



INDIAN JOURNAL OF
LEGAL REVIEW

VOLUME 4 AND ISSUE 1 OF 2024

INSTITUTE OF LEGAL EDUCATION



INDIAN JOURNAL OF LEGAL REVIEW

APIS – 3920 – 0001 | ISSN – 2583-2344

(Free and Open Access Journal)

Journal's Home Page – <https://ijlr.iledu.in/>

Journal's Editorial Page – <https://ijlr.iledu.in/editorial-board/>

Volume 4 and Issue 1 of 2024 (Access Full Issue on – <https://ijlr.iledu.in/volume-4-and-issue-1-of-2024/>)

Publisher

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Chairman of Institute of Legal Education (Established by I.L.E. Educational Trust)

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LAW OF SEDITION

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BEST CITATION – NIHAL JAISWAL, LAW OF SEDITION, *INDIAN JOURNAL OF LEGAL REVIEW (IJLR)*, 4 (1) OF 2024, PG. 148-150, APIS – 3920 – 0001 & ISSN – 2583-2344.

INTRODUCTION

Every citizen has been given freedom to speak and express their views under Article 19(1)(a) of the Indian Constitution. However, this freedom is not absolute and some reasonable restrictions have been imposed on freedom of speech and expression under Article 19(2). But when a person does an act by his words, signs or representation which is held to be contemptuous towards the Government, then such act is punishable under section 124-A of Indian Penal Code, 1860. Sedition is an offence that criminalizes speech that is regarded to be disloyal to or threatening to the state. The provision of Section 124A is very wide and it covers the act of defamation of the Government excluding any criticism in good faith of any particular measures or acts of administration.

LAW OF SEDITION

The term 'Sedition' means "conduct or speech which results in mutiny against the authority of the state". Law of Sedition deals with section 124A of IPC, 1860, is considered as a reasonable restriction on freedom of speech. It was drafted by Thomas Macaulay and introduced in 1870.

HISTORY

In British Era, Section 124A was not a part of Indian Penal Code, 1860. But this Section was inserted into IPC by the IPC (Amendment) Act, 1870. By an amending act of 1898, this provision was later replaced by Section 124A. According to the British Era Law, under the old IPC, "Exciting or attempting to excite feelings or disaffection was considered as Sedition".

MEANING OF SEDITION UNDER SECTION 124A OF IPC, 1860

"Whoever, by words, either spoken or written, or by signs, or by visible representation, or otherwise, brings or attempts to bring into hatred or contempt, or excites or attempts to excite disaffection towards the Government shall be punishable with Life Imprisonment".

What are the activities that are Seditious in nature?

In India, what constitutes as 'Sedition' is highly debated. As per the Indian Penal Code, for an act to be called "seditious", it should have the following components:

1. Any words, which can be either written or spoken, or signs which include placards/posters (visible representation)
2. Must bring hatred/contempt/disaffection against the Indian Government
3. Must result in 'imminent violence' or public disorder.

AS PER THE INTERPRETATION OF THE COURT ON SECTION 124-A OF THE INDIAN PENAL CODE, 1860 THE FOLLOWING ACTS HAVE BEEN CONSIDERED AS "SEDITION"

- Raising of slogans against the government – example – "Khalistan Zindabad" by groups. Raising of slogans by individuals casually once or twice was held not to be seditious.
- A speech made by a person must incite violence / public disorder for it to be considered as seditious. Subsequent cases have gone to further interpret it to

include “incitement of imminent violence”.

- Any written work which incites violence and public disorder.

Sedition found in other Laws

- The following are some laws which cover Sedition law:
- Indian Penal Code, 1860 (Section 124A)
- The Code of Criminal Procedure, 1973 (Section 95)
- The Seditious Meetings Act, 1911 &
- The Unlawful Activities (Prevention) Act (Section 2(o) (iii)).

SEDITION AND ARTICLE 19(1)(A) OF THE INDIAN CONSTITUTION

The Concept of Free Speech has attained global importance and all have supported it as a basic fundamental right of a human being. In India, such rights are provided under Part-III and Article 19 of the Indian Constitution. The said right has no geographical indication because it is the right of the citizen to gather information with others and to exchange thoughts and views within or outside India.

Courts have been given the power to act as guarantors and protectors of the rights of the citizen. Article 19(1)(a) secures the ‘freedom of speech and expression’ but it has been bound by the limitation which has been given under Article 19(2) which states the permissible legislative abridgement of the right of free speech and expression.

In *Niharendu Dutt's* case, for sedition, the Federal Court had taken chance to interpret the Section 124A of the IPC in alignment with British Law. It had ruled that tendency to disturb public order was an essential element under Section 124A. The Privy Council held that the incitement to violence or a tendency to disturb public order was not necessary under section 124A.

In *Tara Singh v. State*, the validity of Section 124A of the IPC was directly in issue. In this case, it curtailed the freedom of speech and expression, so the East Punjab High Court declared this section void.

By the Constitution (First Amendment) Act, 1951, two changes were introduced relating to freedom of speech and expression, are:

1. It considerably widened the latitude for restrictions on free speech by adding further grounds;
2. The restriction imposed on Article 19(1)(a) must be reasonable.

INDIAN FREEDOM FIGHTERS WHO WERE CHARGED WITH SEDITION DURING THE FREEDOM STRUGGLE

Gandhiji had written three ‘politically sensitive’ articles in his weekly journal *Young India*, which was published from 1919 to 1932 so that he was jailed on the charges of sedition. He was sentenced to a six-year jail term.

Three charges were imposed on him:

1. Tampering with loyalty;
 2. Shaking the manes and
 3. Attempt to excite disaffection towards the British Government.
- He wrote the first part of his autobiography during his imprisonment- *The Story of my Experiments with Truth*- and about the Satyagraha movement in South Africa. He was released after two years as he was suffering from appendicitis.

Bal Gangadhar Tilak was convicted under this [10]

Bal Gangadhar Tilak was charged with sedition on two occasions, are:

1. Firstly, his speeches that allegedly incited violence and resulted in the killings of two British Officers for which he was charged with Sedition in 1897. He was convicted but got bail in 1898.
2. Secondly, he was defending the Indian revolutionaries and called for immediate Swaraj or self-rule in his newspaper ‘*Kesari*’ for which he was convicted under sedition and sent to Mandalay, Burma from 1908 to 1914.

In today’s scenario, the sedition law expects that citizens should not show enmity, contempt

towards the Government established by the law.

- There are some dark areas which lies between actual law and its implementation.
- Thus, the laws need to amend those dark areas.
- In India, there are so many divisive powers acting together in which such laws are necessary evils in a country like India.
- It is the need for such law that those activities which are promoting violence and public disorder should be stopped.

FAMOUS TRIALS OF SEDITION

Kashmiri Students

- 60 Kashmiri Students were cheering for Pakistan in a Cricket Match against India. So they were charged with Sedition in March 2014.

Folk Singer S Kovan

- He was charged with sedition for two songs criticising the state government for allegedly profiting from state-owned liquor shops at the expense of the poor.

Binayak Sen

- He was a pediatrician by profession and was allegedly supporting Naxalites. For which he was charged with Sedition by Chhattisgarh Government.

Kanhaiya Kumar, Student of JNU

- JNU Student Leader, Kanhaiya Kumar was arrested in February 2016 on the charge of sedition. He was arrested for inciting violence through unlawful speech, allegedly spread not all over India but also across the world. This arrest has raised political turmoil in the country by which academicians and activists protesting against this move by the Government. On March 2, 2016, the videos purporting to show this activity were found to be fake and he was released after three weeks in jail.

CONSTITUTIONALITY OF LAW OF SEDITION IN INDIA

Balwant Singh and Anr v. State of Punjab

- After the assassination of Prime Minister Indira Gandhi, the accused had raised the slogan “Khalistan Zindabad” outside a cinema hall.
- It was held that two individuals casually raising slogans could not be said to be exciting disaffection towards the Government. Section 124A would not apply to the circumstances of this case.

Romesh Thapar v. State of Madras

- The petitioner contended before the Supreme Court that the said order of banning his paper ‘Cross Roads’ by the Madras State.
- It has contravened his Fundamental Right of freedom of speech and expression conferred on him by Article 19(1) of the Constitution.
- The Supreme Court held that the Article 19(2) where the restriction has been imposed only in the cases where problem to public security is involved. Cases where no such problem could arise, it cannot be held to be constitutional and valid to any extent.
- Supreme Court quashed the order of Madras State and allowed the application of the petitioner under Article 32 of the Constitution.

CONCLUSION

Sedition is the serious offence in the violation of Article 19, So there is a need that sedition laws should have expressly contained words which satisfied the restrictions of Article 19(2). The purpose of restricting speech under Sedition Act is the protection of National Security. Sedition laws should be interpreted and applied according to the guidelines given by the Supreme Court.