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Book Review: The Case that Shook India: The Verdict that led to the Emergency

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INTRODUCTION

India is the largest democracy in the world¹. And elections are the biggest festival in democracy. The whole institution of democracy gets destroyed when the elections are won using corrupt practices. In our country, the High Court and finally the Supreme Court must decide whether the election was free and fair. This is one of the reasons which make the *Indira Gandhi v Raj Narain*² case of utmost importance. The book 'The Case That Shook India', which is written by Prashant Bhushan deals with the election petition filed by Raj Narain to challenge Mrs. Gandhi's victory in the 1971 election. Moreover, it covers both the High Court and the Supreme Court proceedings. The author of this book, Prashant Bhushan is an esteemed public interest lawyer at the Supreme Court of India. Famous for 2G and Coal Scam cases, he is also a founder member

¹ 'India Country Profile' (BBC News, 01 March 2011) <<https://www.bbc.com/news/world-south-asia-12557384>> accessed 15 February 2023

² *Indira Gandhi v Raj Narain* AIR (1975) SC 2299

of Swaraj Abhiyan. He worked for the implementation of the Jan Lokpal Bill along with Anna Hazare and was a member of India Against Corruption (AIC) group³.

ABOUT THE BOOK

“**The Case That Shook India: The Verdict That Led to the Emergency**” is a very interesting book authored by a distinguished public interest lawyer Prashant Bhushan. The author is the son of Adv. Shanti Bhushan, who was the counsel of Raj Narain. So he was present throughout the proceedings in both courts. He has narrated the day-to-day proceedings of the case. He was merely 19 years old in 1975 when he got a chance to witness a courtroom drama that proved to be the greatest one in independent India⁴. This book also shows how loopholes in the legal system are used by political parties for their benefit. It once again reminds us of the need to limit the powers of the government and keep a check on it through the judiciary.

SUMMARY OF THE BOOK

This book begins with Raj Narain losing the 1971 election in the Rae Bareli constituency and Indira Gandhi winning it by a huge margin. This was followed by the filing of the election petition by Raj Narain in the Allahabad high court. He accused Indira Gandhi of using corrupt practices for winning the election. Raj Narain was represented by Adv. Shanti Bhushan and Indira Gandhi by Adv. S.C. Khare. The proceedings continued for several years and ultimately the Allahabad High Court decided in Raj Narain's favor. The High Court declared the election of Indira Gandhi void and disqualified her from holding any office for 6 years. It was for the first time that Prime Minister's election was declared null and void owing to election corruption. This became a very high-profile case. The arguments and discussions were not reported in public because it was a media-censored case. Aggravated by the decision of the high court,

³ Simran Goel, ‘The Case That Shook India – The Verdict That Led To The Emergency By Prashant Bhushan (Book Review)’ (*Probono India*, 2 August 2020) <<http://www.probono-india.in/research-paper-detail.php?id=585>> accessed 15 February 2023

⁴ Amulya Gopalakrishnan & Himanshi Dhawan, ‘The Importance of Being Prashant Bhushan’ (*The Times of India*, 31 August 2020) <<https://timesofindia.indiatimes.com/india/the-importance-of-being-prashant-bhushan/articleshow/77831756.cms?from=mdr>> accessed 14 February 2023

Indira Gandhi appealed to the Supreme Court of India. The Supreme Court was on vacation. Thus, the only thing it did at that time was to put a stay on the decision of the Allahabad High Court. On the advice of PM Indira Gandhi, Fakhruddin Ali Ahmed, the President of India declared a state emergency in UP. The reason given for the emergency was internal disturbances but the judgment of the Allahabad High Court was the real one.

Meanwhile, the government passed the 39th Constitutional (Amendment) Act, 1975, which made the election of the President, Vice President, Prime Minister, and Speaker of the Lok Sabha out of the jurisdiction of the Supreme Court of India⁵. The Supreme Court struck it down saying that it violated the Basic Structure Doctrine. The proceedings regarding the appeal took place. Finally, the court ruled in the favour of Indira Gandhi. The decision of the Allahabad High Court was reversed and Mrs. Gandhi was declared as not having used unfair or corrupt means for winning the elections in the Rae Bareilly constituency. This is how an electoral battle turned into a legal battle.

ANALYSIS OF THE BOOK

The book is a great effort by the author to give a detailed account of the proceedings that took place inside the courts. This case had media censorship so this book is the best way of knowing about this case. The book is easy to understand even for someone with no legal background. The division of sections and titles makes it even more interesting and understandable. It is a perfect book for someone starting law as a career, to understand how courts in our country work. Moreover, it beautifully describes the sharing of power between legislature and judiciary and what can happen if one among both tries to use loopholes to supersede itself.

⁵ Ishita Chandra, 'Evolution of The Basic Structure Doctrine In India' (*The Times of India*, 18 November 2022) <<https://timesofindia.indiatimes.com/readersblog/legal-paradigm/evolution-of-basic-structure-doctrine-in-india-46758/>> accessed 16 February 2023

CONCLUSION

It is an outstanding piece of work that can add value to someone's knowledge. This book will also break the myth that it is difficult for a layman to understand a book written on some law or legal system. This is a must-read book to understand the legal system of our country.