Right to Privacy: Not in the periphery of Article 21, Centre of it

The arguments of the petitioners continue on the issue of Right to Privacy in front of a 9 Judge Bench before the Supreme Court of India. Thursday saw arguments put forth by Senior Advocates Arvind Datar, Anand Grover, Sajan Poovayya and Meenakshi Arora.

Below are excerpts of the submissions:

**Senior Advocate Arvind Datar**

- It is difficult to define a concept as abstract as privacy, as it was a multi-faceted right.
- The contours of such a right can only be developed on a case-to-case basis.
- The right to privacy is not simply on the periphery of the right to life under Article 21 but the centre of it.

**Senior Advocate Anand Grover**

- In the case of *I.R.Coelho v. State of Tamil Nadu* it was held that the Constitution was a living document and fundamental rights are inter-connected and form part of the basic structure of the Constitution.
- He asserted that human rights are linked, overlap in a confluence of inter-connected rights.
- In the case of *M. Nagaraj v. Union of India*, it was held that Constitution must be given an expansive interpretation, and account for changing circumstances.
- He also highlighted the difficulty in defining privacy.
- He referred to Article 17 of the International Covenant on Civil and Political Rights (ICCPR) which was ratified by India in 1977, which contains the right to privacy. He urged the Government to fulfil its obligations as per provisions of ICCPR.
- If the right to privacy was stripped off, other fundamental rights would become vulnerable. In the *NALSA v. Union of India* judgment the central issue of self-determination of one’s gender that was decided in this case would all be under threat.
- He highlighted the inextricable link between dignity and privacy.

**Senior Advocate Sajan Poovayya**

- The manifestations of breach of privacy was the issue central to his submissions.
- The rejection of the contention of right to privacy being a fundamental right would determine the manner and methodology in which the State would go on to deal with issues like data protection.
- State when it collects data from citizens must specify the purpose for such collection of data and then utilise the data for those purposes for which consent has been given.

**Senior Advocate Meenakshi Arora**

- There are internal inconsistencies in the cases of Kharak Singh and MP Sharma.
- The right of privacy is not only a part of Article 14 and 19, but they also form a part of Article 17, 24 and 25.
Justice Chandrachud put forth the question of how such a right to privacy would affect the use of data by crime bureaus, who use data of criminals for the purpose of profiling for the sake of preventing and catching offenders.

The arguments of the counsels of the petitioners will continue on 25th July, 2017.