

The Role of Judiciary in Protecting the Rights of Dance Bar Workers

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Abstract

The issue of dance bars in India, particularly in Mumbai and the state of Maharashtra, has long remained at the intersection of law, morality, gender justice, labour rights, and state regulation. Dance bar workers- predominantly women from economically marginalized backgrounds- have often faced stigma, economic exploitation, and social exclusion. Legislative attempts to ban or heavily regulate dance bars were justified by the State on grounds of morality, public order, and prevention of exploitation. However, such measures frequently resulted in the loss of livelihood for thousands of workers. The judiciary, especially the Supreme Court of India, has played a crucial role in balancing constitutional freedoms with regulatory concerns. Through landmark judgments, courts have emphasized the protection of fundamental rights, including the right to livelihood, equality, dignity, and freedom of occupation under Articles 14, 19, and 21 of the Constitution of India. This paper examines the judiciary's intervention in safeguarding the rights of dance bar workers and analyses how courts have acted as constitutional guardians against arbitrary state action.

Keywords: Dance Bar Workers, Judiciary, Fundamental Rights, Right to Livelihood, Labour Rights, Gender Justice, Human Dignity, Judicial Review, State Regulation, India.

Introduction

Dance bars emerged as a prominent part of urban nightlife in Mumbai during the 1980s and 1990s. They provided employment to thousands of women as dancers, singers, service staff, and performers. For many workers, dance bars became a critical source of livelihood, especially for women lacking access to formal employment. However, dance bars soon became the subject of public controversy. Critics associated them with obscenity, organized crime, trafficking, and moral degradation. In 2005, the Government of Maharashtra imposed a ban on dance performances in bars through amendments to the Bombay Police Act. This ban severely impacted approximately 75,000 workers, depriving them of income and pushing many into greater economic vulnerability. The legal battle that followed highlighted a fundamental constitutional question: Can the State restrict a profession merely on moral grounds when such restriction destroys livelihoods? The judiciary's response became central to resolving this conflict.

Judicial Protection of Fundamental Rights

1. Right to Livelihood under Article 21

The right to life under Article 21 has been interpreted broadly to include the right to livelihood. Dance bar workers argued that the ban effectively deprived them of their only source of income.

The judiciary recognized that banning dance performances without providing alternative rehabilitation mechanisms disproportionately harmed workers rather than protecting them. Courts observed that the State cannot claim to protect women by depriving them of employment.

This principle aligns with the constitutional understanding that dignity includes economic independence and the ability to sustain oneself.

2. Equality Before Law under Article 14

One of the strongest judicial criticisms of the ban concerned discrimination. The law prohibited dance performances in ordinary bars while allowing similar performances in elite establishments such as three-star and five-star hotels.

In *State of Maharashtra v. Indian Hotel and Restaurants Association* (2013), the Supreme Court of India held that this classification violated Article 14 because it irrationally assumed that obscenity existed only in lower-class establishments.

The Court rejected class-based moral distinctions and noted that the law unfairly targeted economically weaker sections while favouring affluent spaces.

This judgment established that constitutional equality applies regardless of class or social perception.

3. Freedom of Profession under Article 19(1)(g)

Article 19(1)(g) guarantees citizens the freedom to practice any profession or carry on any occupation, trade, or business, subject to reasonable restrictions.

Dance bar workers argued that dancing, as a lawful profession, falls within this constitutional protection. The judiciary agreed that unless an occupation is inherently illegal or harmful, the State cannot impose excessive restrictions amounting to a total prohibition.

Courts repeatedly distinguished between regulation and prohibition. Reasonable regulation for safety, licensing, and anti-trafficking measures is permissible; complete bans are constitutionally suspect.

4. Protection of Human Dignity

Judicial discourse increasingly acknowledged that dance bar workers are often victims of structural discrimination rather than perpetrators of immorality.

Courts criticized moral paternalism—the assumption that women in dance bars require rescue through forced unemployment. Instead, the judiciary emphasized autonomy and dignity.

The constitutional vision of dignity protects an individual's right to make choices concerning employment, provided such choices remain within legal boundaries.

This approach marked a significant shift from morality-based governance to rights-based jurisprudence.

Landmark Judicial Decisions

A. Bombay High Court Judgment (2006)

The Bombay High Court struck down the 2005 ban, holding that it violated Articles 14 and 19. The Court found the prohibition arbitrary and discriminatory.

The judgment emphasized that criminal activity, if any, should be addressed through law enforcement rather than blanket prohibition.

B. Supreme Court Judgment (2013)

The Supreme Court of India upheld the High Court decision and declared the ban unconstitutional.

The Court held that:

- Dance itself is not obscene
- Mere possibility of misuse cannot justify prohibition
- Workers cannot be deprived of livelihood because of societal prejudice

This became a major victory for labour rights and women's economic freedom.

C. Indian Hotel & Restaurants Association v. State of Maharashtra (2019)

Despite earlier judgments, new restrictive legislation imposed nearly impossible licensing conditions, including surveillance requirements and severe operational restrictions.

In 2019, the Supreme Court of India struck down several provisions as unreasonable. The Court held that regulation cannot be used as a disguised prohibition.

The judgment reaffirmed:

- Workers possess constitutional protection
- State power must remain proportionate
- Morality alone cannot override fundamental rights

Judiciary as Constitutional Guardian

The judiciary has performed three major functions in protecting dance bar workers:

A. Checking Arbitrary Executive Power

Courts ensured that the State does not misuse regulatory authority to impose disguised bans.

B. Protecting Marginalized Labour

Dance bar workers often lack bargaining power and social legitimacy. Judicial review provided an institutional safeguard for their rights.

C. Reframing Public Morality

Judicial reasoning shifted debate from moral panic toward constitutional values such as liberty, equality, dignity, and livelihood.

Challenges That Remain

Despite judicial intervention, significant challenges persist:

- Social stigma against dance bar workers
- Police harassment and licensing obstacles
- Economic exploitation by employers
- Lack of labour law protections
- Absence of social security measures

Judicial protection alone cannot fully resolve these structural problems. Legislative reform and welfare mechanisms remain essential.

Conclusion

The judiciary has played a transformative role in protecting the rights of dance bar workers in India. By striking down discriminatory bans and unreasonable restrictions, courts have reinforced constitutional guarantees of equality, livelihood, dignity, and freedom of occupation. The dance bar debate demonstrates that law cannot be driven solely by social morality or class prejudice. Judicial intervention has ensured that vulnerable workers are viewed not as subjects of moral regulation but as rights-bearing citizens entitled to constitutional protection. The continuing debate on dance bars thus remains a significant example of how the judiciary preserves democratic freedoms against arbitrary state action.

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