

1. BASIC STRUCTURE DOCTRINE BY THE SUPREME COURT HAS BEEN OFTEN BRANDED AS AN ACT OF JUDICIAL OVERREACH. DISCUSS CRITICALLY.

Answer

Judiciary in India is custodian of the Constitution. Its verdicts are meant to protect and uphold constitutional supremacy. It guards the executive and legislature from becoming autocratic and omnipotent. Against this premise Supreme Court of India for the first time while deciding the historic Keshavananda Bharati vs. State of Kerala (1973) case, held that a constitutional amendment duly passed by the legislature is invalid and unconstitutional when the said amendment destroys the basic structure of the constitution. It's indeed was a gigantic innovative judicial leap alien to any legal system. The masterstroke was that the judgment could not be annulled by any amendment to be made by Parliament because the basic structure doctrine was vague and amorphous. To this effect, the apex court has evolved a list of basic structure of the Constitution of India and in all its verdicts since 1973 it has applied self-evolved the basic structure doctrine and never allowed the basic features go unheeded or violated. Although such role of India judiciary is termed as judicial aggressiveness or overreach, the basic structure doctrine has been at the pivot of the successful working of the Indian Constitution since 1970s. The longevity and vitality of the Constitution can be sustained only when Judiciary remains active and alert within its constitutionally fenced domain and it augurs well for India.