CHAPTER- VII

FROM INDUSTRIALIZATION TO ECONOMIC LIBERALIZATION- IMPACT OF THIS SHIFT ON THE LEGAL PHILOSOPHY FOLLOWED BY INDIA

Pandit Jawaharlal Nehru in Objective Resolution expressed his desire for a socialist economy in India[1]. Post independence one of the biggest challenges for statesmen were to establish an economic policy for India. Despite Nehru's vision for socialist economy in India, it was quite clear that the Russian socialist economy[2]can not be applied in Indian ambience. In Indian democracy it was not possible for the government to change the ownership pattern of the land and properties. Therefore, the leaders of independent India thought of a new version of economic policy opposite of extreme form of socialism and capitalism. The government retained the concept of private property in India but fix the maximum of limit of holding the same. Enactments of following legislations proved that Indian government allowed private individual hold a certain amount of land while the excess amount of land was evenly circulated amongst the have-nots. These enactments are-

a. The Bihar land Reforms Act, 1950
b. The Bombay Tenancy and Agricultural Lands Act, 1948
c. The Bombay Taluqdari Tenure Abolotion Act, 1949
d. The Madhya Pradesh Abolotion of Property Rights (Estates, Mahals, Alienated Lands) Act, 1950
e. The Madras Estates (Abolition and Conversion of Ryotwari) Amendment Act, 1950, etc.

Judicial pronouncements in Shankari Prasad case, Sajjan Singh case etc. the Indian judiciary also reaffirmed the socialistic object of the Government.

INDUSTRIAL POLICY RESOLUTION, 1948- The Indian government wanted to have control over the economy however, did not want to follow a strict form of

[1] Constituent Assembly Debate, Vol I, 13th December, 1946.

[2] In socialist economy in Russia there is no concept of private property ownership. The means of production is owned by the government.

socialism. Therefore, India was a mixed economy with a strong public sector and with private property democracy. The first Industrial Policy of independent India was presented by Shyama Prasad Mukherjee, the then Minister for Industry, in 1948. The policy resolution divided industry in following categories-

a. Strategic industry (public sector)
b. Basic/ Key industry (public-cum-privates sector)
c. Important industries (controlled private sector)
d. Other industries (private and co-operative sector)

This division makes it clear that from the beginning India looked forward to mixed economy system and Indian government emphasized upon 'Public Private Partnership' i.e. PPP model. In public sector i.e. strategic industries would be under completely Central government's control. Basic/key industries were

a. Coal, iron and steel,
b. Aircraft manufacturing,
c. Ship building,
d. Manufacturing of telephone, telegraph and wireless communication, &
e. Mineral Oil.

New industries were set up by the central government in these fields. However, the existing private industries in these fields were also allowed to operate in the market. Under important industries came heavy chemicals, sugar, cotton textile and woolen industry, cement, paper, salt, machine tools, fertilizer, rubber, air and sea transport, motor, tractor, electricity etc. these industries were allowed to be operated by the private sector. However, the central government could have general control over these industries through the state government. Rests of the industries were included in the fourth category. The central government could exert its control over the fourth category industry on the ground of not operating satisfactorily.[3]

INDUSTRIAL POLICY RESOLUTION, 1956- Thorough study of the Industrial Policy Resolution, 1956 also reaffirms that India was set to follow the 'Public Private Partnership' i.e. PPP model for a longer period. Industrial Policy Resolution of 1956

[3] Industrial Policy resolution of 1948 by the Indian Government, available at https://www.gktoday.in/gk/industrial-policy-1948/ (visited on 24.05.2020)

outlined the model of private investment in industrialization in India and promised industrialization in comparatively backward areas to balance out the growth and development.[4] This policy opens with a statement that the guiding principles of the industrial Policy Resolution, 1956 would be constitutional principles and experience of industrial Resolution Policy, 1948. The preamble of the Constitution and article 39 of the Constitution of India were mentioned in the policy. The focus of the policy of Industrialization, 1956 was that *the State shall thrive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice, social, economic and political, shall inform all the institutions of the national life.* It was clarified that even though private ownership of property was permitted, the Parliament desired Indian society to be socialistic pattern of society. Therefore, the economic policy of India would also follow the socialistic pattern.

The policy of 1956 acknowledged the necessity of setting up of heavy industries, machine making industries in India. These industries would eventually increase opportunity for employment improving standard of living of people. Since the Indian government allowed private sector to operate in the market, the government was aware of preventing concentration of wealth and abuse of economic position by private entities. Therefore, the control was in the hands of state governments to keep an watchful eye upon these private sector industries. The Policy also categorized industries into three categories with the government having significant role in each category of industry with a limited role of private sectors. These categories were laid down as Schedule A, B, and C in the Industrial Policy Resolution, 1956. This categorization did not imply to place these industries in watertight compartment and the government did not shun the possibility of overlapping. Industries having national importance were placed in Schedule A. These industries were railways, air transport, atomic energy, arms and ammunition, telephone, mineral oil, coal etc. The central government was to have monopoly in these industries. However, the government could ensure participation of private sector in these fields only when it was necessary and allowed by the government.

[4] Report of Industrial Licensing Policy Inquiry committee, Vol 1, by the Ministry of Industrial Development, Ministry Of Industrial development Internal Trade and Company Affairs, The Government of India.

All other minerals except minor minerals, aluminium, machine tools, ferro alloys and steel, fertilizers, synthetic rubber, chemical pulp etc. were placed in the second category namely Schedule B. In this category the state government was to undertake setting up of new industries while the private sectors were also allowed to develop. All other industries were to be under the third category i.e. Schedule C. It was the responsibility of the state government to encourage establishment and expansion of private sectors in these industries. The State will continue to foster institutions to provide financial aid to these industries, and special assistance will be given to enterprises organised on co-operative lines for industrial and agricultural purposes. In suitable cases, the State may also grant financial assistance to the private sector. Such assistance, especially when the amount involved is substantial, will preferably be in the form of participation in equity capital, though it may also be in part in the form of debenture capital.

The policy resolution of 1956 made it clear that private sectors must fit into the framework of social and economic policy of India. To emphasize India's obligation towards socialistic pattern of economy the government also enacted the Industries (Development and Regulation) Act, 1951.

INDUSTRIES (DEVELOPMENT AND REGULATION) ACT, 1951- The objectives of this enactment were-

a. Implementation of industrial policy formulated by the central government,
b. Development and regulation of new undertakings. The central government was entrusted with the control of setting up of new industries and allowing private sectors to operate in required field.
c. One of the significant objectives of this enactment was to formulate plan for future industries. This led to introduction of license to allow private sectors to set up new industries.

With the introduction licensing system in Chapter III of the Act of 1951 (especially section 11 and 11A[5]) infamous License Raaj began in India. List of industries was

[5] Industries (development and Regulation) act, 1951
11. Licensing of new industrial undertakings.—(1) No person or authority other than the Central Government, shall, after the commencement of this Act, establish any new industrial undertaking, except under and in accordance with a licence issued in that behalf by the Central Government: Provided that a Government other than the Central Government may, with the previous permission of

provided Under Schedule A of the Act. Section 5 of the Act of 1951 set up an Advisory Board to advise the central government regarding development and regulation of industries mentioned in Schedule.

Section 11 (1) of the Act prevented establishment of any new industry unless license has been issued by the central government. However, the conditions of granting license were not fixed by the act. The Act laid down that the license would be granted by the central government after taking into consideration factors like nature of the industry, quality of product, requirement of foreign exchange, location of the industry, size of the industry etc. this loophole in the Act led to License Raaj in India which eventually turned out to be corrupted practice by the executive in matter of industrial licensing.

IMPORTS AND EXPORTS (CONTROL) ACT, 1947- This Act is now substituted with Foreign Trade (Development & regulation) Act 1992. The imports and Exports (Control) Act, 1947 opens with the following statement

An Act to prohibit or control import and export. Whereas it is expedient to prohibit, restrict or otherwise control imports and exports.

While the new Act of 1992 opens with the following statement

An Act to provide for the development and regulation of foreign trade by facilitating imports into, and augmenting exports from India and for matters connected therewith or incidental thereto.

Therefore, it is quite clear that the central government wanted a complete control over the import and export post independence. Hence the Act of 1947 was enacted. Section 3 of the Act of 1947 empowered the central government to restrict import and export

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the Central Government, establish a new industrial undertaking. (2) A licence or permission under sub-section (1) may contain such conditions including, in particular, conditions as to the location of the undertaking and the minimum standards in respect of size to be provided therein as the Central Government may deem fit to impose in accordance with the rules, if any, made under section 30.

11A. Licence for producing or manufacturing new articles.—The owner of an industrial undertaking not being the Central Government which is registered under section 10 or in respect of which a licence or permission has been issued under section 11 shall not produce or manufacture any new article unless— (a) in the case of an industrial undertaking registered under section 10, he has obtained a licence for producing or manufacturing such new article; and (b) in the case of an industrial undertaking in respect of which a licence or permission has been issued under section 11, he has had the existing licence or permission amended in the prescribed manner.

of goods.[6] While the Act of 1947 was enacted to exert government's control over import and export the purpose of the new Act of 1992 was to facilitate foreign trade in India. The Customs Act, 1962 was enacted to impose monetary restriction upon imported and exported goods.[7] Chapter IV, IVA of the Act empowers the central government to detect illegally import and export of goods. The Act also empowered the central government to provide punishment for violating provisions of this Act.

LICENSE RAAJ- Industrialization policy was formulated post independence in India to tackle the economic crisis the country was going through. Industrialization could boost up the economy. However, following the socialistic principle embedded in the Constitution the central government allowed centrally controlled industrialization. Centrally controlled industrialization meant that industries before being set up required license from the central government. Trade restrictions were also part of the economic policy of the controlled industrialization of the Indian government. Imposition of tariffs and trade restrictions were thought to facilitate and accelerate industrialization in India to protect domestic industries from foreign competition.

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6 Section 3 of the Imports and Exports (Control) Act, 1947

Powers to prohibit or restrict imports and exports.-(1) The Central Government may by order published in the Official Gazette, make provision for prohibiting, restricting or otherwise controlling, in all cases or in specified classes of cases, and subject to such exceptions, if any, as may be made by or under the order,-

(*a*) the import, export, carriage coastwise or shipment as ships' stores of goods of any specified description;

(*b*) the bringing into any port or place in [India] of goods of any specified description intended to be taken out of [India] without being removed from the ship or conveyance in which they are being carried.

(2) All goods to which any order under sub-section (1) applies shall be deemed to be goods of which the import or export has been prohibited or restricted under Section 19 of the Sea Customs Act, 1878 (8 of 1878), and all the provisions of that Act shall have effect accordingly, except that Section 183 thereof shall have effect as if for the word "shall" therein the word "may" were substituted.

(3) Notwithstanding anything contained in the aforesaid Act, the Central Government may, by order published in the Official Gazette, prohibit, restrict or impose conditions on the clearance, whether for home consumption or for shipment abroad, of any goods or class of goods imported into [India].

7Section 12 of the Customs Act, 1962-

Dutiable goods.—(1) Except as otherwise provided in this Act, or any other law for the time being in force, duties of customs shall be levied at such rates as may be specified under the [Customs Tariff Act, 1975 (51 of 1975)], or any other law for the time being in force, on goods imported into, or exported from, India.

[(2) The provisions of sub-section (1) shall apply in respect of all goods belonging to Government as they apply in respect of goods not belonging to Government.]

The centerpiece of planned industrialization was to control the pace and pattern of industry. The Industries (Development and Regulation) Act 1951 categorized industries according to their national importance. This Act introduced industrial licensing system to control the pace and pattern of industrialization in India. Under Act of 1951 license was required for following purposes-

a. For setting up of new industries,
b. For carrying on business in unlicensed industries,
c. For expanding the existing industry capacity,
d. For starting a new product line,
e. For change of location.

Planned industrialization was taken up to control the pace of industrialization and to stop concentration of wealth into hands of a few. Post independence India faced disparities in income and wealth. To provide everyone with similar opportunity of earning and to reduce the gap of economic disparities the Indian government took up socialistic pattern of economy and planned industrialization.[8] However, this industrial licensing system led to some serious financial scams in India. These scams even involved the executive and important branches of bureaucracy. These major scandals are discussed hereunder in order to show that a nexus between politics and business proved to be fatal for economic growth of India and vitiated the very purpose embedded in the Constitution of India.[9]

- **ARMY JEEP SCANDAL, 1948**

Post independence India fell short of 4603 army jeeps in Kashmir. About 1000 jeeps were imported from U.S.A. To get the rest a high power delegation consisting of Defence Secretary, Commander in Chief of the Army and the Financial Adviser of the Defence Services went to U.K. but remained unsuccessful. In June, 1948 A.K. Chandra, the then Financial Adviser of the Defence Services, informed the then Defence Secretary that 1500 reconditioned jeeps could be provided at 300 pound each by U.K. The Defence Secretary wired back to Mr. A.K. Chanda and asked him to

[8] The Unequal Effects of Liberalization: Evidence from Dismantling the License Raj in India, available at http://sticerd.lse.ac.uk/dps/de/DEDPS45.pdf (visited on 25.05.2020)
[9]Political Leadership and Corruption: Major Political Scandals and Commissions in Post Independent India.

negotiate to buy 2000 reconditioned jeeps. It was informed that these jeeps would be supplied over the period of five months by the company named Messers Anti-Mistantes. On the basis of this correspondence the Defence Ministry accepted the offer. However, when the first lot of 155 jeeps reached India in 1949, it was found that not a single of it was serviceable. 65% of the agreed amount was already paid to the seller on the receipt of certificate from the inspecting firm, 20% more on production of bill of loading and 15% amount within one month of reaching the jeeps to Indian port. Mr. A.K. Chanda was questioned after receiving 155 unserviceable jeeps in India. He then informed that he was never negotiating the deal with the English company. The deal was struck by Mr. Krishna Menon, the then High Commissioner of India to Britain. A committee named Ayyangar Sub-Committee was appointed to inquire into the situation. Eventually Mr. Krishna Menon entered into a contract with another firm for delivery of 1007 jeeps to India. However, that firm also informed its inability to deliver the whole number of jeeps so contracted. The Ayyangar Sub-Committee in its report mentioned that there was serious deviation and bypassing of rules while entering into these contracts. However, at the end this report was not published. It is supposed that the report by the Ayyangar Sub-Committee was withheld once Mr. Krishna Menon joined Congress.

- **DIAMOND MINING LEASE BRIBE SCAM, 1949**

Rao Shiv Bahadur Singh, Industry Minister of Jawaharlal Nehru's Cabinet was accused of accepting bribe for renewal of mining lease of gemstone trader Sachendubhai Baron. Rao Shiv bahadur Singh was jailed for three years for taking bribe of Rs. 25000/-.

- **CYCLE IMPORT SCAM, 1951**

In the year 1951 S.A. Venkataraman, the then secretary of Ministry of Commerce and Industry was jailed for accepting bribe in lieu of granting import quota by a cycle importing company. Mohd. Serajuddin was the managing partner of M/s serajuddin& co., a firm of mine owners in orissa. In 1956 a search in connection with tax and custom duty evasion revealed the incident of bribery. It was alleged that in Assembly election of 1957 Mohd. Serajuddin contributed Rs. 10000/- on the request of K.D. Malviya, the then Union Minister of Mine and Fuel (from Congress party). However, it was not clear whether this contribution was made to the candidate personally or to

the Congress party fund. Meanwhile the Calcutta News Paper once in 1956 and again in 1963 disclosed about these gifts and contribution by M/S Serajuddin to political leaders. In 1963 Shri Hem Barua M.P. disclosed that Shri K.D. Malaviya had "forwarded" an application from MessersSerajuddin to the Ministry of Commerce and industry involving Rs. 20 million for selling manganese in Czechoslovakia and import, on a barter basis, machinery and plant for the Oil and Natural Gas Commission.

On 7th May, 1963 Jawaharlal Nehru appointed a committee consisting of Supreme Court judge Hon'ble justice S.K. Das to enquire against Union Minister K.D. Malviya. He also mentioned that he did not believe that Malviya could commit such crime. Nevertheless, the nature of the enquiry committee was perplexing. No judicial enquiry was conducted. By that time, it was already known that Mohd. Serajuddin has contributed large sum of money both at the Centre and in Orissa. However, there was no way to prove that all these contributions were inter-related.

- **MUNDHRA SCANDAL, 1958 OR LIC SCAM**

Mundhra Scandal involved investment of large sum of public money in shares of six companies owned by Shri HaridasMundhra. This caused furor amongst the public as the invested money was paid as premium to life Insurance done by citizens of India. Therefore, the question was how the money held in trust by a statutory body i.e. the Life Insurance Corporation can be invested in the shares of companies owned by a private individual.

This scandal effected the relation between Jawaharlal Nehru and Feroz Gandhi (son-in-law of Nehru). Feroz Gandhi brought this scandal to the floor of the Parliament for discussion. Following this Nehru was forced to appoint a one-man Committee consisting of retired Bombay high Court Justice M.C. Chagla to enquire into the matter. M.C. Chagla determined that there was a nexus between Finance Secretary Haribhi M. patel and LIC official L.S. Vaidyanathan behind the payment of large sum of money. Subsequent enquiry committee headed by retired Justice Vivian Bose passed strictures against Finance Minister T.T. Krishnamachari for continuous lying and trying to distance himself from such scandal. However, later on his involvement was proved and T.T. Krishnamachari had to resign.

- **KAIRON SCAM, 1963**

In 1963 a memorandum was submitted by the members of Parliament to the then President alleging Mr. SardarPratap Singh Kairon, the then Chief Minister of Punjab, of corrupt practices. Before appointing an enquiry committee to enquire into the allegation against Mr. Kairon the Congress High command exonerated him from all the corruption charges leveled against him. However, in 1963 the Central government in exercise of its power under Commissions of Inquiry Act, 1952 constituted a commission consisted of retired justice S.R. das to enquire into the charges against Mr. Kairon.

The Commission, on the basis of evidence, came to the conclusion that Mr. Kairon was guilty of corrupt charges. He was guilty of transferring shares of some of the properties in his constituency. In Ramgar Dhani and Madhar Kalan Mr. Kairon was guilty of misappropriating surplus land. Following this disclosure Mr. Kairon tendered his resignation from the post of Chief Minister of Punjab.

- **KALINGA TUBE SCANDAL, 1963**

In 1965 the then Chief Minister of Orissa BijuPatnaik (father of Chief Minister Naveen Patnaik) was forced to resign for allegation of favouring his privately owned company to get government contract. In 1963 Kalinga Tubes Ltd, where Mr. BijuPatnaik was a shareholder, faced a litigation for exploiting minority shareholder. In *S.P. Jain* v. *Kalinga Tubes Ltd*.[10]. This case was presided over by K.N. Wanchoo J., P.B. Gajendragadkar J., and S.M. Sikri J. The Bench absolve the company of its allegations and held that the company did not hurt the interests of minority shareholders. Since the appellant, one of the minority shareholders was not able to produce documents favouring his contention of exploitation by the majority shareholders, the Bench was of the view that there was no substantial ground for holding the respondents responsible. Nevertheless, Mr. BijuPatnaik had to resign from his executive post for alleged corruption.

Industrial licensing paved way for corrupt practices amongst government officials. Moreover, another matter of concern was that in none of the cases judicial enquiry was held. In most of the cases only one-man Committee was appointed for

[10]*S.P. Jain* v. *Kalinga Tubes Ltd*. AIR 1965 SC 1535.

investigation and before investigation itself the ruling party exonerated its officials of all the allegations. Eventually corrupt practices started to be identified with one particular political party in India since Indian National Congress was in power in India from 1947-1970. Therefore, it became necessity for the Indian National Congress to prove its innocence before the nation. Measures like nationalisation of banks, undertaking of sick industries were introduced in India.

Meanwhile, several Committees were also appointed to analyze the industrial licensing system and to submit its report.

I. MAHALANOBIS COMMITTEE REPORT, 1964

This committee was set up in 1960 to review the Industrial Policy Resolution. The industrial licensing policy was a part of planned economy. However, the scandals involving public money proved that public money was not used for the purpose it was thought of in five year plans. Thus, this committee was set up to find out who was benefitting from the then industrial resolution policy and where was the money being concentrated.

The committee is also known as 'Distribution of Income and Levels of Living Committee'. P.C. Mahalanobis was the chairman of Mahalanobis Committee. The Committee submitted its report in 1964 stating that the industrial licensing system did not assist in increasing per capita income. However, the licensing system aided to increase in monopoly as the big houses got the license in exchange of money. This in turn resulted in concentration of wealth. The committee pointed out that during that time the industrial development was not assisting social development. Therefore, thegovernment needed to find out mechanism for collection, examination and analysis of relevant data in order to stop concentration of wealth in the hands of a few.[11]

II. R.K. HAZARI COMMITTEE REPORT, 1967

R.K. Hazari was appointed in 1966 as Honorary Consultant of Planning Commission to review the Industries (Development and Regulation) Act, 1951 in the light of the following-

[11]Mahalanobish Committee Report, *The Economic Weekly* (1964).

a. review of licensing process under the Industries (Development and Regulation) Act, 1951,

b. suggest modification in the light of the then stage of economic development of India.

Swaminathan Committee was appointed only to review the procedure of obtaining license under the planned industrialization. Since the introduction of licensing system in 1951 no attempt was made to review the functioning of licensing system in the economic development of India. The committee found the following-

a. The industries were filing multiple licensing application to foreclose the licensing capacity,
b. The license was issued on the basis of 'first come first serve'. The big industrial houses were maintaining offices in Delhi for applying as soon as possible once the notification was out,
c. The planned economy and licensing process did not achieve its cherished goal.

The committee suggested that de-licensing of industries was not a choice given the stage of economic development in India. The government was suggested to change its sectors of investment to discourage concentration of wealth and to reduce the pay gap.

Ceiling limit of foreign exchange for an importing company was to be set for protecting domestic products. The committee suggested substitute ways to control industrialization and flow of foreign exchange in the market instead of de-licensing sand/or enlisting the company as 'banned'.[12]

III. DUTT COMMITTEE REPORT, 1969

In 1969 the central government appointed the Industrial Licensing Policy Enquiry Committee headed by Shri SubimalDutt to review the working of licensing system. The Committee found out that the industrial licensing system has failed to achieve its goal and due to red-tapism the big industrial houses were only benefitting from such system. Suggestions of the Dutt Committee were-

a. Divide industrial sectors in core, non-core and reserved sectors. Large industrial houses should only be allowed to operate in core sectors,

[12] Industrial Planning and Licensing Policy, Final Report submitted by R.K. Hazari, Vol I, 14th September, 1967.

b. Licensing system should be granted to large industrial houses only for core sectors and heavy investment sectors,
c. Monopolies Commission must be set up to check concentration of wealth.[13]

Following the reports of the abovementioned Committees the then central government took the decision of nationalization. To make nationalization happen through out India the central government did not only enact laws but also provided them with immunity from judicial review by inserting them in ninth schedule of the Constitution of India. The Coking Coal Mines (Nationalization) Act, 1972, the General Insurance Business (Nationalization) Act, 1972, the Coal Mines (Nationalization) Act, 1973 etc were enacted and inserted in the ninth schedule. Several Acts were enacted and inserted in the ninth schedule regarding government undertaking of industries. These Acts were the Indian Copper Corporation (Acquisition of Undertaking) Act, 1972, the Sick Textile Undertaking (Taking Over Management) Act, 1972, the Coal Mines (Taking Over Management) Act, 1972 etc.

In *R.C. Cooper* v. *Union of India*[14]the Banking Companies (Acquisition and Transfer of Undertakings) Act[15] was challenged. In July 1964 the acting President of India promulgated an Ordinance nationalizing banks in India. In July 1969 the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1969 was enacted empowering the central government to nationalize Indian Banks. The petitioner R.C. Cooper approach the Supreme Court challenging the enactment contending that nationalization violates the right of the petitioner guaranteed under article 19 (1) (g) of the Constitution of India.[16] In this case the majority decision was given by 10 judges (J.C. Shah J., S.M. Sikri J., J.M. Shelat J., Vishishtha Bhargava J., G.K. Mitter J., C.A. Vaidyialingam J., K.S. Hegde J., A.N. Grover J., Jagmohan P. Reddy J., I. D. Dua J.) and the dissenting view was delivered by Justice A.N. Ray. The majority declared that the President can promulgate Ordinance only when the Parliament was not in session. However, the fact showed that the regular session of the Parliament

[13] Report of Industrial Licensing Policy Enquiry Committee, Government of India, Vol I, July, 1969.
[14]*R.C. Cooper* v. *Union of India* AIR 1970 SC 564.
[15] As per section 1 (2) of the Banking Companies (acquisition and Transfer of Undertaking) Act, 1970 –
The provisions of this Act (except section 21, which shall come into force on the appointed day) shall be deemed to have come into force on the 19th day of July, 1969.
[16] Article 19 (1) (g) of the Constitution of India guarantees right to freedom of carry on any occupation. However, this right is also subjected to some restrictions mentioned in article 19 (6).

was after two days of the promulgation of the Ordinance. Therefore, the reason for hasty promulgation could not be justified by the respondent. The provision prescribing compensation under the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1969 was also declared unconstitutional on the ground of inadequacy of the amount of compensation.

However, the significance of this case was that the Bench upheld the nationalization policy of the government. The majority also held that the contention of the petitioner that the respondent did not have the right to acquire a business could not be sustained for following reasons-

a. Entry 45 of schedule VII List I empowers the Central government to legislate on Banking sector
b. Entry 26 of schedule VII List II empowers the state to legislate on the matter relating to trade and commerce,
c. Entry 42 of schedule VII of List III empowers both the State and the Union to acquire property.

Thus, the legislative power of the Union to legislate on the matter of Banking could not be denied. 'Property' mentioned in entry 42 of list III of schedule VII did not only include assets but also inclusive of the organization itself and its liabilities and obligations. Therefore, expression undertaking in section 4 of the Act of 1969[17] clearly means all the going concern of the organization with its assets, rights, liabilities and responsibilities. Therefore, the policy of nationalization of the central government declared as constitutional.

However, R.C. cooper case judgment was followed by the Twenty Fifth Amendment of the Constitution of India in 1971. This amendment substituted the word 'compensation' with the word 'amount' in article 31 which, before being repealed, dealt with the compensation for acquisition of property. Article 31-C was inserted which stated that a policy of the government giving effect to certain directive

[17] Section 4 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1969
Undertaking of existing banks to vest in corresponding new banks.—On the commencement of this Act, the undertaking of every existing bank shall be transferred to, and shall vest in, the corresponding new bank.

principles of state policy can not be challenged on the ground of violation of rights conferred under article 14 and 19 of the Constitution of India.

The Monopolies Restrictive Trade Practices Act, 1969 (hereinafter mentioned as MRTP Act, 1969) was enacted to ensure- (i) operation of economic system does not result into the concentration of wealth, (ii) control of monopolistic behaviour in the market, (iii) prohibit monopoly and restrictive trade practices. This Act was enacted on the recommendation of the Dutt Committee report.

Nevertheless, this Act kept some loopholes for corrupt practices to creep into the economic system of India. Section 3 of the MRTP Act, 1969 prescribed areas where this Act would not be applicable. These areas were-

a. Any undertaking owned or controlled by the government company,
b. Any undertaking owned or controlled by the government,
c. Any undertaking owned or controlled by the Corporation (not being a company) established under the provisions of central or provincial Act,
d. Any trade union or association of workmen,
e. Companies taken over by the central government,
f. Co-operative societies,
g. Any financial institutions.

The enactment of MRTP Act, 1969 could not protect Indian economy frm the vices of corrupt practices. The liason between the political party and the industrial organizations again proved to be fatal for the economic development of India. The Maruti car scandal in 1970 justifies the same.

Bennett Coleman & Co. v. *Union of India*[18]is a significant case involving two important issues, firstly the right to freedom of speech and expression of newspaper and secondly constitutionality of government's order imposing quantitative restriction upon the newspaper. In this case the central government imposed following quantitative restrictions upon the newspaper under the Newsprint Order, 1962-

a. Use of newsprint in excess of the quantity authorized by the government,

[18]*Bennett Coleman & Co*. v. *Union of India* AIR 1973 SC 106

b. Number of pages in the newspaper,
c. Regulation of sale of newspaper.

However, the Newsprint policy, 1972-1973 directly regulated the size of circulation of newspaper. This case was heard by five judges Bench consisting of S.M. Sikri C.J.I., A.N. Ray J., P. Jaganmohan Reddy J., K.K. Mathew J., & M.H. Beg J. The majority with 4:1 ratio (Justice Mathew dissenting) observed that the Newsprint Policy, 1972-1973 was unconstitutional as regulation of circulation of newspaper amounted to qualitative and quantitative control of the newspaper. Thus, this restriction amounted to violation of freedom of speech and expression of newspaper.

The court assumed active role in protecting fundamental rights of citizens. However, in matter of financial importance the court assumed deferential role. In abovementioned financial scandals there were no judicial review. Enquiry committees were set up consisting of only one retired judge. However, it is not difficult to assume the significance and impact of these financial scandals upon the Indian economy. Nevertheless, Indian judiciary preferred to keep itself distant from probing into these financial scams.

- **MARUTI CAR SCANDAL, 1970-1977**

A company named Maruti Technical Services Pvt. Ltd. (hereinafter mentioned as MTSPL) was set up by Sonia Gandhi on 16th November, 1970 to provide technical knowhow for manufacturing of indigenous cars. The MTSPL had paid up capital of only Rs. 200/- where Sanjay Gandhi had 50% partnership. On 21st November, 1970 the MTSPL entered into a contract with its 50% partner that a sum of Rs. 3 lakhs will be paid to him for providing technical knowhow. Meanwhile Sanjay Gandhi set up another company naming Maruti Ltd. (hereinafter mentioned as ML). The MTSPL sold its 1500 shares to Sanjay Gandhi. In 1972 the MTSPL and ML entered into an agreement that ML would pay a sum of money to MTSPL for sharing its technical knowhow. Mrs. Sonia Gandhi was made the MD of MTSPL when she was not even the citizen of India and could not hold such position in a company as per the rule being operative for the time being in India. Sanjay Gandhi was MD of ML. Several shares of MTSPL were sold in the name of Sonia Gandhi and her children Rahul Gandhi and Priyanka Gandhi. In 1974 another company named Maruti Heavy

Vehicles Private Ltd. (hereinafter mentioned as MHVPL) was incorporated and Sonia Gandhi was again appointed as MD of the company with 5000 shares of it.

In 1971 Mrs. Indira Gandhi put before the Parliament the proposal of manufacturing people's car in India. Mrs. Indira Gandhi managed to get the license and contract for Maruti Ltd. the exclusive production of people's car. Eventually it was not hidden anymore as to who owned Maruti Ltd. and company having license for exclusive production did not have any technical knowledge to manufacture cars. Owing to the circulation of scandals of MTSPL and ML Mrs. Indira Gandhi had to liquidate ML. An enquiry commission headed by Justice A.C. Gupta found many irregularities in the functioning of these companies. In 1980 after the death of Sanjay Gandhi at the behest of Mrs. Indira Gandhi the central government transformed ML into Maruti Udyog Ltd. In collaboration with Suzuki, Japan the Maruti Udyog Ltd. manufactured the first maruti car in India. However, with the liquidation of ML the history of corrupt practices of ML and MTSPL were buried forever in Indian history.

- **PUDUCHERRY LICENSE SCAM, 1974**

In 1974 a Puducherry merchants file an application for granting license to import various items. The application for granting license was along with signatures of twenty-one members of Parliament. It was later known that signatures of twenty-one MPs were forged by another M.P. Tulmohan Ram at the behest of Lalit Narayan Mishra, aide of Mrs. Indira Gandhi. Tulmohan Ram died in Samastipur blast in 1975 leaving the matter unsettled. His death, however, buried the dust and the financial and political involvement in this scam could not be unearthed.

- **KUO OIL DEAL SCAM, 1976**

It was during emergency the central government owned Indian Oil Corporation entered into a contract with Hong Kong based company for importing oil. However, later on the Kuo Oil Co., Hong Kong based company, turned out to be a fictitious entity with which the Indian Oil Corporation entered into a contract of worth Rs. 2.2 Crore. It was also reported that for that deal the government lost 13 crore and the money indirectly went to Mrs. Indira Gandhi and Sanjay Gandhi.

Amongst these financial scandals the central government continued its nationalization and acquisition of undertakings. In *Minerva Mills* v. *Union of India*[19] government's policy of undertaking industries under section 18A of the Industries (Development and Regulation) Act, 1951[20] was challenged. The central government under the Act of 1951 appointed a committee to review the functioning of Minerva Mills in 1970. On receiving the report of non-functioning of the textile industry the central government ordered for the acquisition of this textile industry under the. However, case challenging this acquisition was filed in 1977 before the Supreme Court of India. This case was heard by five judges Bench consisting of Hon'ble Chief Justice Y.V. Chandrachud, Bhagwati J., A.C. Gupta J., N.L. Untawalia J., & P.S. Kailasam J. Hon'ble Chief Justice wrote judgment for himself and three other judges while Justice Bhagwati wrote the concurrent judgment.

Meanwhile, by virtue of 44th Amendment to the Constitution of India in 1978 the Janta Dal (the then ruling party) removed the right to property from part III of the Constitution. This amendment was definitely in line of government's policy of planned industrialization through licensing system and acquisition of undertakings.

The majority judgment upheld the acquisition of Minerva Mills on the ground of government's policy of planned industrialization. Nevertheless, the focus of the case was shifted to whether the Parliament possessed uncontrolled power to amend the fundamental rights. Clause 4 and 5 of article 368 which gave uncontrolled wider power to the Parliament to amend the Constitution were struck down by the majority judgment. It was held that article 368 of the Constitution does not give absolute and uncontrolled power to amend the basic structure of the Constitution. However, the amendment removing the fundamental right to property from article 19 (1) (f) was upheld.

Amongst the shifted focus in Minerva Mills case the erstwhile owners of Minerva Mills continued to contest the nationalization on different ground in 1986 before the

[19] *Minerva Mills* v. *Union of India* AIR 1980 SC 1789

[20] Sec 18 A of the Industries (Development and Regulation) Act, 1951 empowers the Central government acquire any undertaking on prescribed grounds.

Supreme Court of India.[21] This case was heard by two judges Bench consisting of M.M. Dutt J. & O. Chinappa Reddy J.

Erstwhile owners of Minerva Mills challenged the judgment of five judges Bench delivered in 1980 on the ground that nationalization of the textile industry was not valid since they were not provided with the report of the Committee which was appointed under the Act of 1951. However, the Bench held that it could not be proved by the petitioners that opportunity of hearing before making the report was not given to them. Therefore, there was no violation of natural justice since the petitioners were given opportunity of hearing. On the question of not providing report of the Committee it was proved before the Bench that the petitioners did not ask for the copy of the report. The Bench upheld the acquisition of the textile mill on the ground that the acquisition was made following government's responsibility under the Constitution to secure and distribute material resources for the benefit of the community. Therefore, the petitioners ultimately failed at the Supreme Court in September, 1986.

It was important to mention that financial scandals did not stop. It was quite clear that the industrialization policy, nationalization policy were not achieving its goal. However, the Indian judiciary reaffirmed government's economic policy despite failure of these policies. Financial scandals continued in India even after this.

- **CEMENT SCANDAL, 1981**

The Congress Chief Minister of Maharashtra A.R. Antulay was accused of extorting money from Mumbai Builders in form of donations to Indira Gandhi Pratibha Pratisthan. He was the trustee of this institution. It was also alleged that in exchange of this money he would grant these builders illegal cement quota in excess of the quota prescribed in the Rule. This scam was unearthed by one of the leading newspaper The Indian Express. A.R. Antulay was held guilty by the High Court of Bombay.

[21] *Minerva Mills* v. *union of India* AIR 1986 SC 2030.

- **ARJUN SINGH'S CHURHAT LOTTERY SCAM, 1982**

The Churhat Children welfare society was run by relatives of Arjun Singh the then Congress Chief Minister of Madhya Pradesh. The Society was allowed to raise its fund through lottery. It was alleged that Arjun singh received Rs. 5.4 crores through this society which he used to build his lavish Kerwa Dam Palace near Bhopal. Warren Anderson, the chief accused of Bhopal Gas Tragedy donated Rs. 150000/- to the society. It was alleged that Arjun Singh helped the chief accused of Bhopal gas tragedy, Warren Anderson, to flee India. However, the nature of the case was so complicated and because of the political influence of Arjun Singh these allegations could not be proved against either him or his family.[22]

Rajiv Gandhi took his oath as Prime Minister of India on 31st December, 1984. After coming to the power he tried to bring changes to the existing industrial policy. The dominant theme of his economic planning was improvement of industrial productivity through assimilation of modern technology, decentralization of decision making, greater efficiency of public sector by giving near autonomy. He assured that Public Sectors will continue to be the major tool for economy. Nevertheless, sick industries could not be subsidized for perpetuity. Non-viable units will either be closed or taken over. He proposed to decentralized decision making in public sector keeping it under minimum ministerial control. Regarding Private Sector he expressed that this sector had adequate scope to enhance its production. In case of industrial licensing he was of the opinion of loosening government's restrictions. He apparently desired to retain industrial licensing system but in modified form.[23]

- **WESTLAND HELICOPTER SCAM, 1986**

In 1985 Rajiv Gandhi, the then Prime Minister of India, was persuaded by the then British Prime Minister Margaret Thatcher to buy helicopters. These helicopters were manufactured by an aerospace company named as Westland which was manufacturing helicopters in Britain post World War II. Mr. Rajiv Gandhi's experts, however, were against such purchase. The purchase was made neglecting expert's

[22] Ashok Anand, *One vs All: Beware Mr. Prime Minister, It's India Impossible*, (Notion Press, Chennai, First Edition, 2016).

[23] India: Rajiv Gandhi's Economic Policy- A signpost, Directorate of Intelligence, Government of India, 31st January, 1985.

suggestion and such purchase proved to be disaster for India. The money of the deal i.e. almost 65 million Pound was given by the Britain out of its aid budget for purchasing these helicopters. Two of them crashed in 1988 and 1989. In 1991 these helicopters were withdrawn from service on the ground of safety measures. In 1993 Pawan Hans, state-owned helicopter firm, put out global tender for defective Westland helicopters. The British AES aerospace turned out to be the sole bidder and the whole lot of helicopters was packaged off to Britain.[24]

- **BOFORS SCAM, 1987**

This scam was the biggest scam during Rajiv Gandhi's tenure as Prime Minister. The scandal involved payment of huge amount of $1.4 billion for a deal between Bofors, a Sweedish arms manufacturer, and the Government of India. A deal was signed with the Sweedish arms manufacturer Bofors for supply of 410 howitzer 155 mm guns to Indian army. An option to license-produce 1000 more guns was also included in the deal. On 16th April, 1987 a Sweedish radio claimed that Bofors had paid kickback of worth 640 million to top Indian politicians to secure the deal. Ottavio Quattrochi, a family friend of Sonia Gandhi and Rajiv Gandhi, brokered to secure the deal to Bofors.

- **HDW SUBMARINE SCAM, 1987**

HDW, a German submarine manufacturer, was blacklisted after it was proved that it paid almost Rs. 30 crores as kickback to Indian middleman who helped procure the 420 crores submarine deal. The CBI registered the case in 1990 against Indian Businessman and several bureaucrats and defence personnel for their involvement in the scam and receiving almost 7% of the kickback.[25]

P.V. Narsimha Rao, the then Prime Minister of India, announced new economic policy in 1991. This year is marked as a change for the industrial development and economic environment of India. The new economic policy of 1991 introduced less government restriction upon industrial licensing and also introduced favourable terms

[24] The Ghost of the Helicopter past, The Hindu (Chennai), 24th February, 2013.

[25] Ashok Anand, *One vs All*: *Beware Mr. Prime Minister, It's India Impossible*, (Notion Press, Chennai, First Edition, 2016).

for developing foreign trade. The new economic policy is said to introduce liberalization, privatization and globalization in Indian economy.

However, the analysis of Industrial Policy resolution of 1948, 1956 disclose that Indian economy always approved privatization. However, such privatization was controlled through industrial licensing system. Liberalization of trade was not there in Indian economy from the very beginning. Provisions of Imports and Export (Controls) Act, 1947 was not favourable for free transborder trade. The State assumed its control over the development of industries and foreign trade pre 1991 which was liberalized through new economic policy of 1991. India followed mixed economy even before 1991 as the Industrial Policy resolution approved private sectors to operate in the market but with the permission of the government. Categorization of industries in various sectors and laying down extent of government's control over these industries in Industrial Policy resolution and Industries (Development and Regulation) act, 1951 were indicative of India's mixed economy.

In the industrial Policy Resolution, 1948 it was clearly stated that the central government desired Indian society to be on the socialistic pattern. The government also desired to prevent concentration of wealth and reduce the gap of earning and desired to achieve higher standard of living for its citizens. However, the policy makers were also aware that Indian economy could not grow unless private industries are permitted to operate in the market. Therefore, the socialistic view as embedded in the Constitution of India was reflected through government's planned industrialization policy.

Economic policy with planned industrialization having a strong public sector was formulated to secure high standard of living for its citizens and prevent concentration wealth. However, the abovementioned scandals prove that things became chaotic once liason between the big corporate houses and politicians was established.

The focus of this chapter is not the abovementioned financial scandals. Financial scandals continued even after new economic policy was adopted in 1991. The liason between the big corporate houses and political leaders continued and proved to be harmful for the Indian economy. Nevertheless, the focus lies in the economic policy in India immediately after 1947. What is the reason for shifting from strict government control of industrial development and foreign trade to liberalization and

globalization. Another issue is that India shifted to liberalization, privatization and globalization without having any amendment to the word 'Socialist' in the Preamble of the Constitution of India. Constitutional provisions having the impression of Indian economy to be socialistic economy were not also amended.

These financial scandals forced the central government to go for loosen government control and to shift to a new economic policy. Indian economy could easily shift to liberalization, privatization and globalization without any further amendment because the socialistic form of economy that India followed was different from that of Russia. In India the government controlled the industrial development through licensing system but permitted private entities to operate in the market. The industrial policy resolution permitted private sectors to the extent these serve the needs of the community. The significance of private sector in Indian economy was measured through the social end of the sector and the end could only be justified through social result. The government restricted the amount of imported and exported goods through the Act of 1947. The government restricted the ceiling limit of land holding or property to an individual. The rests were planned to re-distribute evenly to the needy individual. The Indian government planned its socialistic pattern of society and economy this way. According to Granville Austin the Directive Principles were declaration of economic independence and Indian people acquired political and economic control of the country.[26]

Post Maneka Gandhi the Indian judiciary assumed significant role in protection of rights of citizens with its burgeoning jurisprudence of Public Interest Litigation case. Infringement of fundamental rights during emergency period in India restored the image of the Indian judiciary as protector of human rights. The Apex Court has pronounced significant judgments during 1978- 1991 period. It continued to retain its image as the protector of human rights and fundamental rights in India. However, a thorough study of judicial pronouncements of post 1990 reveals that the Supreme Court of India adopted a restrictive approach in matters related to economic policy of the Government. Post 1991 there is a shift in economic policy of the Government of India. India was transforming from socialist economy to capitalist economy as liberalization, privatization and globalization was introduced in Indian economy. This

[26] Granville Austin, *The Indian Constitution: Cornerstone of a Nation*, 77 (OUP, New Delhi, Thirty Seventh edition, 2020)

meant privatization of Public Sector Undertakings (PSUs). It also affected rights of labourers to a great extent.

The restrictive role of judiciary while exercising power of judicial review was an evidence of Supreme Court's selective activism. Cases related to review of economic policies of the Government the Supreme Court chose not to interfere with the policy stating that this policy shift is executive-led and taken after much debate in Parliament. The role of the Supreme Court in issues related to conflicting rights of corporate sectors and labourers is also critical. Post 1991 in judicial pronouncements rights of private sectors over labourers. Privatization may be a policy of the Indian government, but the Supreme Court has reshaped it and reconstituted constitutional framework and principles that supported the economic transformation in India. The Indian Government introduced New Education Policy in 1986 supporting privatization. The Supreme Court of India recognized the new policy of privatization in *T.M.A. Pai Foundation* v. *State of Karnataka*[27]case. In this case the Supreme Court laid down rules regarding admission in Minority Educational Institution. *T.M.A. Pai Foundation* case of 2002 the Supreme Court laid down rules for admission in private educational institution. Besides educational institution the industrial sector was privatized and eventually these policies were recognized by the Indian judiciary through several judicial pronouncements.

The Indian judiciary widened its scope of judicial activism in protecting fundamental rights of citizen post 1978. However, the judiciary started being deferential to the Government in cases involving economic policy. The expansion of scope of judicial review in the area of protection of fundamental rights and implementation of DPSP was not visible in area challenging economic policy of the Government. Therefore, the stand of Indian judiciary was quite clear in this regard. In *R.K. Garg* v. *Union of India*[28]the Special Bearer's Bonds (immunities and Exemptions) ordinance, 1981 was enacted by the Congress Government. This Ordinance was enacted to provide immunity to individual of Bearer's Bonds from direct taxes. These Special Bearer Bonds were to be issued by the Government from 1991 onwards at Rs. 10000/- and the holder of such bearer bonds shall enjoy some exemptions in direct tax. The Government led by Mrs. Indira Gandhi later on passed this Ordinance as an Act and

[27]*T.M.A. Pai Foundation* v. *State of Karnataka* AIR 1994 SC 2372.
[28]*R.K. Garg* v. *Union of India* (1981) 4 SCC 675.

the purpose of enacting this Act was to bring back black money. The issue in R.K. Garg case was that treating holders of black money separately and providing them immunity under Bearer Bonds Act, 1981 amounted to violation of Constitutional Principles. This case was presided over by Y.V. Chandrachud J., A. Gupta J., A. Sen J., P.N. Bhagwati J., S.M. Ali J.

The majority decision in this case was that the morality of enacting the Act of 1981 can not be challenged because the purpose of enacting the Act is to channelize black money. Therefore, the Court needs to take deferential and rational-basis standard of review while examining government's economic policy. With this judicial pronouncement the Apex Court effectively announced its twofold stand i.e. non-arbitrariness review of claims abrogating fundamental rights while applying lower rational basis review of economic policies undertaken by the government.

In *Premium Granites and another* v. *State of Tamil Nadu*[29]while deciding on court's power to interfere with executive policy the Division of the Supreme Court consisting of M.N. Venkatachaliah C.J.I. and G.N. ray J., observed that it is not the duty of the Court to embark upon unchartered public policy undertaken by the executive. The issue in this case was validity of Rule 39 of Tamil Nadu Minor Mineral Concession Rule granting power to State Government for grant of leases otherwise than in accordance with rules in interest of mineral development and in public interest. The Bench adhered to limited judicial review and did not go into the merit of the policy. The court focused whether fair, just and equal opportunity has been provided to every interested individual by the government while granting of license of lease under Rule 39 of the Concession Rule. The court observed that the grant of license to few people and that also on grounds of loss of foreign exchange is totally obnoxious to the theory of state action. The guiding principle of interpreting Rule 39 should be equality of opportunity to every person in the trade and at the same time imposing restrictions or guidelines to prevent misuse of such power. The Bench found rule 39 valid and reasonable and not *ultra vires* to article 14 of the Constitution of India. The Bench also set aside the decision of Madras High Court which invalidated rule 39.

[29]*Premium Granites and another* v. *State of Tamil Nadu*(1994) 2 SCC 691.

In *Delhi Science Forum* v. *Union of India*[30]government's decision to grant license to non-governmental organization under the Telegraph Act, 1885 pursuant to government's policy of privatization and liberalization was challenged. This case was presided over by two judges Bench consisting of N.P. Singh J., & K. Venkataswami J. The Bench observed that granting license to private bodies is exclusive executive power of the Central Government. The new Telecom Policy is not only a commercial venture of the Central Government, but the object of the policy is to bring a better service within the reach of common man. Nevertheless, the Court observed that since the new Telecom Policy introduces plurality in the telecom sector there is a necessity of Telecom Regulatory Authority to harness individual appetite for private gains. The Central Government and the Telecom Regulatory Authority are not expected to behave like sleeping trustees if the government thinks of introducing privatization.

Secretary, Ministry of Information & Broadcasting v. *Cricket Association of Bengal & anr*[31]is a historic judgment which stated that air waves are not the monopoly of the Indian Government. This case was presided over by three judges Bench consisting of P.B. Sawant J., S. Mohan J., and B.P. Jeevan Reddy J. The Cricket association of Bengal (hereinafter mentioned as CAB) & Board of Control for Cricket in India (hereinafter mentioned as BCCI) organized hero Cup Match and appointed a foreign agency to telecast the same. BCCI also applied to the Central government for granting license to the foreign agency to telecast the match. The Ministry of Broadcasting, Government of India filed this suit seeking the Apex Court determine the absolute right of the government to telecast the match. P.B. Sawant J. (for himself and on behalf of S. Mohan J.) observed that Broadcasting/telecasting is a means of communication and therefore a medium of speech and expression. Hence, in democratic policy neither any private individual nor an institution, organization of the government or the government itself can claim exclusive right over it. Our Constitution forbids monopoly either in print or in electronic media. B.P. Jeevan Reddy J. observed that monopoly over broadcasting whether by the government or anybody else is inconsistent with free speech right. No monopoly of media can be perceived for simple reason that article 19 (2)[32] does not permit the same. The Bench

[30]*Delhi Science Forum* v. *Union of India* AIR 1996 SC 1356.
[31]*Secretary, Ministry of Information & Broadcasting* v. *Cricket association of Bengal &anr* AIR 1995 SC 1236.
[32] Article 19 (2) of the Constitution of India.

unanimously rejected state monopoly over air waves (P.B. Sawant J. for himself and S. Mohan J., while B.P. Jeevan Reddy J. concurring) and observed that CAB and BCCI are responsible for promoting cricket as a popular sport. Promotion of a sport is not like conducting any other business. These two organizations are responsible for organizing sport events and can be accused if failed to successfully organize the same. Therefore, for this purpose they are duty bound to select the best means and methods of reaching the maximum number of listeners and viewers. The BCCI will be neglecting its duty if it does not explore various means and methods of broadcasting the sport. In a democracy everyone has the right to participate and such participation will be meaningless if not accompanied with proper information. Therefore, it is necessary to have multiple source of information to ensure restriction of one-sided information, misinformation, disinformation and non-information. In this backdrop the Bench laid down that the Indian government does not have monopoly in broadcasting and/ or telecasting.

In *Narmada Bachao Andolan* v. *Union of India and Others*[33] the Division Bench of the Supreme Court, consisted of B.N. Kripal J., & Dr. A. Anand J., made it clear that the Court would not interfere with the policy decision of the Government. The Government is empowered to carry out any infrastructural project and is also empowered to determine ways to execute the project so undertaken. The Court thinks itself ill-equipped to adjudicate on a policy decision undertaken by the Government. However, the Court has duty to see that no rights of people have been violated while executing the policy decision except to the extent permissible under the Constitution. In this context it is pertinent to mention that the Narmada Dam project was undertaken by the Government itself. Nevertheless, the Judiciary made its position clear on policy decision of the Government.

In *Balco Employee's Union* v. *Union of India*[34]the Supreme Court again had to deal with issue of conflict of interests arose out of Government's decision of disinvestment

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Nothing in sub clause (a) of clause (1) 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 conferred by the said sub clause 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

[33]*Narmada Bachao Andolan* v. *Union of India and Others* (2000) 10 SCC 664

[34]*Balco Employee's Union* v. *Union of India* (2002) 2 SCC 333.

of BALCO. This case was presided over by three judges Bench consisting of B.N. Kripal J., Shivaraj V. Patil J., & P. Venkatarama Reddi J.

M/s Bharat Aluminium Company Limited i.e. BALCO was incorporated in 1965 by the Government of India under the Companies Act, 1956. In 1968 the ownership of BALCO was transferred to the Government of Madhya Pradesh by way of lease for 99 years. The company is engaged in the manufacture of aluminium and had plants at Korba in the State of Chhattisgarh and Bidhanbag in the State of West Bengal. The Company has integrated aluminium manufacturing plant for the manufacture and sale of aluminium metal including wire rods and semi-fabricated products.

Post 1990 successive Central Government planned for disinvestment of Public Sector Undertakings (hereinafter mentioned as PSUs). The Government of India in fiscal year of 2000-2001 decided to disinvest 51% of share of BALCO. The Government took the decision of disinvestment after receiving report from Public Sector Disinvestment Commission. The present case is against privatization of PSUs.

The Bench unanimously observed that the court is not the approval authority of any project undertaken by the Government. The Government is responsible for the welfare of people at large and not for a small section of society. When any policy decision is taken by the Government after due consideration and if it is not in violation of any law, then the Court thinks it inappropriate to investigate into the areas of functioning of the executive. The Court should not interfere with policy decision of the Government just because a small section of people merely thinks that the Government should not have taken the impugned policy decision.

The Bench also observed that in any democratic set up the Government has the prerogative in selecting its own policy. This eventually may result in shift in economic policy. Any such change may adversely effect interest of some. However, these changes are legal unless it is in violation of any law in force for the time being or is contrary to law or mala fide. A decision bringing in change can not *per se* be interfered with by the Court. Wisdom and advisability of any economic policy is not amenable to the judiciary unless it can be shown that such economic policy is contrary to statutory provision. The motion of disinvesting BALCO was taken after due discussion in Lok Sabha in 2001. Therefore, the Supreme Court was of the view that

the disinvestment policy of BALCO can not be questioned as it was taken after following fair, just and equitable procedure to carry out the disinvestment.

In the *Centre for Public Interest Litigation* v. *Union of India*[35]the petitioner challenged selling of government's stake in two public enterprises i.e. Bharat Petroleum Corporation Limited (BPCL) and Hindustan Petroleum Corporation Limited (HPCL). These two companies were formed following nationalization policy of the Indian government in 1970. These companies were regulated by ESSO (Acquisition of Undertaking in India) Act, 1974, the Burma Shell (Acquisition of Undertaking in India) Act, 1976 and the Caltex (Acquisition of Shares of Caltex Oil Refining India Limited and all the Undertakings in India for Caltex India Limited) Act, 1977. The argument of the petitioner was that these companies were initially foreign companies, nationalized in 1970 following the nationalization policy of the Government of India. Thus, a company born out of acquisition following a policy could not be privatized without the Parliamentary approval.

The case was heard by two judges Bench of the Supreme Court of India comprising of S. Rajendra Babu J., and G.P. Mathur J. The Bench pointed out that in the present case the acquisition and nationalization had statutory backing which was not the case for BALCO. The Bench also observed that the issue in this case was not regarding disinvestment policy of the government. However, the issue was whether the executive while divesting stocks complied with statutory guidelines. It was found that the statutes governing nationalization of BPCL and HPCL did not permit any repeal or amendment of the same. Therefore, the Bench declared the privatization of BPCL and HPCL flawed and the petition was allowed restraining the Central Government from disinvesting the two companies without appropriately amending the concerned statutes.

In *Bharat Bhari Udyod Nigam Ltd. Calcutta* v. *Jessop and Co. Ltd. Staff Association*[36]the Division Bench of the High Court of Calcutta was required to determine the executive decision to sell major stake of a Government undertaking to Jessop. The petitioner's employee association argued that the company involved in railway transport- a strategic sector which required to be Government undertaking.

[35]*Centre for Public Interest Litigation* v. *Union of India* (2003) 7 SCC 532.
[36]*Bharat BhariUdyod Nigam Ltd. Calcutta* v. *Jessop and Co. Ltd. Staff Association* (2003) 4 Comp.LJ 333 Cal.

The Division Bench of the High Court of Calcutta, comprising of A.K. Mathur J., and A.K. Banerjee J., observed that the company manufactured railway wagons and coaches which could not be considered as strategic activity. Therefore, the High Court of Calcutta allowed the privatization.

Reliance Airport Developers Pvt. Ltd. v. *Airport Authorities India*[37]challenged privatization of Mumbai and Delhi airports by the Central Government. This case was presided over by Dr. A. Pasayat J. The Division Bench of Delhi High Court declared privatization of two airports *ultra vires* to Constitutional principles. The Court laid down that in issues related to judicial review of administrative action it must confine itself to

a. Whether a decision-making authority exceeded its powers,
b. Whether committed an error of law,
c. Whether committed a breach of the rules of natural justice,
d. Whether reached a decision which no reasonable tribunal would have reached or,
e. Whether abused its powers.

Therefore, the duty of the court is not to determine the policy of the executive, rather the court will see whether the manner of implementing the policy is fair, just and equitable. The Court declared this appeal sans merit and upheld privatization of two airports. However, the court ensures that proper consideration is made before implementing this policy following privatization policy of the Central Government.
In *Reliance Energy Ltd.* v. *Maharashtra State Road Development Corporation Ltd*[38]Maharashtra State Government's floating Global Notification for completion of Mumbai Trans Harbour link was challenged. This case dealt with protection of rights of private corporate entities. The two judges Bench consisting of Dr. A. Pasayat J., & S.H. Kapadia J. observed that 'non-discrimination' provision of article 14 has to be read along with article 21 and article 19 of the Constitution of India. Article 19 (1) (g) guarantees fundamental right to carry on business. Article 21 guarantees right to life which includes right to opportunity. Therefore, Maharashtra government's invitation to Global Tender is to provide level-playing field for private entities and does not amount to discrimination to national corporate entities. Justice Kapadia while

[37]*Reliance Airport Developers Pvt. Ltd*. v. *Airport Authorities India* (2006) 10 SCC 1.
[38]*Reliance Energy Ltd.* v. *Maharashtra State Road Development Corporation Ltd (*2007) 8 SCC 1.

grounding the level playing field also observed that globalization is, in essence, liberalization of trade. Decisions regarding unequal treatment and discrimination between national and global corporate entities would violate doctrine of 'level playing field' embodied in article 19 (1) (g) of the Constitution of India.

Cellular Operators Association of Indian &Ors v. *Telecom Regulatory Authority of India &Ors*[39] is a recent case where two judges Bench of the Supreme Court consisting of Kurian Joseph J., and R.F. Nariman J. ruled in favour of private entities providing telecom services. The Cellular Operators Association of India is a group of operators providing telecom service filed an appeal against a Regulation issued by the Telecom Regulatory Authority of India (hereinafter mentioned as TRAI). TRAI in Telecom Consumers Protection (Ninth Amendment) Regulations, 2015 provided guidelines for private telecom operators. These guidelines remained there despite telecom operator's petition that most of the guidelines mentioned in TRAI regulation are followed. Nevertheless, the guideline was operative. The Delhi High Court upheld the impugned regulation. The two judges Bench of the Supreme Court observed that the observation made by the Delhi High Court that the impugned regulation tried to balance out the interest of telecom customer has no reason. The assumption that private bodies of telecom service work in a way to hinder customers' interest is wrong, arbitrary and baseless. The Bench set aside the Delhi High Court judgment and declared impugned regulation of TRAI thereby upholding rights of private bodies offering telecom service.

In all the aforementioned cases which reaffirmed the transformation of socialist economy of India into capitalist economy were not allotted Constitutional Bench to determine the issue. It is quite shocking that an issue involving such a significant question of the Constitution is not allotted five judges Bench to determine. Indian economy, according to the Constitution, is still socialistic economy. However, a closer look at the economic policy and subsequently judicial pronouncements on this issue makes it clear that post 1991 the process of transformation started in Indian economic policies.

[39]*Cellular Operators Association of Indian &Ors*. v. *Telecom Regulatory Authority of India &Ors.* Civil Appeal No 5017 of 2016.

Role of the Supreme Court in reviewing economic policies of the Indian government was limited. The judiciary while reviewing economic policies confines itself to following matters only-

a. Whether the decision is made in bad faith,
b. Whether the decision is based on irrational and/or irrelevant consideration,
c. Whether the decision is made without considering the procedure prescribed under any statute in force for the time being.

Analysis of aforementioned cases show that the Indian judiciary has been deferential with the Indian government in matters related to economic policy and always restricted itself from reviewing the merit of any economic policy undertaken the government. The court creates asymmetrical rights terrain post 1991 where the court assumed different role for violation of different rights.

Economic policies of Indian government in support of privatization have changed the labour law legislation to some an extent. The labour legislation of India was in tune with socialistic approach of welfare government assumed by the Indian government post 1978. Privatization in India was challenged because the government has no plan of labour restructuring in a systematic manner prior to privatization. There was no separate law regarding what to privatize, how to privatize and no significant change was found in labour law following privatization policy.

Fear of lay off has always been the common reason for labour groups challenging privatization. For example employees of Airport Authority of India struck work to protest against the decision to allow private company a major stake in modernization of international airports in New Delhi and Mumbai.

STAND TAKEN BY SUPREME COURT JUDGES IN CASES DEALT WITH IN THIS CHAPTER

SL NO	NAME OF CASES	APPROVES CIVIL LIBERTY	APPROVES ECONOMIC LIBERTY	DISAPPROVES CIVIL LIBERTY	DISAPPROVES ECONOMIC LIBERTY
1.	*S.P. Jain* v. *Kalinga Tubes*Ltd.. (1965)				K.N. WANCHOO P.B. GAJENDRAGADKAR S.M. SIKRI
2.	*R.C. Cooper* v. *Union of India* (1970)		A.N. RAY J.C. SHAH S.M. SIKRI J.M. SHELAT V. BHARGAVA G.K. MITTER C.A. VAIDIALINGAM K.S. HEGDE A.N. GROVER J.P. REDDY I.D. DUA These judges observed that the compensation for acquisition of Banking		J.C. SHAH S.M. SIKRI J.M. SHELAT V. BHARGAVA G.K. MITTER C.A. VAIDIALINGAM K.S. HEGDE A.N. GROVER J.P. REDDY I.D. DUA

STAND TAKEN BY SUPREME COURT JUDGES IN CASES DEALT WITH IN THIS CHAPTER

SL NO	NAME OF CASES	APPROVES CIVIL LIBERTY	APPROVES ECONOMIC LIBERTY	DISAPPROVES CIVIL LIBERTY	DISAPPROVES ECONOMIC LIBERTY
			companies was inadequate. Therefore, some of the provisions of the Banking Companies (Acquisition and Transfer of Undertaking) Act, 1969 were declared void. Nevertheless, the Bench observed that Nationalisation is a government policy which should not be interfered with by the Judiciary.		
3.	*Bennett Coleman & Co.*v. *Union of India* (1973)		S.M. SIKRI A.N. RAY P. J. REDDY M.H. BEG (The majority also approved freedom of speech and expression of newspaper).		K.K. MATHEW

STAND TAKEN BY SUPREME COURT JUDGES IN CASES DEALT WITH IN THIS CHAPTER

SL NO	NAME OF CASES	APPROVES CIVIL LIBERTY	APPROVES ECONOMIC LIBERTY	DISAPPROVES CIVIL LIBERTY	DISAPPROVES ECONOMIC LIBERTY
4.	*Minerva Mills* v. *Union of India* (1980)				Y.V. CHANDRACHUD P.N. BHAGWATI A.C. GUPTA N.L. UNTAWALIA P.S. KAILASAM
5.	*R.K. Garg*v. *Union of India* (1981)		Y.V. CHANDRACHUD A.C. GUPTA A.N. SEN P.N. BHAGWATI A.M. ALI		
6.	*Minerva Mills* v. *Union of India* (1986)				M.M. DUTT O.C. REDDY
7.	*Premium Granites & another* v. *State of Tamil Nadu* (1994)		M.N. VENKATACHALIAH G.N. RAY		

STAND TAKEN BY SUPREME COURT JUDGES IN CASES DEALT WITH IN THIS CHAPTER

SL NO	NAME OF CASES	APPROVES CIVIL LIBERTY	APPROVES ECONOMIC LIBERTY	DISAPPROVES CIVIL LIBERTY	DISAPPROVES ECONOMIC LIBERTY
8.	*T.M.A. Pai Foundation*v. *State of Karnataka*(1994)		M.N. VENKATACHALIAH B.P. JEEVAN REDDY		
9.	*Secretary, Ministry of Information & Broadcasting* v. *Cricket Association of Bengal & another*(1995)		P.B. SAWANT S. MOHAN B.P. JEEVAN REDDY		
10.	*Delhi Science Forum* v. *Union of India* (1996)		N.P. SINGH K. VENKATASWAMI		

STAND TAKEN BY SUPREME COURT JUDGES IN CASES DEALT WITH IN THIS CHAPTER

SL NO	NAME OF CASES	APPROVES CIVIL LIBERTY	APPROVES ECONOMIC LIBERTY	DISAPPROVES CIVIL LIBERTY	DISAPPROVES ECONOMIC LIBERTY
11.	*Narmada BachaoAndolan* v. *Union of India &ors* (2000)		B.N. KRIPAL Dr. A. ANAND (The Bench also stated that the execution of the government policy must not violate civil liberty of people concerned)		
12.	*T.M.A. Pai Foundation*v. *State of Karnataka*(2002)		B.N. KRIPAL G.B. PATNAIK S. RAJENDRA BABU K.G. BALAKRISHNAN P.V. REDDI ARIJIT PASAYAT		V.N. KHARE S.S.M. QUADRI Mrs. RUMA PAL S.N. VARIAVA ASHOK BHAN
13.	*Balco Employee's Union* v. *Union of India (2002)*		B.N. KRIPAL SHIVARAJ V. PATIL P.V. REDDI		
14.	*Centre for Public Interest Litigation* v. *Union of India (2003)*		S. RAJENDRA BABU G.P. MATHUR (however, both the judges opined that the government		

STAND TAKEN BY SUPREME COURT JUDGES IN CASES DEALT WITH IN THIS CHAPTER

SL NO	NAME OF CASES	APPROVES CIVIL LIBERTY	APPROVES ECONOMIC LIBERTY	DISAPPROVES CIVIL LIBERTY	DISAPPROVES ECONOMIC LIBERTY
			undertaking could be divested in favour of private enterprises only after introduction of amendment to that effect in the concerned legislations).		
15.	*Reliance Airport Developers Pvt. Ltd.* v. *Airport Authorities India (2006)*		Dr. A. PASAYAT		
16.	*Reliance Energy Ltd.* v. *Maharashtra State Road Development Corporation Ltd. (2007)*		Dr. A. PASAYAT S.H. KAPADIA		

STAND TAKEN BY SUPREME COURT JUDGES IN CASES DEALT WITH IN THIS CHAPTER

SL NO	NAME OF CASES	APPROVES CIVIL LIBERTY	APPROVES ECONOMIC LIBERTY	DISAPPROVES CIVIL LIBERTY	DISAPPROVES ECONOMIC LIBERTY
17.	*Cellular Operators Association of Indian &ors.*v. *Telecom Regulatory Authority of India &ors*. (2016)		KURIAN JOSEPH R.F. NARIMAN		

In this chapter the researcher studied eighteen cases where one case has been decided by the High Court of Calcutta and rest of the seventeen cases have been decided by the Supreme Court of India. In these seventeen cases the voting behaviour of forty seven (47) judges have been studied. This chapter specifically deals with cases where the economic policies of the Government of India was challenged. The researcher studied the reaction of the Indian Judiciary to cases where the nationalization policy and later on privatization policy of the Government of India were challenged. This chapter is fully dedicated to discussion regarding challenges India underwent following the License Raaj, Nationalization, Privatisation and membership of World Trade Organisation. Therefore, the voting behaviour of judges in this Chapter manifests their reaction to nationalization and eventually privatisation. In this Chapter no cases related to civil rights has been discussed.

India has changed its economic policy often to adjust with the requirement of the country. Post-independence the Government of India encouraged industrialization. Nevertheless, the government kept a significant power i.e. issuance of license within its control to avoid the concentration of wealth. However, industrialization and licensing system gave birth to infamous License Raaj in India which led to corrupt practices by various renowned political leaders. This led to the policy of nationalization and/or introduction of direct government control of sectors. From amongst various phases of nationalization, nationalization of 1969 was at a bigger scale where 14 Banks were nationalised. Again in 1991 India changed its economic policy and introduced Deregulation of Banking Sector which ushered an era of Liberalisation.

Following judges disapproved economic liberty in cases studied in this chapter and these judges also have been found under Classical Conservative[40] group in the other chapters. The judges are Justice K.N. Wanchoo, Justice P.B. Gajendragadkar, Justice S.M. Sikri, Justice V. Bhargava, Justice K.K. Mathew, Justice A.C. Gupta, and Justice P.S, Kailasam. However, Justice S.M. Sikri voted in favour of economic liberty in *Bennett Coleman & Co*. v. *Union of India*[41].

[40]A judge is enlisted under Classical Conservative list when his voting behaviour manifests disapproval of both the civil liberty and economic liberty.

[41] *Bennett Coleman & Co*. v. *Union of India* AIR 1973 SC 106

Following judges were found to belong to Classical Liberal[42] group in other chapter but manifested voting behaviour disapproving economic liberty in *R.C. Cooper* v. *Union of India*[43]. These judges are Justice J.M. Shelat, Justice G.K. Mitter, Justice C.A. Vaidalingam, Justice K.S. Hegde, Justice A.N. Grover, Justice J.P. Reddy, Justice I.D. Dua.

Justice N.L. Untawalia has been found to belong to Classical Liberal group, however, in *Minerva Mills* v. *Union of India*[44] Justice Untawalia disapproved economic liberty. In *Minerva Mills* v. *Union of India*[45] in 1986 the nationalization of textile industry was challenged. Justice M.M. Dutt and Justice O.C. Reddy in this case disapproved economic liberty and declared nationalization was a government policy. Thus, the Court would not interfere with administrative decisions.

There was a shift in the voting behaviour of Justice Y.V. Chandrachud and Justice P.N. Bhagwati. This shift was noticed post Maneka Gandhi case i.e. post 1978. Prior to this period Justice Chandrachud and Justice Bhagwati manifested voting behaviour of conservative group. However, post 1978 both the judges manisfested quite a liberal attitude towards civil liberty and economic liberty.

Economic reform in India has been continuous in nature. This economic reform in India could be traced back to independence of India. Post-independence the government of India advocated 'Public-Private Partnership' model in economy. The Industrial Policy Resolution also categorised sectors in accordance with their nature as strategic, basic, important and other industries. The government control over any sector was decided according to its nature and its importance for the Nation. The private sectors were also brought under government control by introducing Licensing system.

The Licensing system in turn gave rise to corruption and is known as infamous License Raaj. To cope up with this the government of India introduced Nationalization policy in sectors like Banking, Textile industry and Coal industry etc.

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[42] Judges belonging to Classical Liberal group manifests voting behaviour favouring civil liberties and economic liberties both.

[43] *R.C. Cooper* v. *Union of India* AIR 1970 SC 564

[44] *Minerva Mills* v. *Union of India* AIR 1980 SC 1789

[45] *Minerva Mills* v. *Union of India* AIR 1986 SC 2030.

India was amongst 23 founding contracting parties to General Agreement on Tariffs and Trade, concluded in October, 1947. General Agreement on Tariffs and Trade (GATT) was entered into with an object of facilitating international trade. Therefore, the entry into GATT definitely imposed some responsibility upon its member countries for the realisation of its ultimate object i.e. facilitation of international trade. India, being a member country of GATT, had to lower its tariffs on importing goods. This step was taken owing to India's commitment to GATT principles. However, in 1954 the Federal of Indian Chambers of Commerce and Industries urged the Indian government to withdraw from GATT as the same was going to effect its home products. Under the GATT principle the signatories had to make three types of concessions and these are-

i. Actual tariff reduction,
ii. Reduction or elimination of preferential treatment previously accorded to trade with certain countries,
iii. Not to raise the duty or tariff above the negotiated level. (The third concession is binding in nature. Deviation from this rule attracts censure from international communities).

India was shifting from one economic policy to another to find out a comforting ground. This led to introduction of licensing system to bring controlled industrialization followed by Nationalization later on. However, post nationalization Indian government realised that Indian economy was lagging behind from other countries because of its unrealistic economic policy.

In this backdrop it is significant to mention that liberalisation entered Indian economy from the very beginning with India's entry into GATT in 1947. However, all the attempts of liberalization were unsuccessful and Indian market was still not ready for less governmental control over industrial sectors and foreign investment in the same. Coca- Cola, a leading brand of soft drink left India in 1977 because of Indian government's nationalization policy for which Coca-Cola was asked to dilute its stake in its Indian unit under the Foreign Exchange Regulation Act, 1977. This company came back to India along with PepsiCo after India introduced its Liberalization policy in 1991. Following the liberalization policy Foreign direct investment was also introduced in India post 1991 through Foreign Exchange Management Act, 1999.

The Uruguay Round, the 8th round of GATT, in 1994 introduced World Trade Organization which deals with global rules of trade between nations. Uruguay round brought in Globalization in international trade. World Trade Organization did not have anything to do with liberalization except in places where the Dispute Settlement Mechanism of WTO declared any policy of a country as illegal for restricting free flow of transnational trade.

In case of India it was a coincidence as India adopted liberalisation policy in 1991 as a shift from its old economic policy and the Uruguay Round took place eventually in 1994. India's new economic policy post 1991 was in the same direction of globalization and multilateral trade negotiations of Uruguay Round[46]. Thus, India seemed to be far more comfortable with this shift and the Judiciary of India reacted accordingly.

Cases of post 1991 studied in this Chapter manifested judgments favouring liberalization and privatization. Judges approving economic liberty post 1991 are Justice M.N. Venkatachaliah, Justice G.N. Ray, Justice B.P. Jeevan Reddy, Justice P.B. Sawant, Justice S. Mohan, Justice N.P. Singh, Justice K. Venkataswami, Justice B.N. Kripal, Justice A. Anand, Justice G.B. Patnaik, Justice S. Rajendra Babu, Justice K.G. Balakrishnan, Justice P.V. Reddi, Justice Arijit Pasayat, Justice Shivraj Patil, Justice G.P. Mathur, Justice S.H. Kapadia.

[46] Bibek Debroy, India's Economic Liberalization and the WTO, 39-55, India's Liberalization Experience.