

**IN THE SUPREME COURT OF INDIA ORIGINAL / CIVIL APPELLATE JURISDICTION**

**UDAY UMESH LALIT; CJI., DINESH MAHESHWARI; J., S. RAVINDRA BHAT; J., BELA M. TRIVEDI; J., J.B. PARDIWALA; J.**

**WRIT PETITION (CIVIL) NO. 55 OF 2019; NOVEMBER 07, 2022**

**JANHIT ABHIYAN versus UNION OF INDIA**

**[From Majority Judgment by Dinesh Maheshwari J [Bela M. Trivedi J and J B Pardiwala J concurring ]**



*Professor Emeritus (Dr.) Virendra Kumar*

LL.M., S.J.D. (Toronto, Canada)

Founding Director (Academics)

**CHANDIGARH JUDICIAL ACADEMY**

Formerly: Professor & Chairman,

Department of Laws, Dean, Faculty of Law; Fellow,  
Panjab University; & UGC Emeritus Fellow

**Prof. Virendra Kumar's work as quoted in this case -**

“182. I am of the view as Prof. Satya Prateek rightly puts that the enabling provisions, varying enforcement mechanisms and the State opinion on backwardness, reservation, adequate representation etc., in any circumstances cannot be recognised as the fundamental or basic structure of the Constitution. By their very nature, they are bound to change, with time, location and circumstances. On the other hand, the fundamental tenets or the core principles of the Constitution are foundational – they are at the core of its existence. They are seminal to the Constitution's functioning. The Constitution retains its existence on these foundations as they preserve the Constitution in its essence. This is not to mark out the possibilities of structural adjustments in the foundations with time. The foundations may shift, fundamental values may assume a different meaning with time but they would still remain to be integral to the constitutional core of principles, the core on which the Constitution would be legitimately sustained. (Reference: Virendra Kumar, Basic Structure of the Indian Constitution: Doctrine of Constitutionally Controlled Governance, 49:3, Journal of the Indian Law Institute, 365, 385 (2007))

183. Prof. Virendra Kumar believes that there is a difference between the fundamental rights and the values that structure such fundamental rights. He views the values to have an overarching influence and says that it is totally possible to hold that violation of the fundamental rights in certain situations, may not infringe the fundamental values in their backdrop. (Reference –Essay by Satya Prateek).”