

## **FREEDOM OF MEDIA IN INDIA – (A LEGAL PERSPECTIVE)**

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### **ABSTRACT**

Journalism is one of the main pillars of a democratic set up. Commonly referred to as the “Fourth Estate”, Journalism brings awareness in the society about the democratic and social obligations. Journalists are watchdogs of the society. However, the media is not absolutely free to do whatever seems right to it. Law which regulates the conduct of the State, its institutions and citizens also regulates the media. Like any other profession, journalism is also bound by legal framework. Indian Constitution is the fountain head of laws regulating media in the country.

One of the most important rights guaranteed under the Constitution to the citizens including media is the freedom of speech and expression. This research was attempted to recognize the freedom of speech and expression for the journalists and understand how the law has dealt with this freedom through different cases and judgments. The paper discusses the freedom of speech and expression as guaranteed in the constitution of India, and how it has been interpreted by Indian courts for the media through different judgments and case laws. It is based on the study and analysis of eleven court cases that have been decided by the courts of India.

**KEYWORDS:** Journalism, Freedom, Speech and Expression, Courts, Judgements, Case Laws, Indian Constitution

### **INTRODUCTION**

From times before legal history and beyond legal memory, man has expressed his ideas through various channels like symbols, signals, speech, script, print and now computer language as well. Since ideas and information are so important for the growth and survival of a free and democratic society, such a goal cannot be achieved unless every citizen has a fundamental right to give expression to his ideas and opinions. This came to be known as the right to free speech and expression. The Preamble to the Constitution of India resolves to secure for the citizens of India, liberty of thought, expression and belief. Focusing on the core objective of the Indian Constitution, the Preamble assures every citizen of India the freedom of speech and expression, religious independence and choice of going by one's own belief. The III part of the Indian Constitution deals with the Fundamental Rights. The Constitution contains the right to freedom, given in articles 19, 20, 21 and 22, with the view of guaranteeing individual rights that were considered vital by the Framers of the Constitution. The right to freedom in Article 19 guarantees the Freedom of Speech and Expression, as one of following six freedoms.

All Indian citizens enjoy a constitutional right to give free expression to their views, opinions and convictions. They have, for this purpose, the right to seek, receive and impart information and ideas. As the exercise for freedom of expression requires a medium through which information and ideas may be communicated, it naturally follows that the medium shall also be free. Our Constitution does not specially mention the freedom of the media as in the US Constitution. However, the Supreme Court has, following the above logic, very explicitly ruled that freedom of the press is included in

the guarantee of the freedom of expression, which also includes the liberty to publish and circulate. The Apex Court has held that there was, therefore, no need to make a separate provision for the freedom of the press.

### **Concept of Freedom of Media**

In a democracy the free media is an essential agency. It is the most important medium of public opinion which pulsates and invigorates the democratic system of government. And the freedom of media in pursuance of that is firmly set in the constitutional structure of India and is guaranteed. Dr. Ambedkar's draft proposed that "no law shall be made abridging the freedom of speech, of the press, of association, and of assembly, except for considerations of public order and morality"<sup>1</sup>

Freedom of speech and expression is vital to democracy. It is guaranteed by Indian Constitution as well as by the Universal Declaration of Human Rights, and by various other international documents adopted to ensure the protection of human rights and fundamental freedoms. It flows from these guarantees that the people are entitled to receive news and views, without interference and to disseminate it regardless of the frontiers, and that is an integral part of the democratic process. In practice, it is the media which daily exercises this right.

Thus, two fundamental rights are involved in the right to free speech and expression, namely,

- The right to receive news and views,
- And the right to communicate news, information and views.

These rights depend largely on the freedom of all those involved in the media to exercise their role as collectors and communicators of news and views, without interference.

Thus, the media derives its rights from the right to freedom of speech and expression available to all the citizens. Thus, the media has the same rights – no more and no less than any individual to write publish, circulate or broadcast. There had been a good deal of debate at various stages in the deliberations of the Constituent Assembly on whether freedom of the media should be explicitly mentioned in what come to be incorporated as Article 19 (1) (a), the debate has continued till today on the question whether it would have been better to have done so. According to the Report of the First Press Commission, freedom of speech and expression is stated in wide terms. "...freedom of the press, particularly, of newspapers and periodicals is a species of which freedom of expression is a genus"<sup>2</sup>. There can, therefore, be no doubt that freedom of the press is included in the Fundamental Right of freedom of speech and expression guaranteed under Article 19 (1) (a) of the Constitution. The question of whether or not to insert in the Indian Constitution a separate right for the media as distinct from that of the ordinary citizen was extensively debated by members of the Constituent Assembly. The Constituent Assembly came to the conclusion that such a provision was not necessary. Dr. B.R. Ambedkar, Chairman of the Constituent Assembly stated:

"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,

<sup>1</sup>Ambedkar's Draft Article II (I) (12) and (7). Pages 86-87 (as referred by Law Commission of India in Hundred-first report on Freedom of Speech and Expression under Article 19 of the Constitution, May 1984,P-7)

<sup>2</sup>Report of First Press Commission (1952-54)

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>3</sup>.

Although no special provision was made to safeguard the rights of the media, the courts have time and again confirmed that the rights of the media are implicit in the guarantee of freedom of speech and expression under Article 19 (1) (a) of the Constitution.

### ***Freedom of Speech and Expression as Interpreted by Indian Courts***

#### ***Law Cannot Take Away or Abbreviate Freedom of Speech and Expression-***

The law cannot subject the media to laws which take away or abbreviate the freedom of expression or which would restrain circulation and thereby narrow the scope of propagation of information or restrict its freedom to choose its means of exercising the right or would undermine its independence by driving it to seek government aid. An important landmark on the subject of press freedom is the decision given by the court in the case of *Sakal Paper Pvt. Ltd. v Union of India*.

The case arose out of a constitutional challenge to the validity of the Newspaper (Price and Page) Act, 1956 which empowered the government to regulate the price of newspapers in relation to their pages and size and to regulate allocation of space for advertisement matter. The question before the Supreme Court in the case was whether the restrictions imposed by the Price Page Schedule Act and Order amounted to any abridgement of the right of a newspaper to freedom of expression. The contention of the petitioner was accepted by the Supreme Court and both the Newspaper Act 1956 and the Order issued under it in 1960 were held to be void as they violated Article 19(1)(a) of the Constitution and were not saved by Article 19(2). The Supreme Court held that the State could not make laws which directly affected the circulation of a newspaper for that would amount to a violation of the freedom of speech and expression. The right under Article 19(1) (a) extends not only to the matter which the citizen is entitled to circulate but also to the volume of circulation. In this case, the Court observed that-

*Again, s. 3(1) of the Act in so far as it permits the allocation of space to advertisements also directly affects freedom of circulation. If the area for advertisements is curtailed the price of the newspaper will be forced up. If that happens, the circulation will inevitably go down. This would be no remote, but a direct consequence of curtailment of advertisements.*<sup>4</sup>

#### **The Court Further Observed**

*If, on the other hand, the space for advertisements is reduced the earning of a newspaper would go down and it would either have to run at a loss or close down or raise its price. The object of the Act in regulating the space for advertisements is stated to prevent ‘unfair’ competition. It is thus directed against circulation of a newspaper. When a law is intended to bring about this result there would be a direct interference with the right of freedom of speech and expression guaranteed under Article 19(1)(a).*<sup>5</sup>

<sup>3</sup> Constituent Assembly Debates, Vol. VII, p. 780 (2.12.1948)

<sup>4</sup> *Sakal Papers pvt. Ltd. v Union of India*. AIR 1962 SC 305

<sup>5</sup> *Ibid.*

***Freedom of newspapers to decide their pages and circulation-***

In the case of *Bennett Coleman v Union of India*<sup>6</sup>, the Supreme Court held that newspapers should be left free to determine their pages and their circulation. The Control Order under which the government fixes a maximum number of pages which a newspaper would be allowed to print and the volume of supply of newsprint was subjected to that fixed volume of publication was struck down by the Supreme Court on the ground that the newsprint policy was not a reasonable restriction within the ambit of Article 19(2) and abridged the fundamental rights of the petitioners under Article 19(1) (a). While deciding the case, the court observed that:

*If a law were to single out the Press for laying down prohibitive burdens on it that would restrict circulation, penalize its freedom of choice as to personnel, prevent newspapers from being started and compel the press to Government aid. This would violate Article 19(1)(a) and would fall outside the protection afforded by Article 19(2).<sup>7</sup>*

**It Further Said that**

*Freedom of the press is both qualitative and quantitative. Freedom lies both in circulation and in content. The newsprint policy which permits newspapers to increase circulation by reducing the number of pages, page area and periodicity, prohibits them to increase the number of pages, page area and periodically by reducing the circulation. These restrictions constrict the newspapers in adjusting their page number and circulation.<sup>8</sup>*

In this case, the Court held that the fixation of page limit would not only deprive the petitioners of their economic viability but also restrict the freedom of expression by compulsive reduction of page level entailing reduction of circulation and the area of coverage for news and views.

***Laws Cannot Suppress or Violate Freedom of Speech and Expression-***

The case *Express Newspapers v. Union of India*<sup>9</sup> arose out of a challenge to the Working Journalists (Conditions of Service) and Miscellaneous Provisions Act, 1955 on the ground that its provisions violated Article 19(1) (a). The impugned Act was meant to regulate the conditions of service of working journalists and other persons employed in newspaper establishments, provided, inter alia, for the payment of gratuity to a working journalist who had been in continuous service for not less than three years, even when he voluntarily resigns from service.

The Act was also meant to regulate hours of work and leave, provided for the payment of retrenchment compensation with retrospective effect in certain cases and by s. 9(1) laid down the principles that the Wage Board was to follow in fixing the rates of wages of working journalists. The petitioners contended on various grounds that the provisions of the impugned Act violated their fundamental rights under Arts. 19(1)(a), 19(1)(g), 14 and 32 of the Constitution and that the decision of the Wage Board fixing the rates and scales of wages imposed too heavy a financial burden on the industry and spelled its total ruin.

<sup>6</sup> *Bennett Coleman v Union of India*. AIR 1973 SC 106

<sup>7</sup> *Bennett Coleman v Union of India*. AIR 1973 SC 106

<sup>8</sup> *Ibid.*

<sup>9</sup> *Express Newspapers v Union of India*. AIR 1958 SC 578

In the facts of the case, the court held that the impact of the legislation on the freedom of speech and expression was much too remote and no judicial interference was warranted. However, the court did recognize an important principle:

*While therefore no such immunity from the general laws can be claimed by the press it would certainly not be legitimate to subject the press to laws which take away or abridge the freedom of speech and expression or which would curtail circulation and thereby narrow the scope of dissemination of information, or fetter its freedom to choose its means of exercising the right or would undermine its independence by driving it to seek Government aid. Laws which single out the press for laying upon it excessive and prohibitive burdens which would restrict the circulation, impose a penalty on its right to choose the instruments for its exercise or to seek an alternative media, prevent news- papers from being started and ultimately drive the press to seek Government aid in order to survive, would therefore be struck down as unconstitutional.<sup>10</sup>*

The Court came to the conclusion that the Working Journalists (Conditions of Service) and Miscellaneous Provisions Act, 1955 was enacted for the amelioration of the conditions of those employed in the newspaper industry and that any impact of the legislation on the right to freedom of speech and expression as complained by the petitioners was far too remote and incidental to warrant a striking down of the legislation.

***Press as the Mother of all Other Liberties-***

One of the most exhaustive and illuminating exposition of the importance of the press and its being regarded as “the mother of all other liberties” in a democratic society is contained in the judgment of Venkataramiah J. in *Indian Express Newspaper v The Union of India*<sup>11</sup>. This case raised important questions about the freedom of the press vis-à-vis the State’s power of taxation. Several writ petitions were filed in the Supreme Court by newspaper owning companies in which the validity of imposition of duty on newsprint under the Customs Act, 1962 was challenged.

It was contended on behalf of the petitioners who consumed large quantity of newsprint in the publication of the newspapers, periodicals, magazines, etc. that the imposition of duty had the “direct effect of crippling the freedom of speech and expression as guaranteed by the Constitution as it led to the increase in the price of newspapers and the inevitable reduction of their circulation”. In this case, Venkataramiah J. considered that press plays a very significant role in the democratic machinery and pointed out the importance of freedom of speech and expression in the following words –

*Freedom of expression has four broad social purposes to serve: (i) it helps an individual to attain self fulfillment, (ii) it assists in the discovery of truth, (iii) it strengthens the capacity of an individual in participating in decision making, and (iv) it provides a mechanism by which it would be possible to establish a reasonable balance between stability and social change. All members of society should be able to form their own beliefs and communicate them freely to others. In sum, the fundamental principle is the people's right to know. Freedom of speech and expression should, therefore, receive a generous support from all those who believe in the participation of people in the administration.<sup>12</sup>*

<sup>10</sup> *Ibid.*

<sup>11</sup> *Indian Express Newspaper v The Union of India*. (1985) 1 SCC 641

<sup>12</sup> *Ibid.*

While recognizing the importance of the right to freedom of the press, the Court held that there could not be any immunity from taxation since the framers of the Constitution had chosen not to provide for constitutional immunity against such taxation. At the same time, they had been careful to protect the press against local pressures by choosing to confer the power to levy taxes on newspapers on Parliament alone and not the State Legislatures.

*Newspaper industry enjoys two of the fundamental rights, namely, the freedom of speech and expression guaranteed under Article 19 (1) (a) and the freedom to engage in any profession, occupation, trade, industry or business guaranteed under Article 19 (1) (g). While there can be no tax on the right to exercise freedom of expression, tax is leviable on profession, occupation, trade, business and industry. Hence tax is leviable on newspaper industry. But when such tax transgresses into the field of freedom of expression and stifles that freedom, it becomes unconstitutional. As long as it is within reasonable limits and does not impede freedom of expression it will not be contravening the limitations of Article 19 (2).<sup>13</sup>*

The Court said that any tax to be levied on press should be “subject to review by the courts in the light of the provisions of the Constitution”.

### ***Imposition of censorship on print media previous to its publication is infringement of Freedom of Speech and Expression***

The imposition of censorship on a journal previous to its publication would amount to an infringement of Article 19 (1) (a). The question of validity of censorship came up for consideration before the Supreme Court in Brij Bhushan’s case<sup>14</sup>.

In Punjab, the State Government imposed pre-censorship on an English language weekly ‘Organizer’ in the name of protecting public safety and order under Punjab Public Safety Act, 1949. An application under Article 32 of the Constitution was filed in the Supreme Court by the printer, publisher and editor of the weekly for the issue of writs of certiorari and prohibition to the Chief Commissioner of Delhi with a view to examine the legality of and quash the order made by him in regard to the English weekly. The contention of the petitioners was that the orders of the Chief Commissioner infringed their fundamental right to freedom of speech and expression guaranteed to them under Article 19(1) (a) of the Constitution.

The Supreme Court accepted the petition and considered the scope of Art. 19(2) in this case where Fazl Ali J. in his judgment observed that it must be recognized that freedom of speech and expression is one of the most valuable rights guaranteed to a citizen by the Constitution and should be jealously guarded by the Court. It must also be recognized that free political discussion is essential for the proper functioning of a democratic government, and the tendency of the modern jurists is to deprecate censorship though they all agree that “liberty of the press” is not to be confused with its “licentiousness”. But the Constitution itself has prescribed certain limits and this Court is only called upon to see whether a particular case comes within those limits.

<sup>13</sup> *Ibid.*

<sup>14</sup> *Brij Bhushan v State of Delhi*. AIR 1950 SC 129

Justice Patanjali Sastri observed in the case of this judgment that the imposition of pre-censorship on a journal is a restriction on the liberty of the press which is an essential part of the right to freedom of speech and expression. He also quoted with approval the view of Blackstone that –

*The liberty of the press consists in laying no previous restraint upon publications and not in freedom from censure for criminal matter when published. Every free man has an undoubted right to lay what sentiments he pleases before the public. To forbid this is to destroy the freedom of the press.*<sup>15</sup>

The Supreme Court quashed the pre-censorship order of the Chief Commissioner passed against the publisher of the *Organizer* and considered that pre-censorship is an unjustifiable restriction on the liberty of the press. This case clearly reflects how the courts have come to the rescue of the freedom of speech and expression of the media at times of need.

***Government has no monopoly on electronic media and an Indian citizen has right to telecast and broadcast to the viewers/listeners through media-***

In the case of *Minister of Information and Broadcasting v Cricket Association of Bengal*<sup>16</sup>, the Supreme Court held that -

*The fundamental right to freedom of speech and expression includes the right to communicate effectively and to as large a population not only in this country but also abroad, as is feasible. There are no geographical barriers on communication. Hence every citizen has a right to use the best means available for the purpose. At present, electronic media, viz., T.V. and radio, is the most effective means of communication. The restrictions which the electronic media suffers in addition to those suffered by the print media, are that (i) the airwaves are a public property and they have to be used for the benefit of the society at large; (ii) the frequencies are limited...*<sup>17</sup>

While directing the Government to establish an independent autonomous broadcasting authority, the court said -

*The Central Government shall take immediate steps to establish an independent autonomous public authority representative of all sections and interests in the society to control and regulate the use of the airwaves.*<sup>18</sup>

In this case, the Supreme Court considerably widened the scope and extend of the right to freedom of speech and expression and held that the Government has no monopoly on electronic media and a citizen has under Article 19 (1) (a) a right to telecast and broadcast to the viewers/listeners through electronic media i.e., television and radio.

***Freedom of Speech and Expression also Includes right to advertise-***

In a significant judgment regarding the case of *Tata Press v Mahanagar Telephone Nigam Ltd.*<sup>19</sup>, the Supreme Court interpreted that the fundamental right to freedom of speech and expression under Article 19 (1) (a) also includes the right to advertise (commercial speech). On the issue of whether commercial speech is protected under Article 19(1) (a), the Court said that

<sup>15</sup> *Ibid.*

<sup>16</sup> *Ministry of Information and Broadcasting v Cricket Association of Bengal.* 1995 2 SCC 161

<sup>17</sup> *Ibid.*

<sup>18</sup> *Ibid.*,

<sup>19</sup> *Tata Press v Mahanagar Telephone Nigam Ltd.* (1995) 5 SCC 139

*Advertisement as a “Commercial Speech” has two facts – Advertising which is no more than a commercial transaction, is nonetheless dissemination of information regarding the product and advertised publish at large is benefited by the information made available through the advertisements. In a democratic economy, free flow of commercial information is indispensable. There cannot be honest and economical marketing by the public at large without being educated by the information disseminated through advertisements. The economic system in a democracy would be handicapped without there being freedom of “Commercial speech”.<sup>20</sup>*

Examined from another angle the Court said that-

The public at large has a right to receive the “Commercial Speech”, Article 19 (1)(a) of the Constitution not only guaranteed freedom of speech and expression, it also protects the rights of an individual to listen, recall and receive the said speech.

***Right to freedom of speech and expression not confined to national boundaries –***

The question whether an Indian citizen’s right to freedom of speech and expression extends beyond the geographical limits of India was considered by the Supreme Court in the case of *Maneka Gandhi v. Union of India*<sup>21</sup>. In this landmark judgment, the Supreme Court held that the freedom of speech and expression has no geographical limitation and it carries with it the right of a citizen to gather information and to exchange thought with others not only in India but abroad also. The court said:-

*Freedom of speech and expression carries with it the right to gather information as also to speak and express oneself at home and abroad and to exchange thoughts and ideas with others not only in India but also outside.*

The Court observed that the authors of the Constitution had deliberately chosen not to use words confining the right by refraining from the use of words ‘in the territory of India’ at the end of Article 19(1) (a).

It was argued on behalf of the government that the right under Article 19 (1) (a) could not be extended beyond Indian territory since the State could not protect the enforcement of the fundamental right to free speech in a foreign country. The Court rejected that argument and recognized that on account of the vast improvement in technology and communications, a person, while in India, could transmit information to a foreign country and in the process exercise his or her right to free expression abroad, which if restricted by the State, would amount to an infringement of Article 19(1) (a).

***Right to gather news and information is included in the freedom of press –***

In *Prabhu Dutt v Union of India*<sup>22</sup>, the petitioner was seeking to interview the condemned prisoners Billa and Ranga. The Jail authorities had refused the permission to the newspaper representative to interview the convicts.

The Court held that the press does not have an absolute or unrestricted right to information and there is no legal obligation on the part of citizens to supply that information. An interview may be conducted provided the convict gives his

<sup>20</sup> *Ibid.*

<sup>21</sup> *Maneka Gandhi v Union of India*. AIR 1978 SC 597

<sup>22</sup> *Prabhu Dutt v Union of India*. AIR 1982 SC 6

consent to being interviewed. The Court held that where there are ‘weighty’ reasons to do so, the interview can be refused, although the reasons ought to be recorded in writing.

*The right claimed by the petitioner in the present case, a newspaper reporter, to interview two convicts under sentence of death is not a right to express any particular view, or opinion but the right to means of information through the medium of an interview with them. No such right can be claimed by the Press unless the person sought to be interviewed is willing to be interviewed.*<sup>23</sup>

In this case the Court directed the Superintendent of the Tihar Jail to permit the Chief Reporter of the Hindustan Times and representatives of the Times of India, India Today, the Press Trust of India and the United News of India to interview Ranga and Billa, the two-death sentence convicts under Art. 19 (1) (a) as they were willing to be interviewed.

#### ***Freedom of Speech and Expression for non-Indians-***

The case of *M. S. M. Sharma v Krishna Sinha*<sup>24</sup> arose when well-known English daily with a wide circulation in Bihar, published an expunged portion of the proceedings of the Assembly containing a bitter attack by a member against the Chief Minister. In this case, the Supreme Court observed that:

*A non-citizen running a newspaper is not entitled to the fundamental right to freedom of speech and expression and, therefore cannot claim, as his fundamental right, the benefit of the liberty of the Press. Further, being only a right flowing from the Freedom of Speech and Expression, the liberty of the Press in India stands on no higher footing than the freedom of speech and expression of the citizen and that no privilege attaches to the Press as such, that is to say, as distinct from the freedom of the citizen.*<sup>25</sup>

Thus, it is evident that the freedom of speech and expression including the freedom of the press has only been conferred on citizens. This however does not mean that in India, a foreigner or non-citizen has no freedom of speech or expression. It only means that such right cannot be claimed as a fundamental right.

#### ***Taxes on Dissemination of news-***

In the case of *Printers (Mysore) Ltd v Asstt. Commercial Tax Officer*<sup>26</sup>, the question arose as to whether the publisher of a newspaper was entitled to the benefit of Section 8(3)(b) read with Section 8 (1)(b) of the Central Sales Tax Act, 1956 whereby raw material could be purchased at a concessional rate.

Regarding this, the Court found that neither Parliament nor the State Legislatures are competent to levy tax on the inter-state or intra-state sale or purchase of newspapers. The Supreme Court held that –

*... the amendment to the definition of ‘goods’ in Section 2 (d) of the Central Sales Tax Act to exempt the sale of newspapers from the levy of central sales tax was intended to bring the Act in accord with the amendments introduced by the Constitutions (Sixth Amendment) Act, 1956 introducing Entry 92-A in List I. the petitioner were thus entitled to the benefit of purchasing raw material at the concessional rate.*<sup>27</sup>

<sup>23</sup> *Ibid.*

<sup>24</sup> *M.S.M. Sharma v Krishna Sinha AIR 1959 SC 395*

<sup>25</sup> *Ibid.*

<sup>26</sup> *Printers (Mysore) Ltd v Asstt. Commercial Tax Officer. (1994) 93 Sales Tax Cases 95: (1994) 2 SCC 434*

<sup>27</sup> *Ibid.*

Thus, no sales tax can be imposed on sale of newspapers in the country. However, this does not mean that press is immune either from taxation or from general law related to industrial relations or from the State regulation of condition of service of its employees. The prohibition is upon the imposition of any restriction to disseminate information and to the circulation of newspaper. Although the press is not immune from taxation, there is a constitutional prohibition upon the imposition of any restriction directly relatable to the right to publish, to disseminate information and to the circulation of newspapers and magazines.

## CONCLUSIONS

Right to freedom of speech and expression is one of the most important fundamental right. It includes circulating one's views by words or in writing or through audio-visual instrumentalities, through advertisements and through any other communication channel. It also comprises of right to information, freedom of media and also the freedom to publish and circulate. Thus, this fundamental right has a vast scope. The term freedom of expression means to indicate any act of seeking, receiving and imparting information, ideas, regardless of the medium used.

The Constitution of India resolves to secure to all the citizens the liberty which assures every citizen of the country the freedom of expression. Article 19 (1) of the Indian Constitution guarantees freedom of speech and expression to all the citizens of the country. Thus Indian citizens enjoy a constitutional right to give free expression to their views, opinions and convictions. They have, for this purpose, the right to seek, receive and impart information and ideas. As the exercise for freedom of expression requires a medium through which information and ideas may be communicated, it naturally follows that the medium shall also be free.

Indian Constitution does not specially mention the freedom of the media. However, the Supreme Court has been following the above logic and very explicitly ruled that freedom of the media is included in the guarantee of the freedom of expression, which also includes the liberty to publish and circulate. The Apex Court has held that there was, therefore, no need to make a separate provision for the freedom of the media. The courts have interpreted the freedom of speech and expression several times through its various judgments and case laws and have clearly mentioned that the freedom of the media is included in the freedom of speech and expression.

To support this finding, eleven case studies were discussed that clearly proved that the freedom of media is included in the freedom of speech and expression enshrined by the Constitution of India under Article 19 (1) (a). From the case law analysis it is evident that the Court has always placed a broad interpretation on the value and content of Article 19(1) (a), making it subjective only to the restrictions permissible under Article 19(2). Efforts by intolerant authorities to curb or suffocate this freedom have always been firmly repelled.

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