

I.R. COELHO V. STATE OF TAMIL NADU



By-
Adv. Chand Kubba



STUDY

JUDICIARY

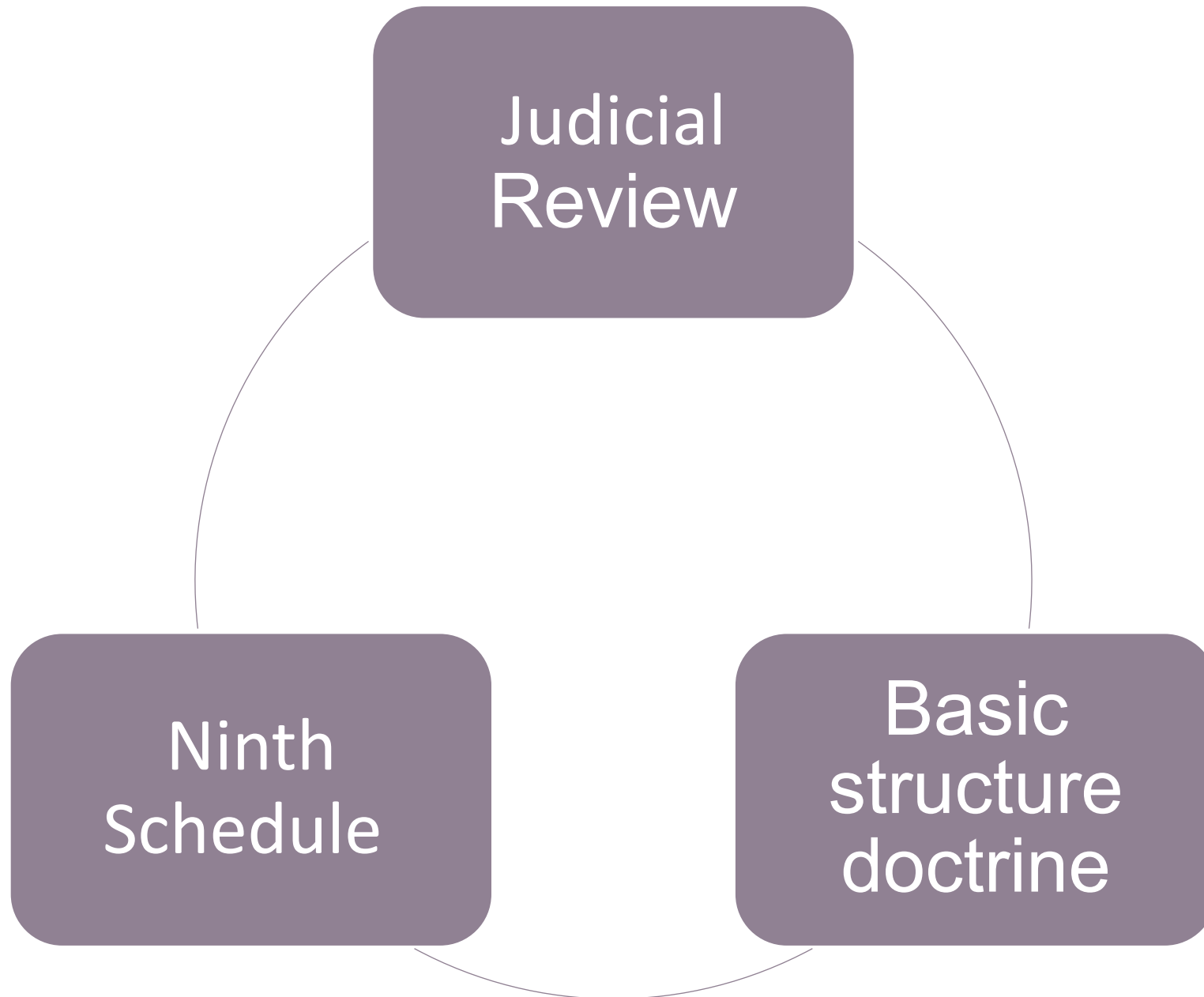
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Highlights -



- Judgment given by a 9-judge bench called the Ninth Schedule Case.
- Upheld the legitimacy of the Doctrine of Basic Structure given in Keshavananda Bharti case.



Judicial Review



- Stems from **Doctrine of Separation of Power** r/w **Doctrine of Checks and Balances**.
- Under **Article 13** of the Indian **Constitution**, the concept of judicial review has been given the status of a **Fundamental Right**.

Ninth Schedule -



The Ninth Schedule contains a list of central and state laws which cannot be challenged in courts.

Currently, 284 such laws are shielded from judicial review.

Article 31-B of the Constitution, inserted by the Constitution (First Amendment) Act, 1951, provides that legislations inserted into the Ninth Schedule cannot be challenged on the ground that they violate the Part III (the fundamental rights chapter) of the Constitution.

Basic structure doctrine



Propounded in Keshavananda Bharti Case – 1973

A tool of Judicial Innovation

Held - Article 368 confers vast power to the legislature to amend all the parts of the Constitution as long as it does not damage or destroy the essential elements or basic structure of the Constitution

What Comes under Basic Structure of the Constitution is ever evolving-

- Supremacy of the Constitution.
- Unity and sovereignty of India.
- A democratic and republican form of government
 - Judicial review.

Waman Rao And Ors vs Union Of India, 1980 SC held that doctrine should not have a retrospective effect which means all the decisions made prior to the introduction of the doctrine shall remain valid.



In this case SC held-

The SC in Coelho held that the provision that imposed a blanket prohibition on the power of judicial review of the court could not stand the test of the basic structure doctrine.

Taking reference of Waman Rao case, held that Acts will be **Judicially reviewable if put in 9th Schedule after April 24, 1973 (the date on which the doctrine was pronounced in Kesavananda Bharati).**

The basic structure is the very essence of the Indian Constitution any law amendment found inconsistent with Part 3 of the Indian Constitution even if it is in the Ninth Schedule would be struck down by the process of judicial review.