

THE NINTH SCHEDULE: SHIELD OR SWORD? AN ANALYSIS OF THE I.R. COELHO JUDGMENT

Manya Agarwal¹

ABSTRACT

The Supreme Court's ruling in *I.R. Coelho v. State of Tamil Nadu* (2007) marks a significant milestone in Indian constitutional jurisprudence by fundamentally altering our understanding of the Parliament's amending power and the scope of judicial review. This work analyzes the *I.R. Coelho* decision from both a doctrinal and an analytical standpoint using the FILAC method, focusing on its key holding that any law inserted into the Ninth Schedule after 24 April 1973 will be subject to judicial review if it violates the Basic Structure of the Constitution. Placing the case within the broader constitutional framework shaped by the *Kesavananda Bharati*, *Indira Gandhi v. Raj Narain*, *Minerva Mills*, and *Waman Rao* judgments, this work examines how this judgment advances the Basic Structure Doctrine. Particular attention is paid to the Court's articulation of the "rights test" and the "essence of the right test," to evaluate the constitutionality and validity of the laws in the Ninth Schedule that will help prevent the erosion of fundamental rights—especially those protected by the "Golden Triangle" of Articles 14, 19, and 21. This work further analyses the theoretical foundations of constitutionalism while considering comparative constitutional insights from jurisdictions such as Germany, Canada, and the United Kingdom. By analyzing subsequent judicial reliance on this judgment, the work also addresses how it remains an important and applicable source for courts today when considering issues such as over-regulation of legislative power, institutional independence, and fundamental rights and represents a profound assertion of constitutional supremacy.

Keywords: *Ninth Schedule, Basic Structure Doctrine, Judicial Review, Fundamental Rights, Constitutional Amendments.*

¹ Symbiosis Law School, Noida

INTRODUCTION

This landmark case of *I.R. Coelho v. State of Tamil Nadu*²(2007) clarified the scope of Parliament's power to amend the Constitution, particularly in the context of immunizing laws from judicial review by adding them to the Ninth Schedule³. The Court interpreted whether Parliament can provide blanket immunity to the laws by adding them to the Ninth Schedule, or whether they are subject to judicial scrutiny if they violate the basic structure. This case is significant when it comes to the supremacy of the basic structure and reaffirming the judiciary's role as the guardian of the Constitution.

This ruling, issued by a 9-judge Bench on 11 January 2007, is one of the more important constitutional pronouncements in the post-independence history of Indian law. It has put to rest decades of uncertainty with respect to the relationship between parliamentary amendatory power, the Ninth Schedule, and the Basic Structure Doctrine. The Bench has concluded that Article 31-B⁴ cannot be an open-ended immunity to constitutional review and reaffirmed the basic principle that no organ of the State, including Parliament, is above the Constitution. In the words of M.P. Jain in *Indian Constitutional Law*: "The Constitution is supreme, and Parliament, however powerful, cannot transgress with its basic features."⁵ The judgment in the *I.R. Coelho* case provided an institutional basis to this principle and was expressly stated in relation to the immunity of the Ninth Schedule.

This work is undertaken with the specific objective of examining the doctrinal basis and analytical implications of the "*I.R. Coelho*" ruling for the relationship between Parliament's amending power and the Basic Structure Doctrine. In particular, the objectives of this study are: (1) to trace the evolution of the Ninth Schedule and Article 31-B and the circumstances that necessitated judicial intervention; (2) to analyze the Court's articulation of the "rights test" and the "essence of the right test" as tools for evaluating Ninth Schedule legislation; (3) to situate the judgment within comparative constitutional practice in Germany, Canada, and the United Kingdom; and (4) to assess the continuing precedential significance of *I.R. Coelho* in subsequent constitutional adjudication.

²*I.R. Coelho v. State of Tamil Nadu*, (2007) 2 SCC 1.

³INDIA CONST.

⁴INDIA CONST. art. 31-B.

⁵M.P. JAIN, INDIAN CONSTITUTIONAL LAW (9th ed. 2018).

FACTS OF THE CASE

The case originated when two specific statutes, the “Gudalur Janmam Estates (Abolition and Conversion into Ryotwari) Act, 1969”⁶(Janmam Act) and the “West Bengal Land Holding Revenue Act, 1979”⁷, inserted in the Ninth Schedule, which provides immunity from judicial review under Article 31-B, were challenged. By adding these Acts into the Ninth Schedule through the 34th and 66th Amendments, Parliament aimed to make them entirely immune from future challenges and judicial review. Some portions of both acts were held to be unconstitutional by the Supreme Court as violating fundamental rights. The Parliament responded by adding these statutes to Schedule IX of the Constitution with the intention to shield it from further judicial scrutiny.

The five-judge bench referred this matter to a higher bench of nine-judges in light of the *Waman Rao* and *Minerva Mills* precedents. Taking the principle of basic structure from the *Kesavananda Bharati* Case as the core of the analysis, it was clarified whether such laws were immune from basic structure challenges and judicial scrutiny or not.

The broader factual matrix involves the evolution of the Ninth Schedule, analysis and expansion of the scope of the basic structure, tests for the validity of laws under the Ninth Schedule, and examination of Articles 31A⁸ and 31B in light of the issues involved in this case. Arguing from the perspective of their Right to Property under the zamindari system, the landowners affected by the Janmam Act contested that insertion of the Act in the Ninth Schedule violated their fundamental right under Part III and needs to be checked upon. No new facts evolved in the case. It was referred to a higher bench by the Supreme Court, given its constitutional importance.

The First Amendment Act, 1951⁹ created the Ninth Schedule, initially with only 13 entries related to land reform. However, as time progressed, Parliament increasingly utilized the Ninth Schedule as a legislative safe haven where laws struck down by courts, or those feared to face legal challenges were placed. By the time of the *I.R. Coelho* judgment, the Ninth Schedule contained 284 entries that had little or no connection to agricultural reforms. The introduction of the Ninth Schedule created the context for the nine-judge Bench to determine whether the

⁶Gudalur Janmam Estates (Abolition and Conversion into Ryotwari) Act, 1969.

⁷West Bengal Land Holding Revenue Act, 1979.

⁸INDIA CONST. art. 31-A.

⁹Constitution (First Amendment) Act, 1951.

amending power of the Constitution was used as a means of evading the Constitution's limitations.

ISSUES

1. “Whether on and after 24th April, 1973, when the basic structure doctrine was propounded, it is permissible for the Parliament under Article 31B to immunize legislation from fundamental rights by inserting them into the Ninth Schedule?”¹⁰
2. What effect do such insertions have on the power of judicial review of the Court, especially in light of the basic structure?
3. To what extent and in what nature can Article 31-B provide immunity? 4. To what extent is judicial scrutiny available to determine whether such insertions in Schedule IX alter or violate the fundamentals of the Constitution?
5. What is the nature of the test of validity of laws added to the Ninth Schedule of the Constitution?

LAWS APPLICABLE

4.1. Constitutional provisions:

1. **Ninth Schedule-** This schedule of the Constitution lists laws that are immune under Article 31-B. It was originally meant for land reforms, but later included diverse statutes.
2. **Article 368-** Confers power to the Parliament to amend the Constitution and prescribes the procedure therefor.¹¹
3. **Article 31-A-** “Saving of laws providing for acquisition of estates, etc.”¹²
4. **Article 31-B-** Validates certain Acts and Regulations which are a part of the Ninth Schedule, notwithstanding anything inconsistent with fundamental rights, providing immunity from judicial review.¹³ Initially, for agrarian reforms, but it expanded broadly.
5. **Article 32-** This is a fundamental right. It provides remedies for the enforcement of rights conferred by Part III through writs by moving to the Supreme Court.

¹⁰I.R. Coelho, supra note 1.

¹¹INDIA CONST. art. 368.

¹²INDIA CONST. art. 31-A.

¹³INDIA CONST. art. 31-B.

6. **Articles 14, 19, 21-** These articles are together called the Golden Triangle as interpreted by the judiciary. They are the Right to Equality, the Right to Freedom, and the Right to Life and Personal Liberty, and constitute the constitutional values.

4.2. Precedents and Case Laws:

1. ***His Holiness Kesavananda Bharati, Sripadagalvaru v. State of Kerala & Anr., (1973)***¹⁴ (Basic Structure Doctrine) - In this case, the court held that Parliament has the power to amend the Constitution but not to destroy it, i.e., Parliament cannot amend the Constitution in such a way that it alters or destroys the “basic structure” of the Constitution. The Basic Structure principle was propounded in this landmark judgment.
2. ***“Minerva Mills Ltd. & Ors. v. Union of India & Ors., [1980]”***¹⁵- The Supreme Court held that giving absolute primacy to the Directive Principles disturbs the harmony of the Constitution, which is the basic feature. The Court emphasized the need for a balance between the Fundamental Rights and Directive
3. Principles holding that absolute primacy to DPSPs violates the basic structure. 4. ***“Smt. Indira Nehru Gandhi v. Raj Narain, (1975)”***¹⁶- In this case, the objectivity of the Preamble was defined. The Supreme Court clarified that while the Preamble can be amended, its core objectives and basic features cannot be destroyed.
5. ***Waman Rao and Ors. v. Union of India and Ors., (1981)***¹⁷- The Court held that laws added into the Ninth Schedule before 24 April 1973 (*Kesavananda Bharati case*) were immune from judicial scrutiny, but those added afterwards would be open to judicial review for basic structure violations.
6. ***“Maneka Gandhi v. Union of India, [1978]”***¹⁸- In this case, the principle of due process of law was applied, and natural justice was applied for the first time.
7. ***“L. Chandra Kumar v. Union of India (1997)”***¹⁹- Judicial review was held to be a part of

the basic structure and cannot be amended by Parliament.

¹⁴Kesavananda Bharati v. State of Kerala, (1973) 4 SCC 225.

¹⁵Minerva Mills Ltd. v. Union of India, (1980) 3 SCC 625.

¹⁶Indira Nehru Gandhi v. Raj Narain, 1975 Supp. (1) SCC 1.

¹⁷Waman Rao v. Union of India, (1981) 2 SCC 362.

¹⁸Maneka Gandhi v. Union of India, (1978) 1 SCC 248.

¹⁹L. Chandra Kumar v. Union of India, (1997) 3 SCC 261.

4.3. Constitutional and Jurisprudential Principles:

Principles of Constitutionalism and Separation of Powers- The principle of constitutionalism is held to be a legal principle requiring control on the powers that the Government exercises so that it can be ensured that the democratic principles upon which the principle is based are not destroyed. This principle reiterates a model of checks and balances of the separation of powers, which demands a diffusion of powers, while keeping in mind different independent centers of decision-making. A large number of judgments have reiterated that the separation of powers is one of the basic features of the Constitution and a part of the basic structure.

4.4. Literature:

The scholarly literature is an essential foundation for the legal principles at issue. H.M. Seervai was both prescient and accurate in his assertion that if Parliament has the power to alter the secular character of the State by enacting a constitutional amendment under its constituent powers, it cannot do so through the passage of any law passed under its legislative powers; consequently, enacting such a law would constitute a prohibited act. This very reasoning was expressly acknowledged, accepted, and incorporated by the nine-judge bench in their decision. The literature of Granville Austin²⁰, as relied upon by the Court in *Minerva Mills* case to clarify what should be understood as the “conscience of the Constitution” in terms of the balance of interests between Parts III and IV of the Constitution, also provided necessary historical context for the Court's reasons for arriving at its decision.

Beyond these foundational works, recent scholarship has examined the doctrinal boundaries and

continuing significance of *I.R. Coelho*. Karishma D. Dodeja's analysis of the Ninth Schedule examines the consequences of *Coelho* and its subsequent clarification in *Glanrock Estate*, particularly the relationship between the Part III inquiry and the Basic Structure Doctrine. Yash Sinha's recent doctrinal analysis places *Coelho* within the broader development of the Basic Structure Doctrine and treats the judgment as a distinctive case involving laws that acquire constitutional protection through an amendment, while also examining the operation of the rights test and the essence of the right test. More recently, Seán Rainford's comparative study of

²⁰GRANVILLE AUSTIN, *THE INDIAN CONSTITUTION: CORNERSTONE OF A NATION* (Oxford Univ. Press 1966).

constitutional amendment powers in Ireland and India situates *Coelho* within the wider question of who has the final authority over constitutional change and notes the significance of subjecting Ninth Schedule legislation to Basic Structure review. These works show that existing scholarship has addressed the Ninth Schedule's contemporary relevance, the conceptual character of Basic Structure review, and the institutional implications of constitutional amendment.²¹²²²³

APPLICATION AND ANALYSIS

5.1. Judicial Review and Fundamental Rights' Protection

The landmark case of *I.R. Coelho v. State of Tamil Nadu*²⁴ is rooted in the complex background of tensions between constitutional amendments of fundamental rights under Part III of the Constitution of India and land reform legislation. The court applied the laws and core principles from the precedents to the facts by analyzing the evolution of Schedule IX and Article 31-B, testing them in the context of basic structure. "The *IR Coelho* case is the latest milestone in the judicial description of what constitutes the Basic Structure."²⁵ The Supreme Court held in this case that the ability to grant an absolute immunity at will is inconsistent with the doctrine of basic structure and, therefore, after April 24, 1973 (*Kesavananda Bharati Case*), the laws added to Schedule IX will not have absolute immunity from judicial review. Thus, the validity of such laws can be challenged before the judiciary on the basis of the basic structure. According to the case of *Waman Rao & Ors. v. Union of India & Ors.*²⁶, an Act inserted into the ninth schedule by a constitutional amendment can, even after it is included therein, be challenged on the ground that the provisions of the Act destroy or damage the basic structure of the Constitution.

It was analyzed and held by the court that under the principle of constitutionalism, diffusion of powers is required, which supports the checks and balances model of the separation of powers

²¹Karishma D. Dodeja, *Belling the Cat: The Curious Case of the Ninth Schedule in the Indian Constitution*, 28 NLSI REV. 1 (2016).

²²Yash Sinha, *Constitutional Ecdysis: How and Why the Indian Constitution May Test Its Original Provisions*, 16 NUJS L. REV. 186, 234 (2023).

²³Seán Rainford, *Constitutional Amendment and the Final Say in Ireland and India*, INT'L J. CONST. L. (2026), <https://doi.org/10.1093/icon/moag078>.

²⁴I.R. Coelho, *supra* note 1.

²⁵Pathik Gandhi, *Basic Structure and Ordinary Laws (Analysis of the Election Case & the Coelho Case)*, 4 INDIAN J. CONST. L. 47 (2007).

²⁶*Waman Rao v. Union of India*, *supra* note 16.

and necessitates different centers of decision-making. Though the Parliament has the power to restrict fundamental rights, future statutes cannot implicitly repeal laws protecting fundamental rights. The nine-judge bench of the Supreme Court in this case, through Sabharwal, CJ, opined: “The principle of constitutionalism is now a legal principle which requires control over the exercise of governmental power to ensure that it does not destroy the democratic principles upon which it is based.”²⁷

According to Learned CJ, “these democratic principles include the protection of fundamental rights, the doctrine of checks and balances, the separation of powers, and the principle of legality.”²⁸ The Supreme Court has coined the notion of common law constitutionalism to strengthen the protection of fundamental rights even against constitutional amendments. The fundamental nature of fundamental rights should be evaluated, given the enlightened perspective and evolution of these rights over time. The abrogation or abridgement of fundamental rights under Chapter III should, thus, be considered within a liberal interpretation.

The Court's view on judicial review as expressed in *I.R. Coelho* is based on what constitutional scholars call the counter-majoritarian role of the judiciary. As VN Shukla points out in his book *Constitution of India*²⁹: The Role of The Judiciary, the judiciary must ensure that parliamentary majorities cannot take away rights that have been placed beyond the reach of political decision-makers by the Constitution. The nine Judges that ruled on this case made the explicit statement that the responsibility to judge whether any particular law is constitutional lies with the judiciary. The Court also relied upon Hamilton's observation in *Federalist No. 78*³⁰ about how

critical independence for courts of law is when there are limits to government in constitutions, as well as to Montesquieu's warning in *The Spirit of Laws*³¹ that freedom ceases to exist when legislative, executive and judicial powers are located in one organisation. Theoretical foundations such as these are important because they indicate that the Court was articulating an international understanding of the foundation of constitutional government and not just interpreting one country's laws.

²⁷I.R. Coelho, *supra* note 1.

²⁸M.P. Jain, *supra* note 4.

²⁹V.N. Shukla, *CONSTITUTION OF INDIA* (13th ed. 2017).

³⁰Alexander Hamilton, James Madison & John Jay, *THE FEDERALIST* NO. 78 (1788).

³¹MONTESQUIEU, *THE SPIRIT OF LAWS* (1748).

5.2. The Two-Fold Test: Rights Test and Essence of the Right Test

The Hon'ble Court propounded a two-fold test to examine the scope and nature of the infringement of a Fundamental Right by any statute, which has to be protected under the Constitution. It is to be done by the application of the "rights test" and the "essence of the right" test, "considering the synoptic view of the fundamental rights in Part III as held in *Indira Gandhi's* case. Applying the above tests to the Ninth Schedule laws, if the infraction alters the basic structure, then such a law(s) will get no immunity under the Ninth Schedule"³² and will be subject to judicial scrutiny.

In order to protect the fundamental right under Article 32³³ The court said that the legislation added to the Ninth Schedule has to undergo the validity test of fundamental rights. No specific criteria or standard have been set for the insertion of laws in the Ninth Schedule. The result of such insertion is the nullification of the entire Part III of the Constitution. There is no constitutional check against such nullification. Referring to the *Minerva Mills* case, the court said that this amounts to an unrestricted nullification of Part III to the extent that it concerns Ninth Schedule legislation. Because of this reason, any insertion into the Ninth Schedule triggers Article 32 as part of the basic structure and is thus subject to judicial scrutiny in the context of fundamental rights under Part III.

There is a need for additional examination of the difference between the 'rights test' and the

‘essence of a right test’. The ‘rights test’ measures an immediate impact or effect. That is whether or not the law, with insertion into the Ninth Schedule, abrogates or abridges the right guaranteed under Part III. The ‘essence of the right test’ implemented previously as part of *M. Nagaraj judgment*³⁴ determines whether or not the essence or core of a fundamental right has been destroyed despite the fact that the fundamental right exists formally. Clarification of this by the court in I.R. Coelho held that when an entire chapter of fundamental rights is made inapplicable as a result of insertion in the Ninth Schedule, the less onerous essence of a right test cannot apply; the more onerous or rigorous rights test must apply. This distinction is analytically significant because it prevents Parliament from utilizing the Ninth Schedule as a mechanism to

³²I.R. Coelho, supra note 1.

³³INDIA CONST. art. 32.

³⁴*M. Nagaraj v. Union of India*, (2006) 8 SCC 212.

preserve the formal existence of the rights but, at the same time, to destroy the substantive content of those rights.

Comparative Constitutional Perspectives

The court interpreted this case in light of the basic structure doctrine propounded in the *Kesavananda Bharati* Case of 1973. Hon’ble court enumerated several features to be a part of the basic structure, such as equality, rule of law, judicial review, and separation of powers, Article 32, Golden Triangle Rule, and other virtues underpinning them, such as secularism and equality. The supremacy of the Constitution and its values is of paramount importance, and thus, a mechanism is given to test the validity of statutes and laws through an independent organ, viz., the judiciary. The judgment also makes references to comparisons in constitutional law and notes the similar approaches in Germany, Canada, and the UK to non-amendable ‘core’ aspects of constitutions. Also, the judgment employs theoretical perspectives: “rights are not State gifts, but intrinsic pre-political entitlements; constituent power is not the same as the power to ‘rewrite’ the basic structure.”³⁵

The comparative aspect of the ruling is intellectually informative. The Court pointed out that “Article 79(3) of the German Basic Law”³⁶ states that some provisions (e.g., human dignity and the federal democratic structure) cannot be amended (i.e., they have “eternity clauses”). The

Indian basic structure doctrine is functionally similar but it has been developed through judicial interpretation as opposed to being embedded in the text of the Constitution. In Canada, the "Constitution Act of 1982"³⁷ provides for the entrenchment of some rights that limit the power of legislative bodies. In the UK, the Human Rights Act 1998³⁸ incorporates into UK law the rights that are contained in the European Convention on Human Rights³⁹, demonstrating that regardless of parliamentary supremacy, fundamental rights still exist. The Court's comparative analysis demonstrated that the I.R. Coelho ruling is not unique or exceptional, but rather is representative of a global trend towards protecting fundamental constitutional values against majoritarian

³⁵I.R. Coelho, supra note 1.

³⁶Basic Law for the Federal Republic of Germany art. 79(3) (1949).

³⁷Constitution Act, 1982 (Canada).

³⁸Human Rights Act 1998 (UK).

³⁹European Convention on Human Rights art. 1 (1950).

infringement. This comparative foundation gives the judgment both normative support and doctrinal permanence.

5.3. Limits on Parliamentary Amending Power

The court stated that if a law, which is violative of any fundamental right under Part III, is added to the Ninth Schedule after 24th April, 1973, "such a violation shall be open to challenge on the ground that it destroys or affects the basic structure as indicated in Article 21 read with Article 14, Article 19"⁴⁰(Golden Triangle Rule as per Maneka Gandhi case) and the principles underlying thereunder. Since the amending power of Parliament under Article 368 cannot be made unlimited, Article 31B cannot be so used as to confer unlimited power. The limited amending power is contained in Article 368, which Article 31B cannot overreach. It was finally held that "The power to amend the Ninth Schedule flows from Article 368. This power of amendment has to be compatible with the limits on the power of amendment. This limit came with the *Kesavananda Bharati* case. Therefore, Article 31B, after 24th April, 1973, despite its wide language, cannot confer unlimited or unregulated immunity."⁴¹

The ruling explains that the 'primary' or plenary constituent power, which is the original ability to write a constitution, is different from the 'derivative' amending power given by Article 368⁴²

to Parliament. According to H.M. Seervai and the reasoning in *Indira Gandhi v. Raj Narain*⁴³, derivative powers are limited by the constitution that created them. Parliament cannot take advantage of Article 368 to get unlimited powers to make amendments to a constitution since this would also be unconstitutional. The Court also noted that there was no specific criteria for inserting items into the Ninth Schedule and thus it could grow without limit, which will result in all items being given immunity from enforcement. Finally, this is an important issue of the administrative law when the case is adjudicated in a constitutional court.

⁴⁰I.R. Coelho, supra note 1.

⁴¹Id.

⁴²INDIA CONST. art. 368.

⁴³Indira Nehru Gandhi, supra note 15.

CONCLUSION AND SUBJECTIVE ANALYSIS

5.4.Court's Ratio

In conclusion, the Supreme Court, in this case, held that the power of Parliament to insert a law into the Ninth Schedule and grant it immunity from judicial review is limited and not absolute as of 24 April 1973. The court confirmed that the basic structure doctrine, as propounded in the *Kesavananda Bharati* case, applies in full force to constitutional amendments. Consequently, a law inserted in the Ninth Schedule after 24 April 1973 that violates or destroys the basic structure of the Constitution is subject to judicial review and can be struck down. The court provided blanket immunity from judicial scrutiny to laws added to the Ninth Schedule before April 24, 1973, and subjects the laws added after the said date to judicial review, if violative of the basic structure of the Constitution.

The court upheld precedents such as the case of Waman Rao and gave a two-fold test to check the validity of laws under Schedule IX. The "rights test," as well as the "essence of the right" test, investigates whether a law or its effect undermines or destroys fundamental constitutional values. This demonstrates that Parliament's powers of amendment, under Article 368, cannot interrupt or

destroy the basic structure of the Constitution, as set in Article 31B; any exercise of this authority must remain within the constitutionally defined limits. In addition to addressing the legal issues of this case, the court interpreted various principles such as those of constitutionalism, separation of powers, basic structure, legality, and checks and balances. The judgment emphasizes harmony between Part III and Part IV of the Constitution, i.e., the Fundamental Rights and the Directive Principles. The judgment, therefore, also serves as a profound check against potential parliamentary overreach and affirms the judiciary as the ultimate guardian and watchdog of the Constitution.

5.5. Judgment's Significance in Present Scenario

This case provided an important foundation for the continued application of the Indian Constitution. The judgment settled once and for all the long-standing issue, first raised in 1973, of whether the Basic Structure Doctrine applies to the laws in the Ninth Schedule of the Constitution. Prior to this ruling, the Parliament had the ability to add any statute into the Ninth

93

SUBODH NEXUS VOLUME V ISSUE I, JUNE 26' ISSN No: 3048-5371

Schedule, preventing any legal challenge based on violations of the fundamental rights contained in the Constitution. The nine-judge bench decided to remove this authority and, consequently, to no longer prevent any statutory laws that could have been added to the Ninth Schedule after April 24, 1973, from being challenged based on violations of the Basic Structure.

Thus, with this decision, it follows that the total number of laws added to the Ninth Schedule since the *Kesavananda Bharati* ruling (i.e., those laws covered from items 65 to 83), including those statutes added during the Emergency period with no reasonable connection to providing for land reform, can now be challenged based on the Basic Structure Doctrine. Additionally, the opinion defined the specific constitutional components of the Basic Structure Doctrine by concluding that the combined provisions of Articles 14, 19, and 21 define the core of the Basic Structure, known as the "Golden Triangle," and that none of these three provisions contained in the Golden Triangle can be abrogated through the Ninth Schedule process.

The decision confirmed once again the Supreme Court's power as the final authority on interpretation of the Constitution and protection of individual rights from excesses of legislative

action. The Court's wording of “no one branch can be given the power to enact and determine whether it has enacted laws that are consistent with other laws” articulated the traditional principle of separation of powers within the specific context of an amendment to the Constitution. The Court also rejected the implied assertion of Parliament that it alone could determine the limits of its authority to amend the Constitution, a determination that would have rendered the basic structure doctrine almost meaningless. This decision creates an additional safeguard for our system of constitutional government by affording courts the ability to review all actions taken by any Branch of Government to ensure that their actions are consistent with the Constitution.

The I.R. Coelho decision continues to provide a means for holding Governments in check with regard to governmental overstepping of their authority. Any attempt by the legislature to amend the Ninth Schedule to include laws that contravene individual rights, such as the right to equality, right to life, freedom of expression, or other rights, will be subject to judicial review. This is particularly important in light of the increasing frequency of laws being passed regarding issues surrounding reserving land, acquisition of land, election laws and economic regulations, all of

which often pose questions concerning fundamental rights. Since 2007, this case has been an integral part of Indian constitutional law by being applied and cited extensively by the Supreme Court and various High Courts. Below is a list of other notable cases that have cited or made reference to this decision since 2007:

In the cases of *Charan Preet Singh v. Municipal Corporation Chandigarh and Ors.*⁴⁴(2026) and *State of West Bengal and Ors. v. Jai Hind Pvt. Ltd.*⁴⁵(2026), it was held that Article 31B again became valid and constitutional. It was observed that while Article 31B grants certain immunities to laws placed in the Ninth Schedule, these immunities are not absolute and are subject to test of basic structure. Separation of power and independence of the judiciary have been considered integral parts of the basic structure of our Constitution

*State of Tamil Nadu v. Governor of Tamil Nadu*⁴⁶(2023): In the context of the recent constitutional issues surrounding the Governor's qualification to grant assent to State Bills, many constitutional

claims were founded upon *I.R. Coelho's* articulation about how no constitutional authority can exercise power in a way that destroys the Constitution's basic structure, including the federalism inherent in the Constitution.

*Madras Bar Association v. Union of India*⁴⁷(2021): The Supreme Court struck down elements of the 2021 Tribunal Reforms Act on the basis of, among other things, the *I.R. Coelho* case's ruling that judicial independence and judicial review are integral components of the basic structure of the Constitution. Analysing the effect of the Tribunal Reforms Act on the right to a system of independent adjudication, the Court applied the "rights test."

*Roger Mathew v. South Indian Bank Ltd.*⁴⁸: Seven Judges on the Constitution Bench quoted extensively from the *I.R. Coelho* decision in order to analyze the separation of powers between Parliament and the Judiciary concerning tribunalization of justice. The Court relied on the basic structure principles articulated in *I.R. Coelho* in order to assess whether legislation was encroaching on Judicial Powers.

⁴⁴Charan Preet Singh v. Municipal Corp. Chandigarh, 2026 INSC 248.

⁴⁵State of West Bengal v. Jai Hind Pvt. Ltd., 2026 INSC 132.

⁴⁶State of Tamil Nadu v. Governor of Tamil Nadu, AIR 2023 SC 2391.

⁴⁷Madras Bar Ass'n v. Union of India, (2021) 7 SCC 369.

⁴⁸Roger Mathew v. South Indian Bank Ltd., (2020) 6 SCC 1.

Over 150 of the Supreme Court and the High Court's decisions have cited this decision since 2007, demonstrating the extensive reach and relevance of the doctrine. The decision also contributes to constitutional theory by operationalizing the abstract concept of basic structure into concrete tests by way of rights test and essence of the right test; the decision has rendered the doctrine more administratively viable and less susceptible to abuse or manipulation. The Court itself has stated: "The Constitution is a living instrument and can be interpreted differently at different times and places to keep in sync with the times," thus ensuring the Constitution, as a living instrument, retains its spirit.

5.6. Subjective Analysis

In my considered view, the *IR Coelho* judgment marks a careful extension and analysis of the

basic structure doctrine, along with various other principles that form the foundation of the virtues embedded in the Indian Constitution. The Court has placed core constitutional values above transient political majorities by ensuring that even constitutional amendments, especially those attempting to immunize ordinary statutes in the Ninth Schedule from judicial review, are still reviewable for basic structure by the judiciary. This approach is supported by taking inspiration from other jurisdictions such as England, Canada, and Germany. This aligns with the evolutionary interpretation of the Constitution as a "living document".

Moreover, as demonstrated in “*S.R. Bommai v. Union of India*”⁴⁹(1994), the theory was broadened to safeguard secularism and federalism from the abuse of Article 356, while the judgment in the *I.R. Coelho* case restricts possible authoritarianism by mandating judicial review for the provisions and laws violating the basic structure. The real merit of this case lies in its upholding the spirit of constitutional values and the principle of checks and balances by empowering the judiciary to work independently and exercise judicial review while safeguarding the Constitution and performing its role of Guardian and Protector of the Constitution of India.

There is one area of the judgment that has room for academic debate — retroactivity. The Court has held that all laws validated by the Supreme Court prior to *I.R. Coelho* cannot be re-challenged under the new framework, and that any action taken and transactions completed

⁴⁹*S.R. Bommai v. Union of India*, (1994) 3 SCC 1.

under the impugned Acts are not open to challenge. This pragmatic saving clause is designed to avoid legal chaos, but it creates a slightly asymmetrical system because some laws will receive different constitutional treatment based on whether they were challenged prior to or following this judgment. Future jurisprudence may need to address this more directly. Nevertheless, the balance that the Court struck, between constitutional certainty and protection of fundamental rights, represents the hallmark of good judicial statesmanship.

Ultimately, the *I.R. Coelho* judgment is best viewed not simply as a ruling relating to the Ninth Schedule but rather as an overall constitutional vision. It defines the nature of governance through the distribution of power across independent actors; it establishes that rights are

constitutional entitlements rather than just legislative grants; and it establishes that the Constitution is sovereign, not just the will of any particular majority. In this sense, the judgment is to be viewed alongside those in the *Kesavananda Bharati* judgment and the *Minerva Mills* case, as representing some of the foundational documents for Indian constitutional identity.

Principal Findings: First, the power of Parliament under Article 31-B to confer immunity through the Ninth Schedule is not absolute i.e. laws inserted after 24 April 1973 remain subject to judicial review if they violate the Basic Structure. Second, the Court's two-fold test: the "rights test" and the "essence of the right test" operationalizes the Basic Structure Doctrine into a workable standard, with the more rigorous "rights test" applying whenever an entire category of fundamental rights is rendered inapplicable. Third, by situating this holding within comparative constitutional practice and subsequent Indian jurisprudence, the judgment endures as a foundational check on parliamentary overreach and an affirmation of the judiciary's role as guardian of the Constitution.