

**IN THE HIGH COURT OF DELHI**

**CM. No. \_\_\_\_\_ of 2021**

**In**

**WP(C) 3125 of 2021**

**IN THE MATTER OF:**

Foundation for Independent Journalism & Ors.

...Petitioners

Versus

Union of India & Anr.

...Respondents

**INDEX**

<b>Sr. No.</b>	<b>PARTICULARS</b>	<b>Pg. No.</b>
1.	COURT FEE	1
2.	NOTICE OF MOTION AND PROOF OF SERVICE.	2-3
3.	URGENT LETTER	4
4.	FRESH APPLICATION FOR DIRECTIONS UNDER SECTION 151 OF THE CODE OF CIVIL PROCEDURE, 1908.	5-12
5.	<b><u>ANNEXURE-A-1</u></b> A COPY OF THE IMPUGNED NOTICE DT. 18.06.2021.	13-14
6.	<b><u>ANNEXURE-A-2</u></b> A TRUE COPY OF THE NOTICE DT. 26.05.2021.	15-19
7.	<b><u>ANNEXURE-A-3</u></b> A TRUE COPY OF THE LETTER DT. 09.06.2021 FROM THE PETITIONER APPLICANTS TO THE RESPONDENT GOVERNMENT.	20-30
8.	<b><u>ANNEXURE-A-4</u></b> A TRUE COPY OF THE LETTER DT. 10.06.2021.	31-32

9.	<b><u>ANNEXURE-A-5</u></b> A TRUE COPY OF THE COMMUNICATION FROM THE PETITIONERS, INCLUDING ITS ONLY ENCLOSURE DT. 12.06.2021.	<b>33-36</b>
10.	APPLICATION FOR EXEMPTION FROM FILING DULY ATTESTED AFFIDAVIT AND AFFIDAVIT.	<b>37-39</b>

**FILED BY:**

**PRASANNA S ADVOCATE  
FOR THE APPLICANT  
Sector ABC Vasant Kunj  
New Delhi – 110070  
Mobile [REDACTED]**

Forbes

**IN THE HIGH COURT OF DELHI**

CM. No. \_\_\_\_\_ of 2021

In

WP(C) 3125 of 2021

**IN THE MATTER OF:**

Foundation for Independent Journalism &amp; Ors.

...Petitioners

Versus

Union of India &amp; Anr.

...Respondents

**E-COURT FEES**

INDIA  
Forbes

**FILED BY:**

**PRASANNA S ADVOCATE  
FOR THE APPLICANT  
Sector ABC Vasant Kunj  
New Delhi – 110070  
Mobile** 

**Filed on: - 19.06.2021****Place: - New Delhi**

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**WP(C) 3125 of 2021****IN THE MATTER OF:**

Foundation for Independent Journalism &amp; Ors. ...Petitioners

Versus

Union of India &amp; Anr. ...Respondents

To,  
The Deputy Registrar,  
Delhi High Court,  
New Delhi

**NOTICE OF MOTION & PROOF OF SERVICE**

Sir,

The enclosed application in the aforesaid matter as being filed on behalf of the petitioner and is likely to be listed on 21.06.2021 or any date, thereafter, please take notice accordingly.

Thanking you

**FILED BY:**

**PRASANNA S ADVOCATE  
FOR THE APPLICANT  
Sector ABC Vasant Kunj  
New Delhi – 110070  
Mobile** 

**Filed on: - 19.06.2021****Place: - New Delhi**

Forbes <sup>INDIA</sup> es

**IN THE HIGH COURT OF DELHI****CM. No. \_\_\_\_\_ of 2021****In****WP(C) 3125 of 2021****IN THE MATTER OF:**

Foundation for Independent Journalism &amp; Ors. ...Petitioners

Versus

Union of India &amp; Anr. ...Respondents

**URGENT APPLICATION**

Sir,

Kindly treat the accompanying Writ Petition as urgent one in accordance with the Delhi High Court Rules. The grounds of urgency are mentioned in the prayer.

**FILED BY: -****PRASANNA S ADVOCATE  
FOR THE  
PETITIONER****Sector ABC Vasant Kunj  
New Delhi – 110070****Mobile** 

Filed on: - 19.06.2021

Place: - New Delhi

**IN THE HIGH COURT OF DELHI**

CM. No. \_\_\_\_\_ of 2021

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**WP(C) 3125 of 2021****IN THE MATTER OF:**

Foundation for Independent Journalism &amp; Ors. ...Petitioners

Versus

Union of India &amp; Anr. ...Respondents

**AND IN THE MATTER OF:**

1. Foundation For Independent Journalism Through its Director & Founding Editor, 'The Wire', Mr. M.K. Venu  
Having Registered Address  
At K-2, Bk Dutt Colony,  
New Delhi South Delhi D1 110003
2. Mangalam Kesavan Venu  
S/O (Late) Mangalam Parameswaran,  
Director, Foundation For Independent Journalism  
having its Registered Address  
At K-2, B K Dutt Colony, New Delhi – 110003

...Applicants

**FRESH APPLICATION FOR DIRECTIONS UNDER SECTION 151 OF THE CODE OF CIVIL PROCEDURE, 1908.**

To The Hon'ble Chief Justice of the Hon'ble High Court of Delhi and His other Companion Justices of the Hon'ble High Court of Delhi the Humble Application of the Applicants above-named:

**MOST RESPECTFULLY SHOWETH THAT:**

1. The captioned Writ Petition challenges the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 (“**IT Rules, 2021**” or “**Impugned Rules**”) as being *ultra vires* the Information Technology Act, 2000 (“**parent Act**”), in as much as they seek to regulate publishers of news and current affairs content under Part III of the Rules (“**Impugned Part**”) and impose Government oversight and a Code of Ethics over them, thereby going beyond the object and scope of the parent Act as well as being ultra vires Articles 19(1)(a), 19(1)(g), 14 and 21 of the Constitution.
2. The Applicants herein (who are the Petitioners in the captioned Writ Petition) had also preferred an Application vide. C.M. No. 9491/2021 to stay the operation of the Impugned Part of the Rules qua the Petitioner-Applicants.
3. Vide order dt. 09.03.2021, this Hon’ble Court was pleased to issue notice to the Respondents on both the Writ Petition and the Application for Stay. The Respondents/Union of India prayed for and were granted time until 16.04.2021 to file Replies thereto. However, no such reply had been filed. On the next two days of listing i.e. 16.04.2021 and 27.05.2021, no hearing could take place and the matters were adjourned. The captioned matter along with connected matters are next listed for hearing on 04.08.2021.
4. In the meanwhile, the Respondents have issued notices to the Petitioners insisting on compliance with the Rules – and in particular Rule 18 of the Rules wherein certain information has to be furnished to the Respondent Government. The details to be furnished (as given in Appendix II) include the name of the Grievance Redressal officer appointed (Level 1 body), name of the self-regulating body (Level 2



body) and other details of the publisher. Much of this detail is already in the public domain. However, the Petitioner-Applicants contend that they cannot be subjected to a regulatory regime where digital news publications such as the Petitioner's are in the control and supervision of the government. Such government control and supervision is sought to be imposed over media entities and their published content, an idea that has no place in any modern democracy.

5. Despite several communications from the Petitioner requesting the Respondent Government not to insist on compliance during the pendency of the Writ Petition and Stay Application, Respondent Government has finally *vide* its communication dt. 18.06.2021 has given a deadline until 23.06.2021 for compliance thereof and threatened the Petitioners of consequences for failure. The Petitioner-Applicants have also indicated in their communication how the requested information is already in the public domain and as such it is desirable that the government holds its hand while the captioned Writ Petition, which has a significant impact on the independence and freedom of press in the country, is decided.
6. This Application is preferred to seeking a stay of the communication dt. 18.06.2021 ("hereinafter, "Impugned Notice") and a direction restraining the Respondent Union Government from taking any coercive steps in respect of the Impugned Rules qua the Petitioner Applications, during the pendency of the captioned Writ Petition and/or the Application for Stay. All the averments, pleadings, contentions and submissions in the captioned Writ Petition and the Application for Stay are not repeated herein for the sake of brevity. However, the same may be taken to have been reiterated herein and without prejudice.

7. A copy of the Impugned Notice dt. 18.06.2021 is annexed herewith and marked as **ANNEXURE-A-1**.
8. It is submitted the Impugned Notice is a palpably coercive step that seeks to foreclose the issue even as the captioned Petition is pending even as this Hon'ble Court has deemed it fit to issue notice and seek Replies inasmuch as the Impugned Rules, wherein government control and supervision is sought to be imposed over media entities and their published content, an idea that has no place in any modern democracy.
9. The Petitioners have been constrained to move this Hon'ble Court vide this Application after a series of communications with the Government urging them not to insist on the compliance with the Rules. They are detailed hereinbelow.
  - i) On 26.05.2021 A public notice was issued requiring information, from digital news media organisations such as the Petitioner No.1/Applicant, to be furnished to the Ministry, as per Rule 18 of the Impugned Rules, within 15 days. The details to be furnished (as given in Appendix II) include the name of the Grievance Redressal officer appointed (Level 1 body), name of the self-regulating body (Level 2 body) and other details of the publisher. A true copy of the notice dt. 26.05.2021 is annexed herewith and marked as **ANNEXURE-A-2**.
  - ii) On 01.06.2021, A reminder was sent out by the Ministry, stating that the aforementioned information should be furnished by 10 June, 2021.
  - iii) On 09.06.2021, the Petitioners wrote to Mr. Kshtij Agarwal (Assist. Director) MeiTY, who had sent the email on 01.06.2021

- a) bringing to the notice the High Court writ petitions filed by the Petitioner on which notice has been issued and remains pending;
- b) seeking clarity on the list of stakeholders consulted prior to the rules (inasmuch as the Notice indicated that the Rules were finalized after wide consultation with stakeholders)
- c) Seeking a meeting to discuss all the matters and the concerns that the Petitioners have with the Rules; and
- d) Enclosing prior communications requesting consultation as well as pointing to how the Petitioner-Applicants have already appointed a senior journalist to address readers' grievances.

A true copy of the letter dt. 09.06.2021 from the Petitioner Applicants to the Respondent Government is annexed herewith and marked as ANNEXURE-A-3.

- iv) On 10.06.2021, the Ministry responded to the Petitioner's representations and said that because this Hon'ble Court has not issued a stay, the compliance is mandatory. The communication also informed the Petitioners of the Union Government having preferred a transfer petition before the Hon'ble Supreme Court to transfer the proceedings challenging the Impugned Rules before various High Courts vide TP (C) 997-1000/2021. As on date, the Transfer Petitions have not been listed for hearing by the Supreme Court. It is also not known whether the Transfer Petitions seek a transfer to one High Court or to transfer all proceedings to the Supreme Court. A true copy of the letter dt. 10.06.2021 is annexed herewith and marked as ANNEXURE-A-4.

- v) On 12.06.2021, the Petitioners once again wrote to the ministry urging them not to insist on the compliance with the Rules, impressing upon them how eventhough stay has not been granted, the Rules are clearly contrary to several pronouncements of the Hon'ble Supreme Court and also pointing to how the Government has not even filed a reply to the Petition and the Stay Application pending before this Hon'ble Court. A true copy of the communication from the Petitioners, including its only enclosure dt. 12.06.2021 and is annexed herewith and marked as **ANNEXURE-A-5**.
- vi) It is thereafter that the Impugned Notice dt. 18.06.2021 has been issued, granting merely five more days time for compliance and with a threat of further coercive steps in the event of failure of compliance.

10. It is submitted that in the event that the Impugned Notice dt. 18.06.2021 is not stayed and there is no restraint on further coercive steps, grave prejudice would be caused to the Petitioner Applicants inasmuch as they would be liable to penalty under Section 44 of the Information Technology Act, 2000 as well as other consequences. On the other hand, no prejudice whatsoever is caused to the Respondent Government if the Petitioner does not comply with the Rules – and in particular Rule 18 – inasmuch as the information requested is already in public domain, as has been stated in the communications above. Furthermore, the same would only be the extension of the *status quo* as on date.

11. It is therefore submitted that the triple test of *prima facie* case, balance of convenience as well as the irreparable injury that would accrue to the Petitioner in the event of non-grant of the protective reliefs prayed for herein, lie in the favour of the Petitioner Applicant.

12. The instant Application is *bonafide*.

**PRAYER**

13. In view of the above facts and circumstances of the case, this Hon'ble Court may be pleased issue:

- a. A direction staying the operation of the Impugned Notice i.e. the E-mail Communication dt. 18.06.2021 on the file number No. A-50013/31/2021-DM during the pendency of the captioned Writ Petition.
- b. An Order restraining the Respondents from taking any further coercive steps in respect of compliance with the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 during the pendency of the captioned Writ Petition, including, steps pursuant to or in respect of the Public Notice dt. 26.05.2021 on the file number No. A-50013/31/2021-DM for the furnishing of information under Rule 18.
- c. Pass any other or further order or direction as this Hon'ble Court may deem fit in the facts and circumstances of this case;

AND FOR THIS ACT OF KINDNESS, THIS HUMBLE APPLICANT  
AS IN DUTY BOUND, SHALL FOREVER PRAY

**FILED BY: -**

**PRASANNA S  
ADVOCATE FOR THE  
PETITIONER  
Sector ABC Vasant Kunj  
New Delhi – 110070  
Mobile** XXXXXXXXXX

Filed on: - 19.06.2021  
Place: - New Delhi

**IN THE HIGH COURT OF DELHI**  
**CM. No. \_\_\_\_\_ of 2021**

**In**  
**WP(C) 3125 of 2021**

**IN THE MATTER OF:**

Foundation for Independent Journalism & Ors. ...Petitioners

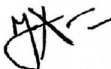
Versus

Union of India & Anr. ...Respondents

**AFFIDAVIT**

I, Mangalam Venu Kesavan, aged about 53 years, s/o (late) Mangalam Parameswaran, a director at the Foundation for Independent Journalism, and also the founding editor of the 'The Wire' having its registered office in Delhi at K-2, BK Dutt Colony, Delhi - 110003 solemnly affirm and declare as under.

1. That the Deponent is the Applicant No.2 in the captioned Application and the Petitioner No.2 in the captioned Writ Petition as well as the authorised signatory of the Applicant No.1/Petitioner No.1 Company.
2. The Deponent is aware of the facts and circumstances of the case and is competent to swear this Affidavit in all respects.
3. That the accompanying Application has been drawn up on behalf of the Applicants under the instructions of the Deponent.
4. That the Deponent has perused the contents of the Application running from Paras 1 through 13 and the same are true to the best of the knowledge and belief of this Deponent and nothing material has been concealed therefrom.
5. That all the documents annexed as annexures numbered as ANNEXURE-A-1 through ANNEXURE-A-5 are true copies of their respective originals.

 (M K Venu)

**DEPONENT**

**Verification:**

Verified at New Delhi on this the 19<sup>th</sup> day of June, 2021 that the contents of para 1 through para 5 of the above affidavit are true and correct to my knowledge and belief, no part of it is false and nothing material has been concealed therefrom.

 (M K Venu)

**DEPONENT**

**No. A-50013/31/2021-DM  
Government of India  
Ministry of Information & Broadcasting  
Digital Media Division**

Shastri Bhawan, New Delhi  
Dated: 18 June, 2021

To,

Foundation for Independent Journalism  
K-2, BK Dutt Colony,  
Jorbagh Road, Delhi-110003  
Email: [editorial@thewire.in](mailto:editorial@thewire.in)

**Subject: Furnishing of information by digital media publishers under Rule 18 of the Information Technology (Intermediary Guidelines and Digital Media Ethics Codes) Rules, 2021**

Madam/Sir,

The undersigned is directed to refer to your emailed communication dated 12.06.2021 and state as under.

2. The Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 inter-alia establish a Code of Ethics for the digital media publishers and provide for a three tier grievance redressal mechanism for redressal of grievances related to the Code of Ethics.
3. Rule 18 of the aforementioned rules requires digital media publishers to inform the Ministry about the details of its entity by furnishing information for the purpose of enabling communication and coordination.
4. Vide Public Notice No. A-50013/31/2021-DM dated 26.05.2021 (copy enclosed), publishers on digital media were informed to furnish certain basic information to the Ministry, in the applicable format, within 15 days of the issue of the notice i.e. by 10.06.2021. A reminder (copy enclosed) in this regard was also issued on 01.06.2021.
5. In response to your communication dated 09.06.2021, the Ministry informed your organization, vide communication dated 10.06.2021 (copy enclosed), that ongoing cases in the various Hon'ble High Courts do not entail non-compliance to the provisions of rules, including the rule 18, as the concerned Hon'ble High Court while issuing Notice has not granted any Stay in any matter regarding the implementation of the rules.

6. Your communication dated 12.06.2021 states that furnishing information to the Government in a "specified format seems redundant". In this regard, for the purpose of clarity, Rule 18(1) is reproduced hereunder:

"18. Furnishing of information.— (1) A publisher of news and current affairs content and a publisher of online curated content operating in the territory of India, shall inform the Ministry about the details of its entity by furnishing information along with such documents as may be specified, for the purpose of enabling communication and coordination."

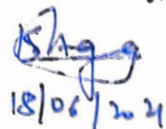
The formats for furnishing information have been specified as per the provisions of the rule.

7. With regard to the cases pending in the various Hon'ble High Courts, it is reiterated that ongoing cases do not entail non-compliance to the rules, and being a publisher of news and current affairs content, your organization is mandated to furnish information to the Ministry in accordance with the provisions of the Rule 18.

8. It is hereby informed that despite repeated communications from the Ministry, non-furnishing of information in the applicable format would be treated as willful non-compliance of the statute. Accordingly, you are hereby directed to furnish the required information, in the applicable format, to the Ministry on an immediate basis and in any case not later than 5 days from today, failing which the Ministry would be constrained to take appropriate action for non-compliance.

9. This issues with the approval of the Competent Authority.

Yours faithfully,



(Kshitij Aggarwal)

Assistant Director (DM)

Email: [kshitij.aggarwal@gov.in](mailto:kshitij.aggarwal@gov.in)

Encl:

1. Public Notice No. A-50013/31/2021-DM dated 26.05.2021.
2. Reminder for furnishing information dated 01.06.2021.
3. Ministry's communication to your organization dated 10.06.2021.



F. No. A-50013/31/2021-DM  
Government of India  
Ministry of Information & Broadcasting  
Digital Media Division

Shastri Bhawan, New Delhi  
Dated: 26 May, 2021

PUBLIC NOTICE

**Subject: Furnishing of information by digital media publishers under Rule 18 of the Information Technology (Intermediary Guidelines and Digital Media Ethics Codes) Rules, 2021**

Attention is invited to the Information Technology (Intermediary Guidelines and Digital Media Ethics Codes) Rules, 2021, notified by the Government of India on 25<sup>th</sup> February, 2021.

2. Since the notification of the aforementioned rules, the Hon'ble Minister of Information & Broadcasting has held interactions with the publishers of online curated content, as well as the publishers of news on digital media. The Ministry has also established communication with many digital media publishers, and their associations, regarding the rules and their compliance requirements. A total of around 60 publishers, and their associations, have also informed the Ministry that they have already initiated the process of formation of self-regulatory bodies under the rules. Some publishers have also written to the Ministry regarding registration with the Ministry under the rules.

3. In this regard, it is hereby informed that there is no requirement for prior registration of digital media publishers with the Ministry. Rule 18 of the Information Technology (Intermediary Guidelines and Digital Media Ethics Codes) Rules, 2021 instead provides for furnishing of certain information by the publishers of news and current affairs content, and publishers of online curated content, to the Ministry.

4. Since newspapers are registered under Press and Registration of Books Act, 1867, and private satellite TV channels are permission holders under the Uplinking and Downlinking Guidelines (2011) of the Ministry, a separate format for furnishing information, as in **Appendix I**, has been devised for such entities publishing news and

current affairs on digital media. For all other digital news publishers, the relevant format is at **Appendix II**, while for OTT platforms, the format for furnishing information is at **Appendix III**.

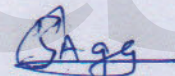
- Appendix I for digital news publishers which also publish/telecast news on traditional media (TV and newspaper);
- Appendix II for other digital news publishers;
- Appendix III for publishers of online curated content (OTT platforms)

5. The publishers may furnish the information to the Ministry in the applicable format within 15 days of the issue of this notice. The information, as a pdf file duly signed by the authorised person on behalf of the publisher, may be sent via email to:

- Shri Amarendra Singh, Deputy Secretary, Ministry of Information & Broadcasting (Email: [amarendra.singh@nic.in](mailto:amarendra.singh@nic.in)), or
- Shri Kshitij Aggarwal, Assistant Director, Ministry of Information & Broadcasting (Email: [kshitij.aggarwal@gov.in](mailto:kshitij.aggarwal@gov.in)).

6. For any doubts or clarifications, the publishers may contact the above mentioned.

7. This issues with the approval of the competent authority.



26/05/2021

(Kshitij Aggarwal)

Assistant Director (DM)

Email: [kshitij.aggarwal@gov.in](mailto:kshitij.aggarwal@gov.in)

**Appendix I****Format for Furnishing Information from Digital News Publishers which also publish/telecast news on traditional media (TV and newspaper)****I. Basic Information**

- A. Name of the Title:
- B. Language(s) in which content is published:
- C. Website URL:
- D. Mobile App(s):
- E. Social media account(s):

**II. Entity Information**

- A. Name of Entity:
- B. RNI Registration Number or TV Channels permitted by the Ministry:

**III. Contact Information (in India)**

- A. Contact person(s):
- B. Address:
- C. Telephone Number (Landline):
- D. Mobile:
- E. E-mail:

**IV. Grievance Redressal Mechanism**

- A. Grievance Redressal Officer (in India):
- B. Name of the Self Regulating Body of which the publisher is a member:
- C. Particulars of News Editor(s):

**(Note: In case of any changes in the particulars given above, the entity should inform the competent authority within 30 days of any such change taking place)**

**Appendix II****Format for Furnishing Information from Digital News Publishers**

(other than those referred to in Appendix I)

**1. Basic Information:**

- A. Name of the Title:
- B. Language(s) in which content is published:
- C. Website URL:
- D. Mobile App(s):
- E. Social media (all outlets) account(s):

**II. Entity Information**

- A. Name of Entity:
- B. PAN No. (optional):
- C. Month and Year of Incorporation:
- D. Month and Year of commencement of operations as digital news publisher:
- E. Company Identification Number (for companies only):
- F. Board of Directors (for companies only):

**IV. Contact Information (in India)**

- A. Contact person(s):
- B. Address:
- C. Telephone Number (Landline):
- D. Mobile:
- E. E-mail:

**V. Grievance Redressal Mechanism**

- A. Grievance Redressal Officer (in India):
- B. Name of the Self Regulating Body of which the publisher is a member:
- C. Particulars of News Editor(s):

**(Note: In case of any changes in the particulars given above, the entity should inform the competent authority within 30 days of any such change taking place)**

## Appendix III

**Format for Furnishing Information from OTT Platforms****I. Basic Information**

- A. Name of OTT Platform:
- B. Website URL:
- C. Mobile App(s):

**II. Entity Information**

- A. Name of Entity:
- B. PAN No. (optional):
- C. Month and Year of Incorporation (for Indian companies):
- D. Country of registration (in respect of foreign entities):
- E. Month and Year of commencement of operations in India:
- F. Company Identification Number (for Indian companies):
- G. Names of Board of Directors (for companies):

**III. Contact Information (in India)**

- A. Contact person(s):
- B. Address:
- C. Telephone Number (Landline):
- D. Mobile:
- E. E-mail:

**IV. Grievance Redressal Mechanism**

- A. Grievance Redressal Officer (in India):
- B. Name of the Self Regulating Body of which the publisher is a member:
- C. Particulars of Content Manager(s):

**(Note: In case of any changes in the particulars given above, the entity should inform the competent authority within 30 days of any such change taking place)**

Kshitij Aggarwal,  
Assistant Director (DM),  
Ministry of Information and Broadcasting,  
Shastri Bhawan  
New Delhi – 110001

June 9, 2021

Re: Furnishing of information by Digital Media Publishers under Rule 18 of the Information Technology (Intermediary Guidelines and Digital Media Ethics Codes) Rules, 2021.

Dear Shri Aggarwal,

The Foundation for Independent Journalism (FIJ), publisher of *The Wire*, is in receipt of an emailed copy of your Public Notice (**No. A-50013/31/2021-DM**), sent erroneously by you to the email address of the Public Editor (Ombudsman) of The Wire on June 1, 2021.

The Public Editor is not an employee of FIJ and her email is not an official address for communicating with FIJ. We had, in fact, written to the Ministry of Information and Broadcasting (via [amarendra.singh@nic.in](mailto:amarendra.singh@nic.in)) from our official address, [editorial@thewire.in](mailto:editorial@thewire.in), on March 12, 2021 about the IT Rules and have yet to receive an acknowledgment or reply.

Your notice dated June 1, 2021 calls on all digital publishers, including FIJ, to furnish certain information to the MIB in accordance with Rule 18 of the Information Technology (Intermediary Guidelines and Digital Media Ethics Codes) Rules, 2021.

As we mentioned in our letter to the ministry of March 12, 2021 (copy attached with this email), the FIJ has challenged the IT Rules, including the Digital Media Ethics code, in a petition before the Delhi High Court. Notice in this regard has duly been sent to the Union government. The matter will be heard next on August 4, 2021.

I would also like to remind you that the Digital News Publishers Association (DIGIPUB), of which the Foundation for Independent Journalism is a member, had written to the I&B ministry on two occasions – November 23, 2020 (when news reports emerged of the I&B ministry’s intention of framing rules for digital news media) and again on February 26, 2021 (right after the new IT Rules were issued) – requesting consultation/dialogue with the minister and his officials on this issue.

To date, the ministry has not replied or even acknowledged this good faith attempt by DIGIPUB to engage with the government on an issue where we are a vital stakeholder. In the light of the repeated requests DIGIPUB has made to the Ministry, it is only fair that some consultations take place in regard to the sweeping regulations you wish to enforce for digital news media in the country. *(A copy of the two letters is enclosed)*

The FIJ and The Wire takes their obligations towards its readers very seriously and as we mentioned in our last letter to you, we had, on July 7, 2016 appointed the respected senior journalist Pamela Philipose as Public Editor/Ombudsman to serve as recipient and adjudicator of reader grievances. To ensure her independence and impartiality, she is not an employee of *The Wire* and her mandate states that she is to function independent of *The Wire*’s editorial control and that *The Wire* is obliged to publish her findings on reader complaints and act on them. Incidentally, *The Wire* was the first digital news organisation in India to appoint an independent ombudsman and this mechanism – considered a ‘best practice’ internationally – and the system has been working well.

Given this backdrop, it may be prudent for all sides that adherence to the new guidelines await some pronouncement by the hon’ble Delhi High Court and/or an appropriate outcome of the engagement between the digital news publishers and the government.

To conclude, we hope you will be able to share with us details about the nature of consultations you have held to date with digital news media publishers, especially given your claim that the IT Rules have been formulated in consultation with media stakeholders.

We know that Digipub, a representative organisation, as also other major stakeholders in the media, have written to you seeking a meeting. Yet the government has not met with them either jointly or individually and we would like to reiterate our request for a meeting with the MIB where we may be able to put across our concerns on the IT Rules.

Yours sincerely



M.K. Venu



Siddharth Varadarajan



Sidharth Bhatia

Directors, Foundation for Independent Journalism  
Founding Editors, *The Wire*

Encl:

1. Petition filed by FIJ in the Delhi High Court
2. Letter sent by FIJ to the Ministry of Information & Broadcasting on March 12, 2021
3. Letter sent by DIGIPUB to the Ministry of Information & Broadcasting on November 3, 2020
4. Letter sent by DIGIPUB to the Ministry of Information & Broadcasting on February 26, 2021.



To.  
Shri Prakash Javdekar.  
Union Minister.  
Ministry of Information and Broadcasting.  
Government of India  
A Wing Shastri Bhawan  
New Delhi-110001

From:  
Dhanya Rajendran,  
Chairperson,  
DIGIPUB India Foundation.  
[www.digipubindia.in](http://www.digipubindia.in)

November 23, 2020.

Dear Sir,

In the past few months, the Government of India has, through notifications, announcements and statements to the Hon. Supreme Court proposed and prescribed policy and regulatory frameworks for digital news media. It is wonderful that the government is taking an interest in and making an effort to help the digital ecosystem. The future is digital and the digital world is an important place for entrepreneurship, job creation and building the economy to realize the 'Digital India' dream. Since these policy prescriptions and proposals will have a profound impact on all digital enterprise, we request you to kindly give us some time, where we can share our experiences and inputs, that we hope can add some value to the government in planning how to deal with the digital news ecosystem.

I am writing to you as Chairperson of DIGIPUB News India Foundation (DIGIPUB.in), an organization that represents digital only news publishers in the country. Amongst our well reputed founders, are some of the most credible and reputed brands in the digital news ecosystem. We have about 30 digital media houses as members and look to grow to having over a hundred members by early next year. All members of DIGIPUB are working tirelessly to revolutionize digital news in the country. We assure you of having a representation from across the country with various perspectives and experiences.

Ever since the arrival of the pandemic, the media industry has been hit hard. Like most of the country and sectors, both legacy and new media are facing a crisis like never before. In this context, a dialogue with regulators and industry bodies becomes even more valuable and urgent.

In view of the circumstances and outlook could I please request you to give a delegation of members of DIGIPUB some time to discuss the way ahead. Given the pandemic and the geographic spread of our team and your safety we would be happy to participate in a Zoom call or virtual meeting with your team.

We hope you will be able to make some time for us.

With warm regards,



Dhanya Rajendran.  
Chairperson.  
DIGIPUB India Foundation.

Copy to:  
Shri Amit Khare  
Secretary,  
Ministry of Information and Broadcasting,  
Government of India  
Room No 655,  
A Wing Shastri Bhawan New Delhi-110001

**To:**

**1. Shri. Prakash Javadekar**

The Union Minister for Information and Broadcasting  
Shastri Bhavan.  
New Delhi 110001

**2. Shri Ravi Shankar Prasad**

The Union Minister for Electronics and Information Technology  
Shastri Bhavan.  
New Delhi 110001

Also,

Electronics Complex  
CGO Complex  
Pragati Vihar.  
New Delhi

**February 26, 2021.**

**Sub: Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules 2021 notified on 25.02.2021 purportedly under S. 87(2)(z) & (zg) of the Information and Technology Act, 2000.**

Dear Shri. Prakash Javadekar and Shri Ravi Shankar Prasad,

We (DIGIPUB) are an association of digital publications of news and current affairs representing the largest collection of Digital News Publishers in the country. We welcome the initiative and statements by the Minister of Information and Broadcasting stressing the need for self-regulation of all media including digital news media. It is imperative and the need of the hour. We would be happy to participate in a process by which we can come to an appropriate mechanism to make this happen.

However we have some concerns about some specifics of the Rules (Rules) that have been notified and announced yesterday the 25th of February 2021.

These Rules in some places appear to go against the fundamental principle of news and its role in a democracy. While rules and laws already exist to hold news media accountable, the aforesaid rules enable the executive government to even remove content published as current affairs or news (Rule 14.) among other things.

We draw your attention to the well settled jurisprudence on news media. A publication relating to current affairs represents not only the author or publisher's fundamental right to expression under Article 19(1)(a) of the Constitution but also the citizen's right to be informed and to have access to differing viewpoints. For the executive to have the absolute power to regulate the content of news portals or publications would be to strike not only at the constitutional scheme but at democracy itself.

There are some other anomalies in the rules as formulated. In the Rules as drafted, expression may invite adverse consequential action, such as in the case of defamation. Such action should only happen after adjudication by open courts of law, on legal principles. This entire legal process is bypassed by the Rules, in as much as, upon a complaint of defamation, a body consisting of bureaucrats and controlled by the Central Government may decide the merits and block access to the content of any current affairs publication.

Likewise, whether or not a publication is pornographic or offends any other law, is a matter of due process and adjudication by an open and independent judiciary. All these powers will now be wielded by a Government of India body. This also goes against the principle of separation of powers.

While it is recognised that the freedom of expression is subject to reasonable restrictions, these restrictions must be demonstrably and strictly necessary to the interests enumerated in Article 19(2), and must also be reasonable, fair and just. To empower a body of government servants to do so could inhibit the news media for doing its job.

For the written medium, the emphatic jurisprudence has been that it should remain free of all executive control. Even proscription of books under S. 95 of the CrPC is subject to a right of review by a Special bench of the High Court consisting of three judges.

A current affairs portal is by and large, a written newspaper in the digital format. From the early 1950s, with the setting up of the Press Council, the idea has been that the written medium be kept away from all executive interference in the interest of not just the publication, but of the wider public to ensure the widest possible dissemination of news and ideas.

Even the small-screen has been left by and large to regulate itself without any executive interference, i.e., through the NBSA. We believe to subject the digital medium to executive control in the manner provided for by the rules would be unfair and overarching.

While digital media may be multimedia and use visuals, those are anyway subject to all penal and other laws and subject to regulations already in place.

Having said the above, we draw your attention to a matter of very important detail.

The IT ACT, 2000 does not at all take within its ken - digital media. 'News and current affairs content', 'newspaper' and a 'publisher' of the same, are not recognised by the IT Act at all. When the parent statute does not comprehend these operations, the delegated legislation within these Rules need not take into its ambit digital news.

More so if one views, the sections under which these Rules have been formulated, i.e. S. 87(2) (z) & (zg). Sub clause z refers to blocking of access to the public under. S. 69A, IT Act, which is limited to concerns of national security. Sub-clause zg is limited only to intermediaries. Even the Rules recognise that publishers of content on current affairs are not intermediaries at all but entirely distinct.

As an association of digital news portals, we recognise the need for maintaining journalistic standards and for self-regulation, and are happy to contribute in evolving the means to achieve this.

We offer once again to have consultations with stakeholders before notifying these Rules. We ourselves wrote to the Honourable Minister for Information and Broadcasting on December 2, 2020, requesting to be part of a consultation process, but never received a reply. We believe it is still not too late. We request you to repeal these Rules, or at least put them on hold, until meaningful consultations are undertaken with all the stakeholders.

With warm regards on behalf of DIGIPUB,

**Dhanya Rajendran** – Chairperson

**Prabir Purkayastha** – Vice Chairperson

**Ritu Kapur** – General Secretary

**Abhinandan Sekhri** – General Secretary

INDIA  
**Forbes**

Amarendra Singh  
Deputy Secretary to the Government of India  
Ministry of Information and Broadcasting  
New Delhi 110 001

March 12, 2021

Dear Shri Singh,

This refers to your letter dated March 11, 2021, requiring adherence to a Code of Ethics, putting in place a Grievance Redressal Mechanism and furnishing of information to the government by publishers of news and current affairs on digital media.

We would like to apprise you of the following:

1. The Foundation for Independent Journalism, publisher of the digital news platform, *The Wire*, has challenged the very legal basis of the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules 2021 covering digital news and current affairs, in a writ before the Delhi High Court. *(A copy of our petition is enclosed)*
2. The Division Bench of the Delhi High Court headed by Chief Justice D.N. Patel held a hearing on March 9, 2021, and has issued notice to the Centre seeking a reply.
3. The date of the next hearing is April 16, 2021.
4. The Digital News Publishers Association (DIGIPUB), of which the Foundation for Independent Journalism is a member, had written to the I&B ministry on two occasions – November 23, 2020 (when news reports emerged of the I&B ministry's intention of framing rules for digital news media) and again on February 26, 2021 (right after the new IT Rules were issued) – requesting consultation/dialogue with the minister and his officials on this issue. To date, the ministry has not replied or even acknowledged this good faith attempt by DIGIPUB to engage with the government on an issue where we are a vital stakeholder. In the light of the repeated requests DIGIPUB has made to the Ministry, it is only fair that some consultations take place in regard to the sweeping regulations you wish to enforce for digital news media in the country. *(A copy of the two letters is enclosed)*
5. *The Wire* had, on July 7, 2016 – i.e. four and a half years ago – appointed the respected senior journalist Pamela Philipose as Public Editor/Ombudsman to serve as

recipient and adjudicator of reader grievances. To ensure her independence and impartiality, she is not an employee of *The Wire* and her mandate states that she is to function independent of *The Wire*'s editorial control and that *The Wire* is obliged to publish her findings on reader complaints and act on them. Incidentally, *The Wire* was the first digital news organisation in India to appoint an independent ombudsman and this mechanism – considered a 'best practice' internationally – has been working well.

Given this backdrop, it may be prudent for all sides that adherence to the new guidelines await some pronouncement by the hon'ble Delhi High Court and/or an appropriate outcome of the engagement between the digital news publishers and the government.

Yours sincerely



M.K. Venu



Siddharth Varadarajan



Sidharth Bhatia

Directors, Foundation for Independent Journalism  
Founding Editors, *The Wire*

Encl:

1. Petition filed by FIJ in the Delhi High Court
2. Letter sent by DIGIPUB to the Ministry of Information & Broadcasting on November 3, 2020
3. Letter sent by DIGIPUB to the Ministry of Information & Broadcasting on February 26, 2021.



No. A-50013/31/2021-DM  
Government of India  
Ministry of Information & Broadcasting  
Digital Media Division

Shastri Bhawan, New Delhi  
Dated: 10 June, 2021

To,

Foundation for Independent Journalism  
K-2, BK Dutt Colony,  
Jorbagh Road, Delhi-110003  
Email: [editorial@thewire.in](mailto:editorial@thewire.in)

**Subject: Furnishing of information by digital media publishers under Rule 18 of the Information Technology (Intermediary Guidelines and Digital Media Ethics Codes) Rules, 2021**

Madam/Sir,

The undersigned is directed to refer to your emailed communication dated 09.06.2021, and state that the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 inter-alia establish a Code of Ethics for the digital media publishers and provide for a three tier grievance redressal mechanism for redressal of grievances related to the Code of Ethics.

2. Rule 18 of the above rules provides that digital media publishers shall inform the Ministry about the details of its entity by furnishing information for the purpose of enabling communication and coordination. Vide Public Notice dated 26.05.2021, certain basic information has been sought from the publishers, in a given format, in accordance with the same.

3. It is mentioned in your communication that the Hon'ble High Court of Delhi has issued notice on the Writ Petition titled 'Foundation for Independent Journalism & Ors v. Union of India & Anr'. In this regard, the Government has filed a transfer petition T.P. (C) No. 000997-001000/2021 in the Hon'ble Supreme Court regarding the above mentioned case and other cases pending in various High Courts related to the rules. However, it is hereby informed that ongoing case(s) does not entail non-compliance to the provisions of rules, including the rule 18, as the Hon'ble High Court while issuing Notice has not granted any Stay in the matter regarding the implementation of the rules.

4. It is accordingly requested that the information, in the applicable format, may be furnished urgently.

Encl: as above

Yours faithfully,



10/06/2021

(Kshitij Aggarwal)

Assistant Director (DM)

Email: [kshitij.aggarwal@gov.in](mailto:kshitij.aggarwal@gov.in)

INDIA  
Forbes

Kshitij Aggarwal,  
Assistant Director (DM),  
Ministry of Information & Broadcasting,  
Shastri Bhawan  
New Delhi – 110001

June 12, 2021

Dear Shri Aggarwal,

This is further to our letter to you of June 9, 2021, and your response of June 10, 2021, regarding information that you seek under Rule 18 of the Digital Media Ethics Code as part of the newly enacted Rules under the Information Technology Act.

The information that you want The Wire to provide is already in the public domain, and prominently displayed at the top of our website under the description ‘About Us’.

The information about The Wire’s URLs, social media handles and contact addresses, as well as the registration details and list of directors of the parent non-profit company, the Foundation for Independent Journalism (FIJ) are also part of this voluntary disclosure and available at the click of a button for any visitor to our site.

As we mentioned in our two earlier letters to you, The Wire has had a functional and independent grievance redressal system in place since 2016, when we named Pamela Philipose as Ombudsperson/Public Editor. She has written a fortnightly column, ‘Backstory’ since her appointment where she regularly addresses issues about The Wire’s editorial content that readers raise in emails to her. You may access her columns here:

<https://thewire.in/author/pamela-philipose>.

Kindly note that our attempts to provide transparency to readers and a mechanism to pursue grievances predates the 2021 rules by several years.

In addition, DIGIPUB is an association of many digital media publishers, of which we are a part, which will function as an independent self-regulating body. DIGIPUB has set up a mechanism headed by Justice Madan B. Lokur, former judge of the Supreme Court, to examine grievances which the publisher has not addressed to the satisfaction of the aggrieved person.

All of this is in keeping with the Supreme Court’s repeated and emphatic rulings that for the media, self-regulation is the most effective form of regulation, and that any such regulatory mechanism should be free of government control and interference.

In light of these time-honoured rulings of the Supreme Court, we believe it would not be right for any Central government agency to directly enter into such a regulatory framework, and hold its intervention mandatory. And in light of this binding law, your reference to the absence of a stay in the pending challenges may be of little avail.

As you are aware, four high courts have seen fit to entertain a challenge to the 2021 Rules, including one mounted by our organization, the Foundation for Independent Journalism. Even in our petition, notice on the interim application has been accepted by the Union of India, but no opposition has been filed within the time stipulated by the court or at all. The matters in the Delhi High Court have not been heard because of the pandemic that has overtaken us all. Meanwhile, even according to yourself, the Central government is attempting to escalate some of them, including our Writ Petition by transfer to the Supreme Court. Therefore, we would once again, in all courtesy, urge you to hold your hand.

Moreover, DIGIPUB, the self-regulatory body mentioned above, made a representation to you on February 26, 2021, as soon as the IT Rules, 2021 were notified, requesting a meeting. However, there has been no response from your end to this request. As mentioned above, the information requested from The Wire vide the public notice dt. 26.05.2021 as well as your reminder e-mails (with particular reference to the form in Appendix of the notice) is already in the public domain and available to every reader. Therefore, to insist that this be furnished to the government in a specified format seems redundant.

Since this manner of reporting to the Government/Ministry is what is at the heart of our petition and is pending challenge before the High Court, we urge you again to not insist on the filling up of the form annexed to your notice dated 26.05.2021.

The notice issued by you dated 26.05.2021 and the reminders thereto, are premised on the assertion that the IT Rules, 2021 are formulated and implemented following consultations with a majority of stakeholders. We would like to bring to your notice the contents of a Right to Information reply provided by your Ministry to one of our reporters on April 1, 2021 (copy appended) which contradicts this claim. What your notices term ‘consultations’ comprises two days of a seminar in Mumbai on October 10 and 11, 2019, one seminar in Chennai on November 11, 2019 (the list of invitees to both of which is unknown) and one meeting between the Ministry of I&B and some OTT operators.

We humbly submit that this can hardly be described as “interaction of the Minister” with “many digital media publishers.” We would, therefore, in all courtesy, request you to meet with us and other representatives of the independent digital media, and have a real and effective consultation.

As stated above, far from being averse to self-regulation, we are already adhering to the same and are happy to improve upon it, but government interference or control is strictly impermissible as per the law laid down by the highest court.

We therefore request you once again for a meeting wherein you can listen to our concerns and we may all take an informed decision in this matter.

Yours sincerely



Siddharth Varadarajan

Director, Foundation for Independent Journalism  
Founding Editor, *The Wire*

Encl:

1. RTI reply sent by MIB on April 2, 2021

INDIA  
Forbes

**By Speed Post**  
**RTI Matter**

No. DM/4/2021-DM  
Government of India  
Ministry of Information & Broadcasting  
A Wing, Shastri Bhawan, New Delhi  
(Digital Media Division)  
\*\*\*\*

Dated: 01.04.2021

To

**Sh. Dheeraj Mishra,**  
F-44-45, Shaheed Bhagat Singh Marg,  
Lane Opposite Jain Bhawan,  
Gole Market,  
New Delhi-110001.

Subject: **Information sought under RTI Act, 2005 - reg.**  
\*\*\*\*


Sir,

Please refer to your RTI application with registration No. MOIAB/R/E/21/00133 dated 10.03.2021 on the subject mentioned above and to inform that the reply to the information sought is as follows:

Information Sought	Reply
S.No. 1 to 4	So far as the undersigned CPIO in Digital Media Section, Ministry of Information & Broadcasting is concerned, the Government of India has notified the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021. Before formulation of rules, for news on digital media and OTT platform, Ministry of Information & Broadcasting had done public consultation through seminars held at Mumbai on 10 <sup>th</sup> -11 <sup>th</sup> October, 2019 and on 11 <sup>th</sup> November, 2019 at Chennai. Besides Hon'ble Minister of Information and Broadcasting had held a meeting with stakeholders from OTT industries on 2 <sup>nd</sup> March, 2020. The proceedings of these consultations are not minuted. The concerned file in this regard, however is under submission and is not currently available with the undersigned CPIO.

2. Appeal, if any, against the above reply, may be made to Shri Amarendra Singh, Deputy Secretary (DM) & 1st Appellate Authority, M/o Information and Broadcasting, Room No. 760, A Wing, Shastri Bhawan, New Delhi - 110001, within 30 days of receipt of this letter.

Yours faithfully,

  
(Prem Chand)

Under Secretary to the Government of India/CPIO (DM)  
Tel. No. 23386199

**IN THE HIGH COURT OF DELHI**

CM. No. \_\_\_\_\_ of 2021

In

**WP(C) 3125 of 2021****IN THE MATTER OF:**

Foundation for Independent Journalism &amp; Ors. ...Petitioners

Versus

Union of India &amp; Anr. ...Respondents

**APPLICATION FILED UNDER SECTION 151 OF THE  
CODE OF CIVIL PROCEDURE, 1908  
SEEKING EXEMPTION FROM FILING DULY  
ATTESTED AFFIDAVIT.****MOST RESPECTFULLY SHOWETH THAT:-**

1. The Applicant herein is the Petitioner in the Captioned Writ Petition and as such competent to file this Application.
2. That the facts and circumstances giving rise to the submissions and contentions in support of this Application are fully set out in the accompanying Application. For the sake of brevity, the Applicant/Petitioner craves leave to refer to and rely upon the said facts and circumstances and submissions and contentions as if they are reproduced herein.
3. The Applicant/Petitioner has faced difficulties getting the Affidavit in support of the Petition and present Application, notarized and duly attested owing to COVID-19 circumstances. The Applicant/Petitioner is therefore, constrained to file the present Application for seeking exemption from filing a duly notarized/ affirmed affidavit. The Applicant undertakes to file the same along with physical copies of the Petition as

when ordered by this Hon'ble Court.

4. That the Application is being made bona fide and in the interest of justice.

### **PRAYER**

It is, therefore, most respectfully prayed that this Hon'ble Court in the interest of justice, may graciously be pleased to:-

- a) Exempt the Applicant/Petitioner from filing duly attested affidavit and;
- b) Pass such other and further order(s) as this Hon'ble Court may deem fit and proper.

**AND FOR THIS ACT OF KINDNESS THE PETITIONER (S)  
IS DUTY BOUND SHALL EVER PRAY**

**FILED BY: -**

**PRASANNA S  
ADVOCATE FOR THE  
PETITIONER Sector ABC  
Vasant Kunj New Delhi –  
110070 Mobile**



**Filed on: - 19.06.2021  
Place: - New Delhi**



**IN THE HIGH COURT OF DELHI**  
**CM. No. \_\_\_\_\_ of 2021**

**In**  
**WP(C) 3125 of 2021**

**IN THE MATTER OF:**

Foundation for Independent Journalism & Ors. ...Petitioners

Versus

Union of India & Anr. ...Respondents

**AFFIDAVIT**

I, Mangalam Venu Kesavan, aged about 53 years, s/o (late) Mangalam Parameswaran, a director at the Foundation for Independent Journalism, and also the founding editor of the 'The Wire' having its registered office in Delhi at K-2, BK Dutt Colony, Delhi - 110003 solemnly affirm and declare as under.

1. That the Deponent is the Applicant No.2 in the captioned Application and the Petitioner No.2 in the captioned Writ Petition as well as the authorised signatory of the Applicant No.1/Petitioner No.1 Company.
2. The Deponent is aware of the facts and circumstances of the case and is competent to swear this Affidavit in all respects.
3. That the accompanying Application has been drawn up on behalf of the Applicants under the instructions of the Deponent.
4. That the Deponent has perused the contents of the Application running from Paras 1 through 4 and the same are true to the best of the knowledge and belief of this Deponent and nothing material has been concealed therefrom.

  
(M K Venu)

**DEPONENT**

**Verification:**

Verified at New Delhi on this the 19<sup>th</sup> day of June, 2021 that the contents of para 1 through para 4 of the above affidavit are true and correct to my knowledge and belief, no part of it is false and nothing material has been concealed therefrom.

  
(M K Venu)

**DEPONENT**