

Supreme Court expands Article 19 ambit

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In news— By ruling that a citizen can seek enforcement of the fundamental rights to freedom of speech not just against the state, the Supreme Court has, effectively, extended the ground for seeking these rights against other citizens.

About Apex Court's verdict-

- It has ruled that **a fundamental right under Article 19/21 can be enforced even against persons other than the State or its instrumentalities.**
- The court took this view while ruling that the **right of free speech and expression guaranteed under Article 19(1)(a) cannot be curbed by any additional grounds** other than those already laid down in Article 19(2).
- One of the questions before the court was whether “a fundamental right under Article 19 or 21 of the Constitution of India be claimed other than against the ‘State’ or its instrumentalities?”
- **Article 19 which guarantees freedom of speech and expression is a right invoked against the state.**
- **Some fundamental rights such as those prohibiting untouchability, trafficking and bonded labour are explicitly against both the state and other individuals.**
- **The court, extending free speech against private citizens, opens up a range of possibilities in Constitutional law.**
- This interpretation could also bring an obligation on the state to ensure private entities also abide by Constitutional norms.
- These questions **could hypothetically range from seeking enforcement of privacy rights against a private doctor to seeking the right to free speech against a private**

social media entity.

- **The Court relied on the 2017 verdict in Puttaswamy** where a nine-judge bench unanimously upheld privacy as a fundamental right.
- One of the key arguments by the government was that privacy is a right enforceable against other citizens and, therefore, cannot be elevated to the status of a fundamental right against the state.
- **The Court also referred to several foreign jurisdictions, contrasting the American approach with the European Courts.**
- Referring to the landmark New York Times vs. Sullivan, in which the US Supreme Court found that defamation law, as applied by the state against The New York Times, was inconsistent with the Constitutional guarantee of the freedom of speech and expression, the SC noted a shift in US law from a “purely vertical approach” to a “horizontal approach.”
- “No jurisdiction in the world appears to be adopting, at least as on date, a purely vertical approach or a wholly horizontal approach.
- A vertical approach provides weightage to individual autonomy, choice and privacy, while the horizontal approach seeks to imbibe
- Constitutional values in all individuals. These approaches which appear to be bipolar opposites, raise the **age-old question of ‘individual vs. society’.**
- **A vertical application of rights would mean it can be enforced only against the state while a horizontal approach would mean it is enforceable against other citizens.**
- For example, a horizontal application of the right to life would enable a citizen to bring a case against a private entity for causing pollution, which would be a violation of the right to a clean environment.