

**CASES WHERE THE LEGISLATURE HAS OVERRULED COURT'S
JUDGEMENTS BY LEGISLATIVE ACTION AND COURT HAS COME DOWN
HEAVILY ON THE GOVERNMENT**

S. No.	Case Name	Brief Facts	Relevant part/remark in Judgement
1.	Dr. Jaya Thakur v. Union of India 2023 INSC 616	<p>Apex Court in <i>Common Cause v. Union of India 2021</i> directed that no further extension shall be granted to ED Director.</p> <p>CVC Act was amended which permitted extension thereby nullifying the Common Cause judgement.</p>	<p>That a writ of mandamus could not be nullified by a subsequent legislation made by the legislator.</p> <p>A binding judicial pronouncement between the parties cannot be made ineffective with the aid of any legislative power by enacting a provision which in substance simply overrules a judgment unless the foundation of the judgment is removed.</p> <p>[The amendment was not struck down by the court but the extension was held illegal]</p> <p>Relied on Madan Mohan Pathak v. Union of India, (1978) 2 SCC 50</p>
2.	NHPC Ltd. v. State of Himachal Pradesh Secretary (2023) 17 SCC 1	<p>Division Bench of HC directed respondents to refund the tax collected as the charging provision of 1955 Act did not include acts done by the petitioner.</p> <p>The controversy arose with the enactment of the Amendment Act, 1997 by the Himachal Pradesh State Legislature with a view to remove the basis of the Division Bench Judgment.</p> <p>By virtue of the Amendment and Validation Act of 1997, definitions of the charging provisions were widened.</p> <p>The appellant/petitioner challenged the vires of the amendment act.</p>	<p>It may be open to the legislature to alter the law retrospectively, so as to remove the basis of a judgment declaring such law to be invalid, it is essential that the alteration is made only so as to bring the law in line with the decision of the Court. The defects in the legislation, as it stood before the Amendment and Validation Act was enacted, must be cured by way of the amendments introduced retrospectively.</p> <p>Simply setting at naught a decision of a court without removing the defects pointed out in the said decision, would sound the death knell for the rule of law.</p> <p>The rule of law would cease to have any meaning if the legislature is at liberty to defy a judgment of a court by simply passing a validating legislation, without removing the defects forming the substratum of the judgment by use of a non-obstante clause as a technique to do so.</p> <p>Abrogation is not a device to circumvent any and all unfavourable judicial decisions. If enacted solely with the intention to defy judicial pronouncement, such an amendment Act may be declared to be ultra-</p>

			<p>vires and as a piece of ‘colourable legislation.’ The device of abrogation, by way of introducing retrospective amendments to remove the basis of a judgment, may be employed when a legislature is under the Bonafide belief that a defect that crept into the legislation as it initially stood, may be remedied by abrogation. An act of abrogation is permissible only in the interests of justice, effectiveness and good governance, and not to serve the oblique agenda of defying a court’s order, or stripping it of its binding nature.</p> <p>[The amendment was held valid]</p> <p>Relied on Tirath Ram Rajindra Nath vs State of UP (1973) 3 SCC 585 and Indian Aluminium Co. v. State of Kerala (1996) 7 SCC 637</p>
3.	<p>Madras Bar Association v. Union of India [2021] 5 SCR. 791</p>	<p>The apex court gave certain directions in Madras Bar Association v. Union of India (2020) regarding appointment of tribunal members.</p> <p>The government passed ordinances to circumvent the directions issued.</p>	<p>Permissibility of legislative override:</p> <p>a) The effect of the judgments of the Court can be nullified by a legislative act removing the basis of the judgment. Such law can be retrospective. Retrospective amendment should be reasonable and not arbitrary and must not be violative of the fundamental rights guaranteed under the Constitution.</p> <p>b) The test for determining the validity of a validating legislation is that the judgment pointing out the defect would not have been passed, if the altered position as sought to be brought in by the validating statute existed before the Court at the time of rendering its judgment. In other words, the defect pointed out should have been cured such that the basis of the judgement pointing out the defect is removed.</p> <p>c) Nullification of mandamus by an enactment would be impermissible legislative exercise. Even interim directions cannot be reversed by a legislative veto.</p> <p>d) Transgression of constitutional limitations and intrusion into the judicial power by the legislature is violative of the principle of separation of powers, the rule of law and of Article 14 of the Constitution of India.</p> <p>[Certain sections of the ordinance which were circumventing the directions were declared void]</p>

4.	<p>Medical Council of India Vs. State of Kerala (2019) 13 SCC 185</p>	<p>The State of Kerala promulgated the <i>Kerala Professional Colleges (Regularisation of Admission in Medical Colleges) Ordinance, 2017</i>, aimed at regularizing admissions of students who were previously admitted illegally to Kannur Medical College and Karuna Medical College.</p> <p>This Ordinance was perceived as an attempt to nullify judicial and High Court orders that had declared such admissions invalid due to procedural irregularities.</p> <p>Whether the State of Kerala possessed the authority to enact an Ordinance that effectively overruled court judgments, thereby encroaching upon the judiciary's constitutional mandate?</p>	<p>The legislature cannot, by way of an enactment, declare a decision of the court as erroneous or a nullity, but can amend the statute or the provision so as to make it applicable to the past. The legislature has the power to rectify, through an amendment, a defect in law noticed in the enactment and even highlighted in the decision of the court. This plenary power to bring the statute in conformity with the legislative intent and correct the flaw pointed out by the court can have a curative and neutralizing effect. When such a correction is made, the purpose behind the same is not to overrule the decision of the court or encroach upon the judicial turf, but simply enact a fresh law with retrospective effect to alter the foundation and meaning of the legislation and to remove the base on which the judgment is founded.</p> <p>It is a blatant attempt of regularisation of admissions made which were declared to be invalid not only by the High Court of Kerala but by this Court.</p> <p>What the State Government has done by way of impugned Ordinance is not only impermissible and beyond legislative competence it also has the effect of perpetuating illegality and arbitrariness committed by the colleges in question by not following the mandate of law laid down by the High Court as affirmed by this Court.</p> <p>[The court struck down the enactment]</p>
5.	<p>Cheviti Venkanna Yadav v. State of Telangana, (2017) 1 SCC 283</p>	<p>Petitioners were appointed as Chairmen and members of a committee under APMC act in Andhra Pradesh.</p> <p>After Telangana was carved out ordinance was promulgated to amend the APMC act and via an order passed in pursuance of amendment, petitioners ceased to hold office.</p> <p>The ordinance was challenged in writ and was held ultra vires by HC as being against Art 14.</p>	<p>Legislature has the power to enact laws including the power to retrospectively amend laws and thereby remove causes of ineffectiveness or invalidity.</p> <p>Further, when such a correction is made, the purpose behind the same is not to overrule the decision of the court or encroach upon the judicial turf, but simply enact a fresh law with retrospective effect to alter the foundation and meaning of the legislation and to remove the base on which the judgment is founded.</p> <p>Thus, this does not amount to statutory overruling by the legislature.</p>

		<p>Meanwhile another ordinance was promulgated with provisions retrospectively empowering the government to remove chairmen.</p>	<p>Relied on State of TN v Aroorran Sugars Ltd (1997) 1 SCC 326 where it was held that Vested rights can be taken away by the legislature by way of retrospective legislation. Taking away of such right would, however, be impermissible if violative of Articles 14,16 and any other constitutional provision.</p>
6.	<p>State of Tamil Nadu v. State of Kerala, 2014 (12) SCC 696</p>	<p>Supreme Court permitted water level in the Mullaperiyar dam to be raised up to 142 ft and also restrained the State of Kerala and its officers from causing any obstruction thereto –</p> <p>However, vide subsequent enactment of 2006 Amendment Act by the Kerala State Legislature, Full Reservoir Level (FRL) of the dam fixed and limited to 136 ft</p> <p>Suit filed by State of Tamil Nadu u/Art. 131 of the Constitution against the State of Kerala on the ground that amendment act amounts to usurpation of judicial power.</p>	<p>2006 Amendment Act was unconstitutional and ultra vires in its application to and effect on the Mullaperiyar dam.</p> <p>The Rights of Tamil Nadu, crystallized in judgment dated 27-2-2006 could not be nullified by a legislation made by the Kerala State legislature.</p> <p>Earlier judgment given on 27-2-2006 operated as res judicata on issue of the safety of Mullaperiyar dam for raising water level to 142 ft.</p> <p>The nub of the infringement consists in Kerala legislator's revising the final judgment of this Court in utter disregard of the constitutional principle that the revision of such final judgment must remain exclusively within the discretion of the court.</p> <p>The impugned law amounts to reversal of the judgment of this Court which determines directly the question of safety of Mullaperiyar dam for raising water level to 142 ft. and whereunder Tamil Nadu's legal right has been determined.</p> <p>[The court struck down the enactment to the extent of inconsistency]</p>
7.	<p>S.R. Bhagwat v. State of Mysore (1995) 6 SCC 16</p>	<p>Petitioner civil servants filed writ and claimed promotion with consequential benefits.</p> <p>Writ was allowed by HC.</p> <p>Respondent state issued Act by which the financial benefits which were to be made to petitioners pursuant to HC order were sought to be taken away.</p>	<p>Nullification of mandamus by an enactment would be impermissible legislative exercise</p> <p>That a binding judicial pronouncement between the parties cannot be made ineffective with the aid of any legislative power by enacting a provision which in substance overrules such judgment.</p> <p>A mandamus against the respondent-State giving financial benefits to the petitioners therein cannot be nullified by a legislation.</p>

			<p>Relied on In Re Cauvery Water Disputes Tribunal 1993 Supp (1) SCC 96 (2) which held:</p> <p>Legislature can change the basis on which a decision is given by the Court and thus change the law in general, which will affect a class of persons and events at large.</p> <p>It cannot, however, set aside an individual decision inter partes and affect their rights and liabilities alone.</p> <p>Such an act on the part of the legislature amounts to exercising the judicial power of the State and to functioning as an appellate court or tribunal.</p>
8.	<p>Madan Mohan Pathak v. Union of India, (1978) 2 SCC 50</p>	<p>The effect of the enactment was to annul the benefits which the employees of the LIC were entitled to in view of the mandamus issued by the Calcutta High Court.</p>	<p>J Bhagwati held that irrespective of whether the impugned Act is constitutionally valid or not, the Life Insurance Corporation is <u>bound to obey the writ of mandamus issued</u> by the Calcutta High Court and to pay the benefits to the employees.</p> <p>CJ Beg held that the effectiveness of its <u>orders derived their force</u> from Article 226 of the Constitution itself. <u>These could not be touched by an ordinary act of Parliament.</u>”</p>
9.	<p>Janapada Sabha Chhindwara Vs. Central Provinces Syndicate (1970) 1 SCC 509</p>	<p>Tax was levied at a higher rate than the mentioned limit. Validity of the enhanced levy was challenged. It was held that the increased levy would also require the previous sanction of the Government and such sanction not having been obtained, the levy at a higher rate was illegal.</p> <p>To rectify the defect pointed out by this Court in the imposition of the cess, the MP state enacted an amendment and gave retrospective validity to the levy.</p>	<p>The Court held that the law was invalid because it improperly sought to override a prior High Court decision and imposed a tax retrospectively, violating constitutional principles. The case established that legislatures cannot overturn court decisions through legislation.</p>

10.	State of Haryana v. The Karnal Co-op. Farmers' Society Limited 1993 (2) SCC 363	Enactment by State Legislature abrogating Civil Court decrees/orders	<p>Legislature has no power to abrogate civil court decrees/orders by a mere declaration by an enactment to that effect.</p> <p>A competent Legislature can make judicial adjudications ineffective only by altering, removing or neutralising the legal basis in the unamended law on which such decisions were founded.</p>
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