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Q6

What was held in the Coelho case? In this context, can you say that judicial review is of key importance amongst the basic features of the Constitution?

UPSC Civil Services Mains 2016 · GS II · 12 marks · Indian Constitution

Indian Constitution - historical underpinnings, evolution, features, amendments, significant provisions and basic structure.

Core demand of the question

- What was held in the Coelho case? In this context, can you say that judicial review is of key importance amongst the basic features of the Constitution?
- State I.R. Coelho's holding on the **Ninth Schedule**, then show why judicial review is a basic feature after Kesavananda, **Minerva Mills** and **L. Chandra Kumar**

Revision summary

I.R. Coelho held that laws inserted in the **Ninth Schedule** after 24 April 1973 can be struck down if they damage basic structure.

Article 31B is not an absolute immunity from Part III and from judicial review.

Kesavananda, Indira **Gandhi**, **Minerva Mills** and **L. Chandra Kumar** already treated judicial review as a basic feature.

Coelho makes that feature the lock on the **Ninth Schedule**.

- **Judicial review is therefore of key importance:** it is how every other basic feature is actually defended.

Introduction

I.R. Coelho v. State of Tamil Nadu (2007) is the nine-judge ruling on whether a law put into the **Ninth Schedule** after 24 April 1973 is immune from fundamental-rights review. The Court held that such laws can still be tested on the basic structure, especially if they damage judicial review or other identified features. In that setting, judicial review is not one optional tool among many; it is the feature that keeps every other basic feature enforceable.

Body

What Coelho held

- The **Ninth Schedule**, read with **Article 31B**, was added by the First Amendment, 1951, to protect certain agrarian laws from being void under Part III.
- Waman Rao had already drawn a line at 24 April 1973, the date of **Kesavananda Bharati**: laws inserted into the **Ninth Schedule** before that date had greater protection; later insertions did not get a blank cheque.
- Coelho held that a law placed in the **Ninth Schedule** after 24 April 1973 is open to challenge if it violates basic structure, and that the Court will look at the actual effect of the law, not only at

the label of the schedule.

- If the law destroys or damages judicial review, equality, or other basic features, **Article 31B** cannot save it.
- The judgment does not abolish the **Ninth Schedule**; it stops the Schedule from becoming a laundry bag that hides constitutional amendments and ordinary statutes from the Kesavananda test.

Judicial review among the basic features

- **Kesavananda Bharati (1973)** listed judicial review, or the power of courts to examine laws, among the features that **Article 368** cannot destroy.
- **Indira Nehru Gandhi v. Raj Narain** struck down the attempt to place the Prime Minister's election beyond court scrutiny, which is judicial review applied to the electoral basic feature.
- **Minerva Mills (1980)** restored the balance of Parts III and IV and treated limited amending power and judicial review as essential; clipping the Court's power was itself unconstitutional.
- **L. Chandra Kumar v. Union of India (1997)** held that judicial review by High Courts under **Article 226** and by the Supreme Court under **Article 32** is a basic feature, so even tribunal systems cannot oust that jurisdiction completely.
- **Coelho sits in this line:** if Parliament could bury any statute in the **Ninth Schedule**, judicial review would be a paper feature, and basic structure would have no remedy.

Why it is of key importance

- Federal distribution, fundamental rights, secularism, and free elections all need a forum that can void a contrary Act. Without judicial review those features are political appeals, not law.
- **Articles 13, 32, 136, 141, 142 and 226** are the working machinery; Coelho says **Article 31B** cannot switch that machinery off by a schedule entry.
- Key importance does not mean judicial supremacy over every policy. It means that among basic features, review is the enforcement device. A feature that cannot be enforced is not basic in practice.
- Later use of the **Ninth Schedule** has been cautious precisely because Coelho raised the cost of packing it.

Flow diagram

Kesavananda 24 Apr 1973 -> Ninth Schedule insertions
 Ninth Schedule insertions -> I.R. Coelho 2007
 I.R. Coelho 2007 -> Basic structure test on effect
 Basic structure test on effect -> Judicial review Arts 32 and 226
 Judicial review Arts 32 and 226 -> Other basic features enforced

Conclusion

Coelho held that post-1973 **Ninth Schedule** laws remain open to basic-structure review, including a direct attack on judicial review itself. In that context judicial review is of key importance among basic features, because it is the only feature that can police the others when Parliament uses **Article 31B** or **Article 368**. Without it, the basic-structure doctrine would be a sermon without a court.

Facts & figures

I.R. Coelho v. State of Tamil Nadu (2007)

Nine-judge Bench held that **Ninth Schedule** laws inserted after 24 April 1973 are open to basic-structure challenge, including on judicial review.

Article 31B and Ninth Schedule

Inserted by the First Amendment, 1951, to validate specified laws even if they conflict with Part III, subject now to the Coelho limit.

Kesavananda Bharati (1973)

Held that constitutional amendments cannot destroy basic structure; Coelho uses 24 April 1973 as the cut-off for **Ninth Schedule** immunity.

Minerva Mills (1980)

Struck down 42nd Amendment clauses that tried to immunise amendments and to subordinate fundamental rights; treated judicial review as essential.

L. Chandra Kumar (1997)

Held that **Articles 32 and 226** judicial review is a basic feature and cannot be fully ousted by tribunal clauses.

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