

CHAPTER: I

FREEDOM OF PRESS: THE CONCEPT

- A) *The Meaning of Free Press***
- B) *Importance of the Press***
- C) *Position of the Press***

FREEDOM OF PRESS: THE CONCEPT

The Meaning of Free Press

A free press is the very basis of democracy. But there had been persistent opposition to freedom of press and to all democratic movements from the Government all over the world. Freedom of press, as it is today, is the result of few centuries hard - won fight in the name of the people.¹

The freedom of press is basically the freedom of individuals to express themselves through the medium of press. This freedom (of press) is fundamental to the life of an individual in the democratic polity. The concept of free press was explained by **William Blackstone** long ago in 1769 in the following words;

“The liberty of the press, is indeed essential to the nature of a free state; but this consists in laying no previous restraints upon publications, and not in freedom from censure for criminal matter when published. Every free man has an undoubted right to lay what sentiments he pleases before the public; to forbid this, is to destroy the freedom of press; but if he publishes what is improper, mischivous, or illegal he must take consequence for his own temerity. To subject the press to the restrictive power of licensor.....is to subject all freedom of sentiments to the prejudice of one man, and make him

1. Sarkar, R.C.S: The Press in India at p.4

the arbitrary and infallible judge of all controverted points in learning, religion, and Government. But to punish..... any dangerous or offensive writings, which, when published, shall, on a fair and impartial trial, be adjudged of a pernicious tendency, is necessary for the preservation of peace and good order, of Government and religion, the only solid foundation of liberty.²

Lord Ellenborough in **Rex V. Cobbet** observed - *“The law of England is the law of liberty, and consistently with this liberty we have not what is called an imprimature; there is no such preliminary licence necessary but if a man publishes a paper he is exposed to the penal consequence as he is in every other act, if it be illegal.*

The view of **Prof. A.V. Dicey** also sounded similar to that of Blackstone when he says: *“The freedom of press means the right of a person to publish what he pleases in books or newspapers but the laws of England do not recognise any special privilege attached to the press.³*

The **First Royal Commission on Press**, (1947 - 48), however, choose not to discuss the meaning and significance of the press. The another **Royal Commission on the press (1977)** emphasised the freedom of press as, *“that degree of freedom from restraint which is essential to enable proprietors, editors and journalists to advance the public interest by publishing the facts and opinions without which a democratic electorate can not make re-*

2. Blackstone Commentaries (1765) Vol. IV at p. p 151 - 52

3. Dicey, A.V.: Study of Law and Constitution at p. 239 - 41

*sponsible judgements.”*⁴

In the absence of a written Constitution or any guarantee of fundamental rights in England, the concept of freedom of press, like the wider concept of freedom of expression, has been basically negative. But as Dicey observes, “*No such thing is known with us as a licence to print, or a censorship either of the press or political newspaper, leaves no doubt in the mind that it means the right to print and publish any thing which is not prohibited by a law or made an offence like sedition, contempt of court, obscenity, defamation, blasphemy, official secrets, public order etc.*”

The freedom of press in England, therefore, is measured by freedom to write anything provided the law is not infringed. Since the constitutionality of any law made by parliament can not be questioned, eventually freedom of press is nothing but the residue left after parliamentary regulation. And, therefore, the freedom of press in England is the freedom from prior restraints to precensorship.

In United States freedom of press has been guaranteed by the **First Amendment** to the Constitution. It says “*Congress shall make no lawabridging the freedomof the press*”. The **Fourteenth Amendment** bars the states from making any law depriving any person, inter alia, of liberty without due process of law. The U.S. Supreme Court has held that this amendment made the First Amendment binding on the states.⁵

4. Final Report of Royal Commission on Press (1977) at p.p. 8 - 9

5. *Gitlow V. New York*, 268 U.S. 652 (1925)

Social and Economic developments in USA, in modern times have added a positive content to initial negative approach of freedom of press. Thus it has come to include not only absence of prior restraint of any form, but also a freedom from control as to what may be published through the press and from any restriction which may even indirectly hamper the freedom.

This dual aspect of freedom of press was expressed by **Commission on Freedom of Press in USA in the following words.** *"A free press is free for the expression of opinion in all its phases. It is free for the achievement of those goals of press service on which its own ideals and the requirement of the community combine and which existing techniques make possible. For these ends it must have full command of technical resources, financial strength, reasonable access to source of information at home and abroad and the necessary facilities for bringing the information to the national market. The press must grow to the measure of this market."*⁶

The more liberal interpretation to the freedom of speech and the press started in thirties of this century and now the broader aspect of freedom of press has been formulated judicially. "..... the guarantee of freedom of speech and press were not designed to prevent the censorship of the press merely but any action of the government by means of which it might prevent such free and general discussion of public matters as seems absolutely essential."⁷

It does not however, mean that the press in USA is absolutely free to publish whatever it please. The judiciary there has evolved the restrictions

6. Report of the Commission on Freedom of Press in USA at p. 208

7. Bigelow V. Virginia (1975) 44 L. Ed. 2nd. at p. 600

be placed upon it in the interest of public at large, and the violation of which may invite punishment. In the words of **Cooley**, "*..... liberty of the press might be rendered a mockery and a dilusion,if while every man was at liberty to publish what he pleased, the public authorities might nevertheless punish him for harmless publications.*"⁸

Though no specific or seperate guarantee or identity is provided to the press under the Indian Constitution, nevertheless it is accorded recognition as a part of freedom of speech and expression enshrined under Article 19(1) (a). In India, therefore, freedom of press is regarded as a species of which freedom of speech and expression is a genus. This freedom is stated in wide terms and includes not only freedom of speech which manifests itself by oral utterances, but freedom of expression, whether such expression is communicated by written word or printed matter. There can, therefore, be no doubt that the freedom of press is included in the fundamental right of freedom of speech and expression guaranteed to the citizens under Article 19 (1)(a) of the Constitution.

In Indian the freedom of press is an expression which is both elastic and ambiguous. The term press is used in different senses in different contexts. It may mean an establishment where Printing is done. In that sense it includes all plants, machinery and other material by means of which printing is done. similiary the content 'freedom of press' is also differently understood by different persons. Some have understood to mean freedom to publish any matter by printed words without any legal re-

8. Cooley : Constitutional Limitations, at p. 833

straint or prohibition. Others take it as freedom from prejudices and preconceived notions. However, neither the First Royal Commission on the press in England nor the Second Press Commission in India choose to discuss the meaning and significance of this aspect. The **First Press Commission** however, expressed the view that freedom of press means, "*freedom to hold opinion, to receive and impart informations through the printed words without any interference from any public authority*".⁹

The judgement delivered by the **Press Council of India** in **Verghese's Case** views the concept of freedom of press into following words.

"Freedom of press is commonly understood as the freedom of expression, idea, views and information through the printed material and published for circulation; and free from interference, pressure, restraint or compulsions from whatever source; Government or social."

The Supreme Court lost no time and held in a catena of cases that imposition of pre - censorship¹⁰, or any order which amounts to prior restraints¹¹ are a restriction on the freedom of press and, therefore, violative of constitutional provision under Article 19 (1) (a). Similarly prohibiting newspaper from publication of its own views or the views of the correspondants about the burning topic of the day is a serious encroachment upon the valuable right of freedom of speech and expression.¹²

9. Report of Ist Press Commission 1954 at p. 358

10. Brij Bhushan V. State of Delhi AIR 1950 S.C. 129

11. R.Rajgopalan V. State of Tamil Nadu AIR 1995 S.C. 264

12. Virendra V. State of Punjab. AIR 1957 S.C. 896

The freedom of press also includes propagation of ideas, the liberty of circulation and consequently any order under a law curtailing circulation or banning entry on the ground of 'public safety' or 'maintenance of public order' falls outside the scope of reasonable restrictions provided under Article 19 (2). The foremost function of the press is the dissemination of news and to provide the information to the people and this can not be denied. If any order affects the freedom, it infringes not only the freedom of the press but also the people's right to information so important in a democratic society. The policies of the government¹³ or the orders of the administration either levying excessive tax¹⁴, and thereby putting excessive burden on the press or adopting punitive measures¹⁵ against the press which ultimately curtail the freedom of press, therefore, are not permissible.

13. Sakal Papers Ltd. V. Union of India AIR 1962 S.C. 305

14. Indian Express Newspapers V. Union of India AIR 1986 S.C. 515 Printer (Mysore) Ltd. V. Asstt. Commercial Officer (1994) 2 S.C.C 434

15. A.I.R. 1986 S.C. 872

Importance of The Press

In a democracy, freedom of press is regarded extremely vital and crucial. A free press is not only a necessary adjunct of democracy; it is the sine qua non for the proper functioning of a democratic society.

The American Press Commission has said *“Freedom of press is essential to political liberty and proper functioning of democracy. When men can not freely convey their thoughts to one another, no freedom is secured where freedom of expression exists the beginning of a free society and means for every retention of liberty are already present”*.

During many years in which one country after another was striving to extort full self government from monarches and oligarchies, the press became the strongest force on popular side. It exposed oppression and corruption; it helped the friends of liberty to rouse the masses. It won popular confidence and sympathy because it embodied and focused the power of public opinion without which the victory of opinion over the armed forces of the Government could not have been won.¹⁶ **Bismark’s** so called reptile press proved effective engine for strengthening his position and set an example followed in other countries.

The democratic form of society demands of its members an active and intelligent participation in the affairs of their community, whether local or na-

16. Bryce : Modern Democracies Vol. I at p. 105

tional. The responsibility for fulfilling these needs unavoidably rests in large measure upon the press, that is on the newspaper and periodicals which are the main source from which information, discussion and advocacy reach the public. The views of **Thomas Jefferson**, one of the architect of American Constitution in this regard are noteworthy. He was so much infatuated by the power of the press that he was even ready to prefer a newspaper at the cost of the establishment of the Government.

Acknowledging the power of the press **Nepoleon Bounaparte** who played with the destiny of **Europe** said that, *"A journalist is a grumbler, a censure, a giver, a regent of sovereign, a tutor of nations. Four hostile newspapers are to be feared more than a thousand baynets"*.

The press if honest promotes the, "**Victory of truth over false hood**" in the public arena. It is a necessary condition of a free society to have discussion on the subject of public importance and for that freedom of speech and expression which includes freedom of press is a necessary condition. A newspaper is, in all literalness, a "**Bible of Democracy**" the book out of which people determine its conduct. It is the only serious book, most people read everyday.¹⁷

The importance of freedom of press has been stressed time and again. Emphasising its importance Pt. Nehru once said," The press is one of the vital organs of life , more especially in a democracy. The press has to be respected , the press has to be co-operated. **Justice P.B. Gajendragadkar**, former

17. Walter Lipman : Liberty and the News at p. 57

Chief Justice of India, wrote that freedom is of (Press) considerable significance in a democratic society as it gives full scope to an individual for his development and ample opportunity for propagation of his views, philosophy and ideology; and also as it plays a vital role in education, growth and development of public opinion on issues of public importance.¹⁸

The liberty of the press is indeed essential to the nature of a free state. It forecloses the state from assuming 'a guardianship of the public mind'. Authority is to be controlled by public opinion, not the public opinion by the authority.

The importance of the press has greatly increased with the development of the press as an instrument of mass communication. Its importance lay in the fact that it forms the very root and agency of mass communication. It must be understood that the freedom of press is not a fixed and isolated value, the same in every society and in all times. It functions within a society and must vary with the social contexts.

The Royal Commission on the Press has emphasised the importance of press by saying that , *"It advance the public interest by publishing the facts and opinions without which a democratic electorate can not make responsible judgements."*¹⁹

The Indian Press Commission too, has echoed the same views when it says that *"Democracy can thrive not only under the vigilant eyes of its leg-*

18. Gajendrahadkar, P.B: Law, Liberty and Social Justice at p.p. 89 - 90

19. Supra note (4)

islatures but under the care and guidance of public opinion and the press is par excellence, the vehicle, through which the opinion can become articulative". The judiciary too, has acknowledged the importance of press in modern society **Lord Denning** observed that, "The reason why in these cases (where freedom of speech prevailed over other rights) the law gives no remedy is because of the importance it attaches to the freedom of press; or better put, the importance in a free society of the circulation of true information. The metes and bounds of this are already staked out by the rule of law."²⁰

Speaking on the importance of the press the American Supreme Court observed " *The newspapers, magazines and other journals of the country, it is safe to say, have shed and continue to shed more light on the public and business affairs of the nation than any other instrumentality of publicity; and since informed public opinion is the most patent of all restraints upon misgovernment, the suppression or abridgement of the publicity afforded by a free press can not be regarded otherwise than with grave concern..... A free press stands as one of the greatest interpretors between the Government and the people. To allow it to be fettered is to fetter ourselves*".²¹

Supreme Court of India since the time Constitution came into force has been very conscious in highlighting and protecting the aforesaid freedom. In **Romesh Thappar** and **Brij Bhushan's** cases, speaking through **Patanjali Sastri**, the Supreme Court observed that, "*Freedom of speech and expression is the foundation of all democratic organisations and is essential for the proper functioning of the process of democracy,*" quoting Blackstone's commentaries he

20. In rex (1975) 1 All E.R. 697

21. Alice Lee Grosjean V. American Press Co. 297 U.S. 233 at p. 250 (1936)

further said that, *“Every free man has undoubted right to lay what sentiments he pleases before the public; to forbid this is to destroy the freedom of press.”*²²

Sounding a note of caution in **Sakal Paper’s** case about the importance of freedom of speech and expression (of the which the freedom of press is a part), **Mudhalkar, J.** said that the, *“courts must be ever vigilant in guarding perhaps the most important freedoms guaranteed by our Constitution. The reason for this is obvious. The freedom of speech and expression is of paramount importance under a democratic Constitution which envisage changes in the composition of legislatures and the Governments and must be preserved.”*²³ While according to **Ray, J;** The faith in popular Government rest on the old dictum, “Let the people have the truth and the freedom to discuss it and all will go well”. *The liberty of press remains an “Ark of covenants” in every democracy. Steel will yield the products of steel. Newsprint will manifest whatever is thought by man. Therefore, freedom of press is to be enriched by removing the restrictions.*²⁴ *“It is the most cherished and valued freedom in a democracy: indeed democracy can not survive without a free press. Thus freedom of press constitutes one of the pillars of democracy and indeed lies at the foundation of democratic organisation.”*²⁵

The Supreme Court re-interated its earlier views in *Express Newspapers V. Union of India*²⁶ and held that the “Freedom of paress is the heart of

22. Supra note (10) at p. 134

23. Sakal Papers V. Union of India AIR .1962 S.C. 305 at 315

24. A.I.R. 1973 S.C. 106 at p. 129

25. Maneka Gandhi V. Union of India AIR 1978 S.C. 597 at p. 640

26. Supra note (14) at p. 527

social and political intercourse. It is the primary duty of the courts to uphold the freedom of the press and invalidate all laws or administrative actions which interfere with it contrary to constitutional mandate."

The Auto Shankar's case further established the importance of press in a democratic society where it was held that freedom of press is more important and it can not be restrained from publishing the autobiography of a condemned prisoner even if it is defamatory to state officials and any remedy if available to such officials whould arise only after the publication ²⁷

27. Supra note (11) at p . 276

Position of The Press

The primary function of the press in a democratic society is to disseminate correct news and spread the truth. Obviously a question which arise at this stage is while performing the aforesaid function, does press enjoy any special right or privilege ?

Dicey remarks: *“The law of England does not recognise in general any specific privilege on behalf of the press. The law of press as exists in England is merely part of the law of libel and the so called liberty of the press is a mere application of the general principle that no man is punishable except for a distinct breach of law”.*²⁸ In the words of **Ivor Jennings**: *“Anything is lawful which is not unlawful. There is no more a right of free speech than there is a right than to tie up my shoe laces.”*²⁹

Earlier in England, the common law rule regarding the disclosure of informations was applicable and the decisions delivered before 1981, when the Contempt of Courts Act, 1981 was enacted clearly reflect the aforesaid view. The **Vassal cases** are worth note in this regard.³⁰ To investigate into the leakage of certain admiralty secrets known as ‘Vassal Scandal’ a tribunal

28. Op cite note (4) at p. 240

29. Jennings, S.I: The Law and The Constitution at p. 247

30. A.G. V. Clough (1963) 2 W.L.R. 343, A.G. V. Mulholland (1963) 2 W.L.R. 658

presided over by **Lord Radcliff** had been appointed. The **Tribunal** ordered two journalists one of the '**Daily Sketch**' and other of the '**Daily Mail**' to disclose the source of information. These journalists however, did not follow the order but preferred to go to jail under the orders of the **Lord Chief Justice Parker**, for a period of six months each.

The Contempt of Courts Act, 1981, however, provided the protection and under sec 10 of the Act there can be no compulsions against a journalist unless it fell within the ambit of any exception.

In USA the rights or privileges of the press has received closest attention. Before **Garland case**³¹ journalists claim to privilege has been based on the common law but for the first time **Miss Torre** refused to identify her source of information on First Amendment ground. She was held for criminal contempt.

Justice Stewart, then of Second Circuit Court of Appeals, heard the case in 1958. He was agree with Torrence Attorney that compulsory disclosure might abridge press freedom by imposing some limitations upon availability of news. But such freedom, he said, is not absolute. A determination of when curtailment is justified often presents a " delicate and difficult " task which requires a balancing of rights. Concerning the conflicting rights, he agreed that freedom of press is basic to a free society, but so too are courts armed with the power to discover truth. Further, the concept that it is duty of the witness to testify has roots as deep in history as a guarantee of a free press. If so the Court would not hesitate to conclude that freedom of press

31. **Garland V. Torre** 358 U.S. 910 (1958)

must give place under the Constitution to a paramount public interest in the fair administration of justice. The U.S. Supreme Court declined to review the case and so Miss Torrence went to jail for 10 days.

On **June 29, 1972**, the U.S. Supreme Court delivered its long awaited first decision on the claim of newsmen to a constitutional privilege against disclosing source of information or the information itself. In a 5-4 decision, the court held that freedom of press is not abridged when the newsmen are required to appear and testify before state and federal grand juries.³²

In the decision for the Court, **Justice White** observed that "*The great weight of authority is that newsmen are not exempted from the normal duty of all citizens. Neither the common law nor constitutional law exempt newsmen from such duty and that there is no shield law and upto this time the only testimonial privilege has been rooted in Fifth Amendment. We are being asked to create another by interpreting First Amendment to grant newsmen a testimonial privilege that other citizens do not enjoy. Thus we decline to do.*" However, he also held that *harrasment of the press would not be countenanced by the Court*. Such juries are subject to judicial control. (Thus creating a qualified privilege for the newsmen under First Amendment). **Justice Stewart**, however in a dissenting opinion noted that traditionally the judiciary has imposed virtually no limitations on the grand jury's broad powers to investigate. The Court's crabbed view of the First Amendment reflects a disturbing insensitivity to the critical role of an independent press.

32. Branzburg V. Haynes. 408 U.S. 663 (1972)

The Supreme Court thus held that the First Amendment, in guaranteeing freedom of speech does not implicitly confer upon newsman the right to conceal his sources from a state or federal grand jury, if their identity is relevant to an investigation into the commission of a crime. In holding so, the Court rejected the argument that such a newsman's privilege was necessary in order to prevent the threatened exposure of those source from having a chilling effect on communications to newsmen by persons who desire to remain anonymous.

Under certain situations, however, even after the *Branzburg* judgement, the courts still give protection to newsmen from forced disclosure of their source of information. In the words of Floyd Abrams *"First Amendment privilege is only qualified. It is not absolute and it is not absolutely sure that all the courts understand that this is the law, but there have been a number of decisions since Branzburg case including court of Appeals decisions in the Second Circuit and in the D.C. Circuit and Supreme Court opinions in Vermont and Virginia. These decisions seems likely to continue to issue and to hold that certainly in rather wide variety of situations the newsmen will not be required to disclose confidential sources on the basis of a First Amendment claim of the newsmen that they should not be required to do so."*³³

In India, it is well established by decisions rendered both before and after the Constitution came into force, that the freedom of journalist is an ordinary part of the freedom of citizen (apart from statutory provisions specially applicable to press). And the press does not stand on higher footing

33. Francois W.E. : Mass Media, Law and Regulation at. p. 335

from an ordinary citizen in any way. **Lord Show's** observation in this context is often quoted.

“The freedom of a journalist is an ordinary part of the freedom of the subject and to whatever lengths the subject in general may go, so also may the journalist but apart from statute law, his privilege is no other and no higher. The responsibilities which attach to this power in the dissemination of printed matter may and in the case of a conscientious journalist do, make him more careful; but the range of his assertions, his criticisms, or his comments is as wide as, and no wider than, that of any other subject. No privilege attaches to his position.”³⁴

The same position continues under the Constitution. Since freedom of press is included in the freedom of speech and expression guaranteed under Art 19 (1)(a) to citizens, the press stands on no higher footing than any other citizen. In Constituent Assembly **Dr. B.R. Ambedkar**, Chairman of Drafting Committee of the Constitution, stated that - “The press is merely another way of stating an individual or a citizen. The press has no special rights which are not to be given to or which are not to be exercised by the citizen in his individual capacity”.³⁵

In many countries including India, journalists have been claiming that when they obtain information from any source in confidence, they should not be compelled to disclose the source.³⁶ This demand in a limited sense has

34. C. Arnold V. King Emperor A.I.R. 1914 P.C. 116 at p. 124

35. C.A.D. Vol VII at p. 780

36. Bakshi, P.M: Legal Protection of the Source of Information Obtained by a Journalist J.B.C.I. Vol. VIII No. 2 at p. 233

been acceded to **The Press Council Act 1978, under Sec. 15(2)** ³⁷ says that no newspaper, news agency, editor or journalist can be compelled to disclose the source of any news or information published by the newspaper or received or reported by the news agency editor or the journalist.

The **Indian Evidence Act**, however, does not recognise any such privilege (as some persons are given privilege under Section 122 - 126). According to the law of evidence a person can be compelled by a court of law to answer all questions which are relevant.³⁸

The approach of the law is where there are no exceptions, the general rule of duty to disclose will prevail. On the same reasoning any person relating to the affair of the press can not claim in a court of law any privilege against the disclosure of the source of information obtained by him in confidence. There are instances when the editors of the newspapers were called before the courts. In the first case Kaliprasanna Kaushya Sharad of Hitabodi³⁹ and in the second case well known editor and journalists Bipin chandra Pal⁴⁰ refused to depose in court about the authors of the articles appeared in

37. Sec. 15 (2) says, "Nothing in sub-section (1) shall be deemed to compel any newspaper, news agency, editor or journalist to disclose the source of any news or information published by that newspaper or received or reported by that news agency, editor or journalist".

38. Sec. 23, however, makes it clear that if an admission is extracted under a promise of secrecy, it is irrelevant but not protected from disclosure, unless protected from disclosing the same by any other law for the time being in force.

39. Journalistic Privilege: Supreme Court Appeals No. 9 (1963) Vol. I

40. Editorial: Journalists & Their Sources (1980) V. 84 CWN 85 - 87

their newspapers. In **M.S. Sharma ,V. Sri Krishna Sinha** Supreme Court held that, freedom of press in India “being only a right flowing from the freedom of speech and expression it” stands on no higher footing than the freedom of speech and expression of a citizen” and that the press enjoys no privilege as such, that is to say, “as distinct from the freedom of a citizen”⁴¹ Once again it clearly laid down that the press is subject to same laws and regulations as are applicable to other citizens, and press was not immune from the laws of general application or ordinary forms of taxation.⁴²

In another case involving the same newspaper (*Express Newspaper*) the Supreme Court reiterated its earlier stand when it held that press industry was not free from taxation. Taxes have to be levied by reason of public services, facilities and amenities enjoyed by the newsprint industry, the burden of maintaining which falls on the government. But simultaneously made an important departure from its earlier stand in respect of privilege of press when it said that different parameters may be adopted in respect of a statute taxing newsprint and of ordinary taxing statute thus created a limited scope for privilege.⁴³

In India though the press as a general rule does not enjoy any privilege as distinct from a citizen, nevertheless the Supreme Court under exceptional circumstances has created a little privilege in favour of the press. In **Prabha Dutt's** case the Supreme Court allowed the press to conduct interview of the persons, condemned to death provided they are willing to be interviewed.

41. M.S.M. Sharma V. Sri Krishna Sinha AIR 1959 S.C. 395 at p.402

42. AIR 1958 S.C. 578.

43. Supra note (14) at p. 540

Court further held that, unless, in a given case there are weighty reasons for denying the opportunity to interview a condemned prisoner, the right of the press to interview the prisoner should not be denied. The reasons for the denial of the same should be recorded in writing.⁴⁴

Another aspect of privilege issue is related to the business activities of the press and that is whether the press has any privilege to claim any advertisement released by the government. On various occasions the courts have held that the newspapers have no right to demand the advertisement from the government. On the other hand the Government did have a right to choose the newspaper in which it would advertise. But the government's discretion to grant largess must be structured by rational, relevant and non discriminatory standards or norms.⁴⁵

In **printer (Mysore) Ltd. V. Asst Commercial Tax Officer**, the Supreme Courts opinion seems to be that, "freedom of press stands on a higher footing than other enterprises in matters of taxing statutes. In view of the above opinion test for determining vires of statute taxing newsprint, have therefore, to be different from that is usually adopted for testing the vires of other taxing statutes.⁴⁶

Thus freedom of press not only means and includes freedom from restraint imposed upon it by the government but also any measure which helps

44. Prabha Dutt V. Union of India AIR 1982 S.C. 06 at p. 07

45. Ramanna V. International Airport Authority 1979 S.C 1628 at p. 1642

46. Printers (Mysore) Ltd. V. Asstt. Commercial Tax Officer (1994) 2 S.C.C. 434

or keeps the press independent and free from any external pressure while disseminating news and views without which people living in a democratic system can not form a correct opinion.

In modern democratic societies the press had acquired great importance. On the one hand by disseminating the information on various issues of the day, it greatly influences the minds of the people on the other hand it keeps vigil over the functioning of modern welfare state. But despite the express recognition of its importance from every segment of the society and the judiciary as well the press simply being a part of freedom of speech and expression does not enjoy any privilege. The basic principle of common law that the law favours the disclosure in legal proceedings, of all relevant material in the interest of justice, and it does not enjoy any privilege as distinct from a citizen is being followed. Nevertheless it has been accorded a little privilege as a public institution under exceptional circumstances.