



Freedom of free Speech under the Constitution of India and Its Judicial Interventions*

1. Introduction

Speech is God's gift to mankind. Through speech a human being can convey his thoughts, sentiments and feelings to others. Freedom of speech and expression is a natural right which a human being acquires on birth.¹

It helps an individual to attain self-fulfillment and development. It is provided for the welfare of the people and for the upliftment of human personality. It is a means to gain information with respect to social, political, cultural aspects of society and state, or we may say that it is a means which entitles us to make our participation in decision making process. Freedom of expression is an integral of each individual's right to self-development and self-fulfillment, restriction on what are allowed to say and write or to hear and read will hamper our personality and its growth. Freedom of speech and expression is provided by the Constitution of India for its people for their enlightenment and upliftment, which was the basic theme of our whole freedom struggle. All of us know that our entire freedom struggle was centered on the concept of empowerment. Now a day's much more controversy used to occur in our country regarding the interpretation of this Constitutional provision only and these societal imbalance and instability occurs mainly due to negative interpretation and utilization of this provision by its people. The recent controversy which is going on with respect to this provision is twofold. One group frequently says that the Government in now a days is constantly trying to suppress the individual's right to free speech by imposing restriction on newspaper editors, cartoonists, media personals. Another group is on different view which claims that Right to freedom of speech and expression has been enumerated in the Constitution for its positive interpretation and this is misinterpreted by individuals as well as media personals and various other groups in the society and anti-nationalism is core of it. The important question to common individuals like us is that to whom we should hear? The answer is straight forward.... the Judiciary. This is

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¹ Life Insurance Corporation of India Vs Prof. Manubhai D. Shah AIR 1993 SC 171

the sensitive issue and judiciary should try to check them and make a guideline regarding the acts discharging of which can be said to be anti-national. Otherwise anti-Indian conspiracy in the name of freedom of expression will bring our Country up to such a level that no one will maintain the country's peace and prosperity. It means we should hear the voice of judiciary, as India is a Country where rule of law still prevails and judicial independence is considered as basic structure of the Constitution. Human being as rationale creature should accept this freedom as an aspect of self-fulfillment and development, and should avoid its negative interpretation like application of this freedom in spreading of 'Anti Nationalism' as we can say it as negative interpretation of this Constitutional right.

Human beings are rational creatures and are guided by their own rational power and ideology. One's sense and power of thinking may vary from others, because distinction is the law of nature. So that things can be interpreted differently by persons to persons. One thing may cause hurt to one but it may give satisfaction to another. For instance, recently government has implemented Ujjawala Yojana² through which LPG subsidy has been curtailed for supplying free LPG connection to the women belonging to poor family. One who loses his subsidy can say that day by day government is doing one wrong or other and common people are made the sufferer. But the same act gives satisfaction to the poor families who are getting the benefit of these policies. As a citizen of a democratic country one can impart his idea to other including criticize of government actions and implementation of its policies or whatever it may be. Freedom of expression necessarily includes freedom to criticize. Indian democracy has survived because of the protection its Constitution has granted to its people. Fearlessness is the hallmark of a vibrant, democratic and secular society like ours. But criticism has to be healthy and not malicious.³ But here in this act one should have decency and audacity in his activity otherwise any act can create problems to individuals, society as well as the state.

1.2 The right to freedom of speech and its restriction under the Constitution of India and its judicial interpretation

The Constitution of India is the fundamental law of the land from which all other laws derive their authority and with which we must conform. Constitution places human dignity as basic law and the act of individual must be of such nature that should not hamper the human dignity. Right to speech is available to all those obligations flows from the preamble of our Constitution, Which seeks to secure to all its citizens liability of thought, Expression, belief and worship.⁴ The Constitution of India has given more emphasis on the fundamental rights of

² It is an ambitious social welfare scheme of Narendra Modi Government launched on 1st May 2016 and aims to provide LPG connections to BPL household in the country, available in www.pmujjawalayojana.in

³ R.V. Bhasin Vs Marine Drive Police Station 2012 CriLJ 1375

⁴ Secretary, Ministry of Information and Broadcasting Vs Cricket Association of Bengal and other (1995) 2 SCC 161

its citizens and it is said that fundamental rights are fundamental in the sense that these are human rights which are more valuable and precise.

The liberty to express one's self freely is important for a number of reasons. Firstly, self-expression is a significant instrument of freedom of conscience and self-fulfillment. Second justification concerns epistemology. Freedom of Expression enables people to contribute to debates about social and moral values. The best way to find the best or the truest theory or model of anything is to permit the widest possible range of ideas to circulate. Thirdly, Freedom of Expression allows political discourse which is necessary in any Country which aspires to democracy. Lastly, it facilitates artistic scholarly endeavours of all sorts.⁵ Freedom of Speech means freedom to communicate effectively and now a day it also entails access to the mass media.

Constitution of India⁶ guarantees to citizens six freedoms, of these the first is the right to freedom of speech and expression. The fundamental principle involved here is the people's right to know. The right is subject to the power of the State to make a law imposing reasonable restrictions.

“All citizens shall have the right- to freedom of speech and expression.”⁷

Freedom of Expression has four broad social purposes to serve:⁸

- I. It helps individual to attain self fulfilment
- II. It assists in discovery of truth
- III. It strengthens the capacity of an individual in participating in decision making
- IV. It provides a mechanism by which it would be possible to establish a reasonable balance between stability and social change.

Indian Judiciary from time to time has interpreted 19(1) (a) from very broad perspective and nowhere it tries to curtail the right of individual to know, to impart information. Freedom of speech plays a crucial role in the formation of public opinion on social, political and economic matters. It has been described as a “Basic human rights”, a “Natural rights” and the like with the development of law in India, this right has been taken within its ambit the right to

⁵ Dr. Durga Das Basu, *Shorter Constitution of India* (Wadhwa and Company, Nagpur, Delhi, 2003) p-191.

⁶ Article 19(1) (a) of the Constitution of India 1950

⁷ *Ibid.*

⁸ *Schenck Vs United State* 249 US 47

information. Attainment of the preamble liberties is eternally connected with the liberty of expression.⁹

There are 3 concepts which are fundamental in understanding the reach of these most basic human rights. The first is discussion, the second is advocacy and the third is incitement.¹⁰ Right to freedom of speech is added to make people aware regarding different ideas and views. Thus it involves right to know.¹¹ It is provided in the Constitution to make people aware regarding public act or act done in public way.¹² Man as a rational being desires to do many things but in civil society his desire will have to be controlled with the exercise of similar desire by other individuals.¹³

However, the right above guaranteed is not absolute and comes with reasonable restrictions.¹⁴ The right that springs from Article 19(1) (a) is not absolute and unchecked. There cannot be any liberty absolute in nature and uncontrolled in operation so as to confer a right wholly free from any restraint. If there will not be any restriction, freedoms may become synonymous with anarchy and disorder. Thus the State has a duty to protect itself against certain unlawful actions and therefore, may enact laws which would ensure such protection. The important reason behind the restriction is that hundreds of millions of our people have been enfranchised. A large number of them yet are illiterate. So speaking anything before them can cause any dangerous situation due to lack of their understanding. Freedom in general sense denotes absence of external interference whether to suppress or to constrain. To be free is essentially to be free from something arbitrary impediment to action; some denominating power or authority.

Right to information which is part and parcel of Article 19(1) (a) is not absolute and several areas where such information need not be furnished. For setting up a free society in a democratic set up mind set of each individual would be also necessarily to be free from corrupt and irrational thinking.¹⁵ Each right guaranteed under the Constitution comes with reasonable restriction and these restrictions are enumerated for the achievement of the object of that

⁹ State of West Bengal Vs Subodh Gopal Bose AIR 1954 SC 92

¹⁰ Shreya Singhal Vs Union of India (2013) 12 SCC 73

¹¹ *Supra Note 4*

¹² State of U.P. Vs Rajnarain (1975) 4 SCC 428

¹³ A.K.Gopalan Vs State of Madras 1950 SCR 88

¹⁴ Article 19 (2) speaks that nothing in sub-clause (b) of Clause (1) (a) shall affect the operation of any existing law, or prevent the State from making any law, in so far as such law imposes reasonable restrictions on the exercise of the right in the interests of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality, or in relation to contempt of court, defamation or incitement to an offence.

¹⁵ Indira Jaising Vs Registrar General (2003) SC 29

particular law. Right to freedom of speech and expression is guaranteed but it is not absolute. Crossing the level of reasonable restriction is a kind of disregard to judiciary, as it is the interpreter of the Constitution and people must hear the voice of their guardian. In India, under Article 19(2) the wide concept of imposition of reasonable restrictions on the exercise of the right to freedom of speech and expression in the security of the state, friendly relations with foreign states, public order, decency, morality or in the relation to contempt of court, defamation or can be brought under general head “public order” in its most comprehensive sense. Reasonable restriction has to be determined in an objective manner and from the standpoint of the interests of the general public and not from the point of view of the person upon whom the restrictions are imposed or upon abstract consideration.¹⁶ One may not give regard to each actions of Government but must have regard to the judiciary.

Supreme Court has held that violation of right guaranteed under Article 19(1) (a) can cause moral depravity and shocking erosion of public decency. If it is immensely gross and badly violate the standard of morality of a society, then the maker will be subject of liability.¹⁷ Supreme Court has observed that right to freedom of speech leads us to discussion of what is the content of the expression ‘freedom of speech and expression’. Mere discussion or advocacy of a particular cause however unpopular is at the heart of Article 19(1) (a). It is only when such discussion or advocacy reaches the level of incitement that Article 19(1) (a) kicks in its restrictions. Unless enlightened society actively participates in the administration of justice, true democracy never sustains.¹⁸ It is at this stage that a law may be made curtailing the speech and expression that leads inexorably to or tends to cause public disorder or tends to affect the sovereignty and integrity of India, the security of the state, friendly relations with foreign states etc.¹⁹

The Court has held that it is as difficult as it is to anticipate the right to any freedom or liberty without any reasonable restrictions, equally difficult it is to imagine the existence of a right not coupled with a duty. The duty may be direct or indirect consequence of a fair assertion of the right. Part III of the Constitution of India although confers rights, still duties and restrictions are inherent there under.²⁰ There has to be a balance and proportionality between the right and restriction on the one hand and the right and duty on the other. It will create an imbalance, if undue or disproportionate emphasis is placed upon the right of a citizen without considering the significance of the duty. The true source of right is duty.²¹

¹⁶ The DMK Party Vs the State of Tamil Nadu (2001) SC 3435

¹⁷ K.A.Abbas Vs Union of India (1970)2 SCC 780

¹⁸ Ranjit Udeshi Vs State of Maharashtra (1965) 1 SCR 65

¹⁹ *Supra note 4*

²⁰ Re Ramlila Maidan incidents Vs Home secretary and other (2012) 5 SCC 1

²¹ *Ibid.*

The term 'social order' has a very wide connotation which has been mentioned as a ground of restriction on right to freedom of speech and expression. It includes 'law and order' 'public order' as well as 'the security of the States'. The 'security of the state' is the core subject and public order as well as law and order follow the same. In the case of **Dr.D.C. Saxena Vs Honourable Chief Justice of India**²², the honourable Supreme Court has observed that there has to be a balance and proportionality between the right and restriction on the one hand and the right and duty on the other. It will create an imbalance, if undue or disproportionate emphasis is placed upon the right of a citizen without considering the significance of the duty. The true source of right is duty. The Court again has held, "if maintenance of democracy is the formation for free speech, society is equally entitled to regulate freedom of speech and expression by democratic action. The reason is obvious, viz., that society accepts free speech and expression and also puts limits on the right of the majority. Interest of the people involved in the acts of expression should be looked at not only from the perspective of the speaker but also the place at which he speaks, the scenario, the audience, the reaction of the speech and the place and the forum in which the citizens exercises his freedom of speech and expression. The state has legitimate interest, therefore to regulate the freedom of speech, which liberty represents the limits of the duty of restraint on speech or expression not to utter defamatory or libelous speech. Each is entitled to dignity of person and of reputation. So this freedom is tolerated so long as it is not malicious or libelous, so that all attempts to foster and ensure orderly and peaceful public discussion or public good should result from free speech in the market place. If such speech and expression was untrue and as reckless as to its truth, the speaker or the author does not get protection of the Constitutional rights.

In the democratic society governed by rule of law, in making speech or in imparting ideas to mass audience through any medium one must take into consideration of some another important aspects, such as territorial integrity or public safety, prevention of disorder or crime, protection of health or morals etc. Thus restriction is important component of this freedom for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary. The fundamental rights enshrined in the Constitution of India in part III itself being made subject to reasonable restrictions, the laws so enacted to specify certain restrictions on the right to freedom of free speech have to be construed meaningfully and with the Constitutional object in mind.²³

In deciding the reasonableness of restrictions imposed on any fundamental right the court should take into consideration the nature of the right allowed to have been infringed, the underlying purpose of the restrictions imposed, the disruption of the imposition and the prevailing conditions including the social values whose needs are sought to be satisfied by means of the restrictions. It is a right which is always very zealously guarded by the Supreme

²² (1996)5 SCC 216

²³ Babulal ParateVs State of Maharastra (1961) SCR 423

Country.²⁴ The term ‘In the interest of’ makes the ambit of protection very wide. Again the term ‘Reasonable’ has been interpreted by the court in such a way that “In order to be reasonable, restrictions must have reasonable relation to the object which it seeks to achieve. If the restriction has no proximate relationship to the achievement of public order, it cannot be said that the restriction is reasonable.²⁵

Reasonableness is not a static concept and it may vary from time to time. What is considered reasonable at one point of time may become arbitrary and unreasonable at a subsequent point of time. The colonial law has become unreasonable and arbitrary in independent India which is a sovereign, democratic, republic. But none of the judicial interpretation empowers any of us to impart our thinking, idea through using the means which fall within any of the ambit provided under the restriction clause. The court has held that the word ‘public order’ mentioned in Article 19(2) is an expression of wide connotation and signifies that the State of tranquility which prevails among the members of political society as a result of the internal regulations enforced by the Government which they have established. Again the honourable Supreme Court has observed that Public safety is a part of the wider concept of public order and if it was intended to signify any matter which falls within the ambit of ‘public order’. The Constitution has allowed the imposition of restriction on the freedom of speech and expression also in cases where danger to the State is involved.²⁶

Public order is synonymous with public safety and public tranquility. It is the presence of disorder involving breaches of local significance in contradistinction to national upheavals, such as revolution, civil strife, war, affecting the security of the State. Thus there must be proximate nexus between the speech and the public order.²⁷

Supreme Court has once observed that the word ‘public order’ is synonymous with the French phrase ‘order publique’ which includes any acts which are dangerous to the security of the State and also acts which are comprehended by the expression ‘order publique’ but not the acts which disturb only the serenity of others.²⁸ One can make a link between maintenance of public order, and security of the State by imagining three concentric circles. Law and order represents that largest circle within which is the next circle representing public orders and the smallest circle represents the security of the State.²⁹

²⁴ *Supra Note 4*

²⁵ The Superintendent, Central... Vs Ram Monohar Lohia AIR 1960 SCR (2) 821

²⁶ The Secretary Ministry of... Vs Cricket Association of Bengal &... AIR 1995 SCC (2) 161

²⁷ Mr. Mahesh Bhatt and Kasturi and others Vs Union of India and another 2008 BUSLR 366 Del 147

²⁸ Madhu Limaye Vs Sub-Divisional Magistrate AIR 1971 SCR (2) 711

²⁹ *Ibid.*

If maintenance of democracy is the foundation for the speech, society is equally entitled to regulate freedom of speech and expression by democratic action. The reason is that society accepts free speech and expression and also puts limits on the right of the majority. Interest of the people involved in the acts of expression should be looked at not only from the perspective of the speaker but also the place at which he speaks, the scenario, the audience, the reaction of the publication, the purpose of the speech and the place and the forum in which the citizen exercises his freedom of speech and expression. The State has legitimate interest, therefore to regulate the freedom of speech which liberty represents the limits of the duty to restraint on speech or expression not to utter defamatory or libelous speech and expression. Each is entitled to dignity of person and of reputation. Freedom of speech and expression is tolerated so long as it is not malicious or libelous, so that all attempts to foster and ensure orderly and peaceful public discussion or public good should result from free speech in the market place. If such expression was untrue and as reckless as to its truth, the speaker or the author does not get protection of the Constitutional rights.³⁰

The United States Supreme Court has also held that there should be a compromise between the interest of freedom of expression and social interests. The court's commitment to freedom of expression demands that it cannot be suppressed unless the situations created by allowing the freedom are pressing and the community interest is endangered. The anticipated danger should not be remote, conjectural and farfetched. It should have proximate and direct nexus with the expression.³¹ The words of Justice Frankfurter was quoted in the case of **Re Ramlila Maidan incident Dt Vs Home secretary and others**,³² who applied the doctrine of balancing of interests adopted by United States Supreme Court to resolve the conflict between individual rights and necessary functions of Government. It is the case where judges who often applied the above mentioned balancing formula and concluded that "while the court has emphasized the importance of "Free Speech", it has recognized that free speech not in itself a touchstone. The Constitution is not unmindful other important interests, such as public order, if free expression of ideas is not found to be the over balancing considerations. Freedom of speech does not comprehend the right to speak on any subject at any time.³³ The United States Supreme Court has once held that "The character of every act depends upon the circumstances in which it is done. The most important significant protection of free speech would not protect a man in falsely shouting fire in a theatre and causing a panic. It does not even protect a man from injunction against uttering words that have all the effect of force. The question in every case is whether the words used are used in such circumstances and are of such a nature as to

³⁰ Dr. D.C. Saxena Vs Honourable Chief Justice of India (1996) 5 SCC 216

³¹ *Supra Note 4*

³² AIR 2012

³³ Schenck Vs United States 63 Led 1173

create a clear and present danger that they will bring about the substantive evils that Government has right to prevent.³⁴

1.3 discussion of instance relating to Freedom of Speech and Expression

Freedom of Expression constitutes one of the basic conditions for its progress and development of every person. But in exercising this right one must be careful with respect to pluralism, tolerance and broadmindedness without which there is no democratic society. From another standpoint, whoever exercises his freedom of expression undertakes duties and responsibilities the scope of which depends on his situation and the technical means he uses.

Indian Constitution to some extent can be said to be a liberal Constitution which covers rights and freedoms of each individual including hardened criminals and unpatriots also. Now a day's individuals are taking the benefit of this liberality on this presumption that whatever he likes he can do and afterwards will take the Constitutional protection. Umar Draz was die hard fan of Indian batsman Virat Kohli and as a sign of love and respect to the cricket he hoisted Indian flag in his home in Punjab Province, about 200 km from Lahore and later on was arrested on the complaint that he hoisted the Indian flag on the roof of his house. And police raided his house also. Later on a case was registered against him under section 123-A of Pakistan Penal Code.³⁵ But In India, basically in Jammu and Kashmir in each day some individuals are involving in such types of anti-national activities, and Government cannot do anything, even people used to feel proud of such violators of law. Unlawful activities are done by not more than 10% people but all have to suffer for these. These incidents basically make the State intolerant due to which State like Jammu and Kashmir is now deviated from outside world. In coming days situation is going to be more serious and it is the right time to evolve proper solution and it can be done by cooperation and people's participation rather than revenge and violence.

The Dadri lynching incident is one of the important example relating to misinformation and intolerance in our Country. One U.P. home guard forced the temple priest to make an announcement in the locality about the Muslim family storing and consuming beef. Accordingly the priest had done that and a group of youths being provoked by that announcement went to the victim's home and he was beaten to death and his son was seriously injured.³⁶ This is the outcome of spreading of misinformation which ultimately caused intolerance among Hindus and Muslims of that area.

³⁴ A.G. Noorani, *Constitutional Questions & Citizen's Rights* (Oxford University Press, New Delhi, 2006) pp. 318-319.

³⁵ Staff Reporter: *Kohli's Pakistan fan faces 10 year jail for hoisting tricolor* (The Hindu, New Delhi, 29th January, 2016) p. 9.

³⁶ Aditi Vatsa, *Act against Akhlaq family in 20 days or else: Dadri chorus*, June 7, 2016, available in indianexpress.com.

Another violation of Freedoms of Expression has been violated in this instance by the Forensic laboratory. It was sent to two Laboratories and one of it found that the piece of meat found in their home was mutton and another laboratory told that actually it was beef. Thus until and unless it becomes clear it should not be disclosed to public, because again people can start agitation on it.

Making of seditious voice or speech can be said to be violation of Right guaranteed under the Article 19 (1) (a). Justice Fitzgerald once said that sedition is a crime against society, nearly allied to that of treason, and it frequently precedes treason by short interval. Sedition in itself is a comprehensive term, and it embraces all those practices, whether by word, deed or writing, which are calculated to disturb the tranquility of the State, and lead ignorant persons to endeavour to subvert the Government and the laws of the empire. Sedition has been described as disloyalty in the action and the law considers as sedition all those practices which have for their object to excite disturbance, or to lead to civil war, to bring into hatred or contempt the sovereign or the Government, the laws or the Constitution of the realm, generally all endeavours to promote public disorder.³⁷

1.4 Conclusion and recommendations

Law is made to bring enlightenment and harmony to all. It is made to maintain safety, security to us and in this sense each law seeks positive interpretation. Negative interpretation of law may cause disturbance in the society. It is made to maintain safety, security to us and in this sense every law seeks positive interpretation. Negative interpretation of law may cause destruction to societal progress. In a country governed by rule of law, no one is entitled to do what he likes, because society runs through a chain system and collapse of one branch may cause destruction to another branch and result will be mass destruction. Right to know is the foundation of democracy, but right to speak anything one likes is not. Again misinformation, wrong information is not guaranteed under Article 19(1) (a).

Freedom of speech is not freedom to state whatever one wants or an absolute right under the Indian Constitution. The freedom can be broadly interpreted, but cannot be unnaturally stretched lest it becomes self-destructive. Rights to be enjoyed by all require self discipline and respect for other's right. Recognition under Article 19(1) (a) is to promote and enjoy this freedom and not to misuse it. To hold otherwise will amount to negation of the very object behind recognition of Fundamental Rights.

Every organ of democracy Executive, Judiciary whatever it can be should be given a favourable environment to discharge its obligations without interference of other influential factors. Unexpected events like hoisting of Pakistani Flake, shouting of slogans like Pakistan Jindabad etc. cannot solve the existing problems, but can create an atmosphere which actually makes the existing system fragile and inefficient.

³⁷ Justice Fitzgerald has observed the words in Reg Vs Alexander Mortin Sullivan and it has been quoted in Kedar Nath Singh Vs State of Bihar 1962 SCR (2) 769.

Right guaranteed under this Article is available to public with this object that people can cooperate the Government in its ruling and its decision making. There is no rationality behind the doing of such act which can disrepute other and can make Government instable, because with such attitude one cannot change the Government, rather it can make the Government instable. Object of Article 19(1) (a) is to make Government popular which can be accessed by each citizen. Enlightened citizens can enhance democratic values but ill minded or irrational acts of individual can do nothing but destruction of Rule of Law. Recently Chief Justice of India TS Thakur said that there is no intolerance towards any community in the country and it would never happen till rule of law and independent judiciary is there to protect their interests.³⁸ Our each act whatever it may be necessarily should be of such nature that represents different colours and love for our motherland. Recently the Supreme Court has rightly observed that said that violation of right to freedom of speech and expression in the name of anti-national slogans or such kinds of immoral activities can be considered as a kind of infection from which such students are suffering which needs to be controlled or cured before it becomes an epidemic.³⁹ Political obligation may be different, but the country should be loved. Ideological dissent against the Government can be welcome, but shouting of slogans against one's motherland are unacceptable to all patriots. Slogans like 'India go back' are nothing but can be said to be a party of conspiracy by antinational forces to incite people and polarize the country.

One another important aspect to which judiciary must give its concentration is the equality of law. Article 14 says that all are equal before the eye of law. So similar action must be taken to all the violators of laws whether it is by students or by the politicians and someone else.

Essentially good Government necessitates peace and security and whoever violates it by bombs or books social tranquility should necessarily be dealt with strictly by the legal system. Since freedom is for action, and action is for an end, thus the end which it tries to accomplish should be useful and relevant. Thus restraint can make freedom useful and in the same way unnecessary restraint may be a mockery of freedom. So, there should be balance between law and reasonable restriction.

This is the time to settle the issues which frequently causes controversy between right and restriction, otherwise the balance between independence of judiciary, freedom of speech and respect of the rights of the individuals will be difficult to continue.

³⁸ Amit Anand Choudhury, *There is no intolerance in society towards any community: CJI Thakur*, December 6, 2015, available in www.timesofindia.indiatimes.com.

³⁹ Kanhaiya Kumar Vs State of NCT of Delhi 2016