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# ANALYZING INDIA'S INFORMATION TECHNOLOGY LAWS IN THE CONTEXT OF BAN ON CHINESE APPS

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**ABSTRACT –** Amidst the fierce clash of India and Chinese troops in the Galwan Valley of eastern Ladakh, the Indian government has banned 59 applications developed by the Chinese firms citing national security and defense of India. The imposition of ban has been exercised as per the powers conferred under Section 69A of the Information Technology Act, 2000 and the IT Blocking rules, 2009. This article evaluates the procedure that is followed when such ban is imposed by an interim order through a press release and discusses the legal effect of such ban in the light of Shreya Singhal v. Union of India judgment along with the future of these banned applications in India. The article also examines the likely constitutional challenges to be faced after the imposition of ban taking into account the recent Supreme Court and High Court judgments with respect to legality of such bans.

**Keywords:** *computer resources, government,intermediary liability, ITBlocking rules, review committee.*



## INTRODUCTION

In the wake of Boycott China aggression, Indian government has recently banned 59 Chinese mobile apps citing concerns of security of state and public order as well as threat to sovereignty and integrity of India, leaving widely used applications such as TikTok, Cam Scanner, Xender etc. inaccessible to lakhs of users[1]. The decision came after taking into account of the recommendation made by the Indian Cyber Crime Coordination Centre, Ministry of Home Affairs. In addition to this, there were several representations made from citizens regarding

[1]Government Bans 59 mobile apps which are prejudicial to sovereignty and integrity of India, defence of India, security of state and public order, pib.gov.in 2020, https://pib.gov.in/PressReleseDetailm.aspx?PRID=1635206 (last visited Jun 30, 2020).

security of data and breach of privacy before the Computer Emergency Response Team (CERT-IN)[2].

Thus leaving the matter in the hands of the Ministry of Electronics & Information Technology (MeIty) blocking the access to these apps under the Section 69A of the Information Technology Act, 2000 as well as the rules provided under Information Technology (Procedure and Safeguards for Blocking of Access of Information by Public) Rules, 2009 citing that the banned applications pose a threat to sovereignty and integrity of India, based on credible inputs received to them.. In pursuant to such ban, the Department of Telecommunication (DoT) issued a direction to all the telecom service providers to immediately block access to all these apps and submit their compliance report upon the same.

As a result of this, TikTok management, a social media influencing application having millions of Indian user base in India, decided not to initiate any legal proceedings and to comply with the government order for blocking of its app. In order to allow representation in a fair manner, the government of India invited TikTok and other banned Chinese apps to meet the concerned government stakeholders for an opportunity to interact and provide with clarifications if required. Nonetheless, India is not the only country imposing such restrictive measures by the imposition of ban and there are several instances of other countries which have banned some of these infamous Chinese apps such as TikTok citing similar security concerns.[3]

## POWERS UNDER SECTION 69A OF INFORMATION TECHNOLOGY ACT, 2000

Section 69A of the Act[4] was introduced in the Amendment made under the Information Technology Act 2009, giving powers to Central government to issue directions for blocking of any information through any computer resources for public access in the interest of sovereignty and integrity of India, security of the state, defense of India, public order, friendly relations with

[2]Intel agencies red-flag use of 53 mobile apps with links to China, hindustantimes.com (2020), https://www.hindustantimes.com/india-news/intel-agencies-red-flag-use-of-52-mobile-apps-with-links-to-chinacompletelist/storyB50Slf39aSnVOrCcS92l1N.html#:~:text=Indian%20intelligence%20agencies%20have%20asked,the%20development%20told%20Hindustan%20Times. (last visited Jul 02, 2020).

[3]U.S. Army bans TikTok on military devices, signalling growing concern about app's Chinese roots, washingtonpost.com (2020), https://www.washingtonpost.com/technology/2019/12/31/us-army-bans-tiktok-military-devices-signaling-growing-concern-about-apps-chinese-roots/ (last visited Jul 5, 2020).

[4]Inserted vide Information Technology (Amendment) Act, 2008 (Act No. 10 of 2009) w.e.f. 27.10.2009.

foreign states or for preventing incitement to the commission of any cognizable offence similar to the power of restrictions imposed under the fundamental rights.

Therefore, upon the banning of such information, the government may direct any of its agency or such intermediary to block such information for the access by public or any information which is generated, transmitted, received, stored or hosted in any computer resource operating in India. The power to block the information for public access, defined underSection 2(1)(k) of the Information Technology Act can be well exercised for blocking the websites as well as applications.In case, any intermediary who fails to comply with such directions may invite punishment up to seven years or fine, depending upon the nature and gravity of offence committed.

However, it may be noted that in the present case, there were no specific rule mentioned as per the Blocking rule criteria while taking such action. As per the Blocking rules, there may be two circumstances under which the authorities may pass an order. First, when there is a complaint received to the designated officer under Rule 6[5], followed by a detailed examination upon such complaint under Rule 8[6]. Second, there may be an "interim ban" order passed by the appropriate authorities without giving the opportunity of being heard to such intermediary or data originator in case of emergency situations as per Rule 9[7], while the investigation may continue.

In the present order, the directions were issued as per Rule 9, having a non-obstacle clause. Under this rule, post-decision hearing may take place after passing the order by way of interim order where there may arise a case of emergency situation, and no pre-decisional hearing takes place by giving any opportunity of being heard to the intermediary or the originator of such information.

Moreover, under the provisions of Section 69A(1) of the Information Technology Act, where the Central government or any of its authorized officer is satisfied that it is necessary on its behalf or expedient to block any access to information, in such case restrictions may be imposed similar to

[5]Forwarding of Request by Organization, Rule 6 of Information Technology (Procedure and Safeguards for Blocking for Access of Information by Public) Rules, 2009.
[6]Examination ofRequest, Rule 8 of Information Technology (Procedure and Safeguards for Blocking for Access of Information by Public) Rules, 2009.
[7]Blocking of Information in case of Emergency, Rule 9 of Information Technology (Procedure and Safeguards For Blocking for Access of Information by Public) Rules, 2009.

the restrictions mentioned under Article 19(2) of the Constitution of India such as in the interest of sovereignty and integrity of India,security of state, defense of India, public order, friendly relations with foreign states or for preventing incitement to the commission of any cognizable offence, and the government may block such information for access by public whether such information is generated, received, stored, transmitted, or hosted by any computer source operated in India.

Although, International Human Rights Standards has cautioned against the power of exercising online censorship which is arbitrary in nature, in its Rapporteur for Freedom of Opinion and Expression[8], the United Nations has stressed on the need of determining what kind of contexts can be blocked and what can be the appropriate judicial procedure against it, so that there are checks and balances and such decisions must be independent of political, commercial or any other kinds of influences. The landmark report of UN Special Rapporteur for Freedom of Opinion and Expression[9]in 2011, has recognized that blocking or filtering of internet is a threat to human rights, and without any opportunity of being heard it makes difficult to assess whether such access of information possess a legitimate threat. The IT Blocking Rules, 2009 were challenged in the landmark judgment of Shreya Singhal[10] on the same basis, however, even after the UN Special Rapporteur landmark report from 2011, there has be no significance on the Supreme Court judgment and the issue was left untouched in this case, as will be discussed below.



**Similar Powers under Temporary Telecom Services Rules, 2017**

There have been numerous instances of internet shutdowns on the account of maintaining public emergency and interest of public safety. In 2019alone India had the maximum number of

[8]United Nations General Assembly (UNGA) Seventy-first Session, "Item 69(b) of the provisional agenda, Promotion and protection of Human Rights: Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms, Promotion and protection of the rights to freedom of opinion and expression," A/71/150 ( 06th Sept, 2016), https://www.un.org/ga/search/view_doc.asp?symbol=A/71/373 (last visited 15th, Jul 2020).

[9]United Nations General Assembly (UNGA), Human Rights Council, Seventeenth Session, "Agenda Item 3, Promotion and protection of all human rights, civil, political, economical, social and cultural rights, including the right to development, Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Frank La Rue," A/HRC/17/27 (16th May, 2011), https://www2.ohchr.org/english/bodies/hrcouncil/docs/17session/A.HRC.17.27_en.pdf (last visited 16th July, 2020).

[10]Shreya Singhal v. Union of India, AIR 2015 SC 1523.

Internet shutdowns all over the world[11]. As per the Telecom Services (Public Emergency or Public Services) Rules, 2017, an order can be issued for the suspension of telecom services by the Central or State governments by the Secretary to the government, or Secretary to the State, respectively. However, the copy of every such suspension order has to be reviewed by the Review Committee set-up by government. However, such suspension has to be periodically reviewed within seven working days as per Rule 2(5) of the suspension rules.

Recently, Supreme Court of India has ruled out[12] that all such suspension orders have to be passed for temporary durations only, and has to adhere to the principle of proportionality i.e. it should not be extended beyond the necessary duration and such executive order passed under the suspension rules will be subject to be scrutinized by the powers of courts under the judicial review.

## ANALYSING THE LANDMARK JUDGMENT: SHREYA SINGHAL V UNION OF INDIA[13]

In this judgment, Section 69A along with Section 66A of the Information Technology Act was challenged before the Hon'ble Supreme Court of India, comprising the bench of Justice J. Chelameswar& Justice R.F. Nariman, where the Apex court had struck down Section 66A of the act on the grounds that such provision is in violation of Fundamental Rights guaranteed under Article 19(1) (g) and not saved under Article 19(2) and upheld the validity of Section 69A.

The main grounds under which Section 69A was challenged were that there is no provision for pre-decisional hearing under the IT (Procedure and Safeguards for Blocking of Access of Information by Public) Rules, 2009 for the Originator of such information defined under Section 2(za) of the Act, leaving a chilling effect upon such intermediaries. Given that the Originator includes the person who sends, generate,stores or transmits or any electronic message, the provision would do more harm than good in the matter of fundamental rights in the absence of procedural safeguards provided given under Section 95 and Section 96 of the Code of Criminal Procedure (CrPC).

[11]C.K. Hickey, India Is the World's Leader in Internet Shutdowns, Foreign Policy (2019), https://foreignpolicy.com/2019/08/05/india-is-the-worlds-leader-in-internet-shutdowns/ (last visited Jul 12, 2020).
[12]AnuradhaBhasin v. Union of India and Ors., AIR 2019, WP(C) No. 1031 of 2019.
[13]*Supra* [10]

The Apex court observed that the provisions Section 69A is a narrowly drawn provision and it carries appropriate safeguards along with it even in the absence of any specific provisions mentioned under the rules. The court ruled that the government may only block such information for the public in certain circumstances; where there is absolute necessity as per the fundamental rights inveighed under Article 19(2) of the Constitution which imposes reasonable restrictions upon the freedom of speech. In addition to this, if there is any breach caused to the legal rights of the person, the gates of the Courts are always open to them in the form of writ petition which can be filed before the concerned High Courts under Article 226 of the Constitution.

**Conclusion of the Case:**

The Court made its remark by stating that the IT (Procedure and Safeguards for Blocking of Access of Information by Public) Rules, 2009 further provide with an opportunity of hearing before a committee is set up under the Act. After such hearing, the committee may look into the directory order of blocking such information, whether it is necessary to continue such block of information, and may come up with its decision as per the rules. This rule is not only applicable to intermediaries such as TikTok and other social media applications but also applies to the originator of such information.



Moreover, as per the Rule 16 under the Interception, Monitoring and Decryption of Information Rules, 2009[14], the rule of blocking has to be executed with secrecy affirming the confidentiality of blocking order, while such order is pronounced. The same rules were brought up before the Supreme Court in this case on the basis of lack of transparency and without any notice given to the intermediary or possessor of such data by way of putting up such notice on the website of the government website proclaiming such blocking order.

[14]Information Technology (Procedure and Safeguard for Interception, Monitoring and Decryption of Information) Rules, 2009 Published in the Gazette of India, Extra./ Part 2 Section 3(i), Published via Notification G.S.R. 782(E) (27th Oct, 2009).

However, the court abstained from pronouncing any directions upon the same leaving the issue untouched.Nonetheless, the unavailability of procedural safeguards under Section 95 and 96 of CrPC cannot be a ground for the Section to be invalid as the IT rules govern the same.

## LEGAL EFFECT OF INTERIM ORDER ON BLOCKING THE APPLICATIONS

First of all, the question which may come into the mind is that whether there can be an interim ban imposed on the basis of "Press Release" without any opportunity of being heard and whether such order amounts to discriminatory practice violating Article 19 of the Constitution of India? Considering that such press release is passed within the ambit of the Procedure and Safeguards for Blocking of Access of Information by Public Rules, 2009, would still be contrary to the previous considerations in the orders of Apex Court, where it hasobserved that the restrictive measures by way of executive actions shall not affect the fundamental rights in such a nature that it may have grave consequences upon the person. Therefore, such executive action will have to pass the test of proportionality.[15]

On the other hand, the next question which may arise is that whether such Press Release can be defined as a "law" as per Article 13(3) of the Constitution, which generally includes ordinance, order, rules, regulations, notifications etc, and whether such order qualifies as a legislative action, being authoritative in nature. It is indubitable, that a Press Release does not qualify as a law, and it is more of a communication used for the means to notify the people about any legislative or execution action which takes place, by way of a public circulation. The main ingredient which the Press Release must carry is that it has to be backed by law in the form of executive order; only then such Press Release shall have the effect of being enforced.

Based on the Shreya Singhal judgment[16], it is clear that Section 69A holds validity under the eyes of law and the government has complete authority to ban any source of information for public if it satisfies the conditions discussed in the above paras of this article. However, in the present case, no opportunity of hearing was given to the social media platforms leaving a chilling effect due to the effect of the interim order. Before coming to any conclusions, it has to be kept

[15]Foundation for Media Professionals v. Union Territory of Jammu and Kashmir &Anr., WP(C) Diary No. 10817 of 2020 (Supreme Court, 11/05/2020) ; AnuradhaBhasin v. Union of India and Ors., AIR 2019, WP(C) No. 1031 of 2019.

[16]*Supra* [10].

in mind that the same IT (Procedure and Safeguards for Blocking of Access of Information by Public) Rules, 2009 empower the government to block any information even without giving opportunity of being heard by placing an interim order as per Rule 9 of the Blocking rules in case of emergency.

As per the Emergency rule, the nature of such emergency has to be so urgent that no delay can be acceptable and in case of such necessity, it is expedient and justifiable to block access to such information through the computer source being operated in India. The Designated Officer concerned, shall submit a specific recommendations in writings to the Secretary of Department of Information Technology in order to bring this effect into consideration and upon the satisfaction of Secretary, Department of Information Technology may issue such directions as he may consider appropriate without even providing any opportunity of being heard to that intermediary or originator of such information.

A similar example can be taken, where Uttrakhand HC issued an order[17] on Banning of Porn Websites, where the power of Central government were discussed per Rule 9 of the Procedure and Safeguards for Blocking for Access of Information by Public Rules, 2009 in case of emergency situations. The Rule 10 of the very same rules explains that in case of an order is received from a competent court having jurisdiction in India for the restricting of any information by way of blocking where such information is generated, stored, received, transmitted or hosted in a computer resource which is being operating in India, the Designated Officer shall immediately upon receiving the Court order may initiate action against such intermediary or data originator after submitting the Court Order to the Secretary,Department of Information Technology. This rule was applied with the abovementioned case by directing further suspension of internet service licencesin case of non – compliance.[18]

So far as the opportunity of being heard is concerned, the concept of passing of interim decision can be seen in the Supreme Court case[19],where the authorities had passed an order banning the import of beef giving effect to putting a hold on licence of thousands of beef traders. In this case,

[17]In the matter of Incidence of Gang Rape in a Boarding School, situated at Bhauwala, District Dehradun v. State of Uttarakhand and others, Writ Petition(Public Interest Litigation) No. 158 of 2018 (Uttrakhand High Court, 27/09/2018).

[18]**Anoop M.K. v. Union of India, AIR 2014, W.P. (Crl.) No. 196 of 2014.**

[19]Liberty Oil Mills & Others v. Union of India, AIR 1984 SCR (3) 676.

no pre-decisional opportunity of being heard was given and the order was held to be valid on the basis of necessity and to prevent further mischief of any kind.

In case of interim order is passed under the IT Blocking rules, upon passing of such order the Designated Officer is obligated to bring the request before the committee established under the Act for consideration and recommendation on the ban imposed. This procedure has to be done within 48 hours of passing the interim order. After the committee is formed, it may make recommendations and the Secretary, Department of Information, shall pass its final order after considering the Committee report and upon his satisfaction, the interim order may be revoked and the intermediary or the originator of such information may be allowed to remove the restriction imposed on block of such information for public access.

**CONSTITUTIONAL ASPECT OF THE BAN WITH RESEPCET TO SECTION 69A**

It has been previously arguedbefore the Apex court, that the provisions stated under Section 69A of the act will not only infringe the author's right to speech and expression but also affect the right to information of user under the provisions of Constitution under Article 19(1)(a), when such access is restricted. There is also a violation of natural justice on the basis of blocking the website or application of the intermediary on the mere satisfaction of the concerned officer without giving any notice period or heed to the person concerned, who is possessing or regulating such content. To this, the Supreme Court has held that theprocedure established under the IT Blocking rules has to be adhered with respect to theIntermediaries Guidelines Rules, 2011[20] so thatthere is no violation of the intermediary rights under Article 19(1) (g) of the Constitution of India.[21]

Since, the ban on the Chinese applications amounts to suppressing of form of Freedom of Expression, without considering how such ban will affect the concerned persons as it is a platform which provides for freedom of expression and allows for the dissemination of any information is protected under the ambit of Article 19(1) (a) of the Constitution of India, therefore, a constitutional challenge to this ban is very likely in the current scenario. The

[20]Information Technology (Intermediaries Guidelines) Rules, 2011 (Ministry of Communications and Information Technology, Department of Information Technology, Notification F. No. 11(3)/2011-CLFE, (11th April, 2011).

[21]**Internet and Mobile Association of India (IAMAI)&Anr. v. Union of India &Anr., AIR 2014 W.P.(C) No. 758 of 2014.**

Supreme Court has given the approach to these rights in the form of interconnected freedoms that complement each other. Therefore, by having a ban on the applications under Rule 9 of IT Blocking rule through the use of "geoblock" giving power to the government to restricting such access to information without providing an opportunity of being heard may also invite a violation of fundamental right to access the internet.

In 2019, Kerala HC has recognized that interfering with a person's access to the internet will be a clear violation of his fundamental right to privacy[22]. In subsequent to this, the Hon'ble Supreme Court has also held that an indefinite suspension of the internet would amount to an abuse of power by the authorities[23]. Therefore, it can be fairly argued that right to freedom of speech and expression must be inclusive i.e. accessible to everyone and not just to those accessing the applications, in simple terms it should also include those people who wish to express themselves through the medium of such applications. Unfortunately this topic is not much debated due to the low level of digital literacy in India[24]

On the other hand, Chinese tech giants are already raising concerns of discriminatory treatment towards their applications, and such decision made being arbitrary, discriminatory and in violation to Article 14 of the Constitution of India. However, gates of the Courts are always open to such challenges. Recently, Calcutta High Court has also held that a foreign entity can also file a writ petition under Article 226 before the Indian courts.[25]



**FUTURE OF THE BANNED APPLICATIONS IN INDIA**

It is clear that the ban imposed by Indian authorities is not a hostile practice, and has been exercised previously as well. Last year, the Gujarat Police had issued a notification[26] by imposing a ban on the famous gaming application PUB-G along with MOMO Challenge by imposing penalties under the provisions of Section 188 of Indian Penal Code, penalizing

[22]FaheemaShirin R.K. v. State of Kerala, AIR 2019, W.P.(C). No. 19716 of 2019 (L).
[23]AnuradhaBhasin v. Union of India and Ors., Air 2019, WP(C) No. 1031 of 2019.
[24]Oliver Rowntree,, The Mobile Gender Gap Report 2020 (2020), https://www.gsma.com/mobilefordevelopment/wp-content/uploads/2020/05/GSMA-The-Mobile-Gender-Gap Report-2020.pdf (last visited Jul 1, 2020).
[25]Hongkong and Shanghai Banking Corporation(HSBC) v.. Union of India, AIR 2011 (WP No. 338 of 2003)
[26]Rajkot City Police ban popular online game in interest of students, Ahmedabad Mirror, India times (2019), https://ahmedabadmirror.indiatimes.com/ahmedabad/others/rajkotcitypolicebanpubgtillapril30/articleshow/68355798.cms (last visited Jul 10, 2020).

disobedience to order duly promulgated by a public servant. The notification went on stating that such ban was necessary to control the violent behaviour among youth and especially children causing adverse effect to their academic as well as social well being. It is also true that petitioners have approached for imposing a ban of such applications before High Courts previously in the form of Public interest litigation.[27]

A similar example can be taken, where Delhi High Court issued a notice[28] to the central government, on the basis of a ban imposed in Sept 2018, by the Department of Telecommunications blocking a website called "Dowry Calculator" on the recommendations of Ministry of Women and Child Development. Such website was blocked without informing the petitioner further claimed that the action taken by Ministry of Information Technology and Electronics was arbitrary and unconstitutional and it violated the public's right to know under Article 19(1) (a) of the Constitution of India as well as on the basis of natural justice.

Recently, the Bombay HC passed an ex-parte interim order[29] by directing the state government to block a video clip which was uploaded by AIMIM Leader Abu Faizal on social media. Therefore, such powers to block access to any information if not only used cautiously but also used judiciously, cannot be considered as violates fundamental rights.

In the present case, the applications which are banned will be governed under the procedure established under Rule 7 of the IT (Procedure and Safeguards for Blocking of Access of Information by Public) Rules, 2009 while considering the blocking request. However, there is a loophole under the provisions, that is there is no "time limit" for consideration by the committee or making any recommendation within the prescribed time limit in case of any emergency powers are invoked, thus leaving the fate of banned applications upon the ultimate discretion of the government. The statutory procedure which is followed in case of a ban is stated hereunder -

- First of all, it is the duty of the Designated Officer to make reasonable efforts to recognize the intermediary or the originator who holds such information including the

[27]Master AhadTanveerNizam v. State of Maharashtra &Ors. Public Interest Litigation Lodging No. 14 of 2019 (Bombay High Court, 13/11/2019).
[28]Tanul Thakur v. Union of India &Ors, CM Appl. No. 53166-68/2019 (Delhi High Court, 10/12/2019).
[29]Imran Khan v. State of Maharashtra &Ors. Criminal Writ Petition No. ASDB-LD-VC-7/20 (Bombay High Court, 22/05/2020).

person who sends, generate, stores or transmits any electronic message through a computer resource being operated in India. Upon the recognition of such intermediary, the officer shall issue a notice by way of any mode of communication preferably online, carrying his Electronic- Signature to such intermediary or originator to appear and submit its reply within 48 hours of receiving such notice. This rule applies to both Indian as well as foreign intermediaries or originators provided that such access of information is being operated or regulated in computer resources located in India.

- In case, the authorities are unable to recognize such intermediary due to non-appearance of such establishment or entity, in such case the committee shall give a specific recommendation in writing in compliance to the request received before it from the Nodal Officer, and may come up with its recommendations based on the information available with the committee. If any request is not approved by the Secretary, Department of Information Technology, the same shall be informed to the intermediary at the earliest so that it may unblock the access to such information.
- The main task of the committee is to assess whether the request received before it covers the scope provided under Section 69A of the Information Technology Act. Based on the approval of the Secretary, Department of Information Technology, the designated officer shall give appropriate directions to the government agency or such concerned intermediary to restrict or block the access of such information, whether it is generated, received, stored, transmitted or hosted for the intend of public access on its platform.



**CONCLUSION**

The popular attention which is being given to this interim banis because of the jingoism which is being discussed in order to protect the "Cyber Sovereignty" of India amidst the border tensions, and such action is a reply in the form of Digital Strike to China. However, it the more realistic view may be the recently passed legislation by China, requiring companies having their origin in China to share user data to be collected from all across the world if the government or intelligence agencies seek such data for any purposes.

In the end, it can be briefly said that the banning of 59 Chinese applications by way of interim order, will allow the intermediaries to establish its case by way of opportunity to present their

grievances before the Committee, in pursuant to which the Committee may pass appropriate orders upon the considerations that whether it is justifiable to continue such ban. The committee may also give specific recommendations in writing as it deems fit. After the recommendation made by the review committee, the Secretary, Department of Information Technology, will pass the final order entertaining such request which will have to be complied by the intermediary or the originator of such information. In addition to this, legal remedy to file a writ under Article 226 before the concerned jurisdiction can always be used in case of a violation.

In addition to all the considerations made in this article, a Supreme Court Judge recentlydelivered an enlightening speech on Fundamental Right to Freedom of Speech and Expression enumerated in the Constitution of India and further stated that a balance must be struck down between the Fundamental Right and government's intervention to curtail the same, and continued expressing that –

Free speech for a person is very important for two reasons – one is for development of a person, as an intrinsic human being, and number two, for the development of society. Free flow of information and free flow of thought and expression is very important for stability of society and for change in the social order because with changing times, the social order has to change.

**- Justice Nageswara Rao, Supreme Court of India.**