introduced.
- The law came to be known as the "Kesavananda Bharati versus State of Kerala" case.

About the verdict-

- The judgement was delivered on April 24, 1973, by a 13-judge bench of the Supreme Court after a hearing that lasted 66 days.
- **It was the longest argued case with the largest bench** (13 judges, this has happened only once till date) of the Supreme Court (SC); the 703-page judgment, spread over 11 judicial opinions, **established a permanent bulwark against tyranny and dictatorship.**
- The verdict that provided a firewall to the constitutional edifice continues to be debated till date.
- The ruling was the result of a petition by Kesavananda Bharati, the head of a Hindu monastery in Kerala's Kasargod district, challenging the state government's land reform acts that would result in the institution losing its holdings.
- The Kesavananda Bharati ruling was the culmination of a power struggle between Parliament and the Supreme Court that began with an earlier case.
- The **judgment introduced the Basic Structure doctrine which limited Parliament's power to make drastic amendments** that may affect the core values enshrined in the Constitution like secularism and federalism.
- **The verdict upheld the power of the Supreme Court to**

judicially review laws of Parliament.

- It evolved the **concept of separation of powers among the three branches of governance – legislative, executive and the judiciary.**
- The judgment also refused to consider the right to property as a fundamental right that was covered by the 'basic structure' doctrine.

Kesavananda Bharati-

- He was the **petitioner in the His Holiness Kesavananda Bharati Sripadagalvaru and Ors. Vs. State of Kerala** and others case in which the Supreme Court ruled that the basic structure of the Constitution is inviolable, and cannot be amended by Parliament.
- It was on March 21, 1970 that Bharati moved the apex court, challenging the Kerala government's takeover of land owned by the mutt as per the land reforms Act of 1969.
- **Following enactment of the law, the mutt had lost its property and was struggling for financial resources** for its functioning and charitable activities.
- In his petition, **Bharati had sought enforcement of rights guaranteed under Article 25 (Right to practice and propagate religion), Article 26** (Right to manage religious affairs), Article 14 (Right to equality), Article 19(1)(f) (freedom to acquire property), Article 31 (Compulsory Acquisition of Property).
- He had prayed that provisions of the Kerala Land Reforms Act, 1963 (Act 1 of 1964) as amended by the Kerala Land Reforms (Amendment) Act 1969 (Act 35 of 1969) be declared unconstitutional, ultra vires and void.
- During pendency of the writ petition, the Kerala Land Reforms (Amendment) Act 1971 was passed and it received assent of the President on August 7, 1971.
- Bharati became the head of the mutt at the age of 19 in 1960 following the death of Ishwarananda Bharati Swami.

Under him, the mutt emerged as a seat of art and learning.

- **Bharati was passionate about Carnatic music** and was at the forefront of promoting Yakshagana, a traditional theatre form popular in Kasaragod and coastal Karnataka.
- **He had directed Yakshagana plays** and used to organise musical concerts at the mutt.