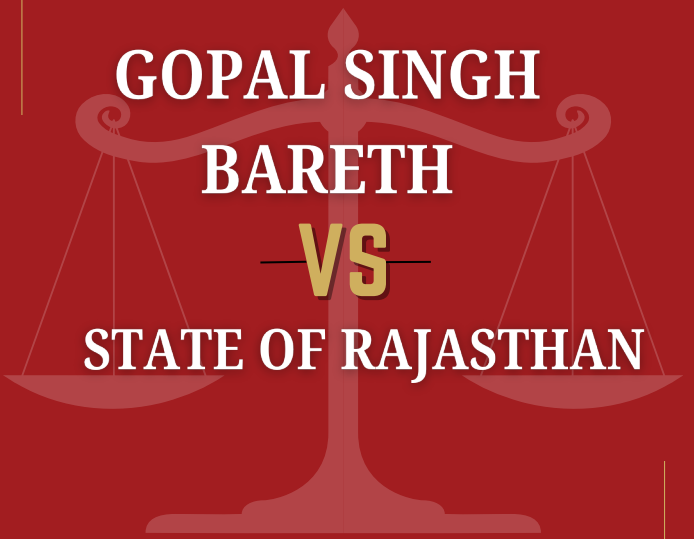
RAJASTHAN HIGH COURT

STUDY GUIDE



GOPAL SINGH BARETH

VS

STATE OF RAJASTHAN

THE HIGH COURT

The High Court is a state's highest court of justice. It is regarded as the second-highest in the nation, right behind the Indian Supreme Court. There are currently 25 High Courts in India, each located in a separate state.

KEY POWERS AND FUNCTIONS

- **Original Jurisdiction:** Original jurisdiction processes the power to control those cases that cannot be advanced in other courts other than high court. The original jurisdiction of the high court extends to the matters of admiralty, Will, matrimonial and contempt of court cases. High Courts have original jurisdiction over a wide range of civil and criminal cases.

- **Appellate Jurisdiction:** Appellate jurisdiction, under the Indian Constitution, is defined as the rights of the higher courts to change or cancel the decision of the lower court.

- **Advisory Jurisdiction:** Any government department, legislature or governor may mention and send a specific case for consideration to the high court if it has certain special arrangements; this power of the high court to control such cases is referred to as advisory jurisdiction.

- **Judicial review: -** High court is authorised to review any judgement or order developed by any subordinate court, with a perception of reducing any kind of mistake or error that can crept in the judgement; it is referred as Judicial Review. This is done in cases of errors of law, wrong judgement and fragrant error in procedure.

Gopal Singh Bareth v. State of Rajasthan:
This case was a Public Interest Litigation (PIL) filed by Gopal Singh Bareth, an advocate, before the Rajasthan High Court. The petition sought to address the issue of child labour in the state of Rajasthan.

BACKGROUND OF THE CASE

In this case, Gopal Singh Bareth was detained under the Preventive Detention Act, 1950. The Preventive Detention Act allowed the State to detain individuals without trial for up to a year if their actions were considered a threat to public order, state security, or defence. This law was often employed to detain individuals whose activities were perceived to jeopardise the safety of the community or state.

Gopal Singh Bareth was arrested under this law, and he filed a writ petition challenging his detention. He argued that his detention violated the fundamental rights guaranteed under Article 21 (Right to Life and Personal Liberty) and Article 22 (Protection against Arrest and Detention) of the Constitution of India.

- **Key Goals:**
- Institutionalise effective machinery: The petition aimed to establish a robust system for rescuing and rehabilitating child labourers in Rajasthan.
- Improve juvenile justice system: It also sought to enhance the juvenile justice system in the state. During the pendency of petition, the parties have filed various affidavits and pleadings to bring to the notice of this Court that there have been large number of instances of child labour in violation of laws applicable and there have been many cases of exploitation of children which not only violates the existing laws for protection of children but posing challenge to the Juvenile Justice Delivery System as a whole.

When and where:

1. When - 2020: The Public Interest Litigation (PIL) was filed in the Rajasthan High Court, challenging the preventive detention of Gopal Singh Bareth under the Preventive Detention Act. This would have been filed to address the constitutionality of the detention and the alleged violation of his fundamental rights.

2. Where - The case was filed and heard at the Rajasthan High Court in Jaipur, which is the principal seat of the court.

3. Legal Grounds - The PIL focused on the violation of Article 21 (Right to Life and Personal Liberty) and Article 22 (Protection against Arbitrary Arrest and Detention) of the Constitution, asserting that Gopal Singh Bareth's detention was unconstitutional and that procedural safeguards had not been followed.

4. Hearing of the Case - 2020-2021: The case was heard by the Rajasthan High Court in Jaipur. The court likely scrutinised whether the preventive detention was justified and whether all constitutional protections were observed.

TIMELINE

17th June, 2020: Constitution of High-Level Committee- A High-Level Committee was formed by the State as per the Court's directive. It was chaired by the Secretary of the Labour Department and tasked with preparing an action plan to prevent child labour and exploitation.

28th September, 2020: Gopal Singh Bareth filed a Public Interest Litigation (PIL) in the Rajasthan High Court. The Court issued comprehensive directions to institutionalise machinery for the rescue and rehabilitation of child labourers in Rajasthan.

17th December 2020: First Affidavit by Respondent No.5- An affidavit was purportedly filed by Respondent No.5, concerning child labour and exploitation, though it was not found in court records. The Court later directed the submission of this document.

26th July 2021: Second Affidavit by Respondent No.- A second affidavit was claimed to have been filed by Respondent No.5 but was also missing from the case records. The Registry was asked to verify its existence and attach it to the case file.

27th April, 2022: Court Review of Case Progress- The Court reviewed the developments, including reports of child labour and trafficking cases. It acknowledged police actions and criminal proceedings against offenders but stressed the need for a preventive action plan, not just reactive measures.

LAWS IN QUESTION

The case of Gopal Singh Bareth v. State of Rajasthan (AIR 1971 Raj 219) is a significant judgement related to preventive detention in India. It addresses the constitutional issues of personal liberty and the safeguards against arbitrary detention under Articles 21 and 22 of the Indian Constitution.

- **Article 21** (Right to Life and Personal Liberty): Article 21 ensures that no person shall be deprived of life or personal liberty except according to the procedure established by law. In preventive detention cases, this article is often invoked to check whether the detention is legally justified.

- **Article 22** (Protection against Arbitrary Arrest and Detention): Article 22 provides procedural safeguards to prevent misuse of detention powers.
It lays down the following rights:
- The right to be informed of the reasons for arrest (Article 22(1)).
- The right to be represented by a lawyer (Article 22(1)).
- A person detained must be produced before a magistrate within 24 hours (Article 22(2)).
- Preventive detention requires compliance with specific procedural rules, such as the approval
of a detention order by an advisory board within three months (Article 22(4)).

PARTIES INVOLVED

Petitioner : Mr. Gopal Singh Bareth, petitioner present in person

Respondent : Mr. M.S. Singhvi, Mr. Siddhant Jain, Adv. Ms. Priyanka Mali

ARGUMENTS IN FAVOUR OF THE PLAINTIFF (GOPAL SINGH BARETH)

1. **Prevalence of Child Labor:** Bareth argued that child labour was a significant problem in Rajasthan and that the state government was not taking adequate steps to address it. He presented evidence, such as reports and statistics, to support his claim.
2. **Violation of Children's Rights:** He contended that child labour violated the fundamental rights of children, including the right to education and protection from exploitation.
3. **Need for Comprehensive Action:** Bareth emphasised the need for a comprehensive action plan that included measures to rescue child labourers, provide them with education and vocational training, and prevent them from returning to work.

ARGUMENTS IN FAVOUR OF THE DEFENDANT (THE STATE OF RAJASTHAN)

The State of Rajasthan defended its use of preventive detention, arguing:

Existing Efforts: The state government argued that it was already taking steps to combat child labor, such as conducting raids on factories and workshops, providing education and vocational training to rescued children, and implementing child labour laws.
Resource Constraints: The state also argued that it faced resource constraints and challenges in effectively addressing the problem of child labour.
Need for Cooperation: The state emphasised the need for cooperation from all stakeholders, including NGOs, civil society organisations, and the public, to effectively address child labour issues.
Public Order Concerns: The state claimed that Gopal Singh Bareth's activities posed a serious threat to public order and security, which justified his preventive detention under the Preventive Detention Act.
Compliance with Procedural Safeguards: The State maintained that it had complied with the procedural requirements of the Preventive Detention Act and that the advisory board had reviewed the detention order within the prescribed time frame. It also argued that the detention order was based on reasonable and valid grounds, as required by law.

THOUGHT PROVOKING QUESTIONS

1. Was the preventive detention of Gopal Singh Bareth legally justified?

- Did the detention comply with the requirements of the Preventive Detention Act?
- Were the constitutional safeguards against arbitrary detention, particularly under Articles 21 and 22, respected?

2. How effective are Public Interest Litigations (PILs) in addressing complex social issues like child labour? What are the limitations and challenges faced by PILs?

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