

UNNIKRISHNAN VS STATE OF ANDHRA PRADESH CASE

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HISTORICAL BACKGROUND

The Indian Constitution is well-known as a document devoted to social justice. As shown by its education explicit Papers, the Indian Constitution views education as the cornerstone of social progress. The right to education for children aged 6 to 14 has been raised by the Supreme Court's decision in the Unni Krishnan case, where the court ruled that the right to education for children aged 6 to 14 is central and fundamental. "The Constitution (86th) Amendment Act, 2002, has added new **Article 21** ¹An after Article 21 and has made education for all the children of the age of 6 to 14 a principal right. The legal choice from which the right to education exuded as a basic right was from the one delivered by the Supreme Court on account of *Mohini Jain v. state of Karnataka*². It was held for this situation that the right to education is a major right ensured under article 21 of the Constitution and that nobility of people can't be guaranteed except unless by the Right to Education and Right to education and is an infringement of article 14 of the Constitution.”.

The announcement of the right to education as a fundamental right has been further maintained by the eleven-judge Constitutional Bench of the Supreme Court in *T. M. A. Pai Foundation v. Territory of Karnataka*³, The court determined that although state governments and colleges cannot regulate the confirmation policies of autonomous education institutions operated by linguistics and strict minorities, they may assess scholarly abilities for understudies and provide rules and standards for upholding scholastic values. A similar rule extends to the hiring of teachers and other employees. An autonomous minority educational foundation will be free to hire in whatever way it saw fit, as long as certain basic

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¹ No person shall be deprived of his life or personal liberty except according to a procedure established by law

² Mohini Jain vs State Of Karnataka And Ors. on 30 July, 1992, 1992 AIR 1858, 1992 SCR (3) 658

³ T.M.A.Pai Foundation & Ors. vs State Of Karnataka & Ors. on 31 October, 2002

requirements were met. Minority educational institutions will have to adhere to the conditions put out by nearby colleges or the board of trustees to gain recognition or membership.

While charging of capitation expenses was held unlawful and completely on account of *Mohini Jain v. State of Karnataka*, The Supreme Court ruled that the right to education flows directly from the right to life, since individual respect cannot be guaranteed unless it is combined with the right to education, as well as the fundamental rights guaranteed under Part III of India's constitution, such as the right to free speech and expression, and other rights under Article 19, can't be valued and completed without them.

“For the situation in the case of *Islamic Academy v. state of Karnataka*⁴, the court held that the state can secure the quota for admission to these instructive Institutions yet it can't secure expense and admissions should be possible based on the basic common admission test and based on merit. On account of the famous case of *P. Inamda v. state of Maharashtra*⁵, the court has governed regarding the Islamic Academy case expressing that the impact where the state could secure the specific quota for admissions to private expert Educational establishments. For another situation, in the case of *Institute Commission of India v. St. Mary's School*⁶ the court held the desire to get more capability is an intrinsic basic human right. The main secretary of the Delhi Administration demonstrated that it would require around two years for filling off the 5302 vaccines of graduates. The Supreme Court held that there can't deny justification for such unnecessary delay. The right of kids to free and mandatory education is currently a major right under article 21A, which has been infringed because of the intense shortage of educators which is affecting badly their studies and organization of the school. Consequently, the children have right to need for their schooling and quality and proper education, with no scattering on the ground of their financial, social and social background. “The instance of the famous and a very important case regarding the right to education which is *Unni Krishnan v union of India*⁷ was vital as for the Right to Education as it tested the subject of the "Right to life" under the domain of Article 21 of the Constitution of India which ensures each resident a right to education. The role of monetary resources in restricting these rights alongside the nexus between Fundamental Rights and Directive Principles of state strategy cherished in the Constitution.

⁴ Islamic Academy v. state of Karnataka (2003) 6 SCC 697

⁵ P. Inamda v. state of Maharashtra" (2003) 6 SCC 697

⁶ Institute Commission of India v. St. Mary's School

⁷ Unni Krishnan v union of India 1993 AIR 2178, 1993 SCR (1) 594

An inquiry into the previous landmark judgement of Mohini Jain, which formed the framework stone of the Right to Education and whether the right to education is merely limited to basic education or should it include adult skilled education, was raised and taken over. After the option for this scenario was presented, the parliament passed the Children's Rights to Free and Compulsory Education Act of 2009, which stated that any child who has reached the age of six years old has the right to be admitted to a school and receive free and compulsory education.

JOURNEY FROM DIRECTIVE POLICY TO FUNDAMENTAL RIGHTS

*Article 21A*⁸ tells us that the State which will provide free and compulsory education to all the children of the age of six to fourteen years. The Directive Principles of State Policy listed in our constitution set out that the state will give free and mandatory education to all children up to the age of 14 years under article 45 and article 39(f). During the development of the Constitution, the get together had just included it among the Directive Principles of State strategy, and it discovered no room in Part III of the Constitution. The right to education as long as fourteen years as a central right is just a new event. Now it has been very not the same as that of the other protected social rights, the fundamental explanation being that Article 45 of the order standards gave different guarantee than different arrangements inside the Constitution as it imposed a period breaking point of ten years to implement the option to free and mandatory education. Article 45 is the solitary article among every one of the articles in Part IV of the Constitution, which talks about a period limit inside which this right ought to be made legitimate.

Framers and fathers of the Indian Constitution knew that for the realization of a person abilities and full protection, the right to education was a significant instrument. With Article 45, the right to education has been referred to in Articles 41, 39(f) and 46 of the mandate standards also. The hypothesis of the complementary idea of rights pronounced in Part III and Part IV, and the agreeable understanding of these rights has been the establishment for the acknowledgement of primary education being announced a basic human right today in India. "The Constitutional 86th Amendment Act⁹ was passed in 2002 and inserted in the

⁸ This article says state shall provide free and compulsory education to all children of the age of six to fourteen years.

⁹ The Constitutional 86th Amendment Act The 86th amendment to the constitution of India in 2002, provided Right to Education as a fundamental right in part-III of the Constitution.

Constitution as Article 21A. This Amendment Act, 2002, made three provisions in the Constitution to work with the acknowledgement to give free and mandatory education to the children between the age of six and 14 years as the fundamental right.”

Article 21A in Part III of the fundamental rights rendered a minor change to Article 45, and it also introduced another provision (k) under Article 51A of the fundamental duties, stating that the parent is responsible for providing education to their children aged six to fourteen years. Article 41 of the Constitution states that the state will "make viable arrangements guaranteeing the right to education under the limits of its economic limit and development." Article 45 of the Constitution states that the state will "provide childhood mind and primary education to all children before they complete the age of six years." Under this situation, the state's obligation to provide schooling to all children before they reach the age of fourteen will be contingent on the state's economic capacity and improvement. Furthermore, Article 46 of the Constitution mandates the state to "promote with special consideration the educational and economic interests of the more vulnerable sections of the population, especially the Scheduled Castes and Scheduled Tribes, and to protect them from social injustice and all forms of violence."

UNNIKRISHNAN VS STATE OF ANDHRA PRADESH CASE¹⁰

Facts of the Case

The case comes into a resource through petitions which were filed the private organization or institution establishments to challenge the state laws. These state laws were instituted to control the capitation expense charges in the territories of Tamil Nadu, Karnataka, Andhra Pradesh and Maharashtra. Some educational organizations in those states have opposed and tested something similar under the steady gaze of the Apex Court. It additionally filled in as the stage to scrutinize the point of the precedent set up in this concern, *Mohini Jain v. state of Karnataka*. Additionally, the ambit of Article 21 of the Constitution of India¹¹ is examined with its expansion to one side of Education. The significant inquiry presented under the watchful eye of the Court is whether the right to education under Article 21 stretches out to professional education.

¹⁰ Unni Krishnan, J.P. And Ors. vs State Of Andhra Pradesh And Ors. AIR 2178, 1993 SCR (1) 594.

¹¹ Protection of life and personal liberty, No person shall be deprived of his life or personal liberty except according to the procedure established by law.

Issues

1. Regardless of whether a citizen has a fundamental right to education for clinical, engineering, or other expert degrees?
2. Regardless of whether the Constitution of India ensures fundamental rights to education to its residents?
3. Regardless of whether there is a crucial option to build up an educational establishment under Article 19(1) (g)?
4. Does acknowledgement or connection make the educational organization an instrumentality?

ARGUMENTS OF BOTH PETITIONER AND RESPONDENT

Petitioner:

The petitioners contended that the state should give every one of its citizen with independent education of the social or financial foundation they are from. Making their arguments more strong was the situation of Mohini Jain which had effectively widened the extent of the right to education. It was advanced by the Petitioners that the State doesn't practice a monopoly concerning education. The committee was of the view that one has the right to set up an education framework that is self-financing and where it is the establishment's self-governance to gather money from the candidates. They put together their arguments concerning the accompanying grounds

The functioning of an educational institution shall be taken as an industry. 1. The State is compelled by a duty obligation to ensure that everybody is provided with education independent of their financial and social foundation

2. The state practices no monopoly in giving education since it is in contradiction with the arrangements of Article 19(1) (g) of the Constitution as giving education can likewise be considered as a business industry.

3. The State has been instrumental in practicing authority over the market influences which has influenced the interest, supply, and free play

4. The setting up of an educational foundation can be compared to beginning any undertaking and it tends to be made for revenue profit purposes.

5. The institution ought to be given the self-rule to gather charges and the money from understudies and practices like development, removal, and enhancement may contrast starting with one institution then onto the next.

6. The institution doesn't become instrumentalities of the state by affiliating or perceiving itself to the public authority.

Respondents:

The respondent presented the affidavit to demonstrate the public authority's efforts to carry out Article 45. The state's sole responsibility is to provide primary education to children, as stated in Article 45, which mandates free and compulsory primary education for children aged 14 and under. Furthermore, the cost of advanced education is enormous, and it is dependent on the country's financial and social circumstances. The mobility of primary schools has also been increased, allowing children to cycle to school easily within walking distance. The tuition costs are covered, and only additional costs such as uniforms, books, and bags are paid by the general population. 14 states and union territories have approved legislation making primary education mandatory, along with the laws and regulations that go with it. It was argued that providing education to medicine would result in massive financial mismanagement. It was said that the well-being sector received 3.2 per cent of the total financial bid, with a pro rata share going to clinical education. The health sector was granted priority, with concerns such as basic health advances and medical clinic administrations being addressed. In addition, specific measurable statistics about the cost of clinical education was provided. Providing education has long been regarded as a moral duty as well as a humanitarian cause, but it cannot be regarded as a profession. The real concept of collecting school costs goes against the public solution, which is nothing more than corruption. Educating children is a state responsibility and should be subjected to state requirements and rules, with private education foundations being no exception.

Judgment

Ratio Decidendi

The fundamental rights ensured under Part III of the Constitution can be partitioned into two classes,

A), Injunction limiting the State from denying certain fundamental rights like Articles 14 and 21.

B) A positive implementation of such fundamental rights under Articles 19, 25 and 26 and so on

Additionally, Article 21 was given a negative language which acts as a fundamental basic human freedom. It isn't right to express that since Article 21 was covered with negative language, positive rights of life and freedom can't be presented in that article. It goes about as a safeguard against the hardship of life or individual freedom. Article 19 just discusses about the particular rights though Article 21 takes in and contains the lingering privileges of a man.

Part III and Part IV are not unrelated but rather are corresponding to one another and in this way any mandate state strategy can be changed over to a fundamental right of a resident.

Various rights, such as the right to security, the right against solitary confinement, the right against bar chains, the right to legal representation, the right to a speedy trial, the right against handcuffing, the right against deferred execution, the right against custodial brutality, the right against public hanging, the right to health, the right to a safe environment, the right to shield, and the steady cases, were all reaffirmed to be part of Article 21. In these lines, Article 21 is the cornerstone of the human rights that are periodically expanded, and there is no ambiguity in interpreting it following Article 45 of the Indian Constitution. The deprivation of the right to life and liberty is upheld by a fair and liberty which is supported by statute and is a unique situation for the court to consider.

If education is to be understood and integrated into life, it must be done so following the directive values. The court believes that basic rights can be interpreted in a way that is consistent with state order directive standards. The Directive Principles, which form a critical component and the Constitution's social soul, compel the state to carry out these strategies.

The arrangement, laws, and conclusion of the financial incentive are given by these directives, which are enhanced and executed by the Fundamental Rights. There would be no problem implementing the harmonious construction as there are no apparent inconsistencies between fundamental rights and Directive Principles of State Policy. Fundamental Rights and Directive Principles of State Policy structure the social soul of the Constitution and the motivation behind the Directive principles is to achieve peaceful social insurgency for sure-fire fulfilment of certain socio and financial objectives.

The state needs to ensure the government assistance of the residents and guarantee security and insurance of social request in which social, financial and political equity will win.

Educational foundations can be arranged into two sorts:

- A) Those institution requiring identification by the state and
- B) That institution which don't need such identification.

The petitioners also asked the state to show them the educational institutions that need registration. There is no major right of registration for any citizen, and such acknowledgement is based solely on the State's approval, which is based on a method preference or compliance with the Statute's requirements. Furthermore, such dependence on the state would disqualify it from being considered a constitutional right. Also, anyone who is envious of the institution's shaping can read Sections 22 and 23 of the University Grants Commission, which prohibits the awarding of degrees from anyone other than a university.

The freedom to establish an institution is granted under Article 19(1)(g) of the Indian Constitution, but it cannot be compared to the privilege of religious and etymological minorities to form educational foundations since it is a special right granted to minority citizens that are compatible with providing protection and certainty to them in the general population. It is dependent on the teachings of tolerance and Catholicism. Educational institutions are issuing a public duty that allows students to behave decently. The concept of educational establishments' responsibility is discussed by looking at Article 226 of the Indian Constitution, which states that educational establishments release public responsibilities regardless of whether or not organisations accept guidance.

The Court has cited pertinent concentrate from the National policy of education which featured that commercialization of instruction should be forestalled however it is likewise difficult to keep away from private cooperation which requires the requirement for severe standards and guidelines like:

1. Advancing long term arranging and the board objectives in consonance with the nation's formative and labour needs.
2. Decentralization and soul of self-sufficiency if there should be an occurrence of educational establishments.
3. Significance to support by people and non-administrative associations.
4. Support of more ladies in such arranging and the board.
5. Setting up the guideline of responsibility corresponding to the objectives and standards.

Obiter Dicta

There was a provision for a thorough review of articles of the State Policy directive principles. It was argued that Article 37 of the Constitution, which specifies that the Directive Principles of State Policies in Part IV of the Constitution are not enforceable, is unconstitutional. As a result, Article 45's "government effort" to provide children with free and compulsory schooling is therefore unenforceable. About the fact that these principles are fundamental rights under Article 21 of India's constitution, these tactics are unenforceable. Article 49 imposes a duty on the public government, while Article 45 simply states that the state should aim, which distinguishes the state's position.

Article 21 was not granted a positive meaning in terms of the reality that incredible ideals like freedom would undergo daily transition and political, societal, and economic improvements that will necessitate the recognition of new rights and laws to meet the growing needs of the general population. Often, the framers of the Constitution understood that a static society must remain unchanged.

EDUCATION IS ENLIGHTENMENT THAT IDENTIFIES AN INDIVIDUAL'S LIFE

The failure to implement Article 14 was condemned by the court. Although after 43 years of independence, the court feared that I would convert into a pious desire and affectionate hope if I did not get primary education. The court should interfere and resolve the question of whether the article resounds with existence and articulates with meaning, and one such topic is schooling.

Advanced schooling necessitates a substantial expenditure of public funds, and it must be restricted in its reliance on financial and social circumstances. As a result, advanced education isn't pure or easy by relative movement, but it is the state's responsibility to try to have basic primary education and a chance to put it into practice. The central government's thinking process is to provide deliberate and private collaboration in the education drug market, which would substantially reduce the expense and costs related to particular norms and guidelines. Steps must be taken to avoid colleges that have incredibly poor educational opportunities, such as leading classes in covered huts with little facilities with the sole purpose of making revenue, from being weeds in the general population. They are also encouraged to pursue a technical degree, which serves as an identification for pursuing a calling. The Hon'ble Bench in this case saw them as privateers plying the high seas of education.

The bench has expressed its opinion and consideration of the protections of Article 45, which is the only article that establishes a time limit for a person's right. After 44 years, the court considered whether the criterion for determining the negligible time limit had shifted. However, the court concluded that monetary and social factors should be weighed before states enact measures and that India is still unable to provide comprehensive education assistance.

INTERPRETATION OF THE CASE

In the words of Nobel laureate, **Amartya Sen** quoted that "education is the backbone of India".

The right to education was initially not included in the fundamental rights of the constitution of India but it was embraced as the directive principle of the state policy by the framers of the

Indian constitution -under article 45 which required the state to endeavor to provide, within 10 years from the commencement of the constitution, free and compulsory education for all the children within the country, until they complete the age of 14 years. However, the state has only made sporadic attempts to enact legislation in compliance with Article 45 of the constitution.

The court stressed that although the constitution does not specifically guarantee the right to education as a constitutional right, it is a right that opens the door to understanding and perceiving all other privileges that form the basis of a developed community. The court said that unless the right to education under Article 41 is made a law, the essential and fundamental rights guaranteed by our constitution would remain out of reach for the vast majority of Indian people. The right to freedom of speech and expression, as well as other rudimentary privileges granted by our constitution, cannot be completely appreciated and cherished until Indian people are enlightened and aware of their individualistic integrity.

The noble Supreme Court of India was asked to examine the scope and interpretation of Article 21 of the Indian constitution, which deals with the right to life and personal liberty. Article 21 has been translated as the "right to live with human dignity." The right to life is a succinct expression for all those rights that are given as a basic need to live a dignified life. The court emphasised that the constitution does not expressly guarantee the right to education as a fundamental right to Indian citizens. Article 21 is cumulatively read with the directive principles of state policy under articles 38, 41, and 45, and it is i.thus, during the framing of the law, the intention of the constituent assembly was to amend a law, that provides basic right of education to every individual citizen in India, as there aim was to develop a literate nation, that will eventually lead to shaping a better society to live in. Hence, there was a need felt to make the right to education the fundamental right and one of the basic rights conferred to every person, but, this determination of the lawmakers was challenging due to the lack of resource availability.

The right to education derives directly from the right to life and the right to education being concomitant fundamental rights, according to the court's view. As a result, the state has a legislative obligation to establish educational institutions at all levels for the good of the people.

A judicial procedure for determining the legislature's purpose is the interpretation for the construction of a legislative clause. In the case of *Unnikrishnan vs. Union of India*, it was decided that Article 21 is at the core of the constitutional right, and many aspects of article 21 were determined, including the right to education, which is derived from the right to life. The right to education is linked to other fundamental rights, and the government is required by law to establish educational institutions at different levels for the good of the Indian people.

MISCHIEF RULE

The interpretation of the right to education in the case of *Unnikrishnan versus Union of India* was made based on the mischief rule of interpretation. The mischief rule is one of the crucial rules of the Interpretation of Statute. This rule of interpretation gives the widest hand to interpret on a statute to the judiciary. The mischief rule of statutory interpretation is one of the oldest of the rules of interpretation.

In *Re Sussex Peerage*,¹² it was held that the mischief rule of interpretation shall only be applied where the statutory provision is ambiguous. Under the mischief rule, the role of the judiciary is to suppress the mischief or the defect that the Act is aimed at and advance its remedy. Hence legislation has to be implemented to cover the mischief or the defect.

This rule of interpretation originated in the 16th century by the Haydon case in the United Kingdom. It is a landmark judgement and a historic case reported by Lord Coke and decided by the Barons of the Exchequer. In the case of *Unnikrishnan* the Supreme Court implied the right to education from the right to life and personal liberty guaranteed under article 21. The supreme court in this case applied the mischief rule of interpretation while construing the right to education provided in the directive principles of State policy, under article 41 45 and 46 of the constitution in the light of right to life and personal liberty.

The court interpreted that the fundamental right and the directive principles of the state policy are complementary to each other, and thus, the right to education is implicitly provided under the rights to life as it is of inherent fundamental importance. Whereas article 41 45 and 46 of the directive principles is referred only to determine the parameters of this right.

¹² The Sussex Peerage [May 23, June 13, 25, and 28, July 9, 1844].

RIGHT TO EDUCATION INTERPRETED IN THE LIGHT OF MISCHIEF RULE

Excluded people, especially those of lower caste, ethnicity, and class classes continue to represent inequality and segregation within the larger social, economic, and political fabric, as studies have repeatedly demonstrated over time. It is projected that about 110 million children are entirely out of the educational system, with about 60% of those who participate in schools dropping out by the eighth grade. Despite several laws and policies enacted by the Indian Constitution to promote equality among various social groups, they are still subjected to the historical disadvantages experienced by certain underprivileged social groups. Legislative policies aimed at ensuring the right to education on this basis have done nothing to realise the ambitious vision conceived at the birth of the modern Indian nation-state. It was expected that the state must offer free and compulsory schooling for all children before they reached the age of 14 years within ten years of the constitution's adoption, or at the very least by 1960. However, as a result of only sporadic attempts by a few Indian states to pass laws and manage capital for the active enforcement of Article 45 of the constitution, the shortage of resources provided an obstacle for the timely implementation of the right to education as a fundamental right. Hence, in the case of *Unnikrishnan vs union of India*¹³ the Supreme Court adopted the construction that would suppress the mischief or the defect which was persistent and also advanced a remedy. For every mischief, remedy is provided to see which part of the law was not covered and that need to be rectified, hence, the historical context of the law has to be taken into consideration. The interpretation of article 21, according to the mischief rule of construction, paved the way in its wider sense, to fill the gap created due to the evil prevalent in our society, particularly illiteracy, underdevelopment and backwardness.

- ❖ The mischief rule of interpretation is the third rule of interpretation which gives a judge discretionary power over the literal or the golden rule of construction. According to this rule of interpretation, the court analyses the law before the enactment of the statute to discover the gap or the mischief that was intended to cover through the particular statutory provision. Hence the rule contained in the *Heydon's case 1584*¹⁴ is called the true interpretation of the statute.

¹³ *unnikrishnan vs union of India* 1997 (2) WLC 464, 1997 (1) WLN 201

¹⁴ *Heydon's Case* (1584) 76 ER 637

1. What was the common law before the enactment of the law: during the commencement of the constitution of India, the framers of the law provided the right to free and fair education under article 45 of the constitution for all children under the age of 14 years, but incorporated it as a welfare law, hence, it did not share any form of constitutional bindingness,

2. What was the mischief and effect for which the common law did not provide in the light of the Heydon's case, it can be construed that the reason or the purpose fixed for bringing the law to cover the defect. Through the case of Unnikrishnan, efforts were made in order to draw the right to education as a part of the fundamental right in the constitution, to suppress the mischief prevalent in the society. Which was prevalent in form of social and economic backwardness.

3. What remedy was provided- through the mischief rule of interpretation the court can justify the rationality and the reasoning behind the defect catered in the society for which the common law did not provide any remedy. Hence, the judiciary is aimed at remedying the defect condoned. In the wake of, judgement delivered in Unnikrishnan case the legislature enacted a law to deal with the mischief created due to illiteracy and to cure such defect article 21 A was introduced as the fundamental right in the constitution which provided the right to education as a basic right to every citizen. This article was introduced under the 86th constitutional amendment Act 2002.

4. What was the true reason for the remedy-the rationale behind the enactment of education law under the 86th constitutional amendment Act 2002, was it to provide free and compulsory education to all the children of age 6 to 14 years, it was reasoned that the education is one of the most important factors for the development of any nation and the upliftment of the underprivileged society.

The mischief rule is the extended rule of the liberal interpretation of the law. The larger purpose behind the law is analyzed based on historical context, when the internal interpretation of the law is exhausted then the larger perspective of the law and law beyond its statutory provision is analyzed and interpreted. Article 21 provides that no person shall be deprived of his life or personal liberty except according to the procedure established by law, article 21 has been held as the heart of the constitution, it is the most organic and progressive provision in the foundation of our constitution. Article 21 has been interpreted several times

over the years and it covers a large Ambit and various rights that fall under it. Hence, it was essential for the judges to apply the mischief rule of interpretation that gives more discretionary powers than the literal or the golden rule of interpretation as it allows the interpreter of the law to effectively determine the legislative intent.

The meaning of fundamental right cannot be clarified unless article 21 of the constitution is interpreted beyond its original and literal sense. As every individual has been guaranteed the right to life liberty and security, the right to life is undoubtedly the most fundamental right, and all the other rights are subjected to it. Right to life under article 21 not only ascertain the physical map of breathing but it has a much wider Ambit, which includes rights to live with human dignity, right to enjoy a quality life, rights to livelihood, right to a healthy and clean environment, right to education etc. Right to life and liberty is one of the most fundamental rights in existence, and it includes all the aspect of life that makes a human being live with dignity, article 21 has been interpreted widely by the judiciary, hence, it depicts that in the case of Unnikrishnan versus Union of India the supreme court interpreted the right to life through the mischief rule of interpretation, to cover the right to education under the canopy of article 21, As it was opined in the supreme court of India that right to education is also a bear necessity and an essential and unavoidable requirement for a person to live a dignified life. Thus, the mischief rule is the extended rule of the liberal interpretation of the law. the larger purpose behind the law is analyzed based on historical context, and the purpose considered by the legislature in the implementation of the laws, when the internal interpretation of the law is exhausted then the larger perspective of the law and law beyond its statutory provision is analyzed and interpreted.

LEGISLATIVE APPROACH TO EMBARK UPON THE JUDICIAL INTERPRETATION

The formal law is interpreted and in the light of which the new laws are given more specific and refined meaning to understand what was the evil that the previous law abandoned, what was the mischief created and what the remedies provided by the later law was. Legislation has to be implemented to cover the mischief or the defect. Hence, the two sides of the law that is the earlier law which had the defect compared to the later law which is implemented to suppress the mischief or the defect. For example, there is a law within the society but it did not cover a particular defect, that defect was suppressed by the introduction of a new law.

Similarly, after the case of *Unnikrishnan versus the union of India* the decision given in this case lead to the **86th constitutional amendment act 2002**¹⁵ by which article 21A that is the right to education as a fundamental right was added in the constitution of India. The state was mandated to offer free and compulsory education to all children aged 6 to 14 years in a manner determined by statute, whilst a new article was inserted instead of article 45, which ordered the state to provide early childhood care and education to all children before they reached the age of six.

The Supreme Court in this case held that the state government must have access to free education and to permit the establishment of new schools to cover the mischief or the persistent defect within the society. Article 21A has been defined as the most important fundamental right that stands above all other rights, as it once ability to enforce the fundamental rights.

In the case of *Avinash Malhotra versus Union of India*¹⁶, In this situation, Article 21A read with Article 19 (1)(a) has been interpreted as granting all children the same right to primary education in their preferred medium of instruction. It has been understood as a constitutional right of a child to obtain free education without fear of protection or protection, as well as the right to receive education in a separate and protected house.

The parliament passed the Children's Rights to Free and Compulsory Education Act of 2009, which guarantees any child above the age of six the opportunity to be accepted to a school and receive free and compulsory education. As a result, the Indian parliament considered the judicial view of the case of *Unnikrishnan vs Union of India* and enacted numerous laws and policies to mask the defect and bad that had been ignored by previous laws. The problem that it was supposed to solve the judiciary is responsible for constructing the statute in such a way that it suppresses the fault and advances the cure for it. In comparison to the literal guideline for the golden rule, the mischief rule is more versatile. It considered the purpose of the law, it not only figured out the gap created between the old and the newly enacted law but also helped the court to analyses the motive or the purpose behind the enactment of the law.

¹⁵ The 86th amendment to the constitution of India in 2002, provided Right to Education as a fundamental right in part-III of the Constitution.

¹⁶ Civil Writ Petition No. 8121 of 2016

Ex Ct. Avinash Kumar v. Union of India & Others

CONCLUSION

The constitution framers embedded Directive standards in the constitution with the goal that the state should take try towards making a welfare state. Although there has been a significant improvement in understanding the significance of DPSP's yet at the same time there is far to go and it is the obligation of the judicial executive to comprehend the pith of these standards and interpret them in such a manner to make them at standard with Fundamental rights. Even though DPSP'S can't be asserted as an issue of right however state is under a commitment to give its residents every one of those offices like instruction, a drop occupation, wellbeing, cover and numerous different things which are fundamental for carrying on with a decent life and every one of these issues is without a doubt managed in DPSP'S and the lone thing to be done is to understand them and appropriately execute them to accomplish the objective of a welfare state and it requires the endeavors of the relative multitude of three wings, for example, Parliament, Executive and Judiciary. To progress the argument of constitution composers lying in DPSP'S, all three must work together and openly. The judiciary, in particular, must have an accommodating creation when selecting a case that includes both central rights and DPSP's such that the soul of both is preserved and one is not superseded by the other, as was done in the highly praised case of *Kesavananda Bharti v. State of Kerala*, whereby the court held that: "There are rights that are inherited in people because they are individuals." Individuals gave themselves the constitution to obtain basic common liberties such as liberty and independence, as stated in the preamble, which often aims to achieve democratic, social, and economic justice. Thus, the moral rights enumerated in Part 4 of the constitution are similarly fundamental, the only difference is that they cannot be enforced in a court, yet all things considered, they are essential for the proper administration of the nation, and all of the organs, including the judiciary, would undoubtedly authorize DPSP's right to education. Interpretation to develop constitutional provisions is a legislative interaction in which the assembly's meaning is resolved. Because of the case of *Unnikrishnan vs. Union of India*, it was determined that Article 21 is the heart of the constitutional right, and a few aspects of the article were settled. The court reiterated that without rendering Article 41's right to education law, our constitution's most fundamental right will remain out of reach for a large majority of Indian citizens. As a result, article 21 was understood because of the law of creation, and under the 86th constitutional amendment act of 2002, Article 21A, the right to education as a fundamental right, was added to the Indian constitution.

BIBLIOGRAPHY

Books referred:

1. Constitutional of India V.N Shulka 11th edition published by Eastern Book Company, 2008.
2. All India Reporters
3. Supreme Court cases

Internet sources:

1. Google search engine [http: www.google.com.au](http://www.google.com.au)
2. <http://www.indiaetzone.com>
3. <http://www.legalservicesindia.com>
4. www.nios.ac.in
5. www.civilservice.com

