

Opinion (Premium), Mumbai
Thursday, 11th September 2025

How Puttaswamy Exorcised the Ghost of ADM Jabalpur



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In the long journey of India's constitutional democracy, few moments have tested its spirit as severely as the Emergency of 1975–77. And within that dark chapter, no judgement casts a longer shadow than *ADM Jabalpur v. Shivkant Shukla* (1976). A cautionary tale, it remains a moment when the Court bent not to the law, but to political pressure.

It began in June 1975, when Prime Minister Indira Gandhi's election to the Lok Sabha was declared void by the Allahabad High Court for electoral malpractice. Facing a massive political storm, she advised President Fakhruddin Ali Ahmed to declare Emergency under Article 352, citing internal disturbance.

Suspension of civil liberties, mass arrests, and gagging of the press followed. Thousands were detained under the draconian Maintenance of Internal Security Act (MISA) without trial or evidence. Most chillingly, the government suspended Article 21, stripping citizens of the right to challenge illegal detentions. *Habeas corpus*, one of democracy's oldest safeguards, was effectively dead.

As petitions flooded high courts across the country, some judges began to resist, ordering detainees released. Bent on crushing all resistance, the government dragged the fight to the Supreme Court. At stake was the question: Can a citizen challenge unlawful detention during an Emergency, when Article 21 is suspended?

The judiciary, usually the last refuge for citizens, now stood cornered by a powerful, unforgiving executive. In a majority ruling, it held that no person could seek a writ of *habeas corpus* even if the detention was illegal. Except for one lone, courageous voice — Justice HR Khanna.

In a brave and historic opinion, he stated that the State had no power to deprive a person of life or liberty. His dissent cost him chief justiceship but won him a place in history. This lone dissent is now the loudest legacy of that era; a reminder that rights are only as strong as the judges who defend them.

Many years later, Justice PN Bhagwati would apologise for this judgement, calling it “an act of weakness”. But it would take the Supreme Court 42 years to finally bury it.

That moment came in *Justice KS Puttaswamy v. Union of India* (2017). At first, the issue seemed technical: Whether the government could compel citizens to submit biometric data under the Aadhaar scheme or not. But the legal challenge quickly deepened. Petitioners argued that it violated citizens’ right to privacy implicit under Article 21 while the government insisted that privacy was not a constitutional right.

To support this, attorney general KK Venugopal pointed to *MP Sharma* (1954) and *Kharak Singh* (1962) judgments that had dismissed privacy as a constitutional right. These arguments forced the Court to pause. It constituted a nine-judge Constitution bench, not to rule on Aadhaar, but to first answer a foundational question: Is privacy a fundamental right under the Constitution of India?

As the Court examined this question, it inevitably turned to Article 21 (right to life and personal liberty). To define liberty, the Court had to confront its own past. And no case represented the betrayal of liberty more than *ADM Jabalpur*. And so, on August 24, 2017, the dark chapter was finally closed. Justice DY Chandrachud, who sat on the *Puttaswamy* bench, said his father, Justice YV Chandrachud — once part of the majority in *ADM Jabalpur* — always believed the judgment was wrong.

The unanimous landmark verdict held that the right to privacy is intrinsic to life and liberty under Article 21, protected by Articles 14 and 19 of the Constitution. In doing so, *ADM Jabalpur* (1976), *MP Sharma* (1954) and *Kharak Singh* (1962) were all overturned.

The ruling had a staggering impact, as it laid the constitutional foundation for personal autonomy and dignity in the digital age, shaping future rulings on sexuality, gender, and data protection. It also reframed the Aadhaar litigation, which resumed with privacy now firmly recognised as a fundamental right. The Court would ultimately uphold the scheme, but with restrictions to prevent coercion and with careful regulation of the State’s handling of personal data to protect privacy.

Still, *Puttaswamy*’s true triumph was moral. In overturning *ADM Jabalpur*, it reaffirmed that privacy and liberty are inviolable rights, not State favours. Between these two cases lies the arc of India’s constitutional history — from surrendering liberty to affirming it.

And yet, no judgment enforces itself. In an era of growing surveillance, technological advancements and state oversight, privacy demands continual protection.

If *Puttaswamy* was a promise, it’s on us to see it is kept.

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