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Article 32 approach key to citizens' rights

The right of citizens to take recourse to Article 32 for protection of their fundamental rights has come to the fore recently with some cases invoking it coming to the Supreme Court for decision. Some decisions made in such cases and observations made by the court during the course of the hearing have also attracted attention. Last week, Chief Justice of India S A Bobde, while hearing a petition, said that the Supreme Court was trying to "discourage petitions under Article 32". The reason probably was that the court did not want to be flooded with petitions, as it would not have the time for other matters if too many petitioners came directly to it before going to the high courts. The petition before the court sought its intervention in the case of a



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journalist from Kerala, Siddique Kappan, who was arrested by the Uttar Pradesh police while he was going to Hathras to report on the rape and murder there last month. The charges against him include sedition, and he is still in jail.

The CJI's observation raised some concerns over the court's handling of Article 32 petitions. In a hearing on Kappan's petition, the court had also said that the matter should be transferred to the UP High Court. However, in a later hearing, the CJI said that there was unfair and inaccurate reporting of the court's proceedings in the case, as "the reports said that the journalist was refused relief". The court allowed Kappan's lawyers to meet him and sign documents to facilitate bail. Other petitions under Article 32 have also come before the Supreme Court. One was a petition from a person who was arrested for alleged defamation of the Maharashtra Chief Minister. In another petition for the release of poet Varavara Rao, who has been in jail for months in the Bhima Koregaon case, the court asked the Bombay High Court to hear it at the earliest. At the same time, it did well to entertain the petition of Arnab Goswami, editor of Republic TV, and granted him interim bail.

Article 32 is very important because it affirms the right of a citizen to move the Supreme Court by appropriate proceedings for the enforcement of the rights conferred by the Constitution. It ensures the right to constitutional remedies in case of violation of rights and is, in a sense, the right of rights. Babasaheb Ambedkar called it the heart and soul of the Constitution. So, petitions under this Article should receive proper attention and equal treatment from the court. If there are more petitions now, that means that citizens' rights are more frequently denied or violated. That increases the relevance and importance of Article 32.