

## Children have a right to protect their genetic information from DNA tests: SC judgment

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Recently, the **Supreme Court** (SC) has held in a judgment that **children cannot** be subjected to **DNA** tests in each and every case to establish **proof of infidelity**.



[ref-mit news]

### SC rulings:

- **Genetic information** is **personal** and **intimate**.
  - Thus, a child's **genetic information** is part of his fundamental **right to privacy**.
- Children have the **right to not** have their **legitimacy questioned** before a court of law.
- **DNA tests** would harm the **reputation** and **dignity** of the **mother**.
- The children should **not** to be subjected to **forensic/DNA testing** during the **divorce proceedings**.
- **Family courts** should direct for a **DNA test** only in the situations where it is a **last resort** and in the **interest of justice**.

### Genetic Privacy:

- It is a term that seeks to **prevent a third party** from using a **person's genetic data** without his **permission**.
- A person's genes are the **blueprint** of his or her **physical** or **biological** being, **personal life** and

**information** about the **future, present** and **history**.

- **Other information that can be abstracted:** alcoholism, depression, aggressiveness, sexual orientation, mental productivity etc.
- When a **person's** genetic data is used for testing, medical purposes, or other purposes, his privacy should be **protected**.
- **Genetic data** is made up of a person's deoxyribonucleic acid (**DNA**) and **chromosomes**.
- **DNA sample sources:** hair, teeth, blood.

### Advantages of genetic information:

- **Genetic information** may disclose **information** about his or her **disease, illness**, or health status.
  - If done on time he can take preventive measures or be able to cure it.
  - It can be done using **direct-to-consumer genetic** tests (DTC), which are **not** always **reliable**.
- A person can learn about his **ancestors** and **distant relatives**.
- A person's data can be used in **medical research**.

### Disadvantages of genetic Information:

- Based on the profile available in the **domain, genetic evidence** can be **fabricated** in any **crime scene** through **engineered DNA samples** not taken from a **real individual**.
- Data such as person's personal life, health, family members, and other private information when assessed by a third party can be **misused**.
- If such information is revealed, it can negatively impact individuals lives, such as discrimination from **employers, insurance providers**, the government, and others.

### Status of Genetic Privacy in India:

- In **2018**, The **Delhi High Court** stated that discrimination in **health insurance** against people based on their **genetic origin**, in the absence of **genetic test** is **unconstitutional**.
- **Genetic discrimination** breaches **Article 14**, which guarantees **equality before the law**.
- In Justice KS Puttaswamy (Retd.) & Anr. v. Union of India, SC stated that the **Right to Privacy** is a fundamental Right under **Article 21**.

### Genetic discrimination in other countries:

- In **2008**, the **United States** had passed the Genetic Information Non-discrimination Act (**GINA**), to protects people from **genetic discrimination** in **health care** and **jobs**.

- **Council of Europe** has adopted the **Guidelines** on the **use of genetic knowledge** for **insurance** purposes.
- Under **Canada's** Genetic Non-discrimination Act, it is **illegal** for **insurers** or **employers** to request **DNA testing** or findings.