

JUDGE WHOSE DISSENT OPINIONS ARE AS POWERFUL AS HIS ORDERS

Relevant for: Indian Polity | Topic: Judiciary in India: its Structure, Organization & Functioning, Judges of SC & High Courts, Judgments and related Issues

Justice D.Y. Chandrachud, who sees dissent as the “safety valve of democracy”, is known for his profound judgments and dissenting opinions which prick the conscience of the powerful and challenge the regressive while displaying ability, conscientiousness and a high sense of justice.

His minority views on the Bench of the court are as incisive as his concurring opinions. Both examine and question settled beliefs and opinions in society, politics and religion. They demand a fresh outlook and trigger the hope of reform.

“Deprivation of liberty even for a single day is one day too many,” he wrote about the plight of the burgeoning population of undertrials languishing in jails across the country.

Justice Chandrachud’s judgment recognising privacy as a fundamental right became a game-changer which led to the decriminalisation of Section 377 of the Indian Penal Code (consensual adult homosexual relationships). His words “it is difficult to right a wrong by history. But we can set the course for the future” suggest more to come. The historic dissent of the Aadhaar policy, which said the scheme reduced a person to a 12-digit number, overshadowed the main judgment.

His was the sole dissenting opinion upholding the rights of five activists arrested in the Bhima Koregaon case. He reminded the judiciary that dissent cannot be sacrificed at the altar of conjectures.

“Dissent is a symbol of a vibrant democracy. Voices in opposition cannot be muzzled by persecuting those who take up unpopular causes,” Justice Chandrachud wrote in his minority opinion.

A common theme in Justice Chandrachud’s judgment is an effort to ensure the rights and choices of women in society and workspaces.

In the Hadiya case, the judge held a person’s right to choose a religion and marry as an intrinsic part of her meaningful existence. In the Sabarimala judgment, the judge held that women of menstrual age had the right to enter the temple. He held that immunising customs and usages took away the primacy of the Constitution.

He was also part of the Bench which unanimously upheld the right of the Hindu side to the title of the disputed Ram Janmabhoomi land. He had also authored the judgment which concluded that Judge Loya died of natural causes and dismissed PIL petitions alleging foul play.

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