

**IN THE HIGH COURT OF DELHI, AT NEW DELHI  
(EXTRAORDINARY CIVIL WRIT JURISDICTION)**

**WRIT PETITION (CIVIL) NO. \_\_\_\_\_ OF 2021**

**IN THE MATTER OF:**

PRAVDA MEDIA FOUNDATION

...Petitioner

Versus

UNION OF INDIA & ANR.

...Respondents

**MASTER INDEX**

S.NO	PARTICULARS	PAGE NO.
1.	Urgent Application	1
2.	Notice of Motion	2
3.	Memorandum of Parties	3-4
4.	Synopsis and List of Dates	5-12
5.	Writ Petition praying for the issuance of a Writ of certiorari and declaration or any other appropriate writ, order or direction declaring Part III of the Information Technology (Intermediary Guidelines & Digital Media Ethics Code) Rules, 2021 as void and inoperative for being violative of Articles 14, 19(1)(a), 19(1)(g) of the Constitution Of India and for being <i>ultra vires</i> the Information Technology Act, 2000 and for a writ or declaration or any other appropriate writ, order or direction declaring that the Information Technology (Intermediary Guidelines & Digital Media Ethics Code) Rules, 2021 do not apply to the Petitioner	13-60
6.	Affidavits in support.	61-62

7.	Copy of the Board Resolution dated 08 <sup>th</sup> June 2021.  <b>[Annexure P-1]</b>	63-64
8.	A copy of the Information and Technology Act, 2000  <b>[Annexure P-2]</b>	65-145
9.	A true copy of the Information and Technology  (Intermediary Guidelines) Rules, 2011  <b>[Annexure P-3]</b>	146-148
10.	A true copy of the A true copy of the Information and  Technology (Intermediary Guidelines) Rules, 2021 issued  on 25.02.2021  <b>[Annexure P-4]</b>	149-164
11.	A true copy of the Norms of Journalistic Conduct, 2020  <b>[Annexure P-5]</b>	165-275
12.	A true copy of the Programme Code under Section 5 of the Cable Television Networks (Regulation) Act, 1995  <b>[Annexure P-6]</b>	276-277
13.	A true copy of the Information Technology (Procedure and Safeguards for Blocking for Access of Information by Public) Rules, 2009  <b>[Annexure P-7]</b>	278-282
14.	A true copy of the Order dated 09.03.2021 in W.P. (C) No. 3125/2021 and 19.03.2021 in WP (C) 3659/2021  <b>[Annexure P-8(Colly)]</b>	283-286

15.	A true copy of the Order dated 10.03.2021 in W.P. (C) No. 6272/2021  <b>[Annexure P-9]</b>	287-289
16.	A true copy of the e-mail dated 11.03.2021  <b>[Annexure P-10]</b>	290
17.	A true copy of the representation dated 24.03.2021 made by Petitioner No. 1 to Respondent No. 2 Ministry of I&B  <b>[Annexure P-11]</b>	291-292
18.	A true copy of the notice dated 26.05.2021 issued by the Respondents  <b>[Annexure P-12]</b>	293-297
19.	A true copy of the reminder dated 01.06.2021 issued by the Respondents  <b>[Annexure P-13]</b>	298
20.	A true copy of the Representation dated 03.06.2021 issued by the Petitioner  <b>[Annexure P-14]</b>	299-303
21.	A true copy of the letter dated 09.06.2021 sent by the Respondent and the reply addressed by the Petitioner <b>[Annexure P-15 (Colly)]</b>	304-307
22.	Application under Section 151 of the Code of Civil Procedure, 1908 seeking interim directions against any coercive action under the Information Technology (Intermediary Guidelines & Digital Media Ethics Code) Rules, 2021 against the Petitioner along with Affidavit in support.	308-313
23.	Application under Section 151 of the Code of Civil Procedure, 1908 for exemption from filing dim Annexures, photocopies and certified copies along with	314-317

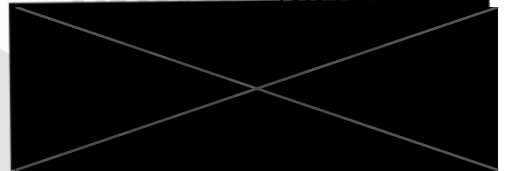
	Affidavit in support.	
24.	Vakalatnama	318-319
25.	Courtfee	320
26.	Affidavit of Service	321-322

**PETITIONER**

**Represented Through**

**AADITYA VIJAYKUMAR/  
AKSHITA KATOCH/  
NAMRATA MOHAPATRA  
ADVOCATES**

**NEW DELHI  
DATED: 16.06.2021**





**IN THE HIGH COURT OF DELHI, AT NEW DELHI  
(EXTRAORDINARY CIVIL WRIT JURISDICTION)**

**WRIT PETITION (CIVIL) NO. \_\_\_\_\_ OF 2021**

**IN THE MATTER OF:**

PRAVDA MEDIA FOUNDATION

...Petitioner

Versus

UNION OF INDIA & ANR.

...Respondents

**VOL- I**

<b>S.NO.</b>	<b>PARTICULARS</b>	<b>PAGE NO.</b>
1.	Urgent Application	1
2.	Notice of Motion	2
3.	Memorandum of Parties	3-4
4.	Synopsis and List of Dates	5-12
5.	Writ Petition praying for the issuance of a Writ of certiorari and declaration or any other appropriate writ, order or direction declaring Part III of the Information Technology (Intermediary Guidelines & Digital Media Ethics Code) Rules, 2021 as void and inoperative for being violative of Articles 14, 19(1)(a), 19(1)(g) of the Constitution Of India and for being <i>ultra vires</i> the Information Technology Act, 2000 and for a writ or declaration or any other appropriate writ, order or direction declaring that the Information Technology (Intermediary Guidelines & Digital Media Ethics Code) Rules, 2021 do not apply to the Petitioner	13-60
6.	Affidavits in support.	61-62
7.	Copy of the Board Resolution dated 08 <sup>th</sup> June 2021.  <b><u>[Annexure P-1]</u></b>	63-64

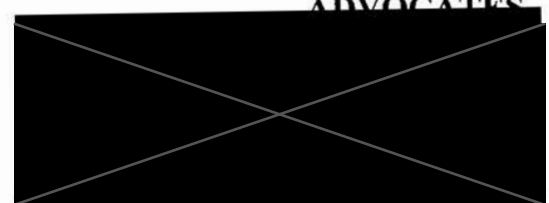
8.	A copy of the Information and Technology Act, 2000 <b>[Annexure P-2]</b>	65-145
9.	A true copy of the Information and Technology (Intermediary Guidelines) Rules, 2011 <b>[Annexure P-3]</b>	146-148
10.	A true copy of the A true copy of the Information and Technology (Intermediary Guidelines) Rules, 2021 issued on 25.02.2021 <b>[Annexure-P-4]</b>	149-164

INDIA  
**Forbes**

**PETITIONER**

**Represented Through**

**AADITYA VIJAYKUMAR/  
AKSHITA KATOCH/  
NAMRATA MOHAPATRA  
ADVOCATES**



**NEW DELHI  
DATED: 16.06.2021**

↓

**IN THE HIGH COURT OF DELHI, AT NEW DELHI  
(EXTRAORDINARY CIVIL WRIT JURISDICTION)**

**WRIT PETITION (CIVIL) NO. \_\_\_\_\_ OF 2021**

**IN THE MATTER OF:**

PRAVDA MEDIA FOUNDATION ... Petitioner

Versus

UNION OF INDIA & ANR. ... Respondents

**URGENT APPLICATION**

TO,  
THE DEPUTY REGISTRAR,  
HIGH COURT OF DELHI  
AT NEW DELHI.

Sir,  
Kindly treat the accompanying writ petition as urgent as the actions of the Respondents will adversely affect the Petitioner and therefore the Petitioner is praying for urgent interim relief. This is in accordance with the High Court Rules and Orders.

**PETITIONER**

Represented Through



**AADITYA VIJAYKUMAR/  
AKSHITA KATOCH/  
NAMRATA MOHAPATRA  
ADVOCATES**

**NEW DELHI  
DATED: 16/06/2021**



**NOTICE OF MOTION**

**IN THE HIGH COURT OF DELHI, AT NEW DELHI  
(EXTRAORDINARY CIVIL WRIT JURISDICTION)**

**WRIT PETITION (CIVIL) NO. \_\_\_\_\_ OF 2021**

**IN THE MATTER OF:**

PRAVDA MEDIA FOUNDATION ... Petitioner

Versus

UNION OF INDIA & ANR. ... Respondents

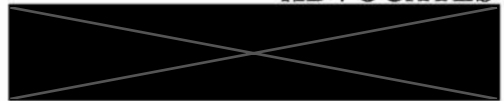
To,  
THE DEPUTY REGISTRAR,  
HIGH COURT OF DELHI  
AT NEW DELHI.

Sir,

The enclosed Petition is being filed on behalf of the Petitioner and is likely to be listed on 21/06/21 or any date thereafter. Please take notice accordingly.

Truly yours

**AADITYA VIJAYKUMAR/  
AKSHITA KATOCH/  
NAMRATA MOHAPATRA  
ADVOCATES**



**NEW DELHI  
DATED: 16/06/2021**

IN THE HIGH COURT OF DELHI, AT NEW DELHI  
(EXTRAORDINARY CIVIL WRIT JURISDICTION)

WRIT PETITION (CIVIL) NO. \_\_\_\_\_ OF 2021

**IN THE MATTER OF:**

PRAVDA MEDIA FOUNDATION ...Petitioner

Versus

UNION OF INDIA & ANR. ...Respondents

**MEMO OF PARTIES**

1. Pravda Media Foundation  
2, Swagat Palace, Iscon Ambli Road,  
Opposite Shell Petrol Pump,  
Ahmedabad – 380058  
India  
Phone No. +91 79 2979 5274  
Email: pravdamediafoundation@gmail.com

... Petitioner

**VERSUS**

1. Union of India,  
Through the Ministry of Electronics and Information  
Technology,  
Electronics Niketan, 6, CGO Complex,  
Lodhi Road, New Delhi-110003  
Email: mohammedumeqeeb@gmail.com

2. Ministry of Information and Broadcasting  
Shastri Bhawan, New Delhi-110001  
Email: minister.inb@gov.in

... Respondents

**PETITIONER**

**Represented Through**



**AADITYA VIJAYKUMAR/  
AKSHITA KATOCH/  
NAMRATA MOHAPATRA  
ADVOCATES**



**NEW DELHI  
DATED: 16.06.2021**

**INDIA**  
**Forbes**

5

**IN THE HIGH COURT OF DELHI, AT NEW DELHI**  
(EXTRAORDINARY CIVIL WRIT JURISDICTION)

**WRIT PETITION (CIVIL) NO. \_\_\_\_\_ OF 2021**

**IN THE MATTER OF:**

PRAVDA MEDIA FOUNDATION ... Petitioners

**Versus**

UNION OF INDIA & ANR. ... Respondents

**SYNOPSIS AND LIST OF DATES**

1. The present Petition challenges the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 (“**IT Rules, 2021**” or “**Impugned Rules**”) as being unconstitutional under Articles 14, 19(1)(a), 19(1)(g), as well as being *ultra vires* the Information Technology Act, 2000 (“**IT Act**”), inasmuch as a classification of ‘publishers of news and current affairs content’ (“**digital news portals**”) has been set up and consequently Part III of the Rules (“**Impugned Part**”) seeks to regulate digital news portals by giving the Central Government pervasive control over their content.

2. The challenge is *inter alia* predicated on six hinges:

- (a) Executive power or government control, through the IT Rules, 2021 to virtually dictate content to digital news portals would squarely violate Articles 14 and 19(1)(a) of the Constitution. The IT Rules, 2021 for the first time introduce a category being digital portals with ‘news and current affairs content’ as a specific and targeted class to be subject to regulation by a loose-ranging ‘Code of Ethics’, and to be consummately overseen by the Respondents. Upon a complaint, the

State has the power to enter and control news and views by way of deletion, modification or blocking, censure, compelled apology and more.

- (b) That apart, clubbing online news portals with social media and OTT platforms, as distinct from the print news media is unfair and irrational classification. This in itself is violative of Article 14 of the Constitution of India. Further, the IT Rules, 2021 has no nexus whatsoever with the object of the IT Act.
- (c) The IT Rules, 2021 in effect, set up an adjudicatory mechanism parallel to the Courts of law, heavily impinging on freedom of speech and expression. Content would inexorably be led to an assessment by a Central Government Committee or the Respondent No.2, upon the slightest incident of 'any person' having a grievance about published content. Even if there is no complaint, the Respondent No.2 itself may refer content to the Central Government Committee for orders. Additionally, independent emergency powers to block content without as much as a hearing exists with the Secretary of the Respondent No.2.
- (d) The IT Rules go well beyond the IT Act, 2021. At the outset, the IT Act, 2021 does not have a whisper of regulating digital media platforms. Thus, the IT Rules, 2021 which is in the nature of a delegated legislation, could not do so either. This was wholly impermissible. Secondly, the IT Rules, 2021 claims to source its power from Section 87(2)(z) and (zg) of the IT Act. These sections in turn refer to Section 69 A and Section 79 of the IT Act. On a perusal of Section 69 A and Section 79 of the IT Act, it would be manifestly



clear that the said provisions of the IT Act apply solely and exclusively to “intermediaries” which have been defined to mean an entity “*who on behalf of another receives, stores or transmits that record or provides any service with respect to that record and includes telecom service providers, network service providers internet service providers, web – hosting service providers, search engines, online payment sites, online-auction sites, online-market place and cyber cafes.*” Clearly, ‘publishers of news and current affairs’ are not intermediaries, as defined by the IT Act. Even if it is viewed from this prism, the IT Rules, 2021 could not have regulated ‘publishers of news and current affairs’ in the first instance since the IT Act (the parent Act) did not seek to regulate ‘publishers of news and current affairs’. The IT Rules, 2021 thus goes well beyond the purview of the IT Act.

- (e) By way of enacting the IT Rules, 2021 the Respondents intend to regulate content on vague and highly subjective standards as provided in the Code of Ethics, such as ‘half-truths’, ‘good taste’, ‘decency’, etc. This is in the teeth of the principles of the decision in *Shreya Singhal v. Union of India* (2015) 5 SCC 1, which held that vague terms akin and similar to the terms used in the IT Act breaches the right of citizen to have freedom of speech and expression of their views on internet; and thus, besides being unconstitutional, is in derogation to Article 19(1)(a) of the Constitution of India.
- (f) Lastly, the Petitioner is merely a website which checks and verifies facts. It is not a digital portal which falls within the ambit of ‘publishers of news and current affairs’. This is since the Petitioner

neither publishes news nor analyses it and simply checks whether a fact is true or not, using various algorithms. Despite this fundamental fact, the Respondents are pressurising the Petitioner to make compliances under the IT Rules, 2021. Besides the fact that the IT Rules, 2021 are well beyond the IT Act, the act of foisting the IT Rules to an entity which is not covered by the IT Rules, 2021 is itself questioned in the present writ.

3. The challenge to validity of the Rules is pending before this Hon'ble High Court and several other High Courts. In W.P.(C) bearing no. 3125/2021 titled as *Foundation for Independent Journalism & Ors. v. Union of India & Anr.*, wherein the validity of Part III of the IT Rules have been challenged; this Hon'ble Court was pleased to issue notice vide order dated 9<sup>th</sup> March 2021. Similarly, in another in W.P. (C) bearing No. 3659/2021 titled *Quint Digital Media Ltd v. Union of India & Anr.*, vide order dated 19<sup>th</sup> March 2021, this Hon'ble Court issued notice in the petition, challenging the constitutional validity of the Rules. Since, the present petition also deals with similar questions of law, it should be tagged along with W.P.(C) bearing no. 3125/2021 and W.P. (C) bearing No. 3659/2021, for proper adjudication of the matter.

4. It may not be out of place to mention that the Petitioner is a fact-checking organization known as 'Altnews', which debunks misinformation and verifies the authenticity of content published by mainstream news media as well as that circulated on social media platforms. While the Petitioners clearly are not covered by the IT Rules, 2021, the Respondents considers the Petitioner to be a digital news portal and has directed them to comply with the Impugned Rules, by adhering to the Code of Ethics, setting up a grievance redressal mechanism

and furnishing information to the Government. Therefore, the Petitioners are directly affected by the IT Rules, 2021.

5. Vide the present Petition, the Petitioner additionally seeks the relief for an order/declaration to the effect that the Petitioners do not fall within the meaning of the term 'publishers of news and current affairs content' under Rule 2(1)(t) of the IT Rules, and therefore, the Impugned Rules do not apply to them.

#### LIST OF DATES

17.10.2000	The Information Technology Act, 2000 enacted by Parliament was brought into force.
27.10.2009	The Information Technology (Amendment) Act, 2008 was enacted, which inserted Section 66-A and amended Section 79 of the Information Technology Act, 2000.
27.10.2009	Simultaneously, the Information Technology (Procedure and Safeguards for Blocking for Access of Information by Public) Rules, 2009 were issued under Section 69-A(2) of the Information Technology Act, 2000.
11.04.2011	The Information Technology (Intermediaries Guidelines) Rules, 2011 were issued under Section 79(2) and Section 87(2)(zg) of the Information Technology Act, 2000.
24.03.2015	<i>Shreya Singhal v. Union of India</i> (2015) 5 SCC 1 was decided, wherein, the Hon'ble Supreme Court of India struck down Section 66-A of the IT Act, which constituted as an offence, transmitting 'offensive', 'annoying', 'menacing' electronic material, for being

	vague and over-broad, and held Section 66-A unconstitutional under Article 19(1)(a) of the Constitution of India.
25.02.2021	<p>The Impugned Information Technology (Intermediary Guidelines &amp; Digital Media Ethics Code) Rules, 2021, were issued under Sections 87(1), 87(2)(z), 87(2)(zg) of the Information Technology Act, 2000, and in supersession of the Information Technology (Intermediaries Guidelines) Rules, 2011.</p> <p>The IT Rules, 2021, <i>inter alia</i>, seek to regulate digital news portals under Part III: (1) by creating a new and separate category of entities that publish news and current affairs content on online platforms and specifically distinguish them from newspapers or entities that publish replica e-papers of the newspaper; and (2) by imposing Government oversight and a 'Code of Ethics' (set out in the Appendix) on them.</p>
09.03.2021	This Hon'ble Court was pleased to issue notice to the Respondents in W.P.(C) No. 3125/2021 preferred by the Foundation for Independent Journalism and others challenging the validity of Part III of the Impugned Rules.
10.03.2021	The Hon'ble High Court of Kerala issued notice to the Respondents in W.P. (C) No. 6272/2021 preferred by LiveLaw Media Pvt. Ltd. and others, challenging the Impugned Part of the Rules. The Court further directed that no coercive action be taken against the Petitioners therein.
11.03.2021	The Chief editor of 'Alt News', the digital fact-checking platform run by the Petitioner, received an e-mail from the Respondent

	No.2, Ministry of Information and Broadcasting stating that the IT Rules, 2021 have been notified and that Part III of the same requires adherence to the Code of Ethics, setting up a grievance redressal mechanism, and furnishing of information regarding the same to the Government.
19.03.2021	This Hon'ble Court was pleased to issue notice in W.P.(C) No. 3659/2021 preferred by Quint Digital Media Limited and others challenging the constitutional validity of the Impugned Rules.
24.03.2021	In response to the aforementioned e-mail dated 11.03.2021, the Petitioner made a representation to Respondent No.2 Ministry of I&B stating that the IT Rules, 2021 do not apply to them, and that in any case, as various High Courts, including the High of Court of Delhi had issued notice in petitions challenging the validity of the Rules, further proceedings ought not to be undertaken until the final disposal of the petitions.
26.05.2021	Respondent No.2 Ministry of I&B issued a public notice requiring digital media publishers, including digital news portals to furnish information as per the format in Appendix II within 15 days from the date of notice. The information to be furnished includes details of the Petitioner entity; the Grievance Redressal officer (Level 1); and self-regulating body (Level 2) that are to be set up as per the Impugned Rules.
01.06.2021	A reminder was sent by Respondent No.2 Ministry of I&B, to digital news portals as well as the Petitioner, to furnish the aforementioned information by 10.06.2021.

____.06.2021	In response to the Public Notice dated 26.05.2021 and Reminder dated 01.06.2021, the Petitioner made a representation to Respondent No.2, Ministry of I & B, stating that the Petitioner does not fall within the purview of the IT Rules, 2021 since they are only a fact-checking platform and does not constitute a 'publisher of news and current affairs content' under Rule 2(1)(t) of the IT Rules, 2021.
____.06.2021	Hence this Petition.

INDIA  
Forbes

IN THE HIGH COURT OF DELHI, AT NEW DELHI  
(EXTRAORDINARY CIVIL WRIT JURISDICTION)

WRIT PETITION (CIVIL) NO. \_\_\_\_\_ OF 2021

**IN THE MATTER OF:**

PRAVDA MEDIA FOUNDATION

... Petitioners

Versus

UNION OF INDIA & ANR.

... Respondents

WRIT PETITION PRAYING FOR THE ISSUANCE OF A WRIT OF CERTIORARI, DECLARATION OR ANY OTHER APPROPRIATE WRIT, ORDER OR DIRECTION DECLARING PART III OF THE INFORMATION TECHNOLOGY (INTERMEDIARY GUIDELINES & DIGITAL MEDIA ETHICS CODE) RULES, 2021 AS VOID AND INOPERATIVE FOR BEING VIOLATIVE OF ARTICLES 14, 19(1)(a), 19(1)(g) OF THE CONSTITUTION OF INDIA AND FOR BEING *ULTRA VIRES* THE INFORMATION TECHNOLOGY ACT, 2000 AND FOR A WRIT OR DECLARATION OR ANY OTHER APPROPRIATE WRIT, ORDER OR DIRECTION DECLARING THAT THE INFORMATION TECHNOLOGY (INTERMEDIARY GUIDELINES & DIGITAL MEDIA ETHICS CODE) RULES, 2021 DO NOT APPLY TO THE PETITIONER

To

HON'BLE THE CHIEF JUSTICE AND

HIS COMPANION JUSTICES OF THE HIGH COURT OF DELHI AT NEW DELHI

**Most Respectfully Showeth That :-**

1. This present Writ Petition under Article 226 of the Constitution of India challenges the constitutionality and substantive *vires* of the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 (“**IT Rules, 2021**” or “**Impugned Rules**”) in so far as the IT Rules, 2021 purport to apply to ‘publishers of news and current affairs’ over the internet or computer networks and, consequently, regulate them by Part III (“**Impugned Part**”) of the Rules. The Petitioner thus seeks not only a writ of certiorari and/or any other writ declaring the Impugned Rules as unconstitutional for being violative of Articles 14, 19(1)(a), and 19(1)(g) of the Constitution of India and for being *ultra vires* the Information Technology Act, 2000 (“**IT Act**”); but also seeks a writ for declaring that the Petitioner does not fall within the definition of the term ‘publishers of news and current affairs content’ under Rule 2(1)(t) of the IT Rules, 2021, and therefore, the Impugned Rules/ IT Rules, 2021 do not apply to the Petitioner.
2. The present petition has been signed and verified by Ms. Nirjhari Sinha, the Authorized Representative of the Petitioner, who has been authorized vide Board Resolution dated 08.06.2021 to sign and verify the present writ petition. The certified true copy Board Resolution dated 08.06.2021 is annexed and marked as **Annexure P-1**.



**THE PARTIES TO THE PETITION:**

3. That the Petitioner, Pravda Media Foundation, is a company registered under Companies Act, 2013 and runs 'Alt News'. 'Alt News' is a digital fact-checking platform which debunks misinformation circulated on social media platforms as well as that published by mainstream media, and verifies the authenticity of such content using digital forensic tools. While the Petitioners submit that they are not covered by the IT Rules, 2021, the Respondent No.2 considers the Petitioner to be a digital news portal and has directed the Petitioner to comply with the Impugned Rules, which includes adhering to the Code of Ethics, as well as the setting up of a grievance redressal officer (Level 1 body) and a self-regulating body (Level 2 body) to address complaints, and furnishing such information to the Government. The Petitioner is therefore directly impacted by the operation of the Impugned Part of the IT Rules, 2021. Further, the Petitioner operates within the territory of India and conducts 'systematic business activity' making its content available in India, and therefore falls within the purview of the IT Rules, 2021, under Rule 8.
4. The Respondent No.1 is the Union of India through the Secretary, Ministry of Electronics and Information Technology, through whom the

Impugned Rules have been issued. The Respondent No.2 is the Secretary, Ministry of Information and Broadcasting who has been provided the supervisory and regulatory powers under Part III of the IT Rules, 2021.

5. Before advertizing to the facts of the case, it would be necessary to briefly provide the scheme of the IT Act (annexed as **Annexure P-2**), the repealed provisions of the Information Technology (Intermediary Guidelines) Rules, 2011 ("**IT Rules, 2011**") (annexed as **Annexure P-3**) and the IT Rules, 2021 (annexed as **Annexure P-4**). This would show that the IT Rules, 2021 are not constitutional.

**SCHEME OF THE IT ACT:**

6. The Preamble of the IT Act states that the objective of the IT Act as follows:

*"An Act to provide legal recognition for transactions carried out by means of electronic data interchange and other means of electronic communication, commonly referred to as — electronic commerce, which involve the use of alternatives to paper-based methods of communication and storage of information, to facilitate electronic filing of documents with the Government agencies and further to amend the Indian Penal Code, the Indian Evidence Act, 1872, the Banker's Books Evidence Act, 1891 and the Reserve Bank of India Act, 1934 and for matters connected therewith or incidental thereto".*

7. A bare perusal of the aforementioned objective of the IT Act shows that the prime purpose of the Act is to recognize (a) electronic and commercial transactions and (b) to regulate the electronic filings by individuals and to enable as evidence, such electronic record and material in consonance with four specific statutes including the Indian Penal Code, the Indian Evidence Act, the Banker's Books Evidence Act and the Reserve Bank of India Act. Pertinently, none of these four statutes provide for the governance or regulation of news or entities involved in the business of news publishing.
8. Accordingly, the scope of the IT Act was restricted to the recognition and enabling of electronic data and transactions. As a matter of fact, there is no mention of any terms remotely related to news or current affairs, in the IT Act. Significantly, news media was neither recognised as a separate entity, nor news and current affairs as a distinct content, and the IT Act did not envisage regulating the contents and nature of the material of a news report or opinion.
9. Further, the IT Act contemplated regulation of content only by creating a set of offences such as obscene and sexually explicit material, child pornography, showing private parts of individuals, cyber terrorism, etc., to be prosecuted and tried by the court of law.

10. Since the IT Rules, 2021 (as dealt with subsequently and challenged) by its terminology claims to be “Intermediary Guidelines”, it would be important to understand as how the IT Act deals with intermediaries.

Section 2(1) (w) of the IT Act defines an “intermediary” as:

*“intermediary”, with respect to any particular electronic records, means any person who on behalf of another receives, stores or transmits that record or provides any service with respect to that record and includes telecom service providers, network service providers internet service providers, web – hosting service providers, search engines, online payment sites, online-auction sites, online-market place and cyber cafes.*

11. On a perusal of the definition itself it could be discerned that publishers of news content could not and did not fall within the meaning of the definition “intermediaries” as provided in the IT Act. Indeed the impugned Rules clearly treat digital news portals as distinct from intermediaries.

12. The IT Act categorically specifies the extraordinary circumstances such as sovereignty and integrity of India, defence, security of State, where electronic content may be blocked from public access, but this solely by a direction to the government or an intermediary under Section 69-A of the IT Act. Section 69-A of the IT Act, which is reproduced hereinbelow:

*Section 69A – Power to issue directions for blocking for public access of any information through any computer resource:*

*(1) Where the Central Government or any of its officers specially authorized by it in this behalf is satisfied that it is necessary or expedient so to do in the interest of sovereignty and integrity of India, defence of India, security of the State, friendly relations with foreign States or public order or for preventing incitement to the commission of any cognizable offence relating to above, it may, subject to the provisions of sub-section (2) for reasons to be recorded in writing, by order, direct any agency of the Government or intermediary to block for access by the public or cause to be blocked for access by the public any information generated, transmitted, received, stored or hosted in any computer resource.*

*(2) The procedure and safeguards subject to which such blocking for access by the public may be carried out, shall be such as may be prescribed.*

*(3) The intermediary who fails to comply with the direction issued under sub-section (1) shall be punished with an imprisonment for a term which may extend to seven years and also be liable to fine.*

13. The IT Act also sets out the cases in which an intermediary may be exempt from liability. Section 79(2) of the IT Act, which is reproduced herein below:

*Section 79- Exemption from liability of intermediary in certain cases*

*(1) Notwithstanding anything contained in any law for the time being in force but subject to the provisions of sub-section (2) and (3), an intermediary shall not be liable for any third party information, data, or communication link made available or hosted by him.*

*(2) The provisions of sub-section (1) shall apply if-*

(a) the function of the intermediary is limited to providing access to a communication system over which information made available by third parties is transmitted or temporarily stored or hosted; or

(b) the intermediary does not –

(i) initiate the transmission,

(ii) select the receiver of the transmission, and

(iii) select or modify the information contained in the transmission;

(c) the intermediary observes due diligence while discharging his duties under this Act and also observes such other guidelines as the Central Government may prescribe in this behalf.

(3) The provisions of sub-section (1) shall not apply if –

(a) the intermediary has conspired or abetted or aided or induced, whether by threats or promise or otherwise in the commission of the unlawful act;

(b) upon receiving actual knowledge, or on being notified by the appropriate Government or its agency that any information, data or communication link residing in or connected to a computer resource controlled by the intermediary is being used to commit the unlawful act, the intermediary fails to expeditiously remove or disable access to that material on that resource without vitiating the evidence in any manner.

*Explanation – For the purposes of this section, the expression “third party information” means any information dealt with by an intermediary in his capacity as an intermediary.”*

14. Neither of the provisions set out above, brings within its ambit ‘publishers of news and current affairs’ nor does it whittle down the

definition provided in Section 2(1)(w) of the IT Act. Once again, it may be pertinent to mention that the IT Act does not nor did it ever seek to regulate publishers of news or current affairs. The IT Act only sought to regulate “intermediaries” which is a specifically defined term in the IT Act, and that too on very limited grounds by a very particular action.

15. It is solely towards the aforesaid purposes covered by the IT Act that the Central Government had the power to make rules under Section 87 of the IT Act. Only two sub clauses of Section 87 of the IT Act would be pertinent to the present issue, as these are quoted as the source of the Impugned Rules/ To the extent relevant Section 87 of the IT Act is as under:

*Section 87 Power of Central Government to make rules. –*

*(1) The Central Government may, by notification in the Official Gazette and in the Electronic Gazette, make rules to carry out the provisions of this Act;*

*(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-*

*(z) the procedure and safeguards for blocking for access by the public under sub-section (2) of section 69A;*

*(zg) the guidelines to be observed by the intermediaries under sub-section (2) of section 79;*

16. In each case, guidelines, under Section 87(z) and Section 87 (zg) of the IT Act, could have been formulated by the Central Government for “intermediaries” alone and not for any other category whatsoever.

**SCHEME OF THE IT RULES, 2011:**

17. Until the IT Rules, 2021 came into force, the IT Rules, 2011 held the field. The IT Rules, 2011 did not seek to include publishers of news and current affairs within its ambit. It also did not provide for a Code of Ethics nor did the Respondents seek to exercise control in the manner provided in the IT Rules, 2021.

18. Clearly, the Central Government was cognisant of the fact that an “intermediary” did not include a publisher of news and current affairs as also understood that publishers of news and current affairs especially on a digital platform cannot be regulated through rules made under the IT Act. The Central Government thus was aware of the boundaries set out in the IT Act itself.

**ADJUDICATION OF THE MATTER TITLED AS SHREYA SINGHAL V. UNION OF INDIA BY THE SUPREME COURT OF INDIA IN THE YEAR 2015**



19. By 2013-15, the IT Act and more particularly Section 66A of the IT Act was abused on account of the vague nature of the provisions of the IT Act. Section 66 A of the IT Act is set out hereunder:

*“66-A. Punishment for sending offensive messages through communication service, etc. - Any person who sends, by means of a computer resource or a communication device,-*

*(a) any information that is grossly offensive or has menacing character; or*

*(b) any information which he knows to be false, but for the purpose of causing annoyance, inconvenience, danger, obstruction, insult, injury, criminal intimidation, enmity, hatred or ill-will, persistently by making use of such computer resource or a communication device;*

*(c) any electronic mail or electronic mail message for the purpose of causing annoyance or inconvenience or to deceive or to mislead the addressee or recipient about the origin of such messages, shall be punishable with imprisonment for a term which may extend to three years and with fine.”*

20. The Hon'ble Supreme Court in *Shreya Singhal v. Union of India* (2015) 5

SCC 1 held that Section 66-A of the IT Act, which constituted as an offence, transmitting offensive, annoying, menacing electronic material, was unconstitutional under Article 19(1)(a) of the Constitution of India, on the ground that it was vague and arbitrary and breached the right of free speech and expression.

21. The adjudication of the Hon'ble Supreme Court in *Shreya Singhal v. Union of India* assumes importance, especially for the adjudication of the present petition on account of the following:

i. The adjudication by the Supreme Court pertained to a provision of the IT Act;

ii. Section 66A of the IT Act used words such as "offensive, annoying, menacing electronic material" (terms similar to the ones used in the IT Rules, 2021 which is impugned herein) which were held to be wholly vague;

iii. The provision which was struck down was considerably similar to the provisions set out in the IT Rules, 2021 and with the same rationale, the IT Rules, 2021 ought to be struck down as well.

22. The IT Rules, 2011 continued to be in operation until 25.02.2021 until the IT Rules, 2021 came into being.

#### **SCHEME OF IT RULES, 2021**

23. Since the IT Rules, 2021 is being impugned, it would be necessary to understand the scheme of the IT Rules, 2021. The IT Rules, 2021 was brought into operation by the Central Government by exercising powers

conferred by Section 87 (1) (z) and (zg) of the IT Act and superseded the IT Rules, 2011. The relevant extract evidencing this is set out hereunder:

*“In exercise of powers conferred by sub-section (1), clauses (z) and (zg) of sub-section (2) of section 87 of the Information and Technology Act, 2000 (21 of 2000), and in supersession of the Information Technology (Intermediaries Guidelines) Rules, 2011, except as respect things done or omitted to be done before such supervision, the Central Government hereby makes the following rules, namely-“*

24. The IT Rules, 2021 introduce two distinct sets of regulations: *one*, due diligence norms to be followed by ‘intermediaries’ (Part II of the Rules); *two*, Code of Ethics ought to be adhered to by ‘publishers’ of news and current affairs and online curated content along with a three-tier compliance mechanism (Part III of the Rules). The Code of Ethics and the three tier compliance mechanism was well beyond the scope of the parent Act i.e. the IT Act and could not have been regulated by a delegated legislation such as the IT Rules, 2021.

25. While Part II pertains to intermediaries, an entity recognised and regulated by the IT Act (and not the subject of challenge in the present petition), Part III of the IT Rules, 2021, i.e., the Impugned Part, pertains to two distinct sets of ‘publishers’:

(i) publishers of news and current affairs content;

(ii) publishers of online curated content.

26. It is important to note that none of these categories i.e. publishers of news and current affairs content and publishers of online curated content were recognised by the IT Act, and these two categories have been newly introduced in the IT Rules, 2021, with the express purpose of regulating their content, which was beyond the purview of the IT Act to begin with. The present petition is limited to the provisions relating to publishers of news and media content.

27. The terms 'publisher' and 'publisher of news and current affairs content' are defined as follows:

*(s) 'publisher' means a publisher of news and current affairs content or a publisher of online curated content;*

*(t) 'publisher of news and current affairs content' means an online paper, news portal, news aggregator, news agency and such other entity called by whatever name, which is functionally similar to publishers of news and current affairs content but shall not include newspapers, replica e-papers of the newspaper and any individual or user who is not transmitting content in the course of systematic business, professional or commercial activity;*

28. Further, the terms 'content' and 'news and current affairs content' are defined as follows:

(g) 'content' means the electronic record defined in clause (t) of section 2 of the Act;

(m) 'news and current affairs content' includes newly received or noteworthy content, including analysis, especially about recent events primarily of socio-political, economic or cultural nature, made available over the internet or computer networks, and any digital media shall be news and current affairs content where the context, substance, purpose, import and meaning of such information is in the nature of news and current affairs content.

29. It can be seen that news and analysis of current affairs, which when made available over the internet and computer networks is defined as 'news and current affairs content', but when this is published as loosely folded sheets with newsprint it would be 'newspaper' defined by Rule 2(1)(n) of the IT Rules, 2021. 'Newspaper' and e-replicas of newspapers published digitally are not covered by the IT Rules, 2021, but 'news and current affairs content' published digitally is. This is clearly violative of Article 14 of the Constitution of India because there is absolutely no rationale for such a categorisation.

30. A reading of Rule 2(1)(t) with Rule 2(1)(m) of the IT Rules, 2021 shows that in order to fall within the ambit of 'publisher of news and current affairs', an entity to has to:

- publish news which may be recent or noteworthy events, or

- publish analysis: socio-political, economic or cultural, of recent events

31. As would be set out hereinbelow, the Petitioner's platform 'Alt News' does neither and is a fact-checking platform which debunks misinformation circulated on social media platforms as well as that published by mainstream media.

32. Rule 9 of the IT Rules, 2021 (read with the Appendix) lays down a separate Code of Ethics for the two kinds of publishers. The Code of Ethics, in case of publishers of news and current affairs content (which category is ascribed to the Petitioner) is as follows:

- i. Norms of Journalistic Conduct of the Press Council of India under the Press Council Act, 1978 ("Press Council Act"). A true copy of the Norms of Journalistic Conduct, 2020 is annexed herewith and marked as **Annexure P-5;**
- ii. Programme Code under Section 5 of the Cable Television Networks (Regulation) Act, 1995 ("Cable TV Act"). A true copy of the Programme Code is annexed herewith and marked as **Annexure P-6;**

- iii. Content which is prohibited under any law for the time being in force shall not be published or transmitted.

33. It is pertinent to note that the Norms of Journalistic Conduct under the Press Council Act, and the Programme Code under the Cable TV Act are extremely wide, covering within their ambit issues such as 'good taste' and 'decency', which by their nature are subjective. Thus, the IT Rules, 2021, by incorporating these by reference, and making them part of the regulatory mechanism, have stepped outside the remit of Section 69-A of the IT Act (the provision that Part III of the IT Rules, 2021 seem to be sourced to), which was upheld noting its narrow scope and the manner of operation of the Information Technology (Procedure and Safeguards for Blocking for Access of Information by Public) Rules, 2009. A true copy of the 2009 Rules is annexed hereto as **Annexure P-7**.

34. Moreover, a sweeping Governmental oversight has been introduced in all such matters, by way of a three-tier compliance mechanism, which is as follows:

Rule 9 sets up a three-tier structure to ensure 'observance and adherence' to the Code of Ethics.

Level 1: '*Self-regulation*' by the publisher - Grievance redressal officer is to be set up by the publisher to take up a complaint by "any person having a grievance regarding content" (Rules 10 and 11)

Level 2: '*Self-regulating*' body/bodies (actually a misnomer) of an appellate nature constituted by publishers or their associations, of independent persons, but subject to the Ministry's approval. This Level 2 body has the power to warn or censure, require the publisher to apologize or display a warning/disclaimer. It is pertinent to note that their procedure is bound hand and foot by the Rules which obligate Level 2 bodies to refer matters of non-compliance, and a certain class of content to Level 3 for deletion or modification of the same. (Rule 12)

Level 3: '*Oversight mechanism*' by the Central Government. This is an Inter-Departmental Committee, headed by an Authorised Officer of the Government of India, consisting chiefly of serving officials from various Ministries. The Committee can directly take complaints referred to it by the Ministry of I&B. It also operates as a second appellate forum over decisions of Levels 1 and 2. In addition to the power to recommend to the Ministry of I&B, to issue various binding directions for perceived non-compliance, such as publication of apology, displaying a warning/disclaimer, etc., the Committee also has the power to



recommend to the Ministry, draconian measures such as ordering the blocking, modification or deletion of content on certain perceived dangers. Such drastic orders are subject only to approval from the Secretary of the Ministry of I & B. (Rules 13 to 15)

***Emergency Power:***

35. In addition to all of the above, there is an 'emergency power' reserved with the Secretary of Ministry of I & B to pass interim orders blocking any content without even giving an opportunity of hearing. (Rule 16)

***Furnishing Information:***

36. The publisher of news and current affairs content is also required to inform the Ministry of I & B about the details of its entity by furnishing information and documents, for the purpose of enabling communication and coordination. Further, a periodic compliance report has to be published by the publisher every month mentioning the details of grievances received and action taken thereon. (Rule 18)

***Reporting Obligations:***

37. Further, Rule 19 mandates a full disclosure of every complaint received and action taken by the publishers of news and current affairs content,

i.e., the digital news portals, as well as the self-regulating (Level 2) body, thereby providing for an abiding policing by the State.

38. Therefore, upon any complaint regarding a violation of the loose-ranging and vaguely worded 'Code of Ethics', the three-tier regulatory mechanism is triggered, wherein the complaint is ultimately escalated to the Inter-Departmental Committee & Respondent No.2 Ministry of I&B, which then has the power to control news and views published by such digital news portals by ordering deletion, modification or blocking of content and censoring, requiring an apology, etc.

39. Even where there is no such complaint, the Respondent No.2 itself may refer content to the Inter-Departmental Committee for orders; further, the Secretary, Ministry of I&B has independent emergency powers to block content without as much as a hearing. By way of this adjudicatory mechanism parallel to courts of law, the IT Rules, 2021 empower the Government to virtually dictate content to digital news portals, and squarely violate media freedom under Article 19(1)(a) of the Constitution.

40. However, the IT Rules, 2021, go on to impose upon the *non-intermediary digital news media* a three-tier regulatory system to administer a loose-

ranging Code of Ethics that contains wide and vague terms as 'half-truths', 'good taste', 'decency', 'suggestive innuendos', etc. The IT Rules, 2021 also prescribe censure, warning, requiring an apology etc. in this regard as also on counts of 'defamation' etc.

41. Now, by way of enacting the IT Rules, the Respondents intend to regulate content on vague and highly subjective standards as provided in the Code of Ethics, such as 'half-truths', 'good taste', 'decency', etc; which basically are in teeth of the principles of the decision in *Shreya Singhal v. Union of India* (2015) 5 SCC 1, and squarely violate the freedom of speech and expression under Article 19(1)(a) and will not be saved by Article 19(2). Therefore, the IT Rules, 2021 not only exceed the IT Act, but also contravene the Supreme Court's ruling, and therefore will not be saved by any general rule-making power under Section 87(1) that is limited to carrying out the provisions of the IT Act, 2000.

42. Further the IT Rules, 2021 state that the Central Government sources its powers from Section 87(2) (z) and (zg) of the IT Act. These sections in turn refer to Section 69 A and Section 79 of the IT Act. On a perusal of Section 69 A and Section 79 of the IT Act, it would be manifestly clear that the said provisions of the IT Act apply solely and exclusively to "intermediaries" which have been defined in the IT Act to mean an entity

*“who on behalf of another receives, stores or transmits that record or provides any service with respect to that record and includes telecom service providers, network service providers internet service providers, web – hosting service providers, search engines, online payment sites, online-auction sites, online-market place and cyber cafes.”* Clearly, ‘publishers of news and current affairs’ are not intermediaries, as defined by the IT Act. Even if it is viewed from this prism, the IT Rules could not have regulated ‘publishers of news and current affairs’ in the first instance since the IT Act (the parent Act) did not seek to regulate ‘publishers of news and current affairs’. The IT Rules thus goes well beyond the purview of the IT Act. Any attempt to smuggle in such regulatory provisions (substantive or procedural) through subordinate, delegated legislation would clearly be outside the scope of the Act.

43. Clearly therefore, the IT Rules ought to be struck down as being both unconstitutional and ultra vires the IT Act.
44. Further, all the civil and criminal laws including those under the IT Act, 2000 are applicable to the digital news portals, and it is completely incorrect to say that the digital news medium is unregulated. Other democratic countries like the UK and Australia class online news outlets

with the print medium, subject only to self-regulation by a voluntary body of peers, without any role or space to the Government.

45. The IT Rules, 2021 are not only sweeping but are completely onerous and burdensome.

46. These sweeping provisions were challenged by various litigants by way of a writ petition.

47. This Hon'ble Court issued notice to the Respondents in W.P. (C) No. 3125/2021 and in W.P.(C) No. 3659/2021 preferred by the Foundation for Independent Journalism and Quint Digital Media respectively challenging the validity of the Impugned Part of the Rules on 09.03.2021 and 19.03.2021. A true copy of the Order dated 09.03.2021 in W.P. (C) No. 3125/2021 and 19.03.2021 in WP (C) 3659/2021 is annexed hereto as **Annexure P-8 (Colly)**.

48. The Hon'ble High Court of Kerala issued notice to the Respondents in W.P. (C) No. 6272/2021 preferred by LiveLaw Media Pvt Ltd. and others challenging the Impugned Part of the Rules on 10.03.2021. The Court further directed the Respondents against taking coercive steps against the Petitioners therein. A true copy of the Order dated 10.03.2021 in W.P. (C) No. 6272/2021 is annexed hereto as **Annexure P-9**.

**FACTS OF THE PRESENT CASE:**

49. Notwithstanding the challenge of the IT Rules, it may be necessary to provide a brief background. Succinctly put, the mission goal of the Petitioner is to increase information and media literacy in the society. As part of its strategy to alleviate the issue of lack of information literacy in the Indian society, the Petitioner is actively pursuing three verticals – Media outreach, education and technological solutions.

50. As part of the media outreach programme, the Petitioner undertakes fact-checking and debunks misinformation circulated on social media platforms as well as that published by mainstream media. This is done using various digital forensic tools like reverse image search to verify videos and images, or source data from local authorities or the police. Thus, there is no analysis of the news undertaken by us. A similar initiative is also run by the Government of India through Press Information Bureau and is called 'PIB Fact-check'. Just as PIB Fact-check division does not fall under the 'news and current affairs' genre, neither does the work of the Petitioner. The Petitioner does not carry any news or reports about current affair, it merely verifies and establishes the authenticity of reports published by journalists and content circulated

widely on social media platforms such as Facebook, Twitter, Whatsapp, etc.

51. It may be mentioned that the brand name adopted by the Petitioner i.e. "Alt News" should not be taken as a yardstick to determine whether the Petitioner is a 'publisher(s) of news and current affairs'. The actual service provided by the Petitioner should be considered to discern whether the Petitioner falls within the realm of the definition 'publisher of news and current affairs'.

52. Further, the Petitioner cannot be termed to be a 'publisher of online curated content' either. Effectively, OTT platforms such as Netflix, Amazon Prime etc. fall within this definition and this does not apply to the undersigned.

53. Despite this, the Respondents sought to enforce the IT Rules, 2021 in totality. The Chief editor of the Petitioner received an e-mail on 11.03.2021 from the Respondent No.2, Ministry of Information and Broadcasting informing the Petitioners that the IT Rules, 2021 have been notified and that Part III of the same requires adherence to the Code of Ethics, putting in place a grievance redressal mechanism, and furnishing

of information regarding the same to the Government. A true copy of the e-mail dated 11.03.2021 is annexed hereto as **Annexure P-10**.

54. On 24.03.2021, the Petitioner wrote to Respondent No.2, Ministry of I&B stating that the IT Rules, 2021 do not apply to 'Alt News', the digital fact-checking platform run by the Petitioners, and that in any case, as various High Courts, including the High Court of Delhi had issued notice in petitions challenging the validity of the Rules, further proceedings not be undertaken until the final disposal of the petitions. A true copy of the representation dated 24.03.2021 made by Petitioner No. 1 to Respondent No. 2 Ministry of I&B is annexed hereto as **Annexure P-11**.

55. On 26.05.2021, Respondent No. 2 issued a public notice requiring digital media publishers, including digital news portals to furnish information as per the format in Appendix II within 15 days from the date of notice. The information to be furnished includes details of the Grievance Redressal officer (Level 1) and self-regulating body (Level 2) that are to be set up as per the Impugned Rules. A true copy of the notice dated 26.05.2021 is annexed hereto as **Annexure P-12**.

56. On 01.06.2021, a reminder was sent by the Respondent No.2, to digital news portals as well as the Petitioners, to furnish the aforementioned



information by 10.06.2021. A true copy of the reminder dated 01.06.2021 is annexed hereto as **Annexure P-13**.

57. In response to the Public Notice dated 26.05.2021 and Reminder dated 01.06.2021, the Petitioners made a representation to Respondent No. 2, to consider the Petitioner's concern that they do not fall within the purview of the IT Rules, 2021, since they are only a fact-checking platform and do not constitute 'publisher of news and current affairs content' under Rule 2(1)(t), and given that Alt News is run by a small group of 10 people, it would not be logistically feasible to set up a designated Grievance Redressal Officer and take up each and every complaint against fact-checks done by them. A true copy of the Representation dated 03.06.2021 is annexed hereto as **Annexure P-14**.

58. The Respondent responded to the representation by their email/ letter dated 09.06.2021 stating that not only was the Petitioner a publisher in their estimation but was also covered under the ambit of the IT Rules. The Petitioner was thus called upon to comply by the terms of the IT Rules by 10.06.2021. The Petitioner once again responded to the email/ letter dated 09.06.2021 to be favourably considered but to no avail. A true copy of the letter dated 09.06.2021 sent by the Respondent and the reply addressed by the Petitioner is annexed as **Annexure P-15 (Colly)**.

59. Since the Respondents are actively enforcing the IT Rules, the present writ petition is being filed. The reliefs prayed for in this Writ Petition are claimed on the following grounds, each of which is taken both alternatively and cumulatively and without prejudice to each other. The Petitioner craves liberty to urge additional grounds.

**GROUND:**

i. **BECAUSE**, the challenge to the IT Rules, 2021 is *inter alia* predicated on six hinges:

- (a) Executive power or government control, through the IT Rules, to virtually dictate content to digital news portals would squarely violate Articles 14 and 19(1)(a) of the Constitution. The IT Rules, 2021 for the first time introduce a category being digital portals with 'news and current affairs content' as a specific and targeted class to be subject to regulation by a loose-ranging 'Code of Ethics', and to be consummately overseen by the Respondents. Upon a complaint, the State has the power to enter and control news and views by way of deletion, modification or blocking, censure, compelled apology and more. Clubbing online news portals with social media and OTT

platforms, as distinct from the print news media is unfair and irrational classification. This in itself is violative of Article 14 of the Constitution of India.

- (b) The Rules, in effect, set up an adjudicatory mechanism parallel to the Courts of law, heavily impinging on freedom of speech and expression. Content shall inexorably be led to an assessment by a Central Government Committee or the Respondent No.2, upon the slightest incident of 'any person' having a grievance about published content. Even if there is no complaint, the Respondent No.2 itself may refer content to the Central Government Committee for orders. Additionally, independent emergency powers to block content without as much as a hearing exist with the Secretary, Ministry of I&B.
- (c) The IT Rules go well beyond the IT Act. At the outset, the IT Act does not have a whisper of regulating digital media platforms. Thus, the IT Rules, which is in the nature of a delegated legislation, could not do so either. This was wholly impermissible. Secondly, the IT Rules claims to source its power from Section 87(2)(z) and (zg) of the IT Act. These sections in turn refer to Section 69 A and Section 79 of the IT Act. On a perusal of Section 69 A and Section 79 of the IT Act, it would be manifestly clear that the said provisions of the IT Act

apply solely and exclusively to “intermediaries” which have been defined to mean an entity “*who on behalf of another receives, stores or transmits that record or provides any service with respect to that record and includes telecom service providers, network service providers internet service providers, web – hosting service providers, search engines, online payment sites, online-auction sites, online-market place and cyber cafes.*” Clearly, ‘publishers of news and current affairs’ are not intermediaries, as defined by the IT Act. Even if it is viewed from this prism, the IT Rules could not have regulated ‘publishers of news and current affairs’ in the first instance since the IT Act (the parent Act) did not seek to regulate ‘publishers of news and current affairs’. The IT Rules thus goes well beyond the purview of the IT Act.

- (d) By way of enacting the IT Rules, the Respondents intend to regulate content on vague and highly subjective standards as provided in the Code of Ethics, such as ‘half-truths’, ‘good taste’, ‘decency’, etc. This is in the teeth of the principles of the decision in *Shreya Singhal v. Union of India* (2015) 5 SCC 1, which held that vague terms akin and similar to the terms used in the IT Act breaches the right of citizen to have freedom of speech and expression of their views on internet; and

thus, besides being unconstitutional, is in derogation to Article 19(1)(a) of the Constitution of India.

- (e) In essence, the IT Rules has no nexus whatsoever with the object of the IT Act.
- (f) Lastly, the Petitioner is merely a website which checks and verifies facts. It is not a digital portal which falls within the ambit of 'publishers of news and current affairs'. This is since the Petitioner neither publishes news nor analyses it and simply checks whether a fact is true or not, using various algorithms. Despite this fundamental fact, the Respondents are pressurising the Petitioner to make compliances under the IT Rules. Besides the fact that the IT Rules are well beyond the IT Act, the act of foisting the IT Rules to an entity which is not covered by the IT Rules is itself questioned in the present writ.

***IT Rules, 2021 are unconstitutional:***

- ii. **BECAUSE**, the IT Rules, 2021 empower the Government to directly regulate content published by digital news portals. Upon the merest complaint or even without any complaint, the Respondent No. 2 Ministry of I&B can now control news and views published online by way of

ordering deletion, modification or blocking of content, as well as censoring, requiring the news portals to publish an apology etc. This is directly violative of Article 19(1)(a) which guarantees 'freedom of the press'. The Supreme Court has decried State interference with the functioning of the press and has held time and again that freedom of the press being crucial to a democracy, any form of State interference with the press/media, be it in terms of the content or circulation of news, runs contrary to the Constitutional mandate, and such interference ought to be invalidated by Courts. (*Sakal Newspapers (P) Ltd. v Union of India* (1962) 3 SCR 842; *Indian Express Newspapers (Bombay) (P) Ltd. v Union of India* (1985) 1 SCC 641) Therefore, the press/media is largely self-regulated as under the Press Council Act and any attempt by the Government in regulating content published by news media violates Article 19(1)(a) of the Constitution of India.

- iii. **BECAUSE**, the regulatory mechanism envisaged by the IT Rules, 2021 is not self-regulatory, as it ought to be in the case of news media. Instead, the three-tier grievance redressal mechanism is draconian and unjust, where the Government has the final say on complaints filed with the Grievance Redressal Officer of a digital news portal, and has the power to interfere even in the absence of any complaint(s).

- iv. **BECAUSE**, publishers of news and views, digital and otherwise, are already vulnerable to a host of civil and criminal liabilities, and in the recent past, we have witnessed a proliferation of FIRs against journalists and news publishers. In such an atmosphere, an additional regulatory mechanism such as the one imposed by the IT Rules, 2021, specifically for digital news publishers will undoubtedly cause a chilling effect on their fundamental right to freedom of speech and expression.
- v. **BECAUSE**, the digital news publisher is constrained to attend to every complaint filed with it and also to report them with action taken. Thus, the media is cast with a reporting duty which the Respondents can review. Further, appellate powers to overrule the digital news portal have been provided to the Level 2 'self-regulating' body, whose discretion is also curtailed because it is obligated to report cases of non-compliance with its decisions to the Level 3 Government Committee and refer content for deletion/modification. Importantly, its very constitution is subject to Respondent No.2 Ministry of I&B's approval.
- vi. **BECAUSE**, the IT Rules, 2021 render the 'Norms of Journalistic Conduct' (imported from the Press Council Act), binding on digital news portals, while under the Press Council Act itself, these 'Norms of

Journalistic Conduct' are merely moral objectives with no state action or coercive action possible. Therefore, the importing of the Press Council Norms, *dehors* the essential attribute and aspect of self-regulation is perverse, especially as digital news portals are essentially a written news medium.

- vii. **BECAUSE**, though the 'Programme Code' under the Cable TV Networks Regulation Act is binding on Cable TV networks, the same cannot be made binding on digital news portals for the following reasons: First, the Programme Code under the Cable TV Act and the power to prohibit transmission for non-compliance would itself be of doubtful constitutionality, which has never been tested. Second, there are important *differentia*: the Cable TV broadcast medium is audio-visual and the greater part of the digital news medium is written – the essential difference the audio-visual and the written medium warranting differential treatment has been noted by the Supreme Court in *Secretary, Ministry of I&B v Cricket Association of Bengal* (1995) 2 SCC 161; Cable TV channels are all licensees of the Government, with conditions attached to the licence, a feature strikingly absent with digital news portals or even newspapers. Therefore the equation made in the Rules and the official claim of creating a 'level playing field' across all digital



media is untenable. To the extent that digital portals may use multimedia, existing safeguards in the law suffice. Even so, the Supreme Court repeatedly emphasised that the regulatory body should be completely free of governmental control and interference.

viii. **BECAUSE**, a restriction on the Fundamental Right to free speech and expression can only be to the extent strictly necessary for the stated interests in Article 19(2) of the Constitution of India. The three-tier regulatory mechanism that interferes with the right to free speech and expression, has been set up to ensure that digital news portals adhere to and comply with the Code of Ethics, which contains stipulations such as good taste, decency, prohibition of 'half-truths' which go well beyond the restrictions mentioned in Article 19(2) of the Constitution of India. Further, digital news portals are already subject to all the civil and criminal laws enacted for those interests. Therefore, the IT Rules, 2021 cannot be in the interest of Article 19(2).

ix. **BECAUSE**, the Hon'ble Supreme Court in *Shreya Singhal v. Union of India* (2015) 5 SCC 1 struck down Section 66-A of the IT Act, which constituted as an offence, transmitting offensive, annoying, menacing electronic material, on the ground that it was vague, over-broad and arbitrary, and therefore violative of Article 19(1)(a) of the Constitution of

India. Now, by way of enacting the IT Rules, the Respondents intend to regulate content on vague and highly subjective standards as provided in the Code of Ethics, such as 'half-truths', 'good taste', 'decency', etc, which bring back elements of Section 66-A, and also go far beyond it, by providing for such vague standards to be administered, adjudicated upon and supervised by the Government. Therefore, the IT Rules, 2021 directly contravene the ruling in *Shreya Singhal v. Union of India*, and are unconstitutional.

x. **BECAUSE**, the right to freely criticize the Government and publish one's views is an essential and inalienable part of the right to practice journalism and such a regulatory regime with the Government at the apex is an unreasonable interference with Article 19(1)(g) of the Constitution of India as well, especially since subjective and vague criteria like 'good taste', 'decency' in the Code of Ethics can be invoked to bring in Government interference. Therefore, the IT Rules, 2021 also violate Article 19(1)(g) of the Constitution of India in as much as they place unreasonable restrictions on the right to practise the profession and business of online news journalism.

xi. **BECAUSE**, the IT Rules, 2021 also violate Article 14 in as much as they introduce digital portals with 'news and current affairs content' as a

specified and targeted class to be subject to the Code of Ethics and direct Government regulation, by clubbing them with other digital media, such as social media intermediaries and OTT platforms, i.e., publishers of online curated content. As opposed to this, the print media is not subject to the IT Rules, 2021. This amounts to irrational and unreasonable classification as digital news portals are akin to newspapers in terms of content, and ought to be treated on par with them. Written material on news and current affairs, when in print or online, is not fundamentally or in any manner different, so as to warrant differential treatment. However, the IT Rules, 2021, while excluding from their purview, newspapers and replica e-papers published digitally, seek to govern content that is exclusively published online, and subject such digital content to an unprecedented regulatory burden along with direct Government control, as opposed to newspapers which are self-regulated under the Press Council Act. Therefore, this amounts to an unreasonable and irrational classification under Article 14.

- xii. **BECAUSE**, the IT Rules, 2021 are manifestly unjust, in as much as they create a parallel and extra-legal adjudicatory mechanism, which has at its apex, the Central Government. This also violates the principle of

separation of powers, and is unreasonable, unfair and unjust in view of Article 14 of the Constitution of India.

*IT Rules, 2021 are Ultra Vires the IT Act, 2000*

xiii. **BECAUSE**, it is well-settled in law that there is no unlimited right of delegation, and that subordinate legislation cannot go beyond the object and the ambit of the parent Act. Any Rule or Regulation made in exercise of delegated power has to be in consonance with the parent Act, and if such Rule or Regulation goes beyond what the parent Act contemplates, then it becomes *ultra vires* the parent Act, as held by the Supreme Court in *Ajoy Kumar Banerjee v Union of India* (1984) 3 SCC 127, *Assam Co. Ltd. v State of Assam* (2001) 4 SCC 202.

xiv. **BECAUSE**, the object and purpose of the IT Act is limited to providing legal recognition of such electronic data/record, recognise means of electronic communication, authenticate and establish conditions in which electronic data/record could be considered as evidence, and to recognise offences committed through the use of computer resources. The IT Act does not recognise digital news media as a separate category of entities and does not seek to subject them or their content to any set of special regulations. The Impugned Part of the Rules, to the extent that it seeks to

achieve such special regulation or control of digital media including online news platforms, is manifestly *ultra vires* the IT Act.

xv. **BECAUSE**, the IT Rules, 2021 expand the scope of the IT Act even further by providing for a Code of Ethics and a three-tier regulatory system to administer a loose-ranging Code of Ethics, that contains wide and vague terms as 'half-truths', 'good taste', 'decency'. Therefore, such a supervision includes and extends far beyond categories of content as provided for under Section 66-A of the IT Act, which was struck-down in *Shreya Singhal*. Furthermore, the three-tier regulatory system also has the power to censure, warn, require an apology, etc. in this regard, as also on counts of 'defamation' etc. As stated above, this is contrary to the Supreme Court judgment in *Shreya Singhal* that struck down Section 66-A of the IT Act.

xvi. **BECAUSE**, further, the IT Rules, 2021 provide for an oversight mechanism in the Impugned Part, including the setting up of an Inter-Departmental Committee which has the power to hear grievances regarding compliance with the said Code of Ethics, as well as the power to recommend to the Ministry of I&B, draconian measures such as ordering the deletion, modification of content or blocking the same. The Rules framed under the IT Act cannot set up an adjudicatory mechanism

parallel to Courts of law, which is completely beyond the object and scope of the IT Act.

xvii. **BECAUSE**, essentially the IT Rules, 2021 are *ultra vires* the IT Act in three fundamental ways: (i) they purport to virtually legislate on the conduct of entities, outside the IT Act; (ii) they travel beyond the specific enabling Sections and introduce new concepts and regulations; and (iii) they attempt to proscribe content on the basis of vague and subjective grounds which the Supreme Court has already voided when it struck down Section 66-A of the IT Act in *Shreya Singhal*.

xviii. **BECAUSE**, the enabling provision in the IT Act conferring Rule-making power on the Central Government in the instant case is Section 87(1) of the IT Act wherein such power is “to carry out the provisions of [the] Act”. Even the specific provisions under Section 87(2) of the IT Act are relatable to one or more express provisions of the IT Act. It is submitted that the purpose of the Impugned Part of the IT Rules, 2021 is regulation of digital news media entities which is not contemplated under any of the provisions of the Act or its objects.

xix. **BECAUSE**, the IT Rules, 2021 cannot be sourced either to Section 87(2)(z) or Section 87(2)(zg) of the IT Act under which they have been

issued. Section 87(2)(zg) of the IT Act categorically empowers the Respondents to formulate guidelines to be complied with by intermediaries under Section 79(2) of the IT Act. This provision is applicable to intermediaries alone and allows for a special dispensation with respect to intermediaries. 'Publishers of news and current affairs content' cannot, through any means of interpretation, fall under the definition of intermediaries as provided in the IT Act. Further, a wholistic reading of the IT Rules, 2021 make it clear that publishers are distinct from intermediaries. It is pertinent to note that a publisher is not even defined or dealt with in the IT Act. Therefore, Section 79 does not concern any non-intermediary news media platform, and thus Part III cannot be sourced to Section 87(2)(zg) of the IT Act.

- xx. **BECAUSE**, Section 87(2)(z) of the IT Act refers to Section 69A of the IT Act, and deals with the procedure and safeguards for blocking public access to information on a computer, by way of direction to "intermediaries", or any Government agency, and not to any such entity such as a 'publisher of news and current affairs content'. Further, Section 69-A of the IT Act is a limited and specific emergent power as described by the Supreme Court in *Shreya Singhal*, and blocking under Section 69-A can be invoked only on extraordinary grounds such as national security.

In no manner does Section 69-A of the IT Act empower the Government to direct digital news portals to delete content, make changes, or publish apologies, especially on vague and subjective grounds as stipulated by the Code of Ethics.

xxi. **BECAUSE**, in requiring digital news portals to abide by the Code of Ethics, the IT Rules, 2021 essentially extend the application of two legislations: the Cable TV Act and the Press Council Act to digital news media, to the extent of the Programme Code and the Norms of Journalistic Conduct stipulated under these legislations respectively. Therefore, the IT Rules, 2021 go completely beyond the object and scope of Section 69-A of the IT Act.

xxii. **BECAUSE**, it is noteworthy that both under the Press Council Act and the Cable TV Act, the journalistic norms and the programme code are expressly provided for under the plenary legislations. The Press Council Act is a statute with express provisions to regulate newspapers, without Government interference, wherein Section 13(2)(b) of the Press Council Act expressly specifies it as a function of the Council to 'build up a code of conduct'. Similarly, under the Cable TV Act, there is power under Section 5, read with Section 19, to impose a programme code on cable television operators, to be regulated by the Government. By contrast, the



IT Act neither intends to nor provides for the imposition of a programme code, or regulation of news portals in any manner. Yet, this is sought to be done through subordinate legislation, the IT Rules, 2021, and therefore, the IT Rules, 2021 are *ultra vires* the IT Act, 2000.

- xxiii. **BECAUSE**, it is well-settled that the essential legislative function, which includes declaring the legislative policy and laying down the standard that is to be enacted into a rule of law, cannot be delegated. (*In Re Delhi Laws Act, 1912* 1951 SCR 747, *Ajoy Kumar Banerjee v Union of India* (1984) 3 SCC 127) It is only the incidental or ancillary aspects of the Act or the procedure for implementation of the provisions of the Act that may be delegated. Regulation of digital or online news media is an essential legislative function, if at all. To the extent that the rule-making power under Section 87(1) of the IT Act is read to sanction an entire regulatory scheme, it amounts to delegation of essential legislative function, which cannot be countenanced, and the IT Rules, 2021 ought to be held unconstitutional.

***The Petitioner does not fall within the purview of IT Rules, 2021***

- xxiv. **BECAUSE**, Part III of the Impugned Rules applies to two sets of entities, as mentioned in Rule 8: ‘publishers of news and current affairs content’

and 'publishers of online curated content', i.e. OTT platforms such as Netflix, Amazon Prime, etc. Respondent No.2 considers the Petitioner's platform 'Alt News' to be a 'digital news portal', that is, a publisher of news and current affairs content, and has directed them to comply with Part III of the IT Rules, 2021, by adhering to the Code of Ethics, setting up a grievance redressal mechanism and furnishing information regarding the same to the Government.

xxv. **BECAUSE**, a reading of Rule 2(1)(t) with Rule 2(1)(m) of the IT Rules, 2021 which define the terms 'publisher of news and current affairs content' and 'news and current affairs content', respectively shows that in order to fall within the ambit of 'publisher of news and current affairs', an entity has to:

- publish news including recent or noteworthy events, or
- publish analysis: socio-political, economic or cultural, of recent events

xxvi. **BECAUSE**, the Petitioners' platform 'Alt News' does neither. 'Alt News' is a digital fact-checking platform which debunks misinformation circulated on social media platforms as well as that published by mainstream media. Therefore, the Petitioners themselves do not publish news and views, or an analysis of such news, but merely verify and

establish the authenticity of reports published by journalists and other content circulated widely on social media platforms such as Facebook, Twitter, Whatsapp, etc. using digital forensic tools.

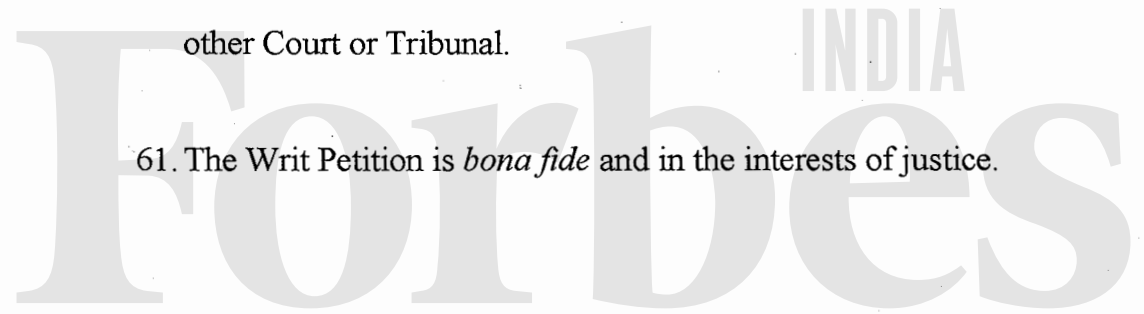
xxvii. **BECAUSE**, the fact-checks carried out by 'Alt News' do not fall within the definition of 'news and current affairs' content. Further, 'Alt News' not being an online paper, news portal, news aggregator or a news agency; and not being functionally similar to such entities given that it is a fact-checking platform, it does not fall within the definition of 'publisher of news and current affairs content' under Rule 2(1)(t) of the IT Rules, 2021.

xxviii. **BECAUSE**, the basis for imposing a Code of Ethics, and setting up of the three-tier grievance redressal mechanism in relation to digital news portals is that the investigative reports, opinion pieces, etc. are subjective in nature, as opposed to the fact-checks done by the Petitioner's platform 'Alt News', which are scientific and objective. In fact, the proscriptions under the Code of Ethics, against publishing anything obscene, defamatory, deliberate, *false* or *half-truths* or that which offends good taste, decency, and so on, are not applicable/relevant to an organisation dedicated to verifying the authenticity of content.

xxix. **BECAUSE** the Petitioner, not being a ‘publisher of news and current affairs content’ or a ‘publisher of online curated content’ (i.e. OTT platforms), Part III of the IT Rules, 2021 do not apply to them, and thus, Petitioner’s compliance with the Code of Ethics, setting up of a Grievance Redressal Mechanism and furnishing information regarding the same cannot be therefore mandated by Respondent No.2, Ministry of I&B.

60. The Petitioner has not filed any Petition or proceeding seeking similar reliefs before this Hon’ble Court, the Hon’ble Supreme Court or any other Court or Tribunal.

61. The Writ Petition is *bona fide* and in the interests of justice.



**PRAYERS:**

In the premises, this Hon'ble Court may be pleased to issue appropriate declarations, writs, orders and directions as set out below:

- a. Pass a Writ of certiorari and/ or declaration or any other appropriate writ, order or direction, quashing the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 or declaring the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 as void and inoperative; in so far as they define

and apply to publishers of news and current affairs content, and Part III of the Rules, in so far as it regulates publishers of news and current affairs content, for being violative of Articles 14, 19(1)(a), 19(1)(g) of the Constitution;

- b. Pass a Writ of certiorari and/ or declaration or any other appropriate writ, order or direction, quashing the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 or declaring the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 as void and inoperative; in so far as they define and apply to publishers of news and current affairs content, and Part III of the Rules, in so far as it regulates publishers of news and current affairs content, for being *ultra vires* the Information Technology Act, 2000;
- c. Pass an order declaring that the Petitioner's platform 'Alt News' is not a "publisher of news and current affairs content" under Rule 2(1)(t) of the IT Rules, 2021 and therefore does not fall within the purview of the IT Rules, 2021;
- d. Pass any other order or direction that this Hon'ble Court may deem just and proper in the facts and circumstances of this case.

PRAVDA MEDIA FOUNDATION

*[Handwritten Signature]*

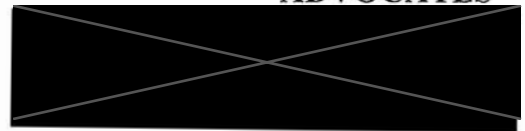
Director / Authorised Signatory

PETITIONERS

Represented Through

*[Handwritten Signature]*

AADITYA VIJAYKUMAR/  
AKSHITA KATOCH/  
NAMRATA MOHAPATRA  
ADVOCATES



NEW DELHI

DATED: 16/06/2024

INDIA  
Forbes

IN THE HIGH COURT OF DELHI AT NEW DELHI  
( EXTRAORDINARY CIVIL WRIT JURISDICTION)

WRIT PETITION(CIVIL) NO. \_\_\_\_\_ /2021

In the matter of:

Pravda media foundation ... Petitioners

Versus

Union of India & Anr. ... Respondents

AFFIDAVIT

I, Nirjhari Sinha [REDACTED]

[REDACTED]

presently at New Delhi, authorised representative of the petitioner, do hereby solemnly affirm and declare as under:-

1. That I am the authorized representative of the petitioner and am well conversant with the facts of the case based on records and duly competent to swear the present affidavit.

2. That I have read and understood the contents of the writ petition and the same are true and correct to the best of my knowledge and belief and based on records.

That the contents of the writ petition may be read as part and parcel of the present affidavit.



**PRAVDA MEDIA FOUNDATION**

*Arshik*  
Director / Authorised Signatory

DEPONENT

**VERIFICATION:**

16 JUN 2021

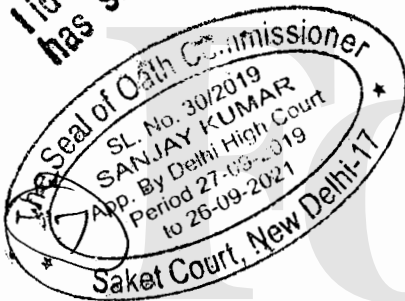
Verified at Delhi on this 16 day of June 2021 that the contents of the above affidavit are true and correct to my knowledge and no part of it is false and nothing material has been concealed therefrom.

DEPONENT

*Arshik*  
I identified the deponent who has signed in my presence

**PRAVDA MEDIA FOUNDATION**

*Arshik*  
Director / Authorised Signatory



16 JUN 2021

CERTIFIED THAT THE DEPONENT  
Shri/Secy./R/o.....  
S/o W/o D/o.....  
R/o.....  
Identified by Shri/Sm *Arshik*  
has solemnly affirmed before me at  
New Delhi on.....at St. No.....  
that the Contents of the affidavit which have  
been read and explained to him are true and  
correct to his knowledge.

*Arshik*  
Oath Commissioner  
New Delhi

16 JUN 2021



**Pravda Media Foundation**  
 2, Swagat Palace, Iscon Ambli Road  
 Opposite Shell Petrol Pump  
 Ahmedabad 380 058, India  
 Ph: +91 79 2979 5274, +91 99789 19110  
 pravdamediafoundation@gmail.com  
 CIN : U93030GJ2017NPL099435



**MINUTES OF THE SIXTEENTH EXTRA ORDINARY BOARD MEETING OF THE BOARD OF DIRECTORS OF PRAVDA MEDIA FOUNDATION HELD ON 8<sup>th</sup> JUNE 2021 AT 2.00 P.M. AT 2, SWAGAT PALACE, ISCON AMBLI ROAD, OPPOSITE SHELL PETROL PUMP, AHMEDABAD – 380058, THE REGISTERED OFFICE OF THE COMPANY**

**DIRECTORS PRESENT**

1. Ms. Nirjhari Mukul Sinha
2. Mr. Pratik Mukul Sinha
3. Mr. Mohammad Zubair (through video-conference)

**CHAIRMAN OF THE MEETING**

Nirjhari Mukul Sinha was unanimously elected pro-term Chairman of the meeting till a permanent Chairman was appointed. She welcomed the Directors at the Sixteenth Meeting of the Board of Directors.

**LEAVE OF ABSENCE**

All the members were present at the meeting.

**PRESENCE OF QUORUM**

Since the requisite quorum as specified in section 174 (1) of the Companies Act, 2013 was present, the Chairman declared the meeting to be in order and started the proceedings of the meeting.

**CONFIRMATION OF MINUTES**

The minutes of the meeting of the Board of Directors held on 7th day of March, 2021 duly initialled by the Chairman was placed before the Board, and the Board took note of the same. The Chairman informed the Board that Pravda Media Foundation will be filing a petition in Delhi High Court and the company needs to authorise a person to represent the company in Delhi High Court. It is

“ RESOLVED THAT Ms. Nirjhari Sinha, Managing Director of the company is hereby authorised to file a writ petition challenging the Information Technology (Intermediary Guidelines and Digital Media Ethics Codes) Rules, 2021.”

*[Handwritten signature]*  
T.

**Pravda Media Foundation**

2, Swagat Palace, Iscon Ambli Road  
Opposite Shell Petrol Pump  
Ahmedabad 380 058, India  
Ph: +91 79 2979 5274, +91 99789 19110  
pravdamediafoundation@gmail.com  
CIN : U93030GJ2017NPL099435



**NEXT BOARD MEETING**

The next meeting of the Board will be held on 10<sup>th</sup> July, 2021 at the registered office of the Company, at 3.00 P.M.

**VOTE OF THANKS**

There being no other business to transact, the meeting concluded with a vote of thanks to the chair.

Dated: 08/06/2021

CHAIRMAN



INFORMATION TECHNOLOGY ACT, 2000

Preamble 1 : THE INFORMATION TECHNOLOGY ACT, 2000

THE INFORMATION TECHNOLOGY ACT, 2000

[Act No. 21 of 2000]

[09th June, 2000]

PREAMBLE

An Act to provide legal recognition for transactions carried out by means of electronic data interchange and other means of electronic communication, commonly referred to as "electronic commerce", which involve the use of alternatives to paper-based methods of communication and storage of information, to facilitate electronic filing of documents with the Government agencies and further to amend the Indian Penal Code, the Indian Evidence Act, 1872, the Banker's Books Evidence Act, 1891 and the Reserve Bank of India Act, 1934 and for matters connected therewith or incidental thereto;

WHEREAS the General Assembly of the United Nations by resolution A/RES/51/162, dated 30th January, 1997 has adopted the Model Law on Electronic Commerce adopted by the United Nations Commission on International Trade Law;

AND WHEREAS the said resolution recommends, inter alia, that all States give favourable consideration to the said Model Law when they enact or revise their laws, in view of the need for uniformity of the law applicable to alternatives to paper-based methods of communication and storage of information;

AND WHEREAS it is considered necessary to give effect to the said resolution and to promote efficient delivery of Government services by means of reliable electronic records;

BE it enacted by Parliament in the Fifty-first Year of the Republic of India as follows:--

Section 1 : Short title, extent, commencement and application

(1) This Act may be called the Information Technology Act, 2000.

(2) It shall extend to the whole of India and, save as otherwise provided in this Act, it applies also to any offence or contravention thereunder committed outside India by any person.

(3) It shall come into force on such date<sup>1</sup> as the Central Government may, by notification, appoint and different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the commencement of that provision.

<sup>3</sup>[(4) Nothing in this Act shall apply to documents or transactions specified in the First Schedule.

Provided that the Central Government may, by notification in the Official Gazette, amend the First Schedule by way of addition or deletion of entries thereto,

(5) Every notification issued under sub-section (4) shall be laid before each House of Parliament.]

1. Came into force on 17th October, 2000 Vide G.S.R. 788 (E), dated 17th October, 2000.

2. Substituted by Act 55 of 2002, section 12, for clause (a) a negotiable instrument as defined in section 13 of the Negotiable Instruments Act, 1881 (26 of 1881);" (w.e.f. 6-2-2003).

3. Substituted by Information Technology (Amendment) Act, 2008 (Act No. 10 of 2009) w.e.f. 27.10.2009 previous text was :-

"(4) Nothing in this Act shall apply to--

- <sup>2</sup> [(a) a negotiable instrument (other than a cheque) as defined in section 13 of the Negotiable Instruments Act, 1881 (26 of 1881);],
- (b) a power-of-attorney as defined in section 1A of the Powers of Attorney Act, 1882 (7 of 1882);
- (c) a trust as defined in section 3 of the Indian Trusts Act, 1882 (2 of 1882);
- (d) a will as defined in clause (h) of section (2) of the Indian Succession Act, 1925 (39 of 1925), including any other testamentary disposition by whatever name called;
- (e) any contract for the sale or conveyance of immovable property or any interest in such property;
- (f) any such class of documents or transactions as may be notified by the Central Government in the Official Gazette."

## Section 2 : Definitions

(1) In this Act, unless the context otherwise requires,--

- (a) "access", with its grammatical variations and cognate expressions, means gaining entry into, instructing or communicating with the logical, arithmetical or memory function resources of a computer, computer system or computer network;
- (b) "addressee" means a person who is intended by the originator to receive the electronic record but does not include any intermediary;
- (c) "adjudicating officer" means an adjudicating officer appointed under subsection (1) of section 46;
- (d) "affixing <sup>1</sup>[electronic signature]", with its grammatical variations and cognate expressions means adoption of any methodology or procedure by a person for the purpose of authenticating an electronic record by means of digital signature;
- <sup>8</sup>[(da) "Appellate Tribunal" means the Appellate Tribunal referred to in sub-section (1) of section 48;]
- (e) "appropriate Government" means as respects any matter,--
  - (i) enumerated in List II of the Seventh Schedule to the Constitution;
  - (ii) relating to any State law enacted under List III of the Seventh Schedule to the Constitution, the State Government and in any other case, the Central Government;
- (f) "asymmetric crypto system" means a system of a secure key pair consisting of a private key for creating a digital signature and a public key to verify the digital signature;
- (g) "Certifying Authority" means a person who has been granted a licence to issue a <sup>1</sup>[Electronic Signature] Certificate under section 24;
- (h) "certification practice statement" means a statement issued by a Certifying Authority to specify the practices that the Certifying Authority employs in issuing <sup>1</sup>[Electronic Signature] Certificates;
- <sup>2</sup>[(ha) "communication device" means cell phones, personal digital assistance or combination of both or any other device used to communicate, send or transmit any text, video, audio or image;'];]
- (i) "computer" means any electronic, magnetic, optical or other high-speed data processing device or system which performs logical, arithmetic and memory functions by manipulations of electronic, magnetic or optical

impulses, and includes all input, output, processing, storage, computer software or communication facilities which are connected or related to the computer in a computer system or computer network;

<sup>3</sup>[(j) "computer network" means the inter-connection of one or more computers or computer systems through--

(i) the use of satellite, microwave, terrestrial line, wireless or other communication media; and

(ii) terminals or a complex consisting of two or more interconnected computers or communicated device whether or not the inter-connection is continuously maintained;];

(k) "computer resource" means computer, computer system, computer network, data, computer data base or software;

(l) "computer system" means a device or collection of devices, including input and output support devices and excluding calculators which are not programmable and capable of being used in conjunction with external files which contain computer programmes, electronic instructions, input data and output data that performs logic, arithmetic, data storage and retrieval, communication control and other functions;

(m) "Controller" means the Controller of Certifying Authorities appointed under sub-section (1) of section 17;

<sup>9</sup>[\*\*\*]

<sup>2</sup>[(na) "cyber cafe" means any facility from where access to the internet is offered by any person in the ordinary course of business to the members of the public;];

(nb) "cyber security means protecting information, equipment devices, computer, computer resource, communication device and information stored therein from unauthorised access, use, disclosure, disruption, modification or destruction".]

(o) "data" means a representation of information, knowledge, facts, concepts or instructions which are being prepared or have been prepared in a formalised manner, and is intended to be processed, is being processed or has been processed in a computer system or computer network, and may be in any form (including computer printouts magnetic or optical storage media, punched cards, punched tapes) or stored internally in the memory of the computer;

(p) "digital signature" means authentication of any electronic record by a subscriber by means of an electronic method or procedure in accordance with the provisions of section 3;

(q) "Digital Signature Certificate" means a Digital Signature Certificate issued under sub-section (4) of section 35;

(r) "electronic form", with reference to information, means any information generated, sent, received or stored in media, magnetic, optical, computer memory, micro film, computer generated micro fiche or similar device;

(s) "Electronic Gazette" means the Official Gazette published in the electronic form;

(t) "electronic record" means data, record or data generated, image or sound stored, received or sent in an electronic form or micro film or computer generated micro fiche;

<sup>2</sup>[(ta) "electronic signature" means authentication of any electronic record by a subscriber by means of the electronic technique specified in the Second Schedule and includes digital signature;

(tb) "Electronic Signature Certificate" means an Electronic Signature Certificate issued under section 35 and includes Digital Signature Certificate;];

T.C

(u) "function", in relation to a computer, includes logic, control, arithmetical process, deletion, storage and retrieval and communication or telecommunication from or within a computer;

<sup>2</sup>[(11A) Indian Computer Emergency Response Team" means an agency established under sub-section (1) of Section 70B"]

(v) "information" includes <sup>5</sup>[ data, message, text,] images, sound, voice, codes, computer programmes, software and data bases or micro film or computer generated micro fiche;

<sup>6</sup>[(w) "intermediary", with respect to any particular electronic records, means any person who on behalf of another person receives, stores or transmits that record or provides any service with respect to that record and includes telecom service providers, network service providers, internet service providers, web-hosting service providers, search engines, online payment sites, online-auction sites, online-market places and cyber cafes.]

(x) "key pair", in an asymmetric crypto system, means a private key and its mathematically related public key, which are so related that the public key can verify a digital signature created by the private key;

(y) "law" includes any Act of Parliament or of a State Legislature, Ordinances promulgated by the President or a Governor, as the case may be, Regulations made by the President under article 240, Bills enacted as President's Act under sub-clause (a) of clause (1) of article 357 of the Constitution and includes rules, regulations, bye-laws and orders issued or made thereunder;

(z) "licence" means a licence granted to a Certifying Authority under section 24;

(za) "originator" means a person who sends, generates, stores or transmits any electronic message; or causes any electronic message to be sent, generated, stored or transmitted to any other person but does not include an intermediary;

(zb) "prescribed" means prescribed by rules made under this Act;

(zc) "private key" means the key of a key pair used to create a digital signature;

(zd) "public key" means the key of a key pair used to verify a digital signature and listed in the Digital Signature Certificate;

(ze) "secure system" means computer hardware, software, and procedure that--

- (a) are reasonably secure from unauthorised access and misuse;
- (b) provide a reasonable level of reliability and correct operation;
- (c) are reasonably suited to performing the intended functions; and
- (d) adhere to generally accepted security procedures;

(zf) "security procedure" means the security procedure prescribed under section 16 by the Central Government;

(zg) "subscriber" means a person in whose name the <sup>1</sup>[Electronic Signature] Certificate is issued;

(zh) "verify", in relation to a digital signature, electronic record or public key, with its grammatical variations and cognate expressions, means to determine whether--

- (a) the initial electronic record was affixed with the digital signature by the use of private key corresponding to the public key of the subscriber;



(b) the initial electronic record is retained intact or has been altered since such electronic record was so affixed with the digital signature.

(2) Any reference in this Act to any enactment or any provision thereof shall, in relation to an area in which such enactment or such provision is not in force, be construed as a reference to the corresponding law or the relevant provision of the corresponding law, if any, in force in that area

1. Substituted by Information Technology (Amendment) Act, 2008 (Act No. 10 of 2009) w.e.f. 27.10.2009. Previous text was "digital signature"

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

3. Substituted vide Information Technology (Amendment) Act, 2008 (Act No. 10 of 2009) w.e.f. 27.10.2009. Previous text was :-

(j) "computer network" means the interconnection of one or more computers through--

(i) the use of satellite, microwave, terrestrial line or other communication media; and

(ii) terminals or a complex consisting of two or more interconnected computers whether or not the interconnection is continuously maintained;

4. Omitted vide Information Technology (Amendment) Act, 2008 (Act No. 10 of 2009) w.e.f. 27.10.2009. Previous text was :- "Regulations"

5. Substituted vide Information Technology (Amendment) Act, 2008 (Act No. 10 of 2009) w.e.f. 27.10.2009. Previous text was :- "data, text"

6. Substituted vide Information Technology (Amendment) Act, 2008 (Act No. 10 of 2009) w.e.f. 27.10.2009. Previous text was :-

"(w) "intermediary", with respect to any particular electronic message, means any person who on behalf of another person receives, stores or transmits that message or provides any service with respect to that message;"

7. Substituted By the Finance Act, 2017 for the following: "Cyber Appellate Tribunal"

8. Inserted by the Finance Act, 2017.

9. Omitted by the Finance Act, 2017 the previous text was:-

"(n) "[Appellate Tribunal]" means the Cyber Appellate Tribunal established under sub-section (1) of section 48;

## Chapter II: DIGITAL SIGNATURE AND ELECTRONIC SIGNATURE

### CHAPTER II

#### <sup>1</sup>[DIGITAL SIGNATURE AND ELECTRONIC SIGNATURE]

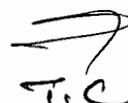
1. Substituted by the Information Technology (Amendment) Act, 2008 Section 5, for the heading "DIGITAL SIGNATURE".

#### Section 3 : Authentication of electronic records

(1) Subject to the provisions of this section, any subscriber may authenticate an electronic record by affixing his digital signature.

(2) The authentication of the electronic record shall be effected by the use of asymmetric crypto system and hash function which envelop and transform the initial electronic record into another electronic record.

Explanation.--For the purposes of this sub-section, "hash function" means an algorithm mapping or translation of one sequence of bits into another, generally smaller, set known as "hash result" such that an electronic record yields the same hash result every time the algorithm is executed with the same electronic record as its input

  
T.C

making it computationally infeasible--

- (a) to derive or reconstruct the original electronic record from the hash result produced by the algorithm;
  - (b) that two electronic records can produce the same hash result using the algorithm.
- (3) Any person by the use of a public key of the subscriber can verify the electronic record.
- (4) The private key and the public key are unique to the subscriber and constitute a functioning key pair.

**Section 3A : Electronic signature**

<sup>1</sup>[(1) Notwithstanding anything contained in section 3, but subject to the provisions of sub-section (2), a subscriber may authenticate any electronic record by such electronic signature or electronic authentication technique which--

- (a) is considered reliable; and
- (b) may be specified in the Second Schedule.

(2) For the purposes of this section any electronic signature or electronic authentication technique shall be considered reliable if--

- (a) the signature creation data or the authentication data are, within the context in which they are used, linked to the signatory' or, as (the case may be, the authenticator and to no other person;
- (b) the signature creation data or the authentication data were, at the time of signing, under the control of the signatory or, as the case may be, the authenticator and of no other person;
- (c) any alteration to the electronic signature made after affixing such signature is detectable;
- (d) any alteration to the information made after its authentication by electronic signature is detectable; and
- (e) it fulfils such other conditions which may be prescribed.

(3) The Central Government may prescribe the procedure for the purpose of ascertaining whether electronic signature is that of the person by whom it is purported to have been affixed or authenticated.

(4) The Central Government may, by notification in the Official Gazette, add to or omit any electronic signature or electronic authentication technique and the procedure for affixing such signature from the Second Schedule:

Provided that no electronic signature or authentication technique shall be specified in the Second Schedule unless such signature or technique is reliable.

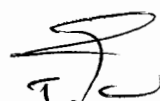
(5) Every notification issued under sub-section (4) shall be laid before each House of Parliament.]

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

**Section 4 : Legal recognition of electronic records**

Where any law provides that information or any other matter shall be in writing or in the typewritten or printed form, then, notwithstanding anything contained in such law, such requirement shall be deemed to have been satisfied if such information or matter is--

- (a) rendered or made available in an electronic form; and
- (b) accessible so as to be usable for a subsequent reference.





**Section 5 : Legal recognition of electronic signatures**

**5. Legal recognition of <sup>1</sup>[electronic signatures]**

Where any law provides that information or any other matter shall be authenticated by affixing the signature or any document shall be signed or bear the signature of any person, then, notwithstanding anything contained in such law, such requirement shall be deemed to have been satisfied, if such information or matter is authenticated by means of <sup>1</sup>[electronic signature] affixed in such manner as may be prescribed by the Central Government.

Explanation.--For the purposes of this section, "signed", with its grammatical variations and cognate expressions, shall, with reference to a person, mean affixing of his hand written signature or any mark on any document and the expression "signature" shall be construed accordingly.

1. Substituted by Act 10 of 2009, s. 2, for "digital signatures" (w.e.f. 27-10-2009).

**Section 6 : Use of electronic records and electronic signatures in Government and its agencies**

(1) Where any law provides for--

- (a) the filing of any form, application or any other document with any office, authority, body or agency owned or controlled by the appropriate Government in a particular manner;
  - (b) the issue or grant of any licence, permit, sanction or approval by whatever name called in a particular manner;
  - (c) the receipt or payment of money in a particular manner,
- then, notwithstanding anything contained in any other law for the time being in force, such requirement shall be deemed to have been satisfied if such filing, issue, grant, receipt or payment, as the case may be, is effected by means of such electronic form as may be prescribed by the appropriate Government.

(2) The appropriate Government may, for the purposes of sub-section (1), by rules, prescribe--

- (a) the manner and format in which such electronic records shall be filed, created or issued;
- (b) the manner or method of payment of any fee or charges for filing, creation or issue any electronic record under clause (a).

**Section 6A : Delivery of services by service provider**

<sup>1</sup>[(1) The appropriate Government may, for the purposes of this Chapter and for efficient delivery of services to the public through electronic means authorise, by order, any service provider to set up, maintain and upgrade the computerised facilities and perform such other services as it may specify, by notification in the Official Gazette.

Explanation.-- For the purposes of this section, service provider so authorised includes any individual, private agency, private company, partnership firm, sole proprietor firm or any such other body or agency which has been granted permission by the appropriate Government to offer services through electronic means in accordance with the policy governing such service sector.

(2) The appropriate Government may also authorise any service provider authorised under sub-section (1) to collect, retain and appropriate such service charges, as may be prescribed by the appropriate Government for the purpose of providing such services, from the person availing such service.

(3) Subject to the provisions of sub-section (2), the appropriate Government may authorise the service providers to

collect, retain and appropriate service charges under this section notwithstanding the fact that there is no express provision under the Act, rule, regulation or notification under which the service is provided to collect, retain and appropriate e-service charges by the service providers.

(4) The appropriate Government shall, by notification in the Official Gazette, specify the scale of service charges which may be charged and collected by the service providers under this section:

Provided that the appropriate Government may specify different scale of service charges for different types of services.]

---

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

**Section 7 : Retention of electronic records**

(1) Where any law provides that documents, records or information shall be retained for any specific period, then, that requirement shall be deemed to have been satisfied if such documents, records or information are retained in the electronic form, if--

(a) the information contained therein remains accessible so as to be usable for a subsequent reference;

(b) the electronic record is retained in the format in which it was originally generated, sent or received or in a format which can be demonstrated to represent accurately the information originally generated, sent or received;

(c) the details which will facilitate the identification of the origin, destination, date and time of dispatch or receipt of such electronic record are available in the electronic record:

Provided that this clause does not apply to any information which is automatically generated solely for the purpose of enabling an electronic record to be dispatched or received.

(2) Nothing in this section shall apply to any law that expressly provides for the retention of documents, records or information in the form of electronic records.

**Section 7A : Audit of documents etc, maintained in electronic form**

<sup>1</sup>[Where in any law for the time being in force, there is a provision for audit of documents, records or information, that provision shall also be applicable for audit of documents, records or information processed and maintained in the electronic form.]

---

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

**Section 8 : Publication of rule, regulation, etc., in Electronic Gazette**

Where any law provides that any rule, regulation, order, bye-law, notification or any other matter shall be published in the Official Gazette, then, such requirement shall be deemed to have been satisfied if such rule, regulation, order, bye-law, notification or any other matter is published in the Official Gazette or Electronic Gazette:

Provided that where any rule, regulation, order, by-law, notification or any other matter is published in the Official Gazette or Electronic Gazette, the date of publication shall be deemed to be the date of the Gazette which was first published in any form.

**Section 9 : Sections 6, 7 and 8 not to confer right to insist document should be accepted in electronic form**

Nothing contained in sections 6, 7 and 8 shall confer a right upon any person to insist that any Ministry or Department of the Central Government or the State Government or any authority or body established by or under any law or controlled or funded by the Central or State Government should accept, issue, create, retain and preserve any document in the form of electronic records or effect any monetary transaction in the electronic form.

**Section 10 : Power to make rules by Central Government in respect of electronic signature**

The Central Government may, for the purposes of this Act, by rules, prescribe--

- (a) the type of <sup>1</sup>[electronic signature];
- (b) the manner and format in which the <sup>1</sup>[electronic signature] shall be affixed;
- (c) the manner or procedure which facilitates identification of the person affixing the <sup>1</sup>[electronic signature];
- (d) control processes and procedures to ensure adequate integrity, security and confidentiality of electronic records or payments; and
- (e) any other matter which is necessary to give legal effect to <sup>1</sup>[electronic signatures].

---

1. Substituted vide Information Technology (Amendment) Act, 2008 (Act No. 10 of 2009) w.e.f. 27.10.2009 Previous text was "digital signature"

**Section 10A : Validity of contracts formed through electronic means**

<sup>1</sup>[Where in a contract formation, the communication of proposals, the acceptance of proposals, the revocation of proposals and acceptances as the case may be, are expressed in electronic form or by means of an electronic records, such contract shall not be deemed to be unenforceable solely on the ground that such electronic form or means was used for that purpose.]

---

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

**Section 11 : Attribution of electronic records**

An electronic record shall be attributed to the originator,--

- (a) if it was sent by the originator himself;
- (b) by a person who had the authority to act on behalf of the originator in respect of that electronic record; or
- (c) by an information system programmed by or on behalf of the originator to operate automatically.

**Section 12 : Acknowledgement of receipt**

(1) Where the originator has not <sup>1</sup>[stipulated] that the acknowledgement of receipt of electronic record be given in a particular form or by a particular method, an acknowledgement may be given by--

- (a) any communication by the addressee, automated or otherwise; or
- (b) any conduct of the addressee, sufficient to indicate to the originator that the electronic record has been received.

(2) Where the originator has stipulated that the electronic record shall be binding only on receipt of an acknowledgement of such electronic record by him, then, unless acknowledgement has been so received, the electronic record shall be deemed to have been never sent by the originator.

(3) Where the originator has not stipulated that the electronic record shall be binding only on receipt of such acknowledgement, and the acknowledgement has not been received by the originator within the time specified or agreed or, if no time has been specified or agreed to within a reasonable time, then, the originator may give notice

T.C.S

to the addressee stating that no acknowledgement has been received by him and specifying a reasonable time by which the acknowledgement must be received by him and if no acknowledgement is received within the aforesaid time limit he may after giving notice to the addressee, treat the electronic record as though it has never been sent.

1. Substituted vide Information Technology (Amendment) Act, 2008 (Act No. 10 of 2009) w.e.f. 27.10.2009 previous text was:-

"agreed with the addressee"

**Section 13 : Time and place of despatch and receipt of electronic record**

(1) Save as otherwise agreed to between the originator and the addressee, the dispatch of an electronic record occurs when it enters a computer resource outside the control of the originator.

(2) Save as otherwise agreed between the originator and the addressee, the time of receipt of an electronic record shall be determined as follows, namely:--

(a) if the addressee has designated a computer resource for the purpose of receiving electronic records,--

(i) receipt occurs at the time when the electronic record enters the designated computer resource; or

(ii) if the electronic record is sent to a computer resource of the addressee that is not the designated computer resource, receipt occurs at the time when the electronic record is retrieved by the addressee;

(b) if the addressee has not designated a computer resource along with specified timings, if any, receipt occurs when the electronic record enters the computer resource of the addressee.

(3) Save as otherwise agreed to between the originator and the addressee, an electronic record is deemed to be dispatched at the place where the originator has his place of business, and is deemed to be received at the place where the addressee has his place of business.

(4) The provisions of sub-section (2) shall apply notwithstanding that the place where the computer resource is located may be different from the place where the electronic record is deemed to have been received under sub-section (3).

(5) For the purposes of this section,--

(a) if the originator or the addressee has more than one place of business, the principal place of business, shall be the place of business;

(b) if the originator or the addressee does not have a place of business, his usual place of residence shall be deemed to be the place of business;

(c) "usual place of residence", in relation to a body corporate, means the place where it is registered.

**Section 14 : Secure electronic record**

Where any security procedure has been applied to an electronic record at a specific point of time, then such record shall be deemed to be a secure electronic record from such point of time to the time of verification.

**Section 15 : Secure electronic signature**

<sup>1</sup>[An electronic signature shall be deemed to be a secure electronic signature if--

(i) the signature creation data, at the time of affixing signature, was under the exclusive control of signatory and no other person; and

Toc

(ii) the signature creation data was stored and affixed in such exclusive manner as may be prescribed.

Explanation.-- In case of digital signature, the "signature creation data" means the private key of the subscriber.]

1. Substituted by the Information Technology (Amendment) Act, 2008 (Act No. 10 of 2009) w.e.f. 27.10.2009 previous text was : -

"If, by application of a security procedure agreed to by the parties concerned, it can be verified that a digital signature, at the time it was affixed, was--

- (a) unique to the subscriber affixing it;
- (b) capable of identifying such subscriber;
- (c) created in a manner or using a means under the exclusive control of the subscriber and is linked to the electronic record to which it relates in such a manner that if the electronic record was altered the digital signature would be invalidated.

then such digital signature shall be deemed to be a secure digital signature."

#### Section 16 : Security procedure and Practices

<sup>1</sup>[The Central Government may, for the purposes of sections 14 and 15, prescribe the security procedures and practices:

Provided that in prescribing such security procedures and practices, the Central Government shall have regard to the commercial circumstances, nature of transactions and such other related factors as it may consider appropriate.]

1. Substituted vide Information Technology (Amendment) Act, 2008 (Act No. 10 of 2009) w.e.f. 27.10.2009 previous text was : -

"The Central Government shall, for the purposes of this Act, prescribe the security procedure having regard to commercial circumstances prevailing at the time when the procedure was used, including--

- (a) the nature of the transaction;
- (b) the level of sophistication of the parties with reference to their technological capacity;
- (c) the volume of similar transactions engaged in by other parties;
- (d) the availability of alternatives offered to but rejected by any party;
- (e) the cost of alternative procedures; and
- (f) the procedures in general use for similar types of transactions or communications."

#### Section 17 : Appointment of Controller and other officers

(1) The Central Government may, by notification in the Official Gazette, appoint a Controller of Certifying Authorities for the purposes of this Act and may also by the same or subsequent notification, appoint such number of Deputy Controllers and <sup>1</sup>[Assistant Controllers, other officers and employees] as it deems fit.

(2) The Controller shall discharge his functions under this Act subject to the general control and directions of the Central Government.

T.S.C.

- (3) The Deputy Controllers and Assistant Controllers shall perform the functions assigned to them by the Controller under the general superintendence and control of the Controller.
- (4) The qualifications, experience and terms and conditions of service of Controller, Deputy Controllers <sup>2</sup>[Assistant Controllers, other officers and employees] shall be such as may be prescribed by the Central Government.
- (5) The Head Office and Branch Office of the office, of the Controller shall be at such places as the Central Government may specify, and these may be established at such places as the Central Government may think fit.
- (6) There shall be a seal of the Office of the Controller.

---

1. Substituted vide Information Technology (Amendment) Act, 2008 (Act No. 10 of 2009) w.e.f. 27.10.2009 previous text was :-

"Assistant Controllers"

2. Substituted vide Information Technology (Amendment) Act, 2008 (Act No. 10 of 2009) w.e.f. 27.10.2009 previous text was :-

"and Assistant Controllers"

#### Section 18 : Functions of Controller

The Controller may perform all or any of the following functions, namely:--

- (a) exercising supervision over the activities of the Certifying Authorities;
- (b) certifying public keys of the Certifying Authorities;
- (c) laying down the standards to be maintained by the Certifying Authorities;
- (d) specifying the qualifications and experience which employees of the Certifying Authority should possess;
- (e) specifying the conditions subject to which the Certifying Authorities shall conduct their business;
- (f) specifying the contents of written, printed or visual materials and advertisements that may be distributed or used in respect of a <sup>1</sup>[electronic Signature] Certificate and the public key;
- (g) specifying the form and content of a <sup>1</sup>[electronic Signature] Certificate and the key;
- (h) specifying the form and manner in which accounts shall be maintained by the Certifying Authorities;
- (i) specifying the terms and conditions subject to which auditors may be appointed and the remuneration to be paid to them;
- (j) facilitating the establishment of any electronic system by a Certifying Authority either solely or jointly with other Certifying Authorities and regulation of such systems;
- (k) specifying the manner in which the Certifying Authorities shall conduct their dealings with the subscribers;
- (l) resolving any conflict of interests between the Certifying Authorities and the subscribers;
- (m) laying down the duties of the Certifying Authorities;
- (n) maintaining a database containing the disclosure record of every Certifying Authority containing such particulars as may be specified by regulations, which shall be accessible to public.

---

1. Substituted vide Information Technology (Amendment) Act, 2008 (Act No. 10 of 2009) w.e.f. 27.10.2009 Previous text was "digital

T.C. 8

Signature".

**Section 19 : Recognition of foreign Certifying Authorities**

- (1) Subject to such conditions and restrictions as may be specified, by regulations, the Controller may, with the previous approval of the Central Government, and by notification in the Official Gazette, recognise any foreign Certifying Authority as a Certifying Authority for the purposes of this Act.
- (2) Where any Certifying Authority is recognised under sub-section (1), the <sup>1</sup>[electronic Signature] Certificate issued by such Certifying Authority shall be valid for the purposes of this Act.
- (3) The Controller may, if he is satisfied that any Certifying Authority has contravened any of the conditions and restrictions subject to which it was granted recognition under sub-section (1) he may, for reasons to be recorded in writing, by notification in the Official Gazette, revoke such recognition.

---

1. Substituted vide Information Technology (Amendment) Act, 2008 (Act No. 10 of 2009) w.e.f. 27.10.2009 Previous text was "digital Signature"

**Section 20 : Controller to act as repository**

<sup>1</sup>[\*\*\*]

---

1. Omitted vide Information Technology (Amendment) Act, 2008 (Act No. 10 of 2009) w.e.f. 27.10.2009 previous text was : -

"(1) The Controller shall be the repository of all Digital Signature Certificates issued under this Act.

(2) The Controller shall--

(a) make use of hardware, software and procedures that are secure from intrusion and misuse;

(b) observe such other standards as may be prescribed by the Central Government, to ensure that the secrecy and security of the digital signatures are assured.

(3) The Controller shall maintain a computerised data base of all public keys in such a manner that such data base and the public keys are available to any member of the public."

**Section 21 : Licence to issue electronic signature Certificates**

- (1) Subject to the provisions of sub-section (2), any person may make an application to the Controller for a licence to issue <sup>1</sup>[electronic] Signature Certificates.
- (2) No licence shall be issued under sub-section (1), unless the applicant fulfills such requirements with respect to qualification, expertise, manpower, financial resources and other infrastructure facilities, which are necessary to issue <sup>1</sup>[electronic] Signature Certificates as may be prescribed by the Central Government,
- (3) A licence granted under this section shall--
  - (a) be valid for such period as may be prescribed by the Central Government;
  - (b) not be transferable or heritable;
  - (c) be subject to such terms and conditions as may be specified by the regulations.

---

  
T.C

1. Substituted vide Information Technology (Amendment) Act, 2008. Previous text was:- "digital"

**Section 22 : Application for licence**

- (1) Every application for issue of a licence shall be in such form as may be prescribed by the Central Government.
- (2) Every application for issue of a licence shall be accompanied by--
  - (a) a certification practice statement;
  - (b) a statement including the procedures with respect to identification of the applicant;
  - (c) payment of such fees, not exceeding twenty-five thousand rupees as may be prescribed by the Central Government;
  - (d) such other documents, as may be prescribed by the Central Government.

**Section 23 : Renewal of licence**

An application for renewal of a licence shall be--

- (a) in such form;
- (b) accompanied by such fees, not exceeding five thousand rupees,

as may be prescribed by the Central Government and shall be made not less than forty-five days before the date of expiry of the period of validity of the licence.

**Section 24 : Procedure for grant or rejection of licence**

The Controller may, on receipt of an application under sub-section (1) of section 21, after considering the documents accompanying the application and such other factors, as he deems fit, grant the licence or reject the application:

Provided that no application shall be rejected under this section unless the applicant has been given a reasonable opportunity of presenting his case.

**Section 25 : Suspension of licence**

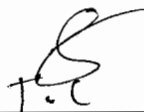
(1) The Controller may, if he is satisfied after making such inquiry, as he may think fit, that a Certifying Authority has--

- (a) made a statement in, or in relation to, the application for the issue or renewal of the licence, which is incorrect or false in material particulars;
- (b) failed to comply with the terms and conditions subject to which the licence was granted;
- <sup>1</sup>[(c) failed to maintain the procedures and standards specified in section 30;]
- (d) contravened any provisions of this Act, rule, regulation or order made thereunder; revoke the licence:

Provided that no licence shall be revoked unless the Certifying Authority has been given a reasonable opportunity of showing cause against the proposed revocation.

(2) The Controller may, if he has reasonable cause to believe that there is any ground for revoking a licence under sub-section (1), by order, suspend such licence pending the completion of any enquiry ordered by him:

Provided that no licence shall be suspended for a period exceeding ten days unless the Certifying Authority has been given a reasonable opportunity of showing cause against the proposed suspension.





(3) No Certifying Authority whose licence has been suspended shall issue any <sup>2</sup>[Electronic Signature] Certificate during such suspension.

1. Substituted S.O. 1015(E), dated 19th September, 2002, for clause "(c) failed to maintain the standards specified under clause (b) of sub-section (2) of section 20;" (w.e.f. 19-9-2002).

2. Substituted vide Information Technology (Amendment) Act, 2008 (Act No. 10 of 2009) w.e.f. 27.10.2009 Previous text was :- "digital Signature"

**Section 26 : Notice of suspension or revocation of licence**

(1) Where the licence of the Certifying Authority is suspended or revoked, the Controller shall publish notice of such suspension or revocation, as the case may be, in the data base maintained by him.

(2) Where one or more repositories are specified, the Controller shall publish notices of such suspension or revocation, as the case may be, in all such repositories:

Provided that the data base containing the notice of such suspension or revocation, as the case may be, shall be made available through a web site which shall be accessible round the clock:

Provided further that the Controller may, if he considers necessary, publicise the contents of data base in such electronic or other media, as he may consider appropriate.

**Section 27 : Power to delegate**

The Controller may, in writing, authorise the Deputy Controller, Assistant Controller or any officer to exercise any of the powers of the Controller under this Chapter.

**Section 28 : Power to investigate contraventions**

(1) The Controller or any officer authorised by him in this behalf shall take up for investigation any contravention of the provisions of this Act, rules or regulations made thereunder.

(2) The Controller or any officer authorised by him in this behalf shall exercise the like powers which are conferred on Income-tax authorities under Chapter XIII of the Income-tax Act, 1961 (43 of 1961), and shall exercise such powers, subject to such limitations laid down under that Act.

**Section 29 : Access to computers and data**

(1) Without prejudice to the provisions of sub-section (1) of section 69, the Controller or any person authorised by him shall, if he has reasonable cause to suspect that <sup>1</sup>[any contravention of the provisions of this Chapter] has been committed, have access to any computer system, any apparatus, data or any other material connected with such system, for the purpose of searching or causing a search to be made for obtaining any information or data contained in or available to such computer system.

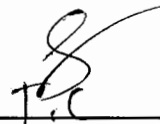
(2) For the purposes of sub-section (1), the Controller or any person authorised by him may, by order, direct any person in charge of, or otherwise concerned with the operation of, the computer system, data apparatus or material, to provide him with such reasonable technical and other assistance as he may consider necessary.

1. Substituted by Information Technology (Amendment) Act, 2008 (Act No. 10 of 2009) w.e.f. 27.10.2009 previous text was :-

"any contravention of the provisions of this Act, rules or regulations made thereunder"

**Section 30 : Certifying Authority to follow certain procedures**

Every Certifying Authority shall,--



- (a) make use of hardware, software, and procedures that are secure from intrusion and misuse;
- (b) provide a reasonable level of reliability in its services which are reasonably suited to the performance of intended functions;
- (c) adhere to security procedures to ensure that the secrecy and privacy of the <sup>1</sup>[Electronic signatures] are assured; <sup>2</sup>[\*\*\*]
- <sup>3</sup>[(ca) be the repository of all Electronic Signature Certificates issued under this Act;
- (cb) publish information regarding its practices, Electronic Signature Certificates and current status of such certificates; and.]
- (d) observe such other standards as may be specified by regulations.

1. Substituted vide Information Technology (Amendment) Act, 2008 (Act No. 10 of 2009) w.e.f. 27.10.2009 Previous text was :- "digital signatures"

2. Omitted vide Information Technology (Amendment) Act, 2008 (Act No. 10 of 2009) w.e.f. 27.10.2009 Prior to omission text read as under :- "and"

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

#### Section 31 : Certifying Authority to ensure compliance of the Act, etc

Every Certifying Authority shall ensure that every person employed or otherwise engaged by it complies, in the course of his employment or engagement, with the provisions of this Act, rules, regulations or orders made thereunder.

#### Section 32 : Display of licence

Every Certifying Authority shall display its licence at a conspicuous place of the premises in which it carries on its business.

#### Section 33 : Surrender of licence

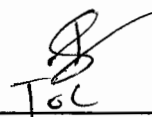
(1) Every Certifying Authority whose licence is suspended or revoked shall immediately after such suspension or revocation, surrender the licence to the Controller.

(2) Where any Certifying Authority fails to surrender a licence under subsection (1), the person in whose favour a licence is issued, shall be guilty of an offence and shall be punished with imprisonment which may extend up to six months or a fine which may extend up to ten thousand rupees or with both.

#### Section 34 : Disclosure

(1) Every Certifying Authority shall disclose in the manner specified by regulations--

- (a) its <sup>1</sup>[Electronic Signature] Certificate <sup>2</sup>[\*\*\*]
- (b) any certification practice statement relevant thereto;
- (c) notice of the revocation or suspension of its Certifying Authority certificate, if any; and
- (d) any other fact that materially and adversely affects either the reliability of a <sup>1</sup>[Electronic Signature] Certificate, which that Authority has issued, or the Authority's ability to perform its services.

  
TGC

(2) Where in the opinion of the Certifying Authority any event has occurred or any situation has arisen which may materially and adversely affect the integrity of its computer system or the conditions subject to which a <sup>1</sup>[Electronic Signature] Certificate was granted, then, the Certifying Authority shall--

- (a) use reasonable efforts to notify any person who is likely to be affected by that occurrence; or
- (b) act in accordance with the procedure specified in its certification practice statement to deal with such event or situation.

---

1. Substituted vide Information Technology (Amendment) Act, 2008 (Act No. 10 of 2009) w.e.f. 27.10.2009 Previous text was :- "digital Signature"

2. Omitted vide Information Technology (Amendment) Act, 2008 (Act No. 10 of 2009) w.e.f. 27.10.2009 Previous text was :-

"which contains the public key corresponding to the private key used by that Certifying Authority to digitally sign another Electronic Signature Certificate;"

#### Section 35 : Certifying authority to issue Electronic Signature Certificate

(1) Any person may make an application to the Certifying Authority for the issue of a <sup>1</sup>[Electronic Signature] Certificate in such form as may be prescribed by the Central Government.

(2) Every such application shall be accompanied by such fee not exceeding twenty-five thousand rupees as may be prescribed by the Central Government, to be paid to the Certifying Authority:

Provided that while prescribing fees under sub-section (2) different fees may be prescribed for different classes of applicants.

(3) Every such application shall be accompanied by a certification practice statement or where there is no such statement, a statement containing such particulars, as may be specified by regulations.

(4) On receipt of an application under sub-section (1), the Certifying Authority may, after consideration of the certification practice statement or the other statement under sub-section (3) and after making such enquiries as it may deem fit, grant the <sup>1</sup>[Electronic Signature] Certificate or for reasons to be recorded in writing, reject the application:

<sup>2</sup>[\*\*\*]

<sup>3</sup>[Provided] that no application shall be rejected unless the applicant has been given a reasonable opportunity of showing cause against the proposed rejection.

---


1. Substituted vide Information Technology (Amendment) Act, 2008 (Act No. 10 of 2009) w.e.f. 27.10.2009 Previous text was:- "digital signature"

2. Omitted vide Information Technology (Amendment) Act, 2008 (Act No. 10 of 2009) w.e.f. 27.10.2009 Previous text was:-

"Provided that no <sup>1</sup>[Electronic] Signature Certificate shall be granted unless the Certifying Authority is satisfied that

(a) the applicant holds the private key corresponding to the public key to be listed in the <sup>1</sup>[Electronic Signature] Certificate;

(b) the applicant holds a private key, which is capable of creating a <sup>1</sup>[Electronic signature]

T.C. 

(c) the public key to be listed in the certificate can be used to verify a <sup>1</sup>[Electronic signature] affixed by the private key held by the applicant:"

3. Substituted vide Information Technology (Amendment) Act, 2008 (Act No. 10 of 2009) w.e.f. 27.10.2009 Previous text was:- "Provided further"

### Section 36 : Representations upon issuance of Digital Signature Certificate

A Certifying Authority while issuing a Digital Signature Certificate shall certify that--

- (a) it has complied with the provisions of this Act and the rules and regulations made thereunder;
- (b) it has published the Digital Signature Certificate or otherwise made it available to such person relying on it and the subscriber has accepted it;
- (c) the subscriber holds the private key corresponding to the public key, listed in the Digital Signature Certificate;
- <sup>1</sup>[(ca) the subscriber holds a private key which is capable of creating a digital signature;
- (cb) the public key to be listed in the certificate can be used to verify a digital signature affixed by the private key held by the subscriber;]
- (d) the subscriber's public key and private key constitute a functioning key pair;
- (e) the information contained in the Digital Signature Certificate is accurate; and
- (f) it has no knowledge of any material fact, which if it had been included in the Digital Signature Certificate would adversely affect the reliability of the representations in clauses (a) to (d).

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

### Section 37 : Suspension of Digital Signature Certificate

(1) Subject to the provisions of sub-section (2), the Certifying Authority which has issued a Digital Signature Certificate may suspend such Digital Signature Certificate,—

- (a) on receipt of a request to that effect from—
  - (i) the subscriber listed in the Digital Signature Certificate; or
  - (ii) any person duly authorised to act on behalf of that subscriber;
- (b) if it is of opinion that the Digital Signature Certificate should be suspended in public interest.

(2) A Digital Signature Certificate shall not be suspended for a period exceeding fifteen days unless the subscriber has been given an opportunity of being heard in the matter.

(3) On suspension of a Digital Signature Certificate under this section, the Certifying Authority shall communicate the same to the subscriber.

### Section 38 : Revocation of Digital Signature Certificate

(1) A Certifying Authority may revoke a Digital Signature Certificate issued by it—

- (a) where the subscriber or any other person authorised by him makes a request to that effect; or
- (b) upon the death of the subscriber; or
- (c) upon the dissolution of the firm or winding up of the company where the subscriber is a firm or a company.

(2) Subject to the provisions of sub-section (3) and without prejudice to the provisions of sub-section (1), a Certifying Authority may revoke a Digital Signature Certificate which has been issued by it at any time, if it is of opinion that—

T.C.S

- (a) a material fact represented in the Digital Signature Certificate is false or has been concealed;
- (b) a requirement for issuance of the Digital Signature Certificate was not satisfied;
- (c) the Certifying Authority's private key or security system was compromised in a manner materially affecting the Digital Signature Certificate's reliability;
- (d) the subscriber has been declared insolvent or dead or where a subscriber is a firm or a company, which has been dissolved, wound-up or otherwise ceased to exist.

(3) A Digital Signature Certificate shall not be revoked unless the subscriber has been given an opportunity of being heard in the matter.

(4) On revocation of a Digital Signature Certificate under this section, the Certifying Authority shall communicate the same to the subscriber.

**Section 39 : Notice of suspension or revocation**

(1) Where a Digital Signature Certificate is suspended or revoked under section 37 or section 38, the Certifying Authority shall publish a notice of such suspension or revocation, as the case may be, in the repository specified in the Digital Signature Certificate for publication of such notice.

(2) Where one or more repositories are specified, the Certifying Authority shall publish notices of such suspension or revocation, as the case may be, in all such repositories.

**Section 40 : Generating key pair**

Where any Digital Signature Certificate the public key of which corresponds to the private key of that subscriber which is to be listed in the Digital Signature Certificate has been accepted by a subscriber, <sup>1</sup>[\*\*\*] the subscriber shall generate <sup>2</sup>[that key] pair by applying the security procedure.

1. Word "then" omitted by S.O. 1015 (E), dated 19th September, 2002 (w.e.f. 19-9-2002).

2. Substituted by S.O. 1015 (E), dated 19th September, 2002, for "the key" (w.e.f. 19-9-2002).

**Section 40A : Duties of subscriber of Electronic Signature Certificate**

<sup>1</sup>[In respect of Electronic Signature Certificate the subscriber shall perform such duties as may be prescribed.]

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

**Section 41 : Acceptance of Digital Signature Certificate**

(1) A subscriber shall be deemed to have accepted a Digital Signature Certificate if he publishes or authorises the publication of a Digital Signature Certificate--

- (a) to one or more persons;
- (b) in a repository; or

otherwise demonstrates his approval of the Digital Signature Certificate in any manner.

(2) By accepting a Digital Signature Certificate the subscriber certifies to all who reasonably rely on the information contained in the Digital Signature Certificate that--

- (a) the subscriber holds the private key corresponding to the public key listed in the Digital Signature Certificate and is entitled to hold the same;
- (b) all representations made by the subscriber to the Certifying Authority and all material relevant to the information contained in the Digital Signature Certificate are true;
- (c) all information in the Digital Signature Certificate that is within the knowledge of the subscriber is true.

**Section 42 : Control of private key**

(1) Every subscriber shall exercise reasonable care to retain control of the private key corresponding to the public key listed in his Digital Signature Certificate and take all steps to prevent its disclosure <sup>1</sup>[\*\*\*].

(2) If the private key corresponding to the public key listed in the Digital Signature Certificate has been compromised, then, the subscriber shall communicate the same without any delay to the Certifying Authority in such manner as may be specified by the regulations.

Explanation.--For the removal of doubts, it is hereby declared that the subscriber shall be liable till he has informed the Certifying Authority that the private key has been compromised.

1. Words "to a person not authorized to affix the digital signature of the subscriber" omitted by S.O. 1015 (E), dated 19th September, 2002 (w.e.f. 19-9-2002).

**Section 43 : Penalty and compensation for damage to computer, computer system, etc**

If any person without permission of the owner or any other person who is in charge, of a computer, computer system or computer network,â€"

(a) accesses or secures access to such computer, computer system or computer network; <sup>1</sup>[or computer resource]

(b) downloads, copies or extracts any data, computer data base or information from such computer, computer system or computer network including information or data held or stored in any removable storage medium;

(c) introduces or causes to be introduced any computer contaminant or computer virus into any computer, computer system or computer network;

(d) damages or causes to be damaged any computer, computer system or computer network, data, computer data base or any other programmes residing in such computer, computer system or computer network;

(e) disrupts or causes disruption of any computer, computer system or computer network;

(f) denies or causes the denial of access to any person authorised to access any computer, computer system or computer network by any means;

(g) provides any assistance to any person to facilitate access to a computer, computer system or computer network in contravention of the provisions of this Act, rules or regulations made thereunder;

(h) charges the services availed of by a person to the account of another person by tampering with or manipulating any computer, computer system, or computer network,

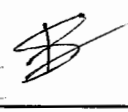
<sup>1</sup>[(i) destroys, deletes or alters any information residing in a computer resource or diminishes its value or utility or affects it injuriously by any means,

(j) steal, conceal, destroys or alters or causes any person to steal, conceal, destroy or alter any computer source code used for a computer resource with an intention to cause damage.]

<sup>2</sup>[he shall be liable to pay damages by way of compensation to the person so affected]

Explanation.â€"For the purposes of this section,â€"

(i) "computer contaminant" means any set of computer instructions that are designedâ€"

Toc 

(a) to modify, destroy, record, transmit data or programme residing within a computer, computer system or computer network; or

(b) by any means to usurp the normal operation of the computer, computer system, or computer network;

(ii) "computer database" means a representation of information, knowledge, facts, concepts or instructions in text, image, audio, video that are being prepared or have been prepared in a formalised manner or have been produced by a computer, computer system or computer network and are intended for use in a computer, computer system or computer network;

(iii) "computer virus" means any computer instruction, information, data or programme that destroys, damages, degrades or adversely affects the performance of a computer resource or attaches itself to another computer resource and operates when a programme, data or instruction is executed or some other event takes place in that computer resource;

(iv) "damage" means to destroy, alter, delete, add, modify or rearrange any computer resource by any means.

<sup>3</sup>[(v) "computer source code" means the listing of programme, computer commands, design and lay out and programme analysis of computer resource in any form.]

- 1. Inserted vide Information Technology (Amendment) Act, 2008 (Act No. 10 of 2009) w.e.f. 27.10.2009.
- 2. Substituted vide Information Technology (Amendment) Act, 2008 (Act No. 10 of 2009) w.e.f. 27.10.2009 previous text was : -  
"he shall be liable to pay damages by way of compensation not exceeding one crore rupees to the person so affected."
- 3. Inserted by Act 10 of 2009, s. 21 (w.e.f. 27-10-2009).

**Section 43A : Compensation for failure to protect data**


<sup>1</sup>[Where a body corporate, possessing, dealing or handling any sensitive personal data or information in a computer resource which it owns, controls or operates, is negligent in implementing and maintaining reasonable security practices and procedures and thereby causes wrongful loss or wrongful gain to any person, such body corporate shall be liable to pay damages by way of compensation to the person so affected.

Explanation.-- For the purposes of this section,--

(i) "body corporate" means any company and includes a firm, sole proprietorship or other association of individuals engaged in commercial or professional activities;

(ii) "reasonable security practices and procedures" means security practices and procedures designed to protect such information from unauthorised access, damage, use, modification, disclosure or impairment, as may be specified in an agreement between the parties or as may be specified in any law for the time being in force and in the absence of such agreement or any law, such reasonable security practices and procedures, as may be prescribed by the Central Government in consultation with such professional bodies or associations as it may deem fit;

(iii) "sensitive personal data or information" means such personal information as may be prescribed by the Central Government in consultation with such professional bodies or associations as it may deem fit.]



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

**Section 44 : Penalty for failure to furnish information, return, etc**

If any person who is required under this Act or any rules or regulations made thereunder to—

- (a) furnish any document, return or report to the Controller or the Certifying Authority fails to furnish the same, he shall be liable to a penalty not exceeding one lakh and fifty thousand rupees for each such failure;
- (b) file any return or furnish any information, books or other documents within the time specified therefore in the regulations fails to file return or furnish the same within the time specified therefore in the regulations, he shall be liable to a penalty not exceeding five thousand rupees for every day during which such failure continues;
- (c) maintain books of account or records fails to maintain the same, he shall be liable to a penalty not exceeding ten thousand rupees for every day during which the failure continues.

**Section 45 : Residuary penalty**

Whoever contravenes any rules or regulations made under this Act, for the contravention of which no penalty has been separately provided, shall be liable to pay a compensation not exceeding twenty-five thousand rupees to the person affected by such contravention or a penalty not exceeding twenty-five thousand rupees.

**Section 46 : Power to adjudicate**

(1) For the purpose of adjudging under this Chapter whether any person has committed a contravention of any of the provisions of this Act or of any rule, regulation, <sup>1</sup>[direction or order made thereunder which renders him liable to pay penalty or compensation] the Central Government shall, subject to the provisions of sub-section (3), appoint any officer not below the rank of a Director to the Government of India or an equivalent officer of a State Government to be an adjudicating officer for holding an inquiry in the manner prescribed by the Central Government.

<sup>2</sup>[(1A) The adjudicating officer appointed under sub-section (1) shall exercise jurisdiction to adjudicate matters in which the claim for injury or damage does not exceed rupees five crore.

Provided that the jurisdiction in respect of the claim for injury or damage exceeding rupees five crores shall vest with the competent court]

(2) The adjudicating officer shall, after giving the person referred to in sub-section (1) a reasonable opportunity for making representation in the matter and if, on such inquiry, he is satisfied that the person has committed the contravention, he may impose such penalty or award such compensation as he thinks fit in accordance with the provisions of that section.

(3) No person shall be appointed as an adjudicating officer unless he possesses such experience in the field of Information Technology and legal or judicial experience as may be prescribed by the Central Government.

(4) Where more than one adjudicating officers are appointed, the Central Government shall specify by order the matters and places with respect to which such officers shall exercise their jurisdiction.

(5) Every adjudicating officer shall have the powers of a civil court which are conferred on the Cyber Appellate Tribunal under sub-section (2) of section 58, and—

(a) all proceedings before it shall be deemed to be judicial proceedings within the meaning of sections 193 and 228 of the Indian Penal Code (45 of 1860);

(b) shall be deemed to be a civil court for the purposes of sections 345 and 346 of the Code of Criminal Procedure, 1973 (2 of 1974).

f e c



<sup>2</sup>[(c) shall be deemed to be a civil court for purposes of Order XXI of the Civil Procedure Code 1908 (5 of 1908).]

1. Substituted vide Information Technology (Amendment) Act, 2008 (Act No. 10 of 2009) w.e.f. 27.10.2009 previous text was : -

"direction or order made thereunder"

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

**Section 47 : Factors to be taken into account by the adjudicating officer**

While adjudging the quantum of compensation under this Chapter, the adjudicating officer shall have due regard to the following factors, namely:â€"

- (a) the amount of gain of unfair advantage, wherever quantifiable, made as a result of the default;
- (b) the amount of loss caused to any person as a result of the default;
- (c) the repetitive nature of the default.

**Section 48 : Appellate Tribunal**

**48. <sup>2</sup>[Appellate Tribunal]**

<sup>3</sup>[(1) The Telecom Disputes Settlement and Appellate Tribunal established under section 14 of the Telecom Regulatory Authority of India Act, 1997 (24 of 1997) shall, on and from the commencement of Part XIV of Chapter VI of the Finance Act, 2017, be the Appellate Tribunal for the purposes of this Act and the said Appellate Tribunal shall exercise the jurisdiction, powers and authority conferred on it by or under this Act.]

(2) The Central Government <sup>4</sup>[shall specify, by notification], the matters and places in relation to which the <sup>5</sup>[Appellate Tribunal] may exercise jurisdiction.

1. Omitted vide Information Technology (Amendment) Act, 2008 (Act No. 10 of 2009) w.e.f. 27.10.2009 previous text was:- "Regulation"

2. Substituted by the Finance Act, 2017 for the following:-"Establishment of Cyber Appellate Tribunal"

3. Substituted by the Finance Act, 2017 for the following:-

"(1) The Central Government shall, by notification, establish one or more appellate tribunals to be known as the Cyber <sup>1</sup>[\*\*\*] Appellate Tribunal."

4. Substituted by the Finance Act, 2017 for the following:-

"shall also specify, in the notification referred to in sub-section (1)"

5. Subs. by Act 7 of 2017, s. 169, for â€•Cyber Appellate Tribunal (w.e.f. 26-5-2017).

**Section 49 : [Omitted]**

<sup>2</sup>[\*\*\*]

1. Substituted vide Information Technology (Amendment) Act, 2008 (Act No. 10 of 2009) w.e.f. 27.10.2009 previous text was :-

A Cyber Appellate Tribunal shall consist of one person only (hereinafter referred to as the Presiding Officer of the Cyber Appellate Tribunal) to be appointed, by notification, by the Central Government.

2. Omitted by the Finance Act, 2017 the previous text was:-

<sup>1</sup>[Composition of Cyber Appellate Tribunal

(1) The Cyber Appellate Tribunal shall consist of a Chairperson and such number of other Members, as the Central Government may, by notification in the Official Gazette, appoint.

Provided that the person appointed as the Presiding Officer of the Cyber Appellate Tribunal under the provisions of this Act immediately before the commencement of the Information Technology (Amendment) Act, 2008 shall be deemed to have been appointed as the Chairperson of the said Cyber Appellate Tribunal under the provisions of this Act as amended by the Information Technology (Amendment) Act, 2008.

(2) The selection of Chairperson and Members of the Cyber Appellate Tribunal shall be made by the Central Government in consultation with the Chief Justice of India.

(3) Subject to the provisions of this Act--

(a) the jurisdiction, powers and authority of the Cyber Appellate Tribunal may be exercised by the Benches thereof;

(b) a Bench may be constituted by the Chairperson of the Cyber Appellate Tribunal with one or two Members of such Tribunal as the Chairperson may deem fit.

(c) the Benches of the Cyber Appellate Tribunal shall sit at New Delhi and at such other places as the Central Government may, in consultation with the Chairperson of the Cyber Appellate Tribunal, by notification in the Official Gazette, specify;

(d) the Central Government shall, by notification in the Official Gazette, specify the areas in relation to which each Bench of the Cyber Appellate Tribunal may exercise its jurisdiction.

(4) Notwithstanding anything contained in sub-section (3), the Chairperson of the Cyber Appellate Tribunal may transfer a Member of such Tribunal from one Bench to another Bench.

(5) If at any stage of the hearing of any case or matter it appears to the Chairperson or a Member of the Cyber Appellate Tribunal that the case or matter is of such a nature that it ought to be heard by a Bench consisting of more Members, the case or matter may be transferred by the Chairperson to such Bench as the Chairperson may deem fit.]

**Section 50 : [Omitted]**

<sup>2</sup>[\*\*\*]

1. Substituted vide Information Technology (Amendment) Act, 2008<sup>Å</sup> (Act No. 10 of 2009) w.e.f. 27.10.2009 previous text was :-


"A person shall not be qualified for appointment as the Presiding Officer of a Cyber Appellate Tribunal unless he<sup>â</sup>"

(a) is, or has been, or is qualified to be, a Judge of a High Court; or

(b) is, or has been, a member of the Indian Legal Service and is holding or has held a post in Grade I of that Service for at least three years."

2. Omitted by the Finance Act, 2017 the previous text was:-

<sup>1</sup>[Qualifications for appointment as Chairperson and Members of Cyber Appellate Tribunal



(1) A person shall not be qualified for appointment as a Chairperson of the Cyber Appellate Tribunal unless he is, or has been, or is qualified to be, a Judge of a High Court.

(2) The Members of the Cyber Appellate Tribunal, except the Judicial Member to be appointed under sub-section (3), shall be appointed by the Central Government from amongst persons, having special knowledge of, and professional experience in, information technology, telecommunication, industry, management or consumer affairs:

Provided that a person shall not be appointed as a Member, unless he is, or has been, in the service of the Central Government or a State Government and has held the post of Additional Secretary to the Government of India or any equivalent post in the Central Government or State Government for a period of not less than one year or Joint Secretary to the Government of India or any equivalent post in the Central Government or State Government for a period of not less than seven years.

(3) The Judicial Members of the Cyber Appellate Tribunal shall be appointed by the Central Government from amongst persons who is or has been a member of the Indian Legal Service and has held the post of Additional Secretary for a period of not less than one year or Grade I post of that Service for a period of not less than five years.]

**Section 51 : [Omitted]**

2[\*\*\*]

1. Substituted vide Information Technology (Amendment) Act, 2008 (Act No. 10 of 2009) w.e.f. 27.10.2009 previous text was:-

"The Presiding Officer of a Cyber Appellate Tribunal shall hold office for a term of five years from the date on which he enters upon his office or until he attains the age of sixty-five years whichever is earlier."

2. Omitted by the Finance Act, 2017 the previous text was:-

<sup>1</sup>[Term of office, conditions of service, etc., of Chairperson and Members

(1) The Chairperson or Member of the Cyber Appellate Tribunal shall hold office for a term of five years from the date on which he enters upon his office or until he attains the age of sixty-five years, whichever is earlier

(2) Before appointing any person as the Chairperson or Member of the Cyber Appellate Tribunal, the Central Government shall satisfy itself that the person does not have any such financial or other interest as is likely to affect prejudicially his functions as such Chairperson or Member.

(3) An officer of the Central Government or State Government on his selection as the Chairperson or Member of the Cyber Appellate Tribunal, as the case may be, shall have to retire from service before joining as such Chairperson or Member.]"

**Section 52 : [Omitted]**

2[\*\*\*]

1. Substituted vide Information Technology (Amendment) Act, 2008 (Act No. 10 of 2009) w.e.f. 27.10.2009 previous text was:-

"The salary and allowances payable to, and the other terms and conditions of service including pension, gratuity and other retirement benefits of, the Presiding Officer of a Cyber Appellate Tribunal shall be such as may be prescribed:

Provided that neither the salary and allowances nor the other terms and conditions of service of the Presiding Officers shall be varied to his disadvantage after appointment."

2. Omitted by the Finance Act, 2017 the previous text was:-

*to*

<sup>1</sup>[Salary, allowances and other terms and conditions of service of Chairperson and Members

The salary and allowances payable to, and the other terms and conditions of service including pension, gratuity and other retirement benefits of, the Chairperson or a Member of the Cyber Appellate Tribunal shall be such as may be prescribed.]

**Section 52A : [Omitted]**

<sup>2</sup>[\*\*\*]

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

2. Omitted by the Finance Act, 2017 the previous text was:-

"Powers of superintendence, direction, etc.

<sup>1</sup>[The Chairperson of the Cyber Appellate Tribunal shall have powers of general superintendence and directions in the conduct of the affairs of that Tribunal and he shall, in addition to presiding over the meetings of the Tribunal, exercise and discharge such powers and functions of the Tribunal as may be prescribed.

**Section 52B : [Omitted]**

<sup>2</sup>[\*\*\*]

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

2. Omitted by the Finance Act, 2017 the previous text was:-

<sup>1</sup>[Distribution of business among Benches

Where Benches are constituted, the Chairperson of the Cyber Appellate Tribunal may, by order, distribute the business of that Tribunal amongst the Benches and also the matters to be dealt with by each Bench.

**Section 52C : [Omitted]**

<sup>2</sup>[\*\*\*]

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

2. Omitted by the Finance Act, 2017 the previous text was:-

"52C. Power of Chairperson to transfer cases

<sup>1</sup>[On the application of any of the parties and after notice to the parties, and after hearing such of them as he may deem proper to be heard, or suo motu without such notice, the Chairperson of the Cyber Appellate Tribunal may transfer any case pending before one Bench, for disposal to any other Bench.]"

**Section 52D : Decision by majority**

<sup>1</sup>[If the Members of a Bench consisting of two Members differ in opinion on any point, they shall state the point or points on which they differ, and make a reference to the Chairperson of the Cyber Appellate Tribunal who shall hear the point or points himself and such point or points shall be decided according to the opinion of the majority of the Members who have heard the case, including those who first heard it.]

*[Handwritten signature]*  
TCC

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

**Section 53 : [Omitted]**

<sup>2</sup>[\*\*\*]

1. Substituted vide Information Technology (Amendment) Act, 2008 (Act No. 10 of 2009) w.e.f. 27.10.2009 previous text was:- "Presiding Officer"

2. Omitted by the Finance Act, 2017 the previous text was:-

"Filling up of vacancies

If, for reason other than temporary absence, any vacancy occurs in the office of the <sup>1</sup>[Chairperson or Member, as the case may be] of a Cyber Appellate Tribunal, then the Central Government shall appoint another person in accordance with the provisions of this Act to fill the vacancy and the proceedings may be continued before the Cyber Appellate Tribunal from the stage at which the vacancy is filled."

**Section 54 : [Omitted]**

<sup>2</sup>[\*\*\*]

1. Substituted vide Information Technology (Amendment) Act, 2008 (Act No. 10 of 2009) w.e.f. 27.10.2009 previous text was : - "Presiding Officer"

2. Omitted by the Finance Act, 2017 the previous text was:-

"54. Resignation and removal

(1) The Presiding Officer of a Cyber Appellate Tribunal may, by notice in writing under his hand addressed to the Central Government, resign his office:

Provided that the said <sup>1</sup>[Chairperson or the Member] shall, unless he is permitted by the Central Government to relinquish his office sooner, continue to hold office until the expiry of three months from the date of receipt of such notice or until a person duly appointed as his successor enters upon his office or until the expiry of his term of office, whichever is the earliest.

(2) The <sup>1</sup>[Chairperson or the Member] of a Cyber Appellate Tribunal shall not be removed from his office except by an order by the Central Government on the ground of proved misbehavior or incapacity after an inquiry made by a Judge of the Supreme Court in which the <sup>1</sup>[Chairperson or the Member] concerned has been informed of the charges against him and given a reasonable opportunity of being heard in respect of these charges.

(3) The Central Government may, by rules, regulate the procedure for the investigation of misbehavior or incapacity of the aforesaid <sup>1</sup>[Chairperson or the Member]."

**Section 55 : Orders constituting Appellate Tribunal to be final and not to invalidate its proceedings**

No order of the Central Government appointing any person as the <sup>1</sup>[Chairperson or the Member] of a <sup>2</sup>[Appellate Tribunal] shall be called in question in any manner and no act or proceeding before a <sup>2</sup>[Appellate Tribunal] shall be called in question in any manner on the ground merely of any defect in the constitution of a <sup>2</sup>[Appellate Tribunal].

*[Handwritten signature]*

1. Substituted vide Information Technology (Amendment) Act, 2008 (Act No. 10 of 2009) w.e.f. 27.10.2009 previous text was :- "Presiding Officer"

2. Substituted by Act 7 of 2017, s, 169, for "Cyber Appellate Tribunal" (w.e.f. 26-5-2017).

**Section 56 : [Omitted]**

<sup>2</sup>[\*\*\*]

1. Substituted vide Information Technology (Amendment) Act, 2008 (Act No. 10 of 2009) w.e.f. 27.10.2009 previous text was :- "Presiding Officer"

2. Omitted by the Finance Act, 2017 the previous text was:-

"56. Staff of the Cyber Appellate Tribunal

(1) The Central Government shall provide the Cyber Appellate Tribunal with such officers and employees as that Government may think fit.

(2) The officers and employees of the Cyber Appellate Tribunal shall discharge their functions under general superintendence of the <sup>1</sup>[Chairperson].

(3) The salaries, allowances and other conditions of service of the officers and employees of the Cyber Appellate Tribunal shall be such as may be prescribed by the Central Government."

**Section 57 : Appeal to Appellate Tribunal**

(1) Save as provided in sub-section (2), any person aggrieved by an order made by controller or an adjudicating officer under this Act may prefer an appeal to a <sup>1</sup>[Appellate Tribunal] having jurisdiction in the matter.

(2) No appeal shall lie to the <sup>1</sup>[Appellate Tribunal] from an order made by an adjudicating officer with the consent of the parties.

(3) Every appeal under sub-section (1) shall be filed within a period of forty-five days from the date on which a copy of the order made by the Controller or the adjudicating officer is received by the person aggrieved and it shall be in such form and be accompanied by such fee as may be prescribed:

Provided that the <sup>1</sup>[Appellate Tribunal] may entertain an appeal after the expiry of the said period of forty-five days if it is satisfied that there was sufficient cause for not filing it within that period.

(4) On receipt of an appeal under sub-section (1), the <sup>1</sup>[Appellate Tribunal] may, after giving the parties to the appeal, an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or setting aside the order appealed against.

(5) The <sup>1</sup>[Appellate Tribunal] shall send a copy of every order made by it to the parties to the appeal and to the concerned Controller or adjudicating officer.

(6) The appeal filed before the <sup>1</sup>[Appellate Tribunal] under sub-section (1) shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to dispose of the appeal finally within six months from the date of receipt of the appeal.

1. Subs. by Act 7 of 2017, s, 169, for "Cyber Appellate Tribunal" (w.e.f. 26-5-2017).



**Section 58 : Procedure and powers of the Appellate Tribunal**

(1) The <sup>1</sup>[Appellate Tribunal] shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908 (5 of 1908), but shall be guided by the principles of natural justice and, subject to the other provisions of this Act and of any rules, the <sup>1</sup>[Appellate Tribunal] shall have powers to regulate its own procedure including the place at which it shall have its sittings.

(2) The <sup>1</sup>[Appellate Tribunal] shall have, for the purposes of discharging its functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit, in respect of the following matters, namely:â€”

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of documents or other electronic records;
- (c) receiving evidence on affidavits;
- (d) issuing commissions for the examination of witnesses or documents;
- (e) reviewing its decisions;
- (f) dismissing an application for default or deciding it ex parte;
- (g) any other matter which may be prescribed.

(3) Every proceeding before the <sup>1</sup>[Appellate Tribunal] shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purposes of section 196 of the Indian Penal Code (45 of 1860) and the <sup>1</sup>[Appellate Tribunal] shall be deemed to be a civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974).

1. Subs. by Act 7 of 2017, s, 169, for "Cyber Appellate Tribunal" (w.e.f. 26-5-2017).

**Section 59 : Right to legal representation**

The appellant may either appear in person or authorise one or more legal practitioners or any of its officers to present his or its case before the <sup>1</sup>[Appellate Tribunal].

1. Subs. by Act 7 of 2017, s, 169, for "Cyber Appellate Tribunal" (w.e.f. 26-5-2017).

**Section 60 : Limitation**

The provisions of the Limitation Act, 1963 (36 of 1963), shall, as far as may be, apply to an appeal made to the <sup>1</sup>[Appellate Tribunal].

1. Subs. by Act 7 of 2017, s, 169, for "Cyber Appellate Tribunal" (w.e.f. 26-5-2017).

**Section 61 : Civil court not to have jurisdiction**

No court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which an adjudicating officer appointed under this Act or the <sup>1</sup>[Appellate Tribunal] constituted under this Act is empowered by or under this Act to determine and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

*Handwritten signature*  
T.C.

1. Subs. by Act 7 of 2017, s, 169, for "Cyber Appellate Tribunal" (w.e.f. 26-5-2017).

**Section 62 : Appeal to High Court**

Any person aggrieved by any decision or order of the <sup>1</sup>[Appellate Tribunal] may file an appeal to the High Court within sixty days from the date of communication of the decision or order of the <sup>1</sup>[Appellate Tribunal] to him on any question of fact or law arising out of such order:

Provided that the High Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days.

1. Subs. by Act 7 of 2017, s, 169, for "Cyber Appellate Tribunal" (w.e.f. 26-5-2017).

**Section 63 : Compounding of contraventions**

(1) Any contravention under this <sup>1</sup>[Act] may, either before or after the institution of adjudication proceedings, be compounded by the Controller or such other officer as may be specially authorised by him in this behalf or by the adjudicating officer, as the case may be, subject to such conditions as the Controller or such other officer or the adjudicating officer may specify:

Provided that such sum shall not, in any case, exceed the maximum amount of the penalty which may be imposed under this Act for the contravention so compounded.

(2) Nothing in sub-section (1) shall apply to a person who commits the same or similar contravention within a period of three years from the date on which the first contravention, committed by him, was compounded.

Explanation.-For the purposes of this sub-section, any second or subsequent contravention committed after the expiry of a period of three years from the date on which the contravention was previously compounded shall be deemed to be a first contravention.

(3) Where any contravention has been compounded under sub-section (1), no proceeding or further proceeding, as the case may be, shall be taken against the person guilty of such contravention in respect of the contravention so compounded.

1. Substituted by S.O. 1015 (E), dated 19th September, 2002, for "chapter" (w.e.f. 19-9-2002).

**Section 64 : Recovery of penalty**

A <sup>2</sup>[penalty imposed or compensation awarded] under this Act, if it is not paid, shall be recovered as an arrear of land revenue and the licence or the <sup>1</sup>[Electronic Signature] Certificate, as the case may be, shall be suspended till the penalty is paid.

1. Substituted vide Information Technology (Amendment) Act, 2008 (Act No. 10 of 2009) w.e.f. 27.10.2009 Previous text was:- "digital Signature"

2. Substituted vide Information Technology (Amendment) Act, 2008 (Act No. 10 of 2009) w.e.f. 27.10.2009 Previous text was:- "penalty imposed"

**Section 65 : Tampering with computer source documents**

Whoever knowingly or intentionally conceals, destroys or alters or intentionally or knowingly causes another to





conceal, destroy, or alter any computer source code used for a computer, computer programme, computer system or computer network, when the computer source code is required to be kept or maintained by law for the time being in force, shall be punishable with imprisonment up to three years, or with fine which may extend up to two lakh rupees, or with both.

Explanation.â€"For the purposes of this section, "computer source code" means the listing of programmes, computer commands, design and layout and programme analysis of computer resource in any form.

**Section 66 : Computer related offences**

<sup>1</sup>[If any person, dishonestly or fraudulently, does any act referred to in section 43, he shall be punishable with imprisonment for a term which may extend to three years or with fine which may extend to five lakh rupees or with both.

Explanation.-- For the purposes of this section,--

(a) the word "dishonestly" shall have the meaning assigned to it in section 24 of the Indian Penal Code;(45 of 1860).

(b) the word "fraudulently" shall have the meaning assigned to it in section 25 of the Indian Penal Code(45 of 1860).]

1. Substituted vide Information Technology (Amendment) Act, 2008 (Act No. 10 of 2009) w.e.f. 27.10.2009 previous text was : -

"(1) Whoever with the intent to cause or knowing that he is likely to cause wrongful loss or damage to the public or any person destroys or deletes or alters any information residing in a computer resource or diminishes its value or utility or affects it injuriously by any means, commits hacking.

(2) Whoever commits hacking shall be punished with imprisonment up to three years, or with fine which may extend upto two lakh rupees, or with both."

**Section 66A : Punishment for sending offensive messages through communication service, etc.**

**\*66A. Punishment for sending offensive messages through communication service, etc.**

<sup>1</sup>[Any person who sends, by means of a computer resource or a communication device,-

(a) any information that is grossly offensive or has menacing character; or

(b) any information which he knows to be false, but for the purpose of causing annoyance, inconvenience, danger, obstruction, insult, injury, criminal intimidation, enmity, hatred or ill will, persistently by making use of such computer resource or a communication device,

(c) any electronic mail or electronic mail message for the purpose of causing annoyance or inconvenience or to deceive or to mislead the addressee or recipient about the origin of such messages,

shall be punishable with imprisonment for a term which may extend to three years and with fine.

'Explanation.- For the purpose of this section, terms "electronic mail" and "electronic mail message" means a message or information created or transmitted or received on a computer, computer system, computer resource or communication device including attachments in text, images, audio, video and any other electronic record, which may be transmitted with the message.

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

\* Held Unconstitutional by SC Judgment MANU/SC/0329/2015

**Section 66B : Punishment for dishonestly receiving stolen computer resource or communication device**

<sup>1</sup>[Whoever dishonestly received or retains any stolen computer resource or communication device knowing or having reason to believe the same to be stolen computer resource or communication device, shall be punished with imprisonment of either description for a term which may extend to three years or with fine which may extend to rupees one lakh or with both.]

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

**Section 66C : Punishment for identity theft**

<sup>1</sup>[Whoever, fraudulently or dishonestly make use of the electronic signature, password or any other unique identification feature of any other person, shall be punished with imprisonment of either description for a term which may extend to three years and shall also be liable to fine with may extend to rupees one lakh Rupees.]

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

**Section 66D : Punishment for cheating by personation by using computer resource**

<sup>1</sup>[Whoever, by means for any communication device or computer resource cheats by personating, shall be punished with imprisonment of either description for a term which may extend to three years and shall also be liable to fine which may extend to one lakh rupee.Â ]

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

**Section 66E : Punishment for violation of privacy**

<sup>1</sup>[Whoever, intentionally or knowingly captures, publishes or transmits the image of a private area of any person without his or her consent, under circumstances violating the privacy of that person, shall be punished with imprisonment which may extend to three years or with fine not exceeding two lakh rupees, or with both.]

Explanation.- For the purposes of this section-

- (a) "transmit" means to electronically send a visual image with the intent that it be viewed by a person or persons;
- (b) "capture", with respect to an image, means to videotape, photograph, film or record by any means;
- (c) "private area" means the naked or undergarment clad genitals, public area, buttocks or female breast;
- (d) "publishes" means reproduction in the printed or electronic form and making it available for public;
- (e) "under circumstances violating privacy" means circumstances in which a person can have a reasonable expectation that-

- (i) he or she could disrobe in privacy, without being concerned that an image of his private

*J*  
*T*

area was being captured; or

(ii) any part of his or her private area would not be visible to the public, regardless of whether that person is in a public or private place.

---

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

**Section 66F : Punishment for cyber terrorism**

<sup>1</sup>[(1) Whoever,-

(A) with intent to threaten the unity, integrity, security or sovereignty of India or to strike terror in the people or any section of the people by-

(i) denying or cause the denial of access to any person authorized to access computer resource; or

(ii) attempting to penetrate or access a computer resource without authorisation or exceeding authorised access; or

(iii) introducing or causing to introduce any computer contaminant; and by means of such conduct causes or is likely to cause death or injuries to persons or damage to or destruction of property or disrupts or knowing that it is likely to cause damage or disruption of supplies or services essential to the life of the community or adversely affect the critical information infrastructure specified under section 70, or

(B) knowingly or intentionally penetrates or accesses a computer resource without authorisation or exceeding authorised access, and by means of such conduct obtains access to information, data or computer database that is restricted for reasons for the security of the State or foreign relations, or any restricted information, data or computer database, with reasons to believe that such information, data or computer database so obtained may be used to cause or likely to cause injury to the interests of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality, or in relation to contempt of court, defamation or incitement to an offence, or to the advantage of any foreign nation, group of individuals or otherwise, commits the offence of cyber terrorism.

(2) Whoever commits or conspires to commit cyber terrorism shall be punishable with imprisonment which may extend to imprisonment for life.]

---

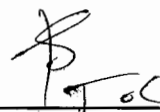
1. Inserted vide Information Technology (Amendment) Act, 2008 (Act No. 10 of 2009) w.e.f. 27.10.2009.

**Section 67 : Punishment for publishing or transmitting obscene material in electronic form**

<sup>1</sup>[Whoever publishes or transmits or causes to be published or transmitted in the electronic form, any material which is lascivious or appeals to the prurient interest or if its effect is such as to tend to deprave and corrupt persons who are likely, having regard to all relevant circumstances, to read, see or hear the matter contained or embodied in it, shall be punished on first conviction with imprisonment of either description for a term which may extend to three years and with fine which may extend to five lakh rupees and in the event of second or subsequent conviction with imprisonment of either description for a term which may extend to five years and also with fine which may extend to ten lakh rupees.

---

1. Substituted vide Information Technology (Amendment) Act, 2008 (Act No. 10 of 2009) w.e.f. 27.10.2009 previous text was :-



"Whoever publishes or transmits or causes to be published in the electronic form, any material which is lascivious or appeals to the prurient interest or if its effect is such as to tend to deprave and corrupt persons who are likely, having regard to all relevant circumstances, to read, see or hear the matter contained or embodied in it, shall be punished on first conviction with imprisonment of either description for a term which may extend to five years and with fine which may extend to one lakh rupees and in the event of a second or subsequent conviction with imprisonment of either description for a term which may extend to ten years and also with fine which may extend to two lakh rupees."

**Section 67A : Punishment for publishing or transmitting of material containing sexually explicit act, etc., In electronic form**

<sup>1</sup>[Whoever publishes or transmits or causes to be published or transmitted in the electronic form any material which contains sexually explicit act or conduct shall be punished on first conviction with imprisonment of either description for a term which may extend to five years and with fine which may extend to ten lakh rupees and in the event of second or subsequent conviction with imprisonment of either description for a term which may extend to seven years and also with fine which may extend to ten lakh rupees.


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

**Section 67B : Punishment for publishing or transmitting of material depicting children in sexually explicit act, etc., in electronic form**

<sup>1</sup>[Whoever,-

- (a) publishes or transmits or causes to be published or transmitted material in any electronic form which depicts children engaged in sexually explicit act or conduct; or
- (b) creates text or digital images, collects, seeks, browses, downloads, advertises, promotes, exchanges or distributes material in any electronic form depicting children in obscene or indecent or sexually explicit manner; or
- (c) cultivates, entices or induces children to online relationship with one or more children for and on sexually explicit act or in a manner that may offend a reasonable adult on the computer resource; or
- (d) facilitates abusing children online, or
- (e) records in any electronic form own abuse or that of others pertaining to sexually explicit act with children, shall be punished on first conviction with imprisonment of either description for a term which may extend to five years and with fine which may extend to ten lakh rupees and in the event of second or subsequent conviction with imprisonment of either description for a term which may extend to seven years and also with fine which may extend to ten lakh rupees: Provided that provisions of section 67, section 67A and this section does not extend to any book, pamphlet, paper, writing, drawing, painting representation or figure in electronic form-
  - (i) the publication of which is proved to be justified as being for the public good on the ground that such book, pamphlet, paper, writing drawing, painting representation or figure is the interest of science, literature, art or learning or other objects of general concern; or
  - (ii) which is kept or used for bonafide heritage or religious purposes.

Explanation- For the purposes of this section "children" means a persons who has not completed the age of 18 years.]

  
T6C

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

### Section 67C : Preservation and retention of information by intermediaries

<sup>1</sup>[(1) Intermediary shall preserve and retain such information as may be specified for such duration and in such manner and format as the Central Government may prescribe.

(2) any intermediary who intentionally or knowingly contravenes the provisions of sub-section (1) shall be punished with an imprisonment for a term which may extend to three years and also be liable to fine.]

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

### Section 68 : Power of Controller to give directions

(1) The Controller may, by order, direct a Certifying Authority or any employee of such Authority to take such measures or cease carrying on such activities as specified in the order if those are necessary to ensure compliance with the provisions of this Act, rules or any regulations made thereunder.

<sup>1</sup>[(2) Any person who intentionally or knowingly fails to comply with any order under sub-section (1) shall be guilty of an offence and shall be liable on conviction to imprisonment for a term not exceeding two years or a fine not exceeding one lakh rupees or both.]

1. Substituted vide Information Technology (Amendment) Act, 2008 (Act No. 10 of 2009) w.e.f. 27.10.2009 previous text was : -

"(2) Any person who fails to comply with any order under sub-section (1) shall be guilty of an offence and shall be liable on conviction to imprisonment for a term not exceeding three years or to a fine not exceeding two lakh rupees or to both."

### Section 69 : Power to issue directions for interception or monitoring or decryption of any information through any computer resource

<sup>1</sup>[(1) Where the Central Government or a State Government or any of its officer specially authorised by the Central Government or the State Government, as the case may be, in this behalf may, if satisfied that it is necessary or expedient so to do in the interest of the sovereignty or integrity of India, defence of India, security of the State, friendly relations with foreign States or public order or for preventing incitement to the commission of any cognizable offence relating to above or for investigation of any offence, it may subject to the provisions of sub-section (2), for reasons to be recorded in writing, by order, direct any agency of the appropriate Government to intercept, monitor or decrypt or cause to be intercepted or monitored or decrypted any information generated, transmitted, received or stored in any computer resource.

(2) The procedure and safeguards subject to which such interception or monitoring or decryption may be carried out, shall be such as may be prescribed.

(3) The subscriber or intermediary or any person in-charge of the computer resource shall, when called upon by any agency referred to in sub-section (1), extend all facilities and technical assistance to-

(a) provide access to or secure access to the computer resource generating transmitting, receiving or storing such information; or

(b) intercept, monitor, or decrypt the information, as the case may be; or

(c) provide information stored in computer resource.

(4) The subscriber or intermediary or any person who fails to assist the agency referred to in sub-section (3) shall be

*TSC*

punished with imprisonment for a term which may extend to seven years and shall also be liable to fine.]

1. Substituted vide Information Technology (Amendment) Act, 2008 (Act No. 10 of 2009) w.e.f. 27.10.2009 previous text was :-

"(1) If the Controller is satisfied that it is necessary or expedient so to do in the interest of the sovereignty or integrity of India, the security of the State, friendly relations with foreign States or public order or for preventing incitement to the commission of any cognizable offence, for reasons to be recorded in writing, by order, direct any agency of the Government to intercept any information transmitted through any computer resource.

(2) The subscriber or any person incharge of the computer resource shall, when called upon by any agency which has been directed under sub-section (1), extend all facilities and technical assistance to decrypt the information.

(3) The subscriber or any person who fails to assist the agency referred to in subsection (2) shall be punished with an imprisonment for a term which may extend to seven years."

**Section 69A : Power to issue directions for blocking for public access of any information through any computer resource**

<sup>1</sup>[(1) Where the Central Government or any of its officers specially authorised by it in this behalf is satisfied that it is necessary or expedient so to do in the interest of sovereignty and integrity of India, defence of India, security of the State, friendly relations with foreign States or public order or for preventing incitement to the commission of any cognizable offence relating to above, it may subject to the provisions of sub-section (2) for reasons to be recorded in writing, by order, direct any agency of the Government or intermediary to block for access by the public or cause to be blocked for access by the public any information generated, transmitted, received, stored or hosted in any computer resource.

(2) The procedure and safeguards subject to which such blocking for access by the public may be carried out, shall be such as may be prescribed.

(3) The intermediary who fails to comply with the direction issued under sub-section (1) shall be punished with an imprisonment for a term which may extend to seven years and also be liable to fine.

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

**Section 69B : Power to authorise to monitor and collect traffic data or information through any computer resource for cyber security**

<sup>1</sup>[(1) The Central Government may, to enhance cyber security and for identification, analysis and prevention of intrusion or spread of computer contaminant in the country, by notification in the Official Gazette, authorise any agency of the Government to monitor and collect traffic data or information generated, transmitted, received or stored in any computer resource.

(2) The intermediary or any person in-charge of the computer resource shall, when called upon by the agency which has been authorised under sub-section (1), provide technical assistance and extend all facilities to such agency to enable online access or to secure and provide online access to the computer resource generating, transmitting, receiving or storing such traffic data or information.

(3) The procedure and safeguards for monitoring and collecting traffic data or information, shall be such as may be prescribed.

(4) Any intermediary who intentionally or knowingly contravenes the provisions of sub-section (2) shall be punished with an imprisonment for a term which any extend to three years and shall also be liable to fine.

*Toc*

Explanation.-For the purposes of this section,-

(i) "computer contaminant" shall have the meaning assigned to it in section 43;

(ii) "traffic data" means any data identifying or purporting to identify any person, computer system or computer network or location to or from which the communication is or may be transmitted and includes communications origin, destination, route, time, data, size, duration or type of underlying service and any other information.]

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

### Section 70 : Protected system

<sup>1</sup>[(1) The appropriate Government may, by notification in the Official Gazette, declare any computer resource which directly or indirectly affects the facility of Critical Information Infrastructure, to be a protected system.

Explanation.-- For the purposes of this section, "Critical Information Infrastructure" means the computer resource, the incapacitation or destruction of which, shall have debilitating impact on national security, economy, public health or safety.]

(2) The appropriate Government may, by order in writing, authorise the persons who are authorised to access protected systems notified under sub-section (1).

(3) Any person who secures access or attempts to secure access to a protected system in contravention of the provisions of this section shall be punished with imprisonment of either description for a term which may extend to ten years and shall also be liable to fine.

<sup>2</sup>[(4) The Central Government shall prescribe the information security practices and procedures for such protected system.]

1. Substituted vide Information Technology (Amendment) Act, 2008 (Act No. 10 of 2009) w.e.f. 27.10.2009 previous text was :-

(1) The appropriate Government may, by notification in the Official Gazette, declare that any computer, computer system or computer network to be a protected system.

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

### Section 70A : National nodal agency

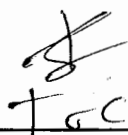
<sup>1</sup>[(1) The Central Government may, by notification published in the Official Gazette, designate any organisation of the Government as the national nodal agency in respect of Critical Information Infrastructure Protection.

(2) The national nodal agency designated under sub-section (1) shall be responsible for all measures including Research and Development relating to protection of Critical Information Infrastructure.

(3) The manner of performing functions and duties of the agency referred to in sub-section (1) shall be such as may be prescribed.

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

### Section 70B : Indian Computer Emergency Response Team to serve as national agency for incident response

  
T & C

<sup>1</sup>[(1) The Central Government shall, by notification in the Official Gazette, appoint an agency of the Government to be called the Indian Computer Emergency Response Team.

(2) The Central Government shall provide the agency referred to in sub-section (1) with a Director General and such other officers and employees as may be prescribed.

(3) The salary and allowances and terms and conditions of the Director General and other officers and employees shall be such as may be prescribed.

(4) The Indian Computer Emergency Response Team shall serve as the national agency for performing the following functions in the area of cyber security,-

- (a) collection, analysis and dissemination of information on cyber incidents;
- (b) forecast and alerts of cyber security incidents;
- (c) emergency measures for handling cyber security incidents;
- (d) coordination of cyber incidents response activities;
- (e) issue guidelines, advisories, vulnerability notes and white papers relating to information security practices, procedures, prevention, response and reporting of cyber incidents;
- (f) such other functions relating to cyber security as may be prescribed.

(5) The manner of performing functions and duties of the agency referred to in sub-section (1) shall be such as may be prescribed.

(6) For carrying out the provisions of sub-section (4), the agency referred to in sub-section (1) may call for information and give direction to the service providers, intermediaries, data centers, body corporate and any other person.

(7) Any service provider, intermediaries, data centers, body corporate or person who fails to provide the information called for or comply with the direction under subsection (6), shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to one lakh rupees or with both.

(8) No court shall take cognizance of any offence under this section, except on a complaint made by an officer authorised in this behalf by the agency referred to in sub-section (1).]

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

#### **Section 71 : Penalty for misrepresentation**

Whoever makes any misrepresentation to, or suppresses any material fact from the Controller or the Certifying Authority for obtaining any licence or <sup>1</sup>[Electronic Signature] Certificate, as the case may be, shall be punished with imprisonment for a term which may extend to two years, or with fine which may extend to one lakh rupees, or with both.Â

1. Substituted vide Information Technology (Amendment) Act, 2008 (Act No. 10 of 2009) w.e.f. 27.10.2009 Previous text was:- "digital Signature"

#### **Section 72 : Penalty for Breach of confidentiality and privacy**

Save as otherwise provided in this Act or any other law for the time being in force, if any person who, in pursuance of any

T.C



of the powers conferred under this Act, rules or regulations made thereunder, has secured access to any electronic record, book, register, correspondence, information, document or other material without the consent of the person concerned discloses such electronic record, book, register, correspondence, information, document or other material to any other person shall be punished with imprisonment for a term which may extend to two years, or with fine which may extend to one lakh rupees, or with both.

**Section 72A : Punishment for disclosure of information in breach of lawful contract**

<sup>1</sup>[Save as otherwise provided in this Act or any other law for the time being in force, any person including an intermediary who, while providing services under the terms of lawful contract, has secured access to any material containing personal information about another person, with the intent to cause or knowing that he is likely to cause wrongful loss or wrongful gain discloses, without the consent of the person concerned, or in breach of a lawful contract, such material to any other person, shall be punished with imprisonment for a term which may extend to three years, or with fine which may extend to five lakh rupees, or with both.â€™]

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

**Section 73 : Penalty for publishing Electronic Signature Certificate false in certain particulars**

(1) No person shall publish a <sup>1</sup>[Electronic Signature] Certificate or otherwise make it available to any other person with the knowledge thatâ€™

- (a) the Certifying Authority listed in the certificate has not issued it; or
- (b) the subscriber listed in the certificate has not accepted it; or
- (c) the certificate has been revoked or suspended,â€™

unless such publication is for the purpose of verifying a <sup>1</sup>[Electronic signature] created prior to such suspension or revocation.

(2) Any person who contravenes the provisions of sub-section (1) shall be punished with imprisonment for a term which may extend to two years, or with fine which may extend to one lakh rupees, or with both.

1. Substituted vide Information Technology (Amendment) Act, 2008 (Act No. 10 of 2009) w.e.f. 27.10.2009 Previous text was:- digital signature"

**Section 74 : Publication for fraudulent purpose**

Whoever knowingly creates, publishes or otherwise makes available a <sup>1</sup>[Electronic Signature] Certificate for any fraudulent or unlawful purpose shall be punished with imprisonment for a term which may extend to two years, or with fine which may extend to one lakh rupees, or with both.

1. Substituted vide Information Technology (Amendment) Act, 2008 (Act No. 10 of 2009) w.e.f. 27.10.2009 Previous text was:- "digital Signature"

**Section 75 : Act to apply for offence or contravention committed outside India**

(1) Subject to the provisions of sub-section (2), the provisions of this Act shall apply also to any offence or contravention committed outside India by any person irrespective of his nationality.

*J*  
*T.C*

(2) For the purposes of sub-section (1), this Act shall apply to an offence or contravention committed outside India by any person if the act or conduct constituting the offence or contravention involves a computer, computer system or computer network located in India.

#### **Section 76 : Confiscation**

Any computer, computer system, floppies, compact disks, tape drives or any other accessories related thereto, in respect of which any provision of this Act, rules, orders or regulations made thereunder has been or is being contravened, shall be liable to confiscation:

Provided that where it is established to the satisfaction of the court adjudicating the confiscation that the person in whose possession, power or control of any such computer, computer system, floppies, compact disks, tape drives or any other accessories relating thereto is found is not responsible for the contravention of the provisions of this Act, rules, orders or regulations made thereunder, the court may, instead of making an order for confiscation of such computer, computer system, floppies, compact disks, tape drives or any other accessories related thereto, make such other order authorised by this Act against the person contravening of the provisions of this Act, rules, orders or regulations made thereunder as it may think fit.

#### **Section 77 : Compensation, penalties or confiscation not to interfere with other punishment**

<sup>1</sup>[No compensation awarded, penalty imposed or confiscation made under this Act shall prevent the award of compensation or imposition of any other penalty or punishment under any other law for the time being in force.

1. Substituted vide Information Technology (Amendment) Act, 2008 (Act No. 10 of 2009) w.e.f. 27.10.2009 previous text was :-

"No penalty imposed or confiscation made under this Act shall prevent the imposition of any other punishment to which the person affected thereby is liable under any other law for the time being in force."

#### **Section 77A : Compounding of offences**

<sup>1</sup>[A court of competent jurisdiction may compound offences, other than offences for which the punishment for life or imprisonment for a term exceeding three years has been provided, under this Act:Â

Provided that the court shall not compound such offence where the accused is, by reason of his previous conviction, liable to either enhanced punishment or to a punishment of a different kind:

Provided further that the court shall not compound any offence where such offence affects the socio economic conditions of the country or has been committed against a child below the age of 18 years or a woman.Â

(2) The person accused of an offence under this Act may file an application for compounding in the court in which offence is pending for trial and the provisions ofÂ sections 265B and 265C of the Code of Criminal Procedure, 1973 shall apply.]

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

#### **Section 77B : Offences with three years imprisonment to be bailable**

<sup>1</sup>[Notwithstanding anything contained in the Code of Criminal Procedure, 1973(2 of 1974), the offence punishable with imprisonment of three years and above shall be cognizable and the offence punishable with imprisonment of three years shall be bailable.]

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

#### **Section 78 : Power to investigate offences**

JSC

Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), a police officer not below the rank of <sup>1</sup>[Inspector] shall investigate any offence under this Act.

1. Substituted vide Information Technology (Amendment) Act, 2008 (Act No. 10 of 2009) w.c.f. 27.10.2009 previous text was :-

"Deputy Superintendent of Police "

**Section 79 : Exemption from liability of intermediary in certain cases**

<sup>1</sup>[(1) Notwithstanding anything contained in any law for the time being in force but subject to the provisions of sub-sections (2) and (3), an intermediary shall not be liable for any third party information, data, or communication link made available or hosted by him.

(2) The provisions of sub-section (1) shall apply if-

(a) the function of the intermediary is limited to providing access to a communication system over which information made available by third parties is transmitted or temporarily stored or hosted; or

(b) the intermediary does not-

(i) initiate the transmission,

(ii) select the receiver of the transmission, and

(iii) select or modify the information contained in the transmission;

(c) the intermediary observes due diligence while discharging his duties under this Act and also observes such other guidelines as the Central Government may prescribe in this behalf.

(3) The provisions of sub-section (1) shall not apply if-

(a) the intermediary has conspired or abetted or aided or induced, whether by threats or promise or otherwise in the commission of the unlawful act;

(b) upon receiving actual knowledge, or on being notified by the appropriate Government or its agency that any information, data or communication link residing in or connected to a computer resource controlled by the intermediary is being used to commit the unlawful act, the intermediary fails to expeditiously remove or disable access to that material on that resource without vitiating the evidence in any manner.

Explanation.-For the purposes of this section, the expression "third party information" means any information dealt with by an intermediary in his capacity as an intermediary.

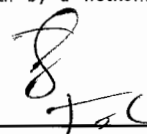
1. Substituted vide Information Technology (Amendment) Act, 2008 (Act No. 10 of 2009) w.e.f. 27.10.2009 previous text was :-

"Section 79 : Network service providers not to be liable in certain cases:- For the removal of doubts, it is hereby declared that no person providing any service as a network service provider shall be liable under this Act, rules or regulations made thereunder for any third party information or data made available by him if he proves that the offence or contravention was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence or contravention.

Explanation.-"For the purposes of this section,"

(a) "network service provider" means an intermediary;

(b) "third party information" means any information dealt with by a network service provider in his capacity as an



intermediary."

### Section 79A : Central Government to notify Examiner of Electronic Evidence

<sup>1</sup>[The Central Government may, for the purposes of providing expert opinion on electronic form evidence before any court or other authority specify, by notification in the Official Gazette, any Department, body or agency of the Central Government or a State Government as an Examiner of Electronic Evidence.

Explanation.-For the purposes of this section, "electronic form evidence" means any information of probative value that is either stored or transmitted in electronic form and includes computer evidence, digital audio, digital video, cell phones, digital fax machines.]

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

### Section 80 : Power of police officer and other officers to enter, search, etc

(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), any police officer, not below the rank of a <sup>1</sup>[Inspector], or any other officer of the Central Government or a State Government authorised by the Central Government in this behalf may enter any public place and search and arrest without warrant any person found therein who is reasonably suspected of having committed or of committing or of being about to commit any offence under this Act.

Explanation.-For the purposes of this sub-section, the expression "public place" includes any public conveyance, any hotel, any shop or any other place intended for use by, or accessible to the public.

(2) Where any person is arrested under sub-section (1) by an officer other than a police officer, such officer shall, without unnecessary delay, take or send the person arrested before a magistrate having jurisdiction in the case or before the officer-in-charge of a police station.

(3) The provisions of the Code of Criminal Procedure, 1973 (2 of 1974), shall, subject to the provisions of this section, apply, so far as may be, in relation to any entry, search or arrest, made under this section.

1. Substituted vide Information Technology (Amendment) Act, 2008 (Act No. 10 of 2009) w.e.f. 27.10.2009 previous text was :-

"Deputy Superintendent of Police"

### Section 81 : Act to have overriding effect

The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

<sup>1</sup>[Provided that nothing contained in this Act shall restrict any person from exercising any right conferred under the Copyright Act, 1957 (14 of 1957) or the Patents Act, 1970.(39 of 1970)]

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

### Section 81A : Application of the Act to electronic cheque and truncated cheque

#### <sup>1</sup>[81A. Application of the Act to electronic cheque and truncated cheque

(1) The provisions of this Act, for the time being in force, shall apply to, or in relation to, electronic cheques and the

truncated cheques subject to such modifications and amendments as may be necessary for carrying out the purposes of the Negotiable Instruments Act, 1881 (26 of 1881) by the Central Government, in consultation with the Reserve Bank of India, by notification in the Official Gazette.

(2) Every notification made by the Central Government under sub-section (1) shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the notification or both Houses agree that the notification should not be made, the notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that notification.

Explanation.-For the purposes of this Act, the expressions "electronic cheque" and "truncated cheque" shall have the same meaning as assigned to them in section 6 of the Negotiable Instruments Act, 1881 (26 of 1881).]

1. Inserted by Act 55 of 2002, Section 13 (w.e.f. 6-2-2003).

### Section 82 : Controller, Deputy Controller and Assistant Controller to be public servants

#### <sup>2</sup>[82. Controller, Deputy Controller and Assistant Controller to be public servants.-

The Controller, the Deputy Controller and the Assistant Controllers shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860).]

1. Substituted vide Information Technology (Amendment) Act, 2008 (Act No. 10 of 2009) w.e.f. 27.10.2009 previous text was :-

"Presiding Officer"

2. Substituted by the Finance Act, 2017 for the following:-

"82. Controller, Deputy Controller and Assistant Controllers to be public servants

The <sup>1</sup>[Chairperson, Members] and other officers and employees of a Cyber Appellate Tribunal, the Controller, the Deputy Controller and the Assistant Controllers shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860)."

### Section 83 : Power to give directions

The Central Government may give directions to any State Government as to the carrying into execution in the State of any of the provisions of this Act or of any rule, regulation or order made thereunder.

### Section 84 : Protection of action taken in good faith

No suit, prosecution or other legal proceeding shall lie against the Central Government, the State Government, the Controller or any person acting on behalf of him, <sup>2</sup>[and adjudicating officers] for anything which is in good faith done or intended to be done in pursuance of this Act or any rule, regulation or order made thereunder.

1. Substituted vide Information Technology (Amendment) Act, 2008 (Act No. 10 of 2009) w.e.f. 27.10.2009 previous text was :-

"Presiding Officer"

2. Substituted by the Finance Act, 2017 for the following:-



"the <sup>1</sup>[Chairperson, Members], adjudicating officers and the staff of the Cyber Appellate Tribunal"

**Section 84A : Modes or methods for encryption**

<sup>1</sup>[The Central Government may, for secure use of the electronic medium and for promotion of e-governance and e-commerce, prescribe the modes or methods for encryption.

---

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

**Section 84B : Punishment for abetment of offences**

<sup>1</sup>[Whoever abets any offence shall, if the act abetted is committed in consequence of the abetment, and no express provision is made by this Act for the punishment of such abetment, be punished with the punishment provided for the offence under this Act.

Explanation.-An act or offence is said to be committed in consequence of abetment, when it is committed in consequence of the instigation, or in pursuance of the conspiracy, or with the aid which constitutes the abetment.]

---

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

**Section 84C : Punishment for attempt to commit offences**

<sup>1</sup>[Whoever attempts to commit an offence punishable by this Act or causes such an offence to be committed, and in such an attempt does any act towards the commission of the offence, shall, where no express provision is made for the punishment of such attempt, be punished with imprisonment of any description provided for the offence, for a term which may extend to one-half of the longest term of imprisonment provided for that offence, or with such fine as is provided for the offence, or with both.]

---

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

**Section 85 : Offences by companies**

(1) Where a person committing a contravention of any of the provisions of this Act or of any rule, direction or order made thereunder is a company, every person who, at the time the contravention was committed, was in charge of, and was responsible to, the company for the conduct of business of the company as well as the company, shall be guilty of the contravention and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to punishment if he proves that the contravention took place without his knowledge or that he exercised all due diligence to prevent such contravention.

(2) Notwithstanding anything contained in sub-section (1), where a contravention of any of the provisions of this Act or of any rule, direction or order made thereunder has been committed by a company and it is proved that the contravention has taken place with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly.

Explanation.-"For the purposes of this section,"

- (i) "company" means any body corporate and includes a firm or other association of individuals; and
- (ii) "director", in relation to a firm, means a partner in the firm.

**Section 86 : Removal of difficulties**

*JGC*

(1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removing the difficulty:

Provided that no order shall be made under this section after the expiry of a period of two years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

**Section 87 : Power of Central Government to make rules**

(1) The Central Government may, by notification in the Official Gazette and in the Electronic Gazette, make rules to carry out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

<sup>2</sup>[(a) the conditions for considering reliability of electronic signature or electronic authentication technique under sub-section (2) of section 3A;

(aa) the procedure for ascertaining electronic signature or authentication under sub-section (3) of section 3A;

(ab) the manner in which any information or matter may be authenticated by means of electronic signature under section 5;]

(b) the electronic form in which filing, issue, grant or payment shall be effected under sub-section (1) of section 6;

(c) the manner and format in which electronic records shall be filed, or issued and the method of payment under sub-section (2) of section 6;

<sup>3</sup>[(ca) the manner in which the authorised service provider may collect, retain and appropriate service charges under sub-section (2) of section 6A;]

(d) the matters relating to the type of <sup>1</sup>[Electronic signature], manner and format in which it may be affixed under section 10;

<sup>4</sup>[(e) the manner of storing and affixing electronic signature creation data under section 15;

(ea) the security procedures and practices under section 16;"]

(f) the qualifications, experience and terms and conditions of service of Controller, Deputy Controllers and <sup>5</sup>[Assistant Controllers, other officers and employees] under section 17;

<sup>6</sup>[\*\*\*]

(h) the requirements which an applicant must fulfill under sub-section (2) of section 21;

(i) the period of validity of licence granted under clause (a) of subsection (3) of section 21;

(j) the form in which an application for licence may be made under subsection (1) of section 22;

(k) the amount of fees payable under clause (c) of sub-section (2) of section 22;

(l) such other documents which shall accompany an application for licence under clause (d) of sub-section

TSC

(2) of section 22;

(m) the form and the fee for renewal of a licence and the fee payable thereof under section 23;

<sup>3</sup>[(ma) the form of application and fee for issue of Electronic Signature Certificate under section 35]

(n) the form in which application for issue of a <sup>1</sup>[Electronic Signature] Certificate may be made under sub-section (1) of section 35;

(o) the fee to be paid to the Certifying Authority for issue of a <sup>1</sup>[Electronic Signature] Certificate under sub-section (2) of section 35;

<sup>3</sup>[(oa) the duties of subscribers under section 40A;

(ob) the reasonable security practices and procedures and sensitive personal data or information under section 43A;]

(p) the manner in which the adjudicating officer shall hold inquiry under sub-section (1) of section 46;

(q) the qualification and experience which the adjudicating officer shall possess under sub-section (3) of section 46;

<sup>11</sup>[\*\*\*]

(u) the form in which appeal may be filed and the fee thereof under subsection (3) of section 57;

(v) any other power of a civil court required to be prescribed under clause (g) of sub-section (2) of section 58; and

<sup>8</sup>[(w) the powers and functions of the Chairperson of the Cyber Appellate Tribunal under section 52A;

(x) the information, duration, manner and form of such information to be retained and preserved under section 67C;

(y) the procedures and safeguards for interception, monitoring or decryption under sub-section (2) of section 69A;

(z) the procedures and safeguards for blocking for access by the public under sub-section (3) of section 69 B;Â Â Â

(za) the procedure and safeguards for monitoring and collecting traffic data or information under sub-section (3) of section 69B;

(zb) the information security practices and procedures for protected system under section 70;

(zc) manner of performing functions and duties of the agency under sub-section (3) of section 70 A;

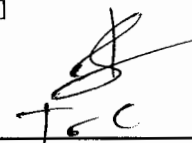
(zd) the officers and employees under sub-section (2) of section 70B;

(ze) salaries and allowances and terms and conditions of service of the Director General and other officers and employees under sub-section (3) of Section 70B

(zf) the manner in which the functions and duties of agency shall be performed under sub-section (5) of section 70B;

(zg) the guidelines to be observed by the intermediaries under subsection (4) of section 79;

(zh) the modes or methods for encryption under section 84 A]





(3) <sup>9</sup>[Every notification made by the Central Government under sub-section(1) of section 70 A and every rule made by it] shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in <sup>10</sup>[\*\*\*] the rule or both Houses agree that <sup>10</sup>[\*\*\*] the rule should not be made, <sup>10</sup>[\*\*\*] the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that notification or rule.

1. Substituted vide Information Technology (Amendment) Act, 2008 (Act No. 10 of 2009) w.e.f. 27.10.2009 Previous text was " digital signature"

2. Substituted vide Information Technology (Amendment) Act, 2008 (Act No. 10 of 2009) w.e.f. 27.10.2009 previous text was :-

"(a) the manner in which any information or matter may be authenticated by means of digital signature under section 5;"

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

4. Substituted vide Information Technology (Amendment) Act, 2008 (Act No. 10 of 2009) w.e.f. 27.10.2009 previous text was :-

"(e) the security procedure for the purpose of creating secure electronic record and secure digital signature under section 16;"

5. Substituted vide Information Technology (Amendment) Act, 2008 (Act No. 10 of 2009) w.e.f. 27.10.2009 previous text was :-

"Assistant Controllers"

6. Omitted vide Information Technology (Amendment) Act, 2008 (Act No. 10 of 2009) w.e.f. 27.10.2009 previous text was :-

"(g) other standards to be observed by the Controller under clause (b) of subsection (2) of section 20;"

7. Substituted vide Information Technology (Amendment) Act, 2008 (Act No. 10 of 2009) w.e.f. 27.10.2009 previous text was :-

"Presiding Officer"

8. Substituted vide Information Technology (Amendment) Act, 2008 (Act No. 10 of 2009) w.e.f. 27.10.2009 previous text was :-

"(w) any other matter which is required to be, or may be, prescribed."

9. Substituted vide Information Technology (Amendment) Act, 2008 (Act No. 10 of 2009) w.e.f. 27.10.2009 previous text was :-

"Every notification made by the Central Government under clause (f) of sub-section (4) of section 1 and every rule made by it"

10. Omitted vide Information Technology (Amendment) Act, 2008 (Act No. 10 of 2009) w.e.f. 27.10.2009 previous text was :-

"the notification or"

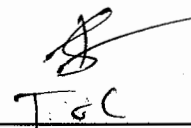
11. Omitted by the Finance Act, 2017 the previous text was:-

"(r) the salary, allowances and the other terms and conditions of service of the <sup>7</sup>[Chairperson and Members] under section 52;

(s) the procedure for investigation of misbehaviour or incapacity of the <sup>7</sup>[Chairperson and Members] under sub-section (3) of section 54;

(t) the salary and allowances and other conditions of service of other officers and employees under sub-section (3) of section 56;"

#### Section 88 : Constitution of Advisory Committee

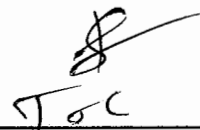
  
T & C

- (1) The Central Government shall, as soon as may be after the commencement of this Act, constitute a Committee called the Cyber Regulations Advisory Committee.
- (2) The Cyber Regulations Advisory Committee shall consist of a Chairperson and such number of other official and non-official members representing the interests principally affected or having special knowledge of the subject-matter as the Central Government may deem fit.
- (3) The Cyber Regulations Advisory Committee shall advise<sup>1</sup>
  - (a) the Central Government either generally as regards any rules or for any other purpose connected with this Act;
  - (b) the Controller in framing the regulations under this Act.
- (4) There shall be paid to the non-official members of such Committee such travelling and other allowances as the Central Government may fix.

**Section 89 : Power of Controller to make regulations**

- (1) The Controller may, after consultation with the Cyber Regulations Advisory Committee and with the previous approval of the Central Government, by notification in the Official Gazette, make regulations consistent with this Act and the rules made thereunder to carry out the purposes of this Act.
- (2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:-
  - (a) the particulars relating to maintenance of data-base containing the disclosure record of every Certifying Authority under clause <sup>1</sup>[(n)] of section 18;
  - (b) the conditions and restrictions subject to which the Controller may recognise any foreign Certifying Authority under sub-section (1) of section 19;
  - (c) the terms and conditions subject to which a licence may be granted under clause (c) of sub-section (3) of section 21;
  - (d) other standards to be observed by a Certifying Authority under clause (d) of section 30;
  - (e) the manner in which the Certifying Authority shall disclose the matters specified in sub-section (1) of section 34;
  - (f) the particulars of statement which shall accompany an application under sub-section (3) of section 35.
  - (g) the manner by which the subscriber shall communicate the compromise of private key to the Certifying Authority under sub-section (2) of section 42.
- (3) Every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the regulation or both Houses agree that the regulation should not be made, the regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that regulation.

1. Substituted by S.O. 1015 (E), dated 19th September, 2002, for "(m)" (w.e.f. 19-9-2002).

  
J & C

**Section 90 : Power of State Government to make rules**

(1) The State Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the electronic form in which filing, issue, grant, receipt or payment shall be effected under sub-section (1) of section 6;

(b) for matters specified in sub-section (2) of section 6;

1[\*\*\*]

(3) Every rule made by the State Government under this section shall be laid, as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses, or where such Legislature consists of one House, before that House.

---

1. Omitted vide Information Technology (Amendment) Act, 2008 (Act No. 10 of 2009) w.e.f. 27.10.2009 previous text was :-

"(c) any other matter which is required to be provided by rules by the State Government."

**Section 91 : Amendment of Act 45 of 1860 (omitted)**

1[\*\*\*]

---

1. Omitted vide Information Technology (Amendment) Act, 2008 (Act No. 10 of 2009) w.e.f. 27.10.2009 previous text was :-

"The Indian Penal Code shall be amended in the manner specified in the First Schedule to this Act."

**Section 92 : Amendment of Act 1 of 1872 (omitted)**

1[\*\*\*]

---

1. Omitted vide Information Technology (Amendment) Act, 2008 (Act No. 10 of 2009) w.e.f. 27.10.2009 previous text was :-

"The Indian Evidence Act, 1872 shall be amended in the manner specified in the Second Schedule to this Act."

**Section 93 : Amendment of Act 18 of 1891 (omitted)**

1[\*\*\*]

---

1. Omitted vide Information Technology (Amendment) Act, 2008 (Act No. 10 of 2009) w.e.f. 27.10.2009 previous text was :-

"The Bankers' Books Evidence Act, 1891 shall be amended in the manner specified in the Third Schedule to this Act."

**Section 94 : Amendment of Act 2 of 1934 (omitted)**

1[\*\*\*]

*[Handwritten signature]*  
T O C

1. Omitted vide Information Technology (Amendment) Act, 2008 Prior to omission text read as under :-

"The Reserve Bank of India Act, 1934 shall be amended in the manner specified in the Fourth Schedule to this Act."

**Schedule I : THE FIRST SCHEDULE**

<sup>1</sup>[FIRST SCHEDULE

[See sub-section (4) of section 1]

**DOCUMENTS OR TRANSACTIONS TO WHICH THE ACT SHALL NOT APPLY**

Sl. No.	Description of documents or transactions
1.	A negotiable instrument (other than a cheque) as defined in section 13 of the Negotiable Instruments Act, 1881 (26 of 1881).
2.	A power-of-attorney as defined in section 1A of the Powers-of-Attorney Act, 1882.(7 of 1882).
3.	A trust as defined in section 3 of the Indian Trusts Act, 1882 (2 of 1882).
4.	A will as defined in clause (h) of section 2 of the Indian Succession Act, 1925 (39 of 1925) including any other testamentary disposition by whatever name called.
5.	Any contract for the sale or conveyance of immovable property or any interest in such property.]

1. Substituted vide Information Technology (Amendment) Act, 2008 (Act No. 10 of 2009) w.e.f. 27.10.2009 previous text was :-

"THE FIRST SCHEDULE

[See section 91]

AMENDMENTS TO THE INDIAN PENAL CODE

[Act, No. 45 of 1860]

1. After section 29. the following section shall be inserted, namely:â€"

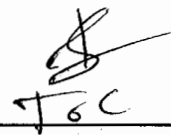
"29A. Electronic record.â€"The words "electronic record" shall have the meaning assigned to them in clause (t) of sub-section (1) of section 2 of the Information Technology Act, 2000."

2. In section 167, for the words "such public servant, charged with the preparation or translation of any document, frames or translates that document", the words "such public servant, charged with the preparation or translation of any document or electronic record, frames, prepares or translates that document or electronic record" shall be substituted.

3. In section 172, for the words "produce a document in a Court of Justice", the words "produce a document or an electronic record in a Court of Justice" shall be substituted.

4. In section 173, for the words "to produce a document in a Court of Justice", the words "to produce a document or electronic record in a Court of Justice" shall be substituted.

5. In section 175, for the word "document" at both the places where it occurs, the words "document or electronic record" shall be substituted.

  
T6C

6. In section 192, for the words "makes any false entry in any book or record, or makes any document containing a false statement", the words "makes any false entry in any book or record, or electronic record or makes any document or electronic record containing a false statement" shall be substituted.

7. In section 204, for the word "document" at both the places where it occurs, the words "document or electronic record" shall be substituted.

8. In section 463, for the words "Whoever makes any false documents or part of a document with intent to cause damage or injury", the words "Whoever makes any false documents or false electronic record or part of a document or electronic record, with intent to cause damage or injury" shall be substituted.

9. In section 464,â€

(a) for the portion beginning with the words "A person is said to make a false document" and ending with the words "by reason of deception practiced upon him, he does not know the contents of the document or the nature of the alteration", the following shall be substituted, namely:â€

"A person is said to make a false document or false electronic recordâ€

Firstâ€Who dishonestly or fraudulentlyâ€

(a) makes, signs, seals or executes a document or part of a document;

(b) makes or transmits any electronic record or part of any electronic record;

(c) affixes any digital signature on any electronic record;

(d) makes any mark denoting the execution of a document or the authenticity of the digital signature,

with the intention of causing it to be believed that such document or part of document, electronic record or digital signature was made, signed, sealed, executed, transmitted or affixed by or by the authority of a person by whom or by whose authority he knows that it was not made, signed, sealed, executed or affixed; or

Secondlyâ€Who, without lawful authority, dishonestly or fraudulently, by cancellation or otherwise, alters a document or an electronic record in any material part thereof, after it has been made, executed or affixed with digital signature either by himself or by any other person, whether such person be living or dead at the time of such alteration; or

Thirdly â€Who dishonestly or fraudulently causes any person to sign, seal, execute or alter a document or an electronic record or to affix his digital signature on any electronic record knowing that such person by reason of unsoundness of mind or intoxication cannot, or that by reason of deception practiced upon him, he does not know the contents of the document or electronic record or the nature of the alteration.";

(b) after Explanation 2, the following Explanation shall be inserted at the end, namely:â€

'Explanation 3.â€For the purposes of this section, the expression "affixing digital signature" shall have the meaning assigned to it in clause (d) of sub-section (1) of section 2 of the Information Technology Act, 2000.'

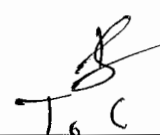
10. In section 466,â€

(a) for the words "Whoever forges a document", the words "Whoever forges a document or an electronic record" shall be substituted;

(b) the following Explanation shall be inserted at the end, namely:â€

'Explanation.â€For the purposes of this section, "register" includes any list, data or record of any entries maintained in the electronic form as defined in clause (r) of sub-section (1) of section 2 of the Information Technology Act, 2000.'

11. In section 468, for the words "document forged", the words "document or electronic record forged" shall be substituted.

  
T. C.

12. In section 469, for the words "intending that the document forged", the words "intending that the document or electronic record forged" shall be substituted.

13. In section 470, for the word "document" in both the places where it occurs, the words "document or electronic record" shall be substituted.

14. In section 471, for the word "document" wherever it occurs, the words "document or electronic record" shall be substituted.

15. In section 474, for the portion beginning with the words "Whoever has in his possession any document" and ending with the words "if the document is one of the description mentioned in section 466 of this Code", the following shall be substituted, namely:â€

"Whoever has in his possession any document or electronic record, knowing the same to be forged and intending that the same shall fraudulently or dishonestly be used as a genuine, shall, if the document or electronic record is one of the description mentioned in section 466 of this Code."

16. In section 476, for the words "any document", the words "any document or electronic record" shall be substituted.

17. In section 477A, for the words "book, paper, writing" at both the places where they occur, the words "book, electronic record, paper, writing" shall be substituted."

## Schedule II : THE SECOND SCHEDULE

### THE SECOND SCHEDULE

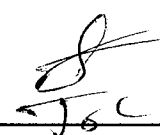
[SEE SUB-SECTION (1) OF SECTION 3-A]

#### ELECTRONIC SIGNATURE OR ELECTRONIC AUTHENTICATION TECHNIQUE AND PROCEDURE

S.No.	Description	Procedure
(1)	(2)	(3)
1.	e-authentication Technique using Aadhaar <sup>1</sup> [or other] e-KYC services	<p>Authentication of an electronic record by e-authentication Technique which shall be done by-</p> <p>(a) the applicable use of e-authentication, hash, and asymmetric crypto system techniques, leading to issuance of Digital Signature Certificate by Certifying Authority</p> <p>(b) a trusted third party service by subscriber's key pair-generation, storing of key pairs [* * *]and creation of digital signature provided that the trusted third party shall be offered by the certifying authority. The trusted third party shall send application form and certificate signing request to the Certifying Authority for issuing a Digital Signature Certificate to the subscriber.</p> <p>(c) Issuance of Digital Signature Certificate by Certifying Authority shall be based on e-authentication, particulars specified in Form C of Schedule IV of the Information Technology (Certifying Authorities) Rules, 2000, digitally signed verified information from Aadhaar <sup>1</sup>[or other] e-KYC services and electronic consent of Digital Signature Certificate applicant.</p> <p>(d) The manner and requirements for e-authentication shall be as issued by the Controller from time to time.</p> <p>(e) The security procedure for creating the subscriberâ€™s key pair</p>

TSC

		<p><sup>1</sup>[and other e-KYC services] shall be in accordance with the e-authentication guidelines issued by the Controller.</p> <p>(f) The standards referred to in rule 6 of the Information Technology (Certifying Authorities) Rules, 2000 shall be complied with, in so far as they relate to the certification function of public key of Digital Signature Certificate applicant.</p> <p>(g) The manner in which the information is authenticated by means of digital signature shall comply with the manner and standards specified in rules 3 to 12 of the Digital Signature (End entity) Rules, 2015 in so far as they relate to the creation, storage, and verification of Digital Signature.</p>
2[2.	e-authentication technique and procedure for creating and accessing subscriber's signature key facilitated by trusted third party	<p>Authentication of an electronic record by e-authentication technique which shall be done by-</p> <p>(a) The applicable use of e-authentication, hash and asymmetric crypto system techniques leading to issuance of Digital Signature Certificate by Certifying Authority, provided that Certifying Authority shall ensure the subscriber identity verification, secure storage of the keys by trusted third party and subscriber's sole authentication control to the signature key.</p> <p>(b) Identity verification of Digital Signature Certificate applicant shall be in accordance with the Identity Verification Guidelines issued by Controller from time-to-time.</p> <p>(c) The requirement to operate as trusted third party shall be specified under e-authentication guidelines issued by the Controller.</p> <p>(d) a trusted third party shall</p> <p>i) facilitate Identity verification of Digital Signature Certificate applicant;</p> <p>ii) establish secure storage for subscriber to have sole control for creation and subsequent usage of subscriber's signature key by sole authentication of subscriber;</p> <p>iii) facilitate key pair-generation, secure storage of subscriber's signature key and facilitate signature creation functions;</p> <p>iv) facilitate the submission of DSC application form and certificate signing request to the Certifying Authority for issuing a Digital Signature Certificate to the DSC applicant, and</p> <p>v) facilitate revocation of Digital Signature Certificate and destruction of subscriber's signature key.</p> <p>(e) Issuance of Digital Signature Certificate shall be based on verification of credentials of Digital Signature Certificate applicant by Certifying Authority as per the provisions of the Information Technology Act and Rules made thereunder.</p> <p>(f) The manner and requirements for authentication and storage of keys shall be as issued by the Controller from time to time under e-authentication guidelines</p>



(g) The security procedure for creating the subscriber's key pair shall be in accordance with the e-authentication guidelines issued by the Controller.

(h) The standards referred to in rule 6 of the Information Technology (Certifying Authorities) Rules, 2000 shall be complied with, in so far as they relate to the certification function of public key of Digital Signature Certificate applicant.

(i) The manner in which information is authenticated by means of digital signature shall comply with the manner and standards specified in rule 3 to 12 of Digital Signature (End entity) Rules, 2015 in so far as they relate to the creation, storage and verification of Digital Signature.]

1. Inserted vide Notification No. SO1119(E) dated 01.03.2019.

2. Inserted vide Notification No. SO3472(E), dated 29.09.2020.

**Schedule III : THE THIRD SCHEDULE (omitted)**

1[\*\*\*]

1. Omitted vide Information Technology (Amendment) Act, 2008 (Act No. 10 of 2009) w.e.f. 27.10.2009 previous text was :-

**"THE THIRD SCHEDULE**

[See section 93]

**AMENDMENTS TO THE BANKERS' BOOKS EVIDENCE ACT, 1891**

[Act, No. 18 of 1891]

1. In section 2,â€

(a) for clause (3), the following clause shall be substituted, namely:â€

'(3) "bankers' books" include ledgers, day-books, cash-books, account-books and all other books used in the ordinary business of a bank whether kept in the written form or as printouts of data stored in a floppy, disc, tape or any other form of electro-magnetic data storage device;'

(b) for clause (8), the following clause shall be substituted, namely:â€

(8) "certified copy" means when the books of a bank,â€

(a) are maintained in written form, a copy of any entry in such books together with a certificate written at the foot of such copy that it is a true copy of such entry, that such entry is contained in one of the ordinary books of the bank and was made in the usual and ordinary course of business and that such book is still in the custody of the bank, and where the copy was obtained by a mechanical or other process which in itself ensured the accuracy of the copy, a further certificate to that effect, but where the book from which such copy was prepared has been destroyed in the usual course of the bank's business after the date on which the copy had been so prepared, a further certificate to that effect, each such certificate being dated and subscribed by the principal accountant or manager of the bank with his name and official title; and

*[Handwritten signature]*  
T. C.



(b) consist of printouts of data stored in a floppy, disc, tape or any other electro-magnetic data storage device, a printout of such entry or a copy of such printout together with such statements certified in accordance with the provisions of section 2A.<sup>1</sup>

2. After section 2, the following section shall be inserted, namely:â€”

"2A, Conditions in the printout.â€”A printout of entry or a copy of printout referred to in sub-section (8) of section 2 shall be accompanied by the following, namely:â€”

(a) a certificate to the effect that it is a printout of such entry or a copy of such printout by the principal accountant or branch manager; and

(b) a certificate by a person in-charge of computer system containing a brief description of the computer system and the particulars ofâ€”

(A) the safeguards adopted by the system to ensure that data is entered or any other operation performed only by authorised persons;

(B) the safeguards adopted to prevent and detect unauthorised change of data;

(C) the safeguards available to retrieve data that is lost due to systemic failure or any other reasons;

(D) the manner in which data is transferred from the system to removable media like floppies, discs, tapes or other electro-magnetic data storage devices;

(E) the mode of verification in order to ensure that data has been accurately transferred to such removable media;

(F) the mode of identification of such data storage devices;

(G) the arrangements for the storage and custody of such storage devices;

(H) the safeguards to prevent and detect any tampering with the system; and

(I) any other factor which will vouch for the integrity and accuracy of the system.

(c) a further certificate from the person in-charge of the computer system to the effect that to the best of his knowledge and belief, such computer system operated properly at the material time, he was provided with all the relevant data and the printout in question represents correctly, or is appropriately derived from, the relevant data."

#### Schedule IV : THE FOURTH SCHEDULE (omitted)

1[\*\*\*]

1. Omitted vide Information Technology (Amendment) Act, 2008 (Act No. 10 of 2009) w.e.f. 27.10.2009 previous text was :-

#### THE FOURTH SCHEDULE

[See section 94]

#### AMENDMENT TO THE RESERVE BANK OF INDIA ACT, 1934

[Act No. 02 of 1934]

In the Reserve Bank of India Act, 1934, in section 58, in sub-section (2), after clause (p), the following clause shall be inserted, namely:â€”

(pp) the regulation of fund transfer through electronic means between the banks or between the banks and other financial institutions referred to in clause (c) of section 45-I, including the laying down of the conditions subject to which banks and other

*JOC*

financial institutions shall participate in such fund transfers, the manner of such fund transfers and the rights and obligations of the participants in such fund transfers;.

**Amending Act 1 : INFORMATION TECHNOLOGY (AMENDMENT) ACT, 2008**

**THE INFORMATION TECHNOLOGY (AMENDMENT) ACT, 2008**

[Act No. 10 of 2009]

[5th February 2009]

**PREAMBLE**

*An Act further to amend the Information Technology Act, 2000.*

Be it enacted by Parliament in the Fifty-ninth Year of the Republic of India as follows:--

**PART I**

**Preliminary**

**1. Short title and commencement**

- (1) This Act may be called the Information Technology (Amendment) Act, 2008.
- (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint:

Provided that different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

**PART II**

**Amendments to the Information Technology Act, 2000**

**2. Substitution of words "digital signature" by words "electronic signature".**

In the Information Technology Act, 2000 (hereinafter in this Part referred to as the 21 of 2000. principal Act), for the words "digital signature" occurring in the Chapter, section, subsection and clause referred to in the Table below, the words "electronic signature" shall be substituted.

**À Table**

S. No.	Chapter/section/sub-section/clause
(1)	clauses (d), (g), (h) and (zg) of section 2;
(2)	section 5 and its marginal heading;
(3)/	marginal heading of section 6;
(4)	clauses (a), (b), (c) and (e) of section 10 and its marginal heading;
(5)	heading of Chapter V;
(6)	clauses (1) and (g) of section 18;
(7)	sub-section (2) of section 19;
(8)	sub-sections (1) and (2) of section 21 and its marginal heading;

*T.C*

- (9) sub-section (3) of section 25;
- (10) clause (c) of section 30;
- (11) clauses (a) and (d) of sub-section (1) and sub-section (2) of section 34;
- (12) heading of Chapter VII;
- (13) section 35 and its marginal heading;
- (14) section 64;
- (15) section 71;
- (16) sub-section (1) of section 73 and its marginal heading;
- (17) section 74; and
- (18) clauses (d), (n) and (o) of sub-section (2) of section 87.

### 3. Amendment of section 1

In section 1 of the principal Act, for sub-section (4), the following sub-sections shall be substituted, namely:--

"(4) Nothing in this Act shall apply to documents or transactions specified in the First Schedule:

Provided that the Central Government may, by notification in the Official Gazette, amend the First Schedule by way of addition or deletion of entries thereto.

(5) Every notification issued under sub-section (4) shall be laid before each House of Parliament."

### 4. Amendment of section 2

In section 2 of the principal Act,--

(A) after clause (h), the following clause shall be inserted, namely:--

'(ha) "communication device" means cell phones, personal digital assistance or combination of both or any other device used to communicate, send or transmit any text, video, audio or image;'

(B) for clause (j), the following clause shall be substituted, namely:--

'(j) "computer network" means the inter-connection of one or more computers or computer systems or communication device through--

(i) the use of satellite, microwave, terrestrial line, wire, wireless or other communication media; and

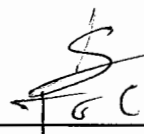
(ii) terminals or a complex consisting of two or more inter-connected computers or communication device whether or not the inter-connection is continuously maintained;'

(C) in clause (n), the word "Regulations" shall be omitted;

(D) after clause (n), the following clauses shall be inserted, namely:--

'(na) "cyber cafe" means any facility from where access to the internet is offered by any person in the ordinary course of business to the members of the public;

(nb) "cyber security" means protecting information, equipment, devices, computer, computer resource, communication device and information stored therein from unauthorised access, use, disclosure, disruption, modification or destruction;'



(E) after clause (t), the following clauses shall be inserted, namely:--

'(ta) "electronic signature" means authentication of any electronic record by a subscriber by means of the electronic technique specified in the Second Schedule and includes digital signature;

(tb) "Electronic Signature Certificate" means an Electronic Signature Certificate issued under section 35 and includes Digital Signature Certificate;'

(F) after clause (w), the following clause shall be inserted, namely:--

'(ua) "Indian Computer Emergency Response Team" means an agency established under sub-section (1) of section 70B;'

(G) in clause (v), for the words "data, text", the words "data, message, text" shall be substituted;

(H) for clause (w), the following clause shall be substituted, namely:--

'(w) "Intermediary", with respect to any particular electronic records, means any person who on behalf of another person receives, stores or transmits that record or provides any service with respect to that record and includes telecom service providers, network service providers, internet service providers, web-hosting service providers, search engines, online payment sites, online-auction sites, online-market places and cyber cafes;'

#### 5. Amendment of heading of Chapter II. Insertion of new section 3A

In Chapter II of the principal Act, for the heading, the heading "Digital signature and electronic signature" shall be substituted.

#### 6. Electronic signature

After section 3 of the principal Act, the following section shall be inserted, namely:--

"3A. (1) Notwithstanding anything contained in section 3, but subject to the provisions of sub-section (2), a subscriber may authenticate any electronic record by such electronic signature or electronic authentication technique which--

(a) is considered reliable; and

(b) may be specified in the Second Schedule.

(2) For the purposes of this section any electronic signature or electronic authentication technique shall be considered reliable if--

(a) the signature creation data or the authentication data are, within the context in which they are used, linked to the signatory or, as the case may be, the authenticator and to no other person;

(b) the signature creation data or the authentication data were, at the time of signing, under the control of the signatory or, as the case may be, the authenticator and of no other person;

(c) any alteration to the electronic signature made after affixing such signature is detectable;

(d) any alteration to the information made after its authentication by electronic signature is detectable; and

(e) it fulfils such other conditions which may be prescribed.

(3) The Central Government may prescribe the procedure for the purpose of ascertaining whether electronic signature is that of the person by whom it is purported to have been affixed or authenticated.

*JSC*

(4) The Central Government may, by notification in the Official Gazette, add to or omit any electronic signature or electronic authentication technique and the procedure for affixing such signature from the Second Schedule:

Provided that no electronic signature or authentication technique shall be specified in the Second Schedule unless such signature or technique is reliable.

(5) Every notification issued under sub-section (4) shall be laid before each House of Parliament."

#### 7. Insertion of new section 6A

After section 6 of the principal Act, the following section shall be inserted, namely:--

'6A. Delivery of services by service provider.-- (1) The appropriate Government may, for the purposes of this Chapter and for efficient delivery of services to the public through electronic means authorise, by order, any service provider to set up, maintain and upgrade the computerised facilities and perform such other services as it may specify by notification in the Official Gazette.

Explanation.--For the purposes of this section, service provider so authorised includes any individual, private agency, private company, partnership firm, sole proprietor firm or any such other body or agency which has been granted permission by the appropriate Government to offer services through electronic means in accordance with the policy governing such service sector.

(2) The appropriate Government may also authorise any service provider authorised under sub-section (1) to collect, retain and appropriate such service charges, as may be prescribed by the appropriate Government for the purpose of providing such services, from the person availing such service.

(3) Subject to the provisions of sub-section (2), the appropriate Government may authorise the service providers to collect, retain and appropriate service charges under this section notwithstanding the fact that there is no express provision under the Act, rule, regulation or notification under which the service is provided to collect, retain and appropriate e-service charges by the service providers.

(4) The appropriate Government shall, by notification in the Official Gazette, specify the scale of service charges which may be charged and collected by the service providers under this section:

Provided that the appropriate Government may specify different scale of service charges for different types of services.'

#### 8. Insertion of new section 7A

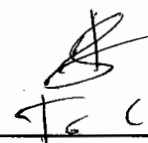
After section 7 of the principal Act, the following section shall be inserted, namely:--

"7A. Audit of documents, etc., maintained in electronic form.-- Where in any law for the time being in force, there is a provision for audit of documents, records or information, that provision shall also be applicable for audit of documents, records or information processed and maintained in the electronic form."

#### 9. Insertion of new section 10A

After section 10 of the principal Act, the following section shall be inserted, namely:--

"10A. Validity of contracts formed through electronic means - Where in a contract formation, the communication of proposals, the acceptance of proposals, the revocation of proposals and acceptances, as the case may be, are expressed in electronic form or by means of an electronic record, such contract shall not be deemed to be unenforceable solely on the ground that such electronic form or means was used for that purpose."



**10. Amendment of section 12**

In section 12 of the principal Act, in sub-section (1), for the words "agreed with the addressee", the word "stipulated" shall be substituted.

**11. Substitution of new sections for sections 15 and 16**

For sections 15 and 16 of the principal Act, the following sections shall be substituted, namely:--

15. Secure electronic signature.- An electronic signature shall be deemed to be a secure electronic signature if--

(i) the signature creation data, at the time of affixing signature, was under the exclusive control of signatory and no other person; and

(ii) the signature creation data was stored and affixed in such exclusive manner as may be prescribed.

Explanation.--In case of digital signature, the "signature creation data" means the private key of the subscriber.

16. Security procedures and practices.- The Central Government may, for the purposes of sections 14 and 15, prescribe the security procedures and practices:

Provided that in prescribing such security procedures and practices, the Central Government shall have regard to the commercial circumstances, nature of transactions and such other related factors as it may consider appropriate.!

**12. Amendment of section 17**

In section 17 of the principal Act,--

(a) in sub-section (1), for the words "and Assistant Controllers", the words ", Assistant Controllers, other officers and employees" shall be substituted; and

(b) in sub-section (4), for the words "and Assistant Controllers", the words ", Assistant Controllers, other officers and employees" shall be substituted."

**13. Omission of section 20**

Section 20 of the principal Act shall be omitted.

**14. Amendment of section 29**

In section 29 of the principal Act, in sub-section (1), for the words "any contravention of the provisions of this Act, rules or regulations made thereunder", the words "any contravention of the provisions of this Chapter" shall be substituted.

**15. Amendment of section 30**

In section 30 of the principal Act,--

(i) in clause (c), after the word "assured", the word "and" shall be omitted;

(ii) after clause (c), the following clauses shall be inserted, namely:--

"(ca) be the repository of all Electronic Signature Certificates issued under this Act;

(cb) publish information regarding its practices, Electronic Signature Certificates and current status of such certificates; and".

**16. Amendment of section 34**

In section 34 of the principal Act, in sub-section (1), in clause (a), the words "which contains the public key corresponding to the private key used by that Certifying Authority to digitally sign another Digital Signature Certificate" shall be omitted.

**17. Amendment of section 35**

In section 35 of the principal Act, in sub-section (4), --

- (a) the first proviso shall be omitted;
- (b) in the second proviso, for the words "Provided further", the word "Provided" shall be substituted.

**18. Amendment of section 36**

In section 36 of the principal Act, after clause (c), the following clauses shall be inserted, namely:--

- "(ca) the subscriber holds a private key which is capable of creating a digital signature;
- (cb) the public key to be listed in the certificate can be used to verify a digital signature affixed by the private key held by the subscriber;"

**19. Insertion of new section 40A**

After section 40 of the principal Act, the following section shall be inserted, namely:--

"40A. Duties of subscriber of Electronic Signature Certificate.- In respect of Electronic Signature Certificate the subscriber shall perform such duties as may be prescribed."

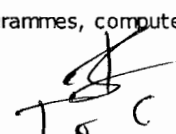
**20. Amendment of heading of Chapter IX**

In Chapter IX of the principal Act, in the heading, for the words "Penalties and adjudication ", the words "Penalties, compensation and adjudication" shall be substituted.

**21. Amendment of section 43**

In section 43 of the principal Act,--

- (a) in the marginal heading, for the word "Penalty", the words "Penalty and Compensation" shall be substituted;
- (b) in clause (a), after the words "computer network", the words "or computer resource" shall be inserted;
- (c) after clause (h), the following clauses shall be inserted, namely:--
  - "(i) destroys, deletes or alters any information residing in a computer resource or diminishes its value or utility or affects it injuriously by any means;
  - (j) steal, conceals, destroys or alters or causes any person to steal, conceal, destroy or alter any computer source code used for a computer resource with an intention to cause damage;"
- (d) for the portion beginning with the words "he shall be liable to pay damages" and ending with the words "persons so affected" the following shall be substituted, namely:--
  - "he shall be liable to pay damages by way of compensation to the person so affected";
- (e) in the Explanation, after clause (iv), the following clause shall be inserted, namely:--
  - "(v) "computer source code" means the listing of programmes, computer commands, design and layout

  
T S C

and programme analysis of computer resource in any form."

## 22. Insertion of new section 43A

After section 43 of the principal Act, the following section shall be inserted, namely:--

43A. Compensation for failure to protect data.- Where a body corporate, possessing, dealing or handling any sensitive personal data or information in a computer resource which it owns, controls or operates, is negligent in implementing and maintaining reasonable security practices and procedures and thereby causes wrongful loss or wrongful gain to any person, such body corporate shall be liable to pay damages by way of compensation to the person so affected.

Explanation.--For the purposes of this section,--

(i) "body corporate" means any company and includes a firm, sole proprietorship or other association of individuals engaged in commercial or professional activities;

(ii) "reasonable security practices and procedures" means security practices and procedures designed to protect such information from unauthorised access, damage, use, modification, disclosure or impairment, as may be specified in an agreement between the parties or as may be specified in any law for the time being in force and in the absence of such agreement or any law, such reasonable security practices and procedures, as may be prescribed by the Central Government in consultation with such professional bodies or associations as it may deem fit;

(iii) "sensitive personal data or information" means such personal information as may be prescribed by the Central Government in consultation with such professional bodies or associations as it may deem fit.'

## 23. Amendment of section 46

In section 46 of the principal Act,--

(a) in sub-section (1), for the words "direction or order made thereunder", the words "direction or order made thereunder which renders him liable to pay penalty or compensation," shall be substituted;

(b) after sub-section (1), the following sub-section shall be inserted, namely:--

"(1A) The adjudicating officer appointed under sub-section (1) shall exercise jurisdiction to adjudicate matters in which the claim for injury or damage does not exceed rupees five crore:

Provided that the jurisdiction in respect of the claim for injury or damage exceeding rupees five crore shall vest with the competent court.";

(c) in sub-section (5), after clause (b), the following clause shall be inserted, namely:--

"(c) shall be deemed to be a civil court for purposes of Order XXI of the Civil Procedure Code, 1908(5 of 1908)."


## 24. Amendment of heading of Chapter X

In Chapter X of the principal Act, in the heading, the word "Regulations" shall be omitted.

## 25. Amendment of section 48

In section 48 of the principal Act, in sub-section (1), the word "Regulations" shall be omitted.

## 26. Substitution of new sections for sections 49 to 52

  
T & C



For sections 49 to 52 of the principal Act, the following sections shall be substituted, namely:--

"49. Composition of Cyber Appellate Tribunal.-- (1) The Cyber Appellate Tribunal shall consist of a Chairperson and such number of other Members, as the Central Government may, by notification in the Official Gazette, appoint:

Provided that the person appointed as the Presiding Officer of the Cyber Appellate Tribunal under the provisions of this Act immediately before the commencement of the Information Technology (Amendment) Act, 2008 shall be deemed to have been appointed as the Chairperson of the said Cyber Appellate Tribunal under the provisions of this Act as amended by the Information Technology (Amendment) Act, 2008.

(2) The selection of Chairperson and Members of the Cyber Appellate Tribunal shall be made by the Central Government in consultation with the Chief Justice of India.

(3) Subject to the provisions of this Act--

(a) the jurisdiction, powers and authority of the Cyber Appellate Tribunal may be exercised by the Benches thereof;

(b) a Bench may be constituted by the Chairperson of the Cyber Appellate Tribunal with one or two Members of such Tribunal as the Chairperson may deem fit;

(c) the Benches of the Cyber Appellate Tribunal shall sit at New Delhi and at such other places as the Central Government may, in consultation with the Chairperson of the Cyber Appellate Tribunal, by notification in the Official Gazette, specify;

(d) the Central Government shall, by notification in the Official Gazette, specify the areas in relation to which each Bench of the Cyber Appellate Tribunal may exercise its jurisdiction.

(4) Notwithstanding anything contained in sub-section (3), the Chairperson of the Cyber Appellate Tribunal may transfer a Member of such Tribunal from one Bench to another Bench.

(5) If at any stage of the hearing of any case or matter it appears to the Chairperson or a Member of the Cyber Appellate Tribunal that the case or matter is of such a nature that it ought to be heard by a Bench consisting of more Members, the case or matter may be transferred by the Chairperson to such Bench as the Chairperson may deem fit.

50. Qualifications for appointment as Chairperson and Members of Cyber Appellate Tribunal.-- (1) A person shall not be qualified for appointment as a Chairperson of the Cyber Appellate Tribunal unless he is, or has been, or is qualified to be, a Judge of a High Court.

(2) The Members of the Cyber Appellate Tribunal, except the Judicial Member to be appointed under sub-section (3), shall be appointed by the Central Government from amongst persons, having special knowledge of, and professional experience in, information technology, telecommunication, industry, management or consumer affairs:

Provided that a person shall not be appointed as a Member, unless he is, or has been, in the service of the Central Government or a State Government, and has held the post of Additional Secretary to the Government of India or any equivalent post in the Central Government or State Government for a period of not less than one year or Joint Secretary to the Government of India or any equivalent post in the Central Government or State Government for a period of not less than seven years.

(3) The Judicial Members of the Cyber Appellate Tribunal shall be appointed by the Central Government from amongst persons who is or has been a member of the Indian Legal Service and has held the post of Additional Secretary for a period of not less than one year or Grade I post of that Service for a period of not less than five years.

*Handwritten signature*  
+ 6 C

51. Term of office, conditions of service, etc., of Chairperson and Members.-- (1) The Chairperson or Member of the Cyber Appellate Tribunal shall hold office for a term of five years from the date on which he enters upon his office or until he attains the age of sixty-five years, whichever is earlier.

(2) Before appointing any person as the Chairperson or Member of the Cyber Appellate Tribunal, the Central Government shall satisfy itself that the person does not have any such financial or other interest as is likely to affect prejudicially his functions as such Chairperson or Member.

(3) An officer of the Central Government or State Government on his selection as the Chairperson or Member of the Cyber Appellate Tribunal, as the case may be, shall have to retire from service before joining as such Chairperson or Member.

52. Salary, allowances and other terms and conditions of service of Chairperson and Members.- The salary and allowances payable to, and the other terms and conditions of service including pension, gratuity and other retirement benefits of, the Chairperson or a Member of the Cyber Appellate Tribunal shall be such as may be prescribed.

52A. Powers of superintendence, direction, etc.- The Chairperson of the Cyber Appellate Tribunal shall have powers of general superintendence and directions in the conduct of the affairs of that Tribunal and he shall, in addition to presiding over the meetings of the Tribunal, exercise and discharge such powers and functions of the Tribunal as may be prescribed.

52B. Distribution of business among Benches.- Where Benches are constituted, the Chairperson of the Cyber Appellate Tribunal may, by order, distribute the business of that Tribunal amongst the Benches and also the matters to be dealt with by each Bench.

52C. Power of Chairperson to transfer cases.- On the application of any of the parties and after notice to the parties, and after hearing such of them as he may deem proper to be heard, or suo motu without such notice, the Chairperson of the Cyber Appellate Tribunal may transfer any case pending before one Bench, for disposal to any other Bench.

52D. Decision by majority.- If the Members of a Bench consisting of two Members differ in opinion on any point, they shall state the point or points on which they differ, and make a reference to the Chairperson of the Cyber Appellate Tribunal who shall hear the point or points himself and such point or points shall be decided according to the opinion of the majority of the Members who have heard the case, including those who first heard" it."

#### **27. Amendment of section 53.**

In section 53 of the principal Act, for the words "Presiding Officer", the words "Chairperson or Member, as the case may be," shall be substituted.

#### **28. Amendment of section 54**

In section 54 of the principal Act, for the words "Presiding Officer" wherever they occur, the words "Chairperson or the Member" shall be substituted.

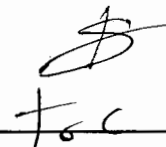
#### **29. Amendment of section 55**

In section 55 of the principal Act, for the words "Presiding Officer", the words "Chairperson or the Member" shall be substituted.

#### **30. Amendment of section 56**

In section 56 of the principal Act, for the words "Presiding Officer", the word "Chairperson" shall be substituted.

#### **31. Amendment of section 64**



In section 64 of the principal Act,--

- (i) for the words "penalty imposed", the words "penalty imposed or compensation awarded" shall be substituted;
- (ii) in the marginal heading, for the word "penalty", the words "penalty or compensation" shall be substituted.

**32. Substitution of new sections for sections 66 and 67**

For sections 66 and 67 of the principal Act, the following sections shall be substituted, namely:--

'66. Computer related offences.- If any person, dishonestly or fraudulently, does any act referred to in section 43, he shall be punishable with imprisonment for a term which may extend to three years or with fine which may extend to five lakh rupees or with both.

Explanation.--For the purposes of this section,--

- (a) the word "dishonestly" shall have the meaning assigned to it in section 24 of the Indian Penal Code[45 of 1860];
- (b) the word "fraudulently" shall have the meaning assigned to it in section 25 of the Indian Penal Code[45 of 1860].

66A. Punishment for sending offensive messages through communication service, etc.- Any person who sends, by means of a computer resource or a communication device,--

- (a) any information that is grossly offensive or has menacing character; or
- (b) any information which he knows to be false, but for the purpose of causing annoyance, inconvenience, danger, obstruction, insult, injury, criminal intimidation, enmity, hatred or ill will, persistently by making use of such computer resource or a communication device; or
- (c) any electronic mail or electronic mail message for the purpose of causing annoyance or inconvenience or to deceive or to mislead the addressee or recipient about the origin of such messages,

shall be punishable with imprisonment for a term which may extend to three years and with fine.

Explanation.-- For the purposes of this section, terms "electronic mail" and "electronic mail message" means a message or information created or transmitted or received on a computer, computer system, computer resource or communication device including attachments in text, image, audio, video and any other electronic record, which may be transmitted with the message.

66B. Punishment for dishonestly receiving stolen computer resource or communication device.- Whoever dishonestly receives or retains any stolen computer resource or communication device knowing or having reason to believe the same to be stolen computer resource or communication device, shall be punished with imprisonment of either description for a term which may extend to three years or with fine which may extend to rupees one lakh or with both.

66C. Punishment for identity theft.- Whoever, fraudulently or dishonestly make use of the electronic signature, password or any other unique identification feature of any other person, shall be punished with imprisonment of either description for a term which may extend to three years and shall also be liable to fine which may extend to rupees one lakh.

66D. Punishment for cheating by personation by using computer resource.- Whoever, by means of any communication device or computer resource cheats by personation, shall be punished with imprisonment of

*[Handwritten signature]*  
TCC

either description for a term which may extend to three years and shall also be liable to fine which may extend to one lakh rupees.

66E. Punishment for violation of privacy.-- Whoever, intentionally or knowingly captures, publishes or transmits the image of a private area of any person without his or her consent, under circumstances violating the privacy of that person, shall be punished with imprisonment which may extend to three years or with fine not exceeding two lakh rupees, or with both.

Explanation.-- For the purposes of this section--

- (a) "transmit" means to electronically send a visual image with the intent that it be viewed by a person or persons;
- (b) "capture", with respect to an image, means to videotape, photograph, film or record by any means;
- (c) "private area" means the naked or undergarment clad genitals, public area, buttocks or female breast;
- (d) "publishes" means reproduction in the printed or electronic form and making it available for public;
- (e) "under circumstances violating privacy" means circumstances in which a person can have a reasonable expectation that--
  - (i) he or she could disrobe in privacy, without being concerned that an image of his private area was being captured; or
  - (ii) any part of his or her private area would not be visible to the public, regardless of whether that person is in a public or private place.

66F. Punishment for cyber terrorism.- (1) Whoever,--

- (A) with intent to threaten the unity, integrity, security or sovereignty of India or to strike terror in the people or any section of the people by--
  - (i) denying or cause the denial of access to any person authorised to access computer resource; or
  - (ii) attempting to penetrate or access a computer resource without authorisation or exceeding authorised access; or
  - (iii) introducing or causing to introduce any computer contaminant,

and by means of such conduct causes or is likely to cause death or injuries to persons or damage to or destruction of property or disrupts or knowing that it is likely to cause damage or disruption of supplies or services essential to the life of the community or adversely affect the critical information infrastructure specified under section 70; or

(B) knowingly or intentionally penetrates or accesses a computer resource without authorisation or exceeding authorised access, and by means of such conduct obtains access to information, data or computer database that is restricted for reasons of the security of the State or foreign relations; or any restricted information, data or computer database, with reasons to believe that such information, data or computer database so obtained may be used to cause or likely to cause injury to the interests of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality, or in relation to contempt of court, defamation or incitement to an offence, or to the advantage of any foreign nation, group of individuals or otherwise, commits the offence of cyber terrorism.

T.C.

(2) Whoever commits or conspires to commit cyber terrorism shall be punishable with imprisonment which may extend to imprisonment for life.

67. Punishment for publishing or transmitting obscene material in electronic form.-- Whoever publishes or transmits or causes to be published or transmitted in the electronic form, any material which is lascivious or appeals to the prurient interest or if its effect is such as to tend to deprave and corrupt persons who are likely, having regard to all relevant circumstances, to read, see or hear the matter contained or embodied in it, shall be punished on first conviction with imprisonment of either description for a term which may extend to three years and with fine which may extend to five lakh rupees and in the event of second or subsequent conviction with imprisonment of either description for a term which may extend to five years and also with fine which may extend to ten lakh rupees.

67A. Punishment for publishing or transmitting of material containing sexually explicit act, etc., in electronic form.- Whoever publishes or transmits or causes to be published or transmitted in the electronic form any material which contains sexually explicit act or conduct shall be punished on first conviction with imprisonment of either description for a term which may extend to five years and with fine which may extend to ten lakh rupees and in the event of second or subsequent conviction with imprisonment of either description for a term which may extend to seven years and also with fine which may extend to ten lakh rupees.

67B. Punishment for publishing or transmitting of material depicting children in sexually explicit act, etc., in electronic form - Whoever --

(a) publishes or transmits or causes to be published or transmitted material in any electronic form which depicts children engaged in sexually explicit act or conduct; or

(b) creates text or digital images, collects, seeks, browses, downloads, advertises, promotes, exchanges or distributes material in any electronic form depicting children in obscene or indecent or sexually explicit manner; or

(c) cultivates, entices or induces children to online relationship with one or more children for and on sexually explicit act or in a manner that may offend a reasonable adult on the computer resource; or

(d) facilitates abusing children online; or

(e) records in any electronic form own abuse or that of others pertaining to sexually explicit act with children,

shall be punished on first conviction with imprisonment of either description for a term which may extend to five years and with fine which may extend to ten lakh rupees and in the event of second or subsequent conviction with imprisonment of either description for a term which may extend to seven years and also with fine which may extend to ten lakh rupees:

Provided that provisions of section 67, section 67A and this section does not extend to any book, pamphlet, paper, writing, drawing, painting representation or figure in electronic form--

(i) the publication of which is proved to be justified as being for the public good on the ground that such book, pamphlet, paper, writing, drawing, painting representation or figure is in the interest of science, literature, art or learning or other objects of general concern; or

(ii) which is kept or used for bona fide heritage or religious purpose's.

Explanation.-- For the purposes of this section, "children" means a person who has not completed the age of 18 years.

67C. Preservation and retention of information by intermediaries.- (1) Intermediary shall preserve and retain such information as may be specified for such duration and in such manner and format as the Central

*Joc*

Government may prescribe.

(2) Any intermediary who intentionally or knowingly contravenes the provisions of sub-section (1) shall be punished with an imprisonment for a term which may extend to three years and shall also be liable to fine.'

**33. Amendment of section 68.**

In section 68 of the principal Act, for sub-section (2), the following sub-section shall be substituted, namely:--

"(2) Any person who intentionally or knowingly fails to comply with any order under sub-section (1) shall be guilty of an offence and shall be liable on conviction to imprisonment for a term not exceeding two years or a fine not exceeding one lakh rupees or with both."

**34. Substitution of new sections for section 69**

For section 69 of the principal Act, the following sections shall be substituted, namely:--

'69. Power to issue directions for interception or monitoring or decryption of any information through any computer resource - (1) Where the Central Government or a State Government or any of its officers specially authorised by the Central Government or the State Government, as the case may be, in this behalf may, if satisfied that it is necessary or expedient so to do, in the interest of the sovereignty or integrity of India, defence of India, security of the State, friendly relations with foreign States or public order or for preventing incitement to the commission of any cognizable offence relating to above or for investigation of any offence, it may subject to the provisions of sub-section (2), for reasons to be recorded in writing, by order, direct any agency of the appropriate Government to intercept, monitor or cause to be intercepted or monitored or decrypted any information generated, transmitted, received or stored in any computer resource.

(2) The procedure and safeguards subject to which such interception or monitoring or decryption may be carried out, shall be such as may be prescribed.

(3) The subscriber or intermediary or any person in-charge of the computer resource shall, when called upon by any agency referred to in sub-section (1), extend all facilities and technical assistance to--

(a) provide access to or secure access to the computer resource generating, transmitting, receiving or storing such information; or

(b) intercept, monitor, or decrypt the information, as the case may be; or

(c) provide information stored in computer resource.

(4) The subscriber or intermediary or any person who fails to assist the agency referred to in sub-section (3) shall be punished with imprisonment for a term which may extend to seven years and shall also be liable to fine.

69A. Power to issue directions for blocking for public access of any information through any computer resource.-- (1) Where the Central Government or any of its officers specially authorised by it in this behalf is satisfied that it is necessary or expedient so to do, in the interest of sovereignty and integrity of India, defence of India, security of the State, friendly relations with foreign States or public order or for preventing incitement to the commission of any cognizable offence relating to above, it may subject to the provisions of sub-section (2), for reasons to be recorded in writing, by order, direct any agency of the Government or intermediary to block for access by the public or cause to be blocked for access by the public any information generated, transmitted, received, stored or hosted in any computer resource.

(2) The procedure and safeguards subject to which such blocking for access by the public may be carried out, shall be such as may be prescribed.



(3) The intermediary who fails to comply with the direction issued under sub-section (1) shall be punished with an imprisonment for a term which may extend to seven years and shall also be liable to fine.

69B. Power to authorise to monitor and collect traffic data or information through any computer resource for cyber security.-- (1) The Central Government may, to enhance cyber security and for identification, analysis and prevention of intrusion or spread of computer contaminant in the country, by notification in the Official Gazette, authorise any agency of the Government to monitor and collect traffic data or information generated, transmitted, received or stored in any computer resource.

(2) The intermediary or any person in-charge of the computer resource shall, when called upon by the agency which has been authorised under sub-section (1), provide technical assistance and extend all facilities to such agency to enable online access or to secure and provide online access to the computer resource generating, transmitting, receiving or storing such traffic data or information.

(3) The procedure and safeguards for monitoring and collecting traffic data or information, shall be such as may be prescribed.

(4) Any intermediary who intentionally or knowingly contravenes the provisions of sub-section (2) shall be punished with an imprisonment for a term which any extend to three years and shall also be liable to fine.

Explanation.--For the purposes of this section,--

(i) "computer contaminant" shall have the meaning assigned to it in section 43;

(ii) "traffic data" means any data identifying or purporting to identify any person, computer system or computer network or location to or from which the communication is or may be transmitted and includes communications origin, destination, route, time, date, size, duration or type of underlying service and any other information.;

### 35. Amendment of section 70

In section 70 of the principal Act,--

(a) for sub-section (1), the following sub-section shall be substituted, namely:--

'(1) The appropriate Government may, by notification in the Official Gazette, declare any computer resource which directly or indirectly affects the facility of Critical Information Infrastructure, to be a protected system.

Explanation.--For the purposes of this section, "Critical Information Infrastructure" means the computer resource, the incapacitation or destruction of which, shall have debilitating impact on national security, economy, public health or safety.;


(b) after sub-section (3), the following sub-section shall be inserted, namely:--

"(4) The Central Government shall prescribe the information security practices and procedures for such protected system."

### 36. Insertion of new sections 70A and 70B

After section 70 of the principal Act, the following sections shall be inserted, namely:--

"70A. National nodal agency.-- (1) The Central Government may, by notification published in the Official Gazette, designate any organisation of the Government as the national nodal agency in respect of Critical Information Infrastructure Protection.

  
T & C

(2) The national nodal agency designated under sub-section (1) shall be responsible for all measures including Research and Development relating to protection of Critical Information Infrastructure.

(3) The manner of performing functions and duties of the agency referred to in sub-section (1) shall be such as may be prescribed.

70B. Indian Computer Emergency Response Team to serve as national agency for incident response.-- (1) The Central Government shall, by notification in the Official Gazette, appoint an agency of the Government to be called the Indian Computer Emergency Response Team.

(2) The Central Government shall provide the agency referred to in sub-section (1) with a Director General and such other officers and employees as may be prescribed.

(3) The salary and allowances and terms and conditions of the Director-General and other officers and employees shall be such as may be prescribed.

(4) The Indian Computer Emergency Response Team shall serve as the national agency for performing the following functions in the area of cyber security,--

(a) collection, analysis and dissemination of information on cyber incidents;

(b) forecast and alerts of cyber security incidents;

(c) emergency measures for handling cyber security incidents;

(d) coordination of cyber incidents response activities;

(e) issue guidelines, advisories, vulnerability notes and white papers relating to information security practices, procedures, presentation, response and reporting of cyber incidents;

(f) such other functions relating to cyber security as may be prescribed.

(5) The manner of performing functions and duties of the agency referred to in sub-section (1) shall be such as may be prescribed.

(6) For carrying out the provisions of sub-section (4), the agency referred to in sub-section (1) may call for information and give direction to the service providers, intermediaries, data centres, body corporate and any other person.

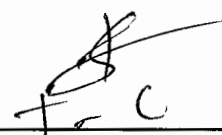
(7) Any service provider, intermediaries, data centres, body corporate or person who fails to provide the information called for or comply with the direction under sub-section (6), shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to one lakh rupees or with both.

(8) No court shall take cognizance of any offence under this section, except on a complaint made by an officer authorised in this behalf by the agency referred to in sub-section (1)."

### 37. Insertion of new section 72A

After section 72 of the principal Act, the following section shall be inserted, namely:--

"72 A. Punishment for disclosure of information in breach of lawful contract.-- Save as otherwise provided in this Act or any other law for the time being in force, any person including an intermediary who, while providing services under the terms of lawful contract, has secured access to any material containing personal information about another person, with the intent to cause or knowing that he is likely to cause wrongful loss or wrongful gain discloses, without the consent of the person concerned, or in breach of a lawful contract,





such material to any other person, shall be punished with imprisonment for a term which may extend to three years, or with fine which may extend to five lakh rupees, or with both."

**38. Substitution of new sections for section 77**

For section 77 of the principal Act, the following sections shall be substituted, namely:--

"77. Compensation, penalties or confiscation not to interfere with other punishment.-- No compensation awarded, penalty imposed or confiscation made under this Act shall prevent the award of compensation or imposition of any other penalty or punishment under any other law for the time being in force.

77A. Compounding of offences.-- A court of competent jurisdiction may compound offences, other than offences for which the punishment for life or imprisonment for a term exceeding three years has been provided, under this Act:

Provided that the court shall not compound such offence where the accused is, by reason of his previous conviction, liable to either enhanced punishment or to a punishment of a different kind:

Provided further that the court shall not compound any offence where such offence affects the socio economic conditions of the country or has been committed against a child below the age of 18 years or a woman.

(2) The person accused of an offence under this Act may file an application for compounding in the court in which offence is pending for trial and the provisions of sections 265B and 265C of the Code of Criminal Procedure, 1973(2 of 1974) shall apply.

77B. Offences with three years imprisonment to be bailable.-- Notwithstanding anything contained in the Code of Criminal Procedure, 1973(2 of 1974), the offence punishable with imprisonment of three years and above shall be cognizable and the offence punishable with imprisonment of three years shall be bailable.

**39. Amendment of section 78**

In section 78 of the principal Act, for the words "Deputy Superintendent of Police" the word "Inspector" shall be substituted.

**40. Substitution of new Chapters for Chapter XII**

For Chapter XII of the principal Act, the following Chapters shall be substituted, namely:--

**'CHAPTER XII**

**Intermediaries not to be liable in certain cases**

79. Exemption from liability of intermediary in certain cases.-- (1) Notwithstanding anything contained in any law for the time being in force but subject to the provisions of sub-sections (2) and (3), an intermediary shall not be liable for any third party information, data, or communication link made available or hosted by him.

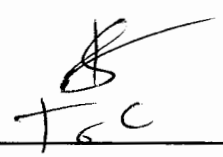
(2) The provisions of sub-section (1) shall apply if--

(a) the function of the intermediary is limited to providing access to a communication system over which information made available by third parties is transmitted or temporarily stored or hosted; or

(b) the intermediary does not--

(i) initiate the transmission,

(ii) select the receiver of the transmission, and



(iii) select or modify the information contained in the transmission;

(c) the intermediary observes due diligence while discharging his duties under this Act and also observes such other guidelines as the Central Government may prescribe in this behalf.

(3) The provisions of sub-section (1) shall not apply if--

(a) the intermediary has conspired or abetted or aided or induced, whether by threats or promise or otherwise in the commission of the unlawful act;

(b) upon receiving actual knowledge, or on being notified by the appropriate Government or its agency that any information, data or communication link residing in or connected to a computer resource controlled by the intermediary is being used to commit the unlawful act, the intermediary fails to expeditiously remove or disable access to that material on that resource without vitiating the evidence in any manner.

Explanation.--For the purposes of this section, the expression "third party information" means any information dealt with by an intermediary in his capacity as an intermediary.

## CHAPTER XIII

### Examiner of electronic evidence

79A. Central Government to notify Examiner of Electronic Evidence.- The Central Government may, for the purposes of providing expert opinion on electronic form evidence before any court or other authority specify, by notification in the Official Gazette, any Department, body or agency of the Central Government or a State Government as an Examiner of Electronic Evidence.

Explanation.--For the purposes of this section, "electronic form evidence" means any information of probative value that is either stored or transmitted in electronic form and includes computer evidence, digital audio, digital video, cell phones, digital fax machines.!

#### 41. Amendment of section 80

In section 80 of the principal Act, in sub-section (1), for the words "Deputy Superintendent of Police", the word "Inspector" shall be substituted.

#### 42. Amendment of section 81

In section 81 of the principal Act, the following proviso shall be inserted at the end, namely:--

"Provided that nothing contained in this Act shall restrict any person from exercising any right conferred under the Copyright Act, 1957((14 of 1957)) or the Patents Act, 1970(39 of 1970).".

#### 43. Amendment of section 82

In section 82 of the principal Act,--


(a) for the marginal heading, the following marginal heading shall be substituted, namely:--

"Chairperson, Members, officers and employees to be public servants.";

(b) for the words "Presiding Officer", the words "Chairperson, Members" shall be substituted.

#### 44. Amendment of section 84

In section 84 of the principal Act, for the words "Presiding Officer", the words "Chairperson, Members" shall be substituted.

  
T.C

**45. Insertion of new sections 84A, 84B and 84C**

After section 84 of the principal Act, the following sections shall be inserted, namely:--

"84A. Modes or methods for encryption.-- The Central Government may, for secure use of the electronic medium and for promotion of e-governance and e-commerce, prescribe the modes or methods for encryption.

84B. Punishment for abetment of offences.- Whoever abets any offence shall, if the act abetted is committed in consequence of the abetment, and no express provision is made by this Act for the punishment of such abetment, be punished with the punishment provided for the offence under this Act.

Explanation.--An act or offence is said to be committed in consequence of abetment, when it is committed in consequence of the instigation, or in pursuance of the conspiracy, or with the aid which constitutes the abetment.

84C. Punishment for attempt to commit offences.- Whoever attempts to commit an offence punishable by this Act or causes such an offence to be committed, and in such an attempt does any act towards the commission of the offence, shall, where no express provision is made for the punishment of such attempt, be punished with imprisonment of any description provided for the offence, for a term which may extend to one-half of the longest term of imprisonment provided for that offence, or with such fine as is provided for the offence, or with both."

**46. Amendment of section 87**

In section 87 of the principal Act,--

(A) in sub-section (2),--

(i) for clause (a), the following clauses shall be substituted, namely:--

"(a) the conditions for considering reliability of electronic signature or electronic authentication technique under sub-section (2) of section 3A;

(aa) the procedure for ascertaining electronic signature or authentication under sub-section (3) of section 3 A;

(ab) the manner in which any information or matter may be authenticated by means of electronic signature under section 5;"

(ii) after clause (c), the following clause shall be inserted, namely:--

"(ca) the manner in which the authorised service provider may collect, retain and appropriate service charges under sub-section (2) of section 6A;"

(iii) for clause (e), the following clauses shall be substituted, namely:--

"(e) the manner of storing and affixing electronic signature creation data under section 15;

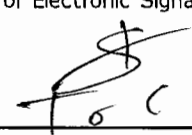
(ea) the security procedures and practices under section 16;"

(iv) in clause (f), for the words "and Assistant Controllers", the words ", Assistant Controllers, other officers and employees" shall be substituted;

(v) clause (g) shall be omitted;

(vi) after clause (m), the following clause shall be inserted, namely:--

"(ma) the form of application and fee for issue of Electronic Signature Certificate under section



35;"

(vii) after clause (o), the following clauses shall be inserted, namely:--

"(oa) the duties of subscribers under section 40A;

(ob) the reasonable security practices and procedures and sensitive personal data or information under section 43A;"

(viii) in clause (r), for the words "Presiding Officer", the words "Chairperson and Members" shall be substituted;

(ix) in clause (s), for the words "Presiding Officer", the words "Chairperson and Members" shall be substituted;

(x) for clause (w), the following clauses shall be substituted, namely:--

"(w) the powers and functions of the Chairperson of the Cyber Appellate Tribunal under section 52A;

(x) the information, duration, manner and form of such information to be retained and preserved under section 67C;

(y) the procedures and safeguards for interception, monitoring, or decryption under sub-section (2) of section 69;

(z) the procedure and safeguards for blocking for access by the public under sub-section (2) of section 69A;

(za) the procedure and safeguards for monitoring and collecting traffic data or information under sub-section (3) of section 69B;

(zb) the information security practices and procedures for protected system under section 70;

(zc) manner of performing functions and duties of the agency under sub-section (3) of section 70A;

(zd) the officers and employees under sub-section (2) of section 70B;

(ze) salaries and allowances and terms and conditions of service of the Director General and other officers and employees under subsection (3) of section 70B;

(zf) the manner in which the functions and duties of agency shall be performed under sub-section (5) of section 70B;

(zg) the guidelines to be observed by the intermediaries under sub-section (2) of section 79;

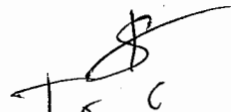
(zh) the modes or methods for encryption under section 84A;" (B) in sub-section (3),--

(i) for the words, brackets, letter and figures "Every notification made by the Central Government under clause (f) of sub-section (4) of section 1 and every rule made by it", the words "Every notification made by the Central Government under sub-section (1) of section 70A and every rule made by it" shall be substituted;

(ii) the words "the notification or" wherever they occur, shall be omitted.

#### 47. Amendment of section 90

In section 90 of the principal Act, in sub-section (2), clause (c) shall be omitted.



#### 48. Omission of sections 91, 92, 93 and 94

Sections 91, 92, 93 and 94 of the principal Act shall be omitted.

#### 49. Substitution of new Schedules for First Schedule and Second Schedule.

For the First Schedule and the Second Schedule to the principal Act, the following Schedules shall be substituted, namely:--

##### "FIRST SCHEDULE

[See sub-section (4) of section 1]

Documents or transactions to which the Act shall not apply

- | Sl. No. | Description of documents or transactions   |
|---------|--|
| 1.      | A negotiable instrument (other than a cheque) as defined in section 13 of the Negotiable Instruments Act, 1881(26 of 1881).  |
| 2.      | A power-of-attorney as defined in section 1A of the Powers-of-Attorney Act, 1882(7 of 1882).   |
| 3.      | A trust as defined in section 3 of the Indian Trusts Act, 1882(2 of 1882).   |
| 4.      | A will as defined in clause (h) of section 2 of the Indian Succession Act, 1925(39 of 1925), including any other testamentary disposition by whatever name called. |
| 5.      | Any contract for the sale or conveyance of immovable property or any interest in such property.  |

##### THE SECOND SCHEDULE

[See sub-section (1) of section 3 A]

Electronic signature or electronic authentication technique and procedure

Sl. No.	Description	Procedure
(1)	(2)	(3)
Â		

#### 50. Omission of Third Schedule and Fourth Schedule.

The Third Schedule and the Fourth Schedule to the principal Act shall be omitted.

#### PART III

Amendment of the Indian Penal Code

#### 51. Amendment of Indian Penal Code

In the Indian Penal Code(45 of 1860)--

(a) Amendment of section 4.- in section 4,--

(i) after clause (2), the following clause shall be inserted, namely:--

"(3) any person in any place without and beyond India committing offence targeting a computer resource located in India.";



(ii) for the Explanation, the following Explanation shall be substituted, namely:--

'Explanation--In this section--

(a) the word "offence" includes every act committed outside India which, if committed in India, would be punishable under this Code;

(b) the expression "computer resource" shall have the meaning assigned to it in clause (k) of sub-section (1) of section 2 of the Information Technology Act, 2000(21 of 2000).';

(b) Amendment of section 40.- in section 40, in clause (2), after the figure "117", the figures and word "118, 119 and 120" shall be inserted;

(c) Amendment of section 118.-- in section 118, for the words "voluntarily conceals, by any act or illegal omission, the existence of a design", the words "voluntarily conceals by any act or omission or by the use of encryption or any other information hiding tool, the existence of a design" shall be substituted;

(d) Amendment of section 119 - in section 119, for the words "voluntarily conceals, by any act or illegal omission, the existence of a design", the words "voluntarily conceals by any act or omission or by the use of encryption or any other information hiding tool, the existence of a design" shall be substituted;

(e) Amendment of section 464.- in section 464, for the words "digital signature" wherever they occur, the words "electronic signature" shall be substituted;

#### PART IV

#### Amendment of the Indian Evidence Act, 1872

#### 52. Amendment of Indian Evidence Act.

In the Indian Evidence Act, 1872(1 of 1872),--

(a) Amendment of section 3.- in section 3 relating to interpretation clause, in the paragraph appearing at the end, for the words "digital signature" and "Digital Signature Certificate", the words "electronic signature" and "Electronic Signature Certificate" shall respectively be substituted;

(b) Insertion of new section 45A -after section 45, the following section shall be inserted, namely:--

"45A. Opinion of Examiner of Electronic Evidence.-When in a proceeding, the court has to form an opinion on any matter relating to any information transmitted or stored in any computer resource or any other electronic or digital form, the opinion of the Examiner of Electronic Evidence referred to in section 79A of the Information Technology Act, 2000(21 of 2000)., is a relevant fact.

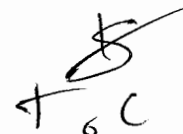
Explanation.--For the purposes of this section, an Examiner of Electronic Evidence shall be an expert.";

(c) Amendment of section 47A -in section 47A,--

(i) for the words "digital signature", the words "electronic signature" shall be substituted;

(ii) for the words "Digital Signature Certificate", the words "Electronic Signature Certificate" shall be substituted;

(d) Amendment of section 67A -in section 67A, for the words "digital signature" wherever they occur, the words "electronic signature" shall be substituted;

  
T 6 C

- (e) Amendment of section 85A - in section 85A, for the words "digital signature" at both the places where they occur, the words "electronic signature" shall be substituted;
- (f) Amendment of section 85B.-in section 85B, for the words "digital signature" wherever they occur, the words "electronic signature" shall be substituted;
- (g) Amendment of section 85C in section 85C, for the words "Digital Signature Certificate", the words "Electronic Signature Certificate" shall be substituted;
- (h) Amendment of section 90A. in section 90A, for the words "digital signature" at both the places where they occur, the words "electronic signature" shall be substituted;

**Amending Act 1 : NEGOTIABLE INSTRUMENTS (AMENDMENT AND MISCELLANEOUS PROVISIONS) ACT, 2002**

**THE NEGOTIABLE INSTRUMENTS (AMENDMENT AND MISCELLANEOUS PROVISIONS) ACT, 2002**

[Act, No. 55 of 2002]

**PREAMBLE**

An Act further to amend the Negotiable Instruments Act, 1881, the Bankers' Books Evidence Act, 1891 and the Information Technology Act, 2000.

Be it enacted by Parliament in the Fifty-third Year of the Republic of India as follows:--

**1. Short title and commencement**

- (1) This Act may be called the Negotiable Instruments (Amendment and Miscellaneous Provisions) Act, 2002.
- (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act.

**2. Substitution of new section for section 6**

For section 6 of the Negotiable Instruments Act, 1881 (hereinafter referred to as the principal Act), the following section shall be substituted, namely:--

'6. "Cheque".--

A "cheque" is a bill of exchange drawn on a specified banker and not expressed to be payable otherwise than on demand and it includes the electronic image of a truncated cheque and a cheque in the electronic form.

Explanation 1.--For the purposes of this section, the expressions--

(a) "a cheque in the electronic form" means a cheque which contains the exact mirror image of a paper cheque, and is generated, written and signed in a secure system ensuring the minimum safety standards with the use of digital signature (with or without biometrics signature) and asymmetric crypto system;

(b) "a truncated cheque" means a cheque which is truncated during the course of a clearing cycle, either by the clearing house or by the bank whether paying or receiving payment, immediately on generation of an electronic image for transmission, substituting the further physical movement of the cheque in writing.

Explanation II.--For the purposes of this section, the expression "clearing house" means the clearing house managed by the Reserve Bank of India or a clearing house recognised as such by the Reserve Bank of India.'

*T & C*

**3. Amendment of section 64**

Section 64 of the principal Act shall be re-numbered as sub-section (1) thereof, and after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely:--

"(2) Notwithstanding anything contained in section 6, where an electronic image of a truncated cheque is presented for payment, the drawee bank is entitled to demand any further information regarding the truncated cheque from the bank holding the truncated cheque in case of any reasonable suspicion about the genuineness of the apparent tenor of instrument, and if the suspicion is that of any fraud, forgery, tampering or destruction of the instrument, it is entitled to further demand the presentment of the truncated cheque itself for verification:

Provided that the truncated cheque so demanded by the drawee bank shall be retained by it, if the payment is made accordingly."

**4. Amendment of section 81**

Section 81 of the principal Act shall be re-numbered as sub-section (1) thereof, and after sub-section (1) as so re-numbered, the following sub-sections shall be inserted, namely:--

"(2) Where the cheque is an electronic image of a truncated cheque, even after the payment the banker who received the payment shall be entitled to retain the truncated cheque.

(3) A certificate issued on the foot of the printout of the electronic image of a truncated cheque by the banker who paid the instrument, shall be prima facie proof of such payment."

**5. Amendment of section 89**

Section 89 of the principal Act shall be re-numbered as sub-section (1) thereof, and after sub-section (1) as so re-numbered, the following sub-sections shall be inserted, namely:--

"(2) Where the cheque is an electronic image of a truncated cheque, any difference in apparent tenor of such electronic image and the truncated cheque shall be a material alteration and it shall be the duty of the bank or the clearing house, as the case may be, to ensure the exactness of the apparent tenor of electronic image of the truncated cheque while truncating and transmitting the image.

(3) Any bank or a clearing house which receives a transmitted electronic image of a truncated cheque, shall verify from the party who transmitted the image to it, that the image so transmitted to it and received by it, is exactly the same."

**6. Amendment of section 131**

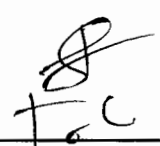
In section 131 of the principal Act, Explanation shall be re-numbered as Explanation 1 thereof, and after Explanation I as so re-numbered, the following Explanation shall be inserted, namely:--

"Explanation II.--It shall be the duty of the banker who receives payment based on an electronic image of a truncated cheque held with him, to verify the prima facie genuineness of the cheque to be truncated and any fraud, forgery or tampering apparent on the face of the instrument that can be verified with due diligence and ordinary care."

**7. Amendment of section 138**

In section 138 of the principal Act,--

(a) for the words "a term which may be extended to one year", the words "a term which may be extended to two years" shall be substituted;





(b) in the proviso, in clause (f), for the words "within fifteen days", the words "within thirty days" shall be substituted.

#### 8. Amendment of section 141

In section 141 of the principal Act, in sub-section (1), after the proviso, the following proviso shall be inserted, namely:--

"Provided further that where a person is nominated as a Director of a company by virtue of his holding any office or employment in the Central Government or State Government or a financial corporation owned or controlled by the Central Government or the State Government, as the case may be, he shall not be liable for-prosecution under this Chapter."

#### 9. Amendment of section 142

In section 142 of the principal Act, after clause (h), the following proviso shall be inserted, namely:--

"Provided that the cognizance of a complaint may be taken by the Court after the prescribed period, if the complainant satisfies the Court that he had sufficient cause for not making a complaint within such period."

#### 10. Insertion of new sections after section 142

After section 142 of the principal Act, the following sections shall be inserted, namely:--

"143. Power of Court to try cases summarily.--

(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), all offences under this Chapter shall be tried by a Judicial Magistrate of the first class or by a Metropolitan Magistrate and the provisions of sections 262 to 265 (both inclusive) of the said Code shall, as far as may be, apply to such trials:

Provided that in the case of any conviction in a summary trial under this section, it shall be lawful for the Magistrate to pass a sentence of imprisonment for a term not exceeding one year and an amount of fine exceeding five thousand rupees:

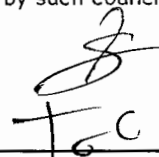
Provided further that when at the commencement of, or in the course of, a summary trial under this section, it appears to the Magistrate that the nature of the case is such that a sentence of imprisonment for a term exceeding one year may have to be passed or that it is, for any other reason, undesirable to try the case summarily, the Magistrate shall after hearing the parties, record an order to that effect and thereafter recall any witness who may have been examined and proceed to hear or rehear the case in the manner provided by the said Code.

(2) The trial of a case under this section shall, so far as practicable, consistently with the interests of justice, be continued from day to day until its conclusion, unless the Court finds the adjournment of the trial beyond the following day to be necessary for reasons to be recorded in writing.

(3) Every trial under this section shall be conducted as expeditiously as possible and an endeavour shall be made to conclude the trial within six months from the date of filing of the complaint.

144. Mode of service of summons.--

(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), and for the purposes of this Chapter, a Magistrate issuing a summons to an accused or a witness may direct a copy of summons to be served at the place where such accused or witness ordinarily resides or carries on business or personally works for gain, by speed post or by such courier services as are approved by

  
TCC

8 Court of Session.

(2) Where an acknowledgment purporting to be signed by the accused or the witness or an endorsement purported to be made by any person authorised by the postal department or the courier services that the accused or the witness refused to take delivery of summons has been received, the Court issuing the summons may declare that the summons has been duly sewed.

145. Evidence on affidavit.--

(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), the evidence of the complainant may be given by him on affidavit and may, subject to all just exceptions be read in evidence in any enquiry, trial or other proceeding under the said Code.

(2) The Court may, if it thinks fit, and shall, on the application of the prosecution or the accused, summon and examine any person giving evidence on affidavit as to the facts contained therein.

146. Bank's slip prima facie evidence for certain facts.--

The Court shall, in respect of every proceeding under this Chapter, on production of bank's slip or memo having thereon the official mark denoting that the cheque has been dishonoured, presume the fact of dishonour of such cheque, unless and until such fact is disproved.

147. Offences to be compoundable.--

Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), every offence punishable under this Act shall be compoundable."

#### 11. Amendment of section 2

In section 2 of the Bankers' Books Evidence Act, 1891 (18 of 1891),--

(a) for clause (3), the following clause shall be substituted, namely:--

'(3) "bankers' books" include ledgers, day-books, cash-books, account-books and all other records used in the ordinary business of the bank, whether these records are kept in written form or stored in a micro film, magnetic tape or in any other form of mechanical or electronic data retrieval mechanism, either onsite or at any offsite location including a back-up or disaster recovery site of both;'

(b) in clause (5), after sub-clause (6), the following sub-clause shall be inserted, namely:--

"(c) a printout of any entry in the books of a bank stored in a micro film, magnetic tape or in any other form of mechanical or electronic data retrieval mechanism obtained by a mechanical or other process which in itself ensures the accuracy of such printout as a copy of such entry and such printout contains the certificate in accordance with the provisions of section 2A."

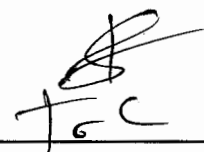
#### 12. Amendment of section 1

In the Information Technology Act, 2000 (21 of 2000) (hereinafter referred to as the principal Act), in section 1, in sub-section (4), for clause (a), the following clause shall be substituted, namely:--

"(a) a negotiable instrument (other than a cheque) as defined in section 13 of the Negotiable Instruments Act, 1881 (26 of 1881);"

#### 13. Insertion of a new section 81A

After section 81 of the principal Act, the following section shall be inserted, namely:--



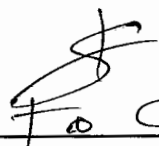
'81 A. Application of the Act to electronic cheque and truncated cheque.--

(1) The provisions of this Act, for the time being in force, shall apply to, or in relation to, electronic cheques and the truncated cheques subject to such modifications and amendments as may be necessary for carrying out the purposes of the Negotiable Instruments Act, 1881 (26 of 1881) by the Central Government, in consultation with the Reserve Bank of India, by notification in the Official Gazette.

(2) Every notification made by the Central Government under sub-section (1) shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the notification or both Houses agree that the notification should not be made, the notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that notification.

Explanation.--For the purposes of this Act, the expressions "electronic cheque" and "truncated cheque" shall have the same meaning as assigned to them in section 6 of the Negotiable Instruments Act, 1881.

INDIA  
Forbes



**NOTIFICATION**

New Delhi, the 11th April, 2011

**G.S.R. 314(E).**— In exercise of the powers conferred by clause (zg) of subsection (2) of section 87 read with sub-section (2) of section 79 of the Information Technology Act, 2000 (21 of 2000), the Central Government hereby makes the following rules, namely. —

**1. Short title and commencement** — (1) These rules may be called the Information Technology (Intermediaries guidelines) Rules, 2011.

(2) They shall come into force on the date of their publication in the Official Gazette

**2. Definitions** — (1) In these rules, unless the context otherwise requires, —

- (a) "Act" means the Information Technology Act, 2000 (21 of 2000);
- (b) "Communication link" means a connection between a hyperlink or graphical element (button, drawing, image) and one or more such items in the same or different electronic document wherein upon clicking on a hyperlinked item, the user is automatically transferred to the other end of the hyperlink which could be another document website or graphical element.
- (c) "Computer resource" means computer resources as defined in clause (k) of sub-section (1) of section 2 of the Act;
- (d) "Cyber security incident" means any real or suspected adverse event in relation to cyber security that violates an explicitly or implicitly applicable security policy resulting in unauthorised access, denial of service or disruption, unauthorised use of a computer resource for processing or storage of information or changes to data, information without authorisation;
- (e) "Data" means data as defined in clause (o) of sub-section (1) of section 2 of the Act;

  
T.C

- (f) "Electronic Signature" means electronic signature as defined in clause (ta) of sub-section (1) of section 2 of the Act;
- (g) "Indian Computer Emergency Response Team" means the Indian Computer Emergency Response Team appointed under sub section (1) section 70 (B) of the Act;
- (h) "Information" means information as defined in clause (v) of sub-section (1) of section 2 of the Act;
- (i) "Intermediary" means an intermediary as defined in clause (w) of sub-section (1) of section 2 of the Act;
- (j) "User" means any person who access or avail any computer resource of intermediary for the purpose of hosting, publishing, sharing, transacting, displaying or uploading information or views and includes other persons jointly participating in using the computer resource of an intermediary.

(2) All other words and expressions used and not defined in these rules but defined in the Act shall have the meanings respectively assigned to them in the Act.

**3. Due diligence to be observed by intermediary** — The intermediary shall observe following due diligence while discharging his duties, namely : —

(1) The intermediary shall publish the rules and regulations, privacy policy and user agreement for access-or usage of the intermediary's computer resource by any person.

(2) Such rules and regulations, terms and conditions or user agreement shall inform the users of computer resource not to host, display, upload, modify, publish, transmit, update or share any information that —

- (a) belongs to another person and to which the user does not have any right to;
- (b) is grossly harmful, harassing, blasphemous defamatory, obscene, pornographic, paedophilic, libellous, invasive of another's privacy, hateful, or racially, ethnically objectionable, disparaging, relating or encouraging money laundering or gambling, or otherwise unlawful in any manner whatever;
- (c) harm minors in any way;
- (d) infringes any patent, trademark, copyright or other proprietary rights;
- (e) violates any law for the time being in force;
- (f) deceives or misleads the addressee about the origin of such messages or communicates any information which is grossly offensive or menacing in nature;
- (g) impersonate another person;

  
T.C

- (h) contains software viruses or any other computer code, files or programs designed to interrupt, destroy or limit the functionality of any computer resource;
- (i) threatens the unity, integrity, defence, security or sovereignty of India, friendly relations with foreign states, or public order or causes incitement to the commission of any cognisable offence or prevents investigation of any offence or is insulting any other nation
- (3) The intermediary shall not knowingly host or publish any information or shall not initiate the transmission, select the receiver of transmission, and select or modify the information contained in the transmission as specified in sub-rule (2):  
provided that the following actions by an intermediary shall not amount to hosting, publishing, editing or storing of any such information as specified in sub-rule: (2) —
- (a) temporary or transient or intermediate storage of information automatically within the computer resource as an intrinsic feature of such computer resource, involving no exercise of any human editorial control, for onward transmission or communication to another computer resource;
- (b) removal of access to any information, data or communication link by an intermediary after such information, data or communication link comes to the actual knowledge of a person authorised by the intermediary pursuant to any order or direction as per the provisions of the Act;
- (4) The intermediary, on whose computer system the information is stored or hosted or published, upon obtaining knowledge by itself or been brought to actual knowledge by an affected person in writing or through email signed with electronic signature about any such information as mentioned in sub-rule (2) above, shall act within thirty six hours and where applicable, work with user or owner of such information to disable such information that is in contravention of sub-rule (2). Further the intermediary shall preserve such information and associated records for at least ninety days for investigation purposes,
- (5) The Intermediary shall inform its users that in case of non-compliance with rules and regulations, user agreement and privacy policy for access or usage of intermediary computer resource, the Intermediary has the right to immediately terminate the access or usage rights of the users to the computer resource of Intermediary and remove non-compliant information..
- (6) The intermediary shall strictly follow the provisions of the Act or any other laws for the time being in force.
- (7) When required by lawful order, the intermediary shall provide information or any such assistance to Government Agencies who are lawfully authorised for

## MINISTRY OF ELECTRONICS AND INFORMATION TECHNOLOGY

## NOTIFICATION

New Delhi, the 25th February, 2021

**G.S.R. 139(E).**—In exercise of the powers conferred by sub-section (1), clauses (z) and (zg) of sub-section (2) of section 87 of the Information Technology Act, 2000 (21 of 2000), and in supersession of the Information Technology (Intermediaries Guidelines) Rules, 2011, except as respect things done or omitted to be done before such supersession, the Central Government hereby makes the following rules, namely:—

## PART I

## PRELIMINARY

**1. Short Title and Commencement.**—(1) These rules may be called the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021.

(2) They shall come into force on the date of their publication in the Official Gazette.

**2. Definitions.**— (1) In these rules, unless the context otherwise requires-

- (a) 'access control mechanism' means any measure, including a technical measure, through which access to online curated content may be restricted based on verification of the identity or age of a user;
- (b) 'access services' means any measure, including technical measure such as closed captioning, subtitles and audio descriptions, through which the accessibility of online curated content may be improved for persons with disabilities;
- (c) 'Act' means the Information Technology Act, 2000 (21 of 2000);
- (d) 'child' means any person below the age of eighteen years;
- (e) 'committee' means the Inter-Departmental Committee constituted under rule 14;
- (f) 'communication link' means a connection between a hypertext or graphical element, and one or more items in the same or different electronic document wherein upon clicking on a hyperlinked item, the user is automatically transferred to the other end of the hyperlink which can be another electronic record or another website or application or graphical element;
- (g) 'content' means the electronic record defined in clause (t) of section 2 of the Act;
- (h) 'content descriptor' means the issues and concerns which are relevant to the classification of any online curated content, including discrimination, depiction of illegal or harmful substances, imitable behaviour, nudity, language, sex, violence, fear, threat, horror and other such concerns as specified in the *Schedule* annexed to the rules;
- (i) 'digital media' means digitized content that can be transmitted over the internet or computer networks and includes content received, stored, transmitted, edited or processed by-
  - (i) an intermediary; or
  - (ii) a publisher of news and current affairs content or a publisher of online curated content;
- (j) 'grievance' includes any complaint, whether regarding any content, any duties of an intermediary or publisher under the Act, or other matters pertaining to the computer resource of an intermediary or publisher, as the case may be;
- (k) 'Grievance Officer' means an officer appointed by the intermediary or the publisher, as the case may be, for the purposes of these rules;
- (l) 'Ministry' means, for the purpose of Part II of these rules unless specified otherwise, the Ministry of Electronics and Information Technology, Government of India, and for the purpose of Part III of these rules, the Ministry of Information and Broadcasting, Government of India;
- (m) 'news and current affairs content' includes newly received or noteworthy content, including analysis, especially about recent events primarily of socio-political, economic or cultural

T.P.  
T.C.

nature, made available over the internet or computer networks, and any digital media shall be news and current affairs content where the context, substance, purpose, import and meaning of such information is in the nature of news and current affairs content.

- (n) 'newspaper' means a periodical of loosely folded sheets usually printed on newsprint and brought out daily or at least once in a week, containing information on current events, public news or comments on public news;
- (o) 'news aggregator' means an entity who, performing a significant role in determining the news and current affairs content being made available, makes available to users a computer resource that enable such users to access the news and current affairs content which is aggregated, curated and presented by such entity.
- (p) 'on demand' means a system where a user, subscriber or viewer is enabled to access, at a time chosen by such user, any content in electronic form, which is transmitted over a computer resource and is selected by the user;
- (q) 'online curated content' means any curated catalogue of audio-visual content, other than news and current affairs content, which is owned by, licensed to or contracted to be transmitted by a publisher of online curated content, and made available on demand, including but not limited through subscription, over the internet or computer networks, and includes films, audio visual programmes, documentaries, television programmes, serials, podcasts and other such content;
- (r) 'person' means a person as defined in sub-section (31) of section 2 of the Income tax Act, 1961 (43 of 1961);
- (s) 'publisher' means a publisher of news and current affairs content or a publisher of online curated content;
- (t) 'publisher of news and current affairs content' means an online paper, news portal, news aggregator, news agency and such other entity called by whatever name, which is functionally similar to publishers of news and current affairs content but shall not include newspapers, replica e-papers of the newspaper and any individual or user who is not transmitting content in the course of systematic business, professional or commercial activity;
- (u) 'publisher of online curated content' means a publisher who, performing a significant role in determining the online curated content being made available, makes available to users a computer resource that enables such users to access online curated content over the internet or computer networks, and such other entity called by whatever name, which is functionally similar to publishers of online curated content but does not include any individual or user who is not transmitting online curated content in the course of systematic business, professional or commercial activity;
- (v) 'significant social media intermediary' means a social media intermediary having number of registered users in India above such threshold as notified by the Central Government;
- (w) 'social media intermediary' means an intermediary which primarily or solely enables online interaction between two or more users and allows them to create, upload, share, disseminate, modify or access information using its services;
- (x) 'user' means any person who accesses or avails any computer resource of an intermediary or a publisher for the purpose of hosting, publishing, sharing, transacting, viewing, displaying, downloading or uploading information and includes other persons jointly participating in using such computer resource and addressee and originator;
- (y) 'user account' means the account registration of a user with an intermediary or publisher and includes profiles, accounts, pages, handles and other similar presences by means of which a user is able to access the services offered by the intermediary or publisher.

(2) Words and expressions used and not defined in these rules but defined in the Act and rules made thereunder shall have the same meaning as assigned to them in the Act and the said rules, as the case may be.

  
T.C



## PART II

## DUE DILIGENCE BY INTERMEDIARIES AND GRIEVANCE REDRESSAL MECHANISM

3. (1) **Due diligence by an intermediary:** An intermediary, including social media intermediary and significant social media intermediary, shall observe the following due diligence while discharging its duties, namely:—

- (a) the intermediary shall prominently publish on its website, mobile based application or both, as the case may be, the rules and regulations, privacy policy and user agreement for access or usage of its computer resource by any person;
- (b) the rules and regulations, privacy policy or user agreement of the intermediary shall inform the user of its computer resource not to host, display, upload, modify, publish, transmit, store, update or share any information that,—
  - (i) belongs to another person and to which the user does not have any right;
  - (ii) is defamatory, obscene, pornographic, paedophilic, invasive of another's privacy, including bodily privacy, insulting or harassing on the basis of gender, libellous, racially or ethnically objectionable, relating or encouraging money laundering or gambling, or otherwise inconsistent with or contrary to the laws in force;
  - (iii) is harmful to child;
  - (iv) infringes any patent, trademark, copyright or other proprietary rights;
  - (v) violates any law for the time being in force;
  - (vi) deceives or misleads the addressee about the origin of the message or knowingly and intentionally communicates any information which is patently false or misleading in nature but may reasonably be perceived as a fact;
  - (vii) impersonates another person;
  - (viii) threatens the unity, integrity, defence, security or sovereignty of India, friendly relations with foreign States, or public order, or causes incitement to the commission of any cognisable offence or prevents investigation of any offence or is insulting other nation;
  - (ix) contains software virus or any other computer code, file or program designed to interrupt, destroy or limit the functionality of any computer resource;
  - (x) is patently false and untrue, and is written or published in any form, with the intent to mislead or harass a person, entity or agency for financial gain or to cause any injury to any person;
- (c) an intermediary shall periodically inform its users, at least once every year, that in case of non-compliance with rules and regulations, privacy policy or user agreement for access or usage of the computer resource of such intermediary, it has the right to terminate the access or usage rights of the users to the computer resource immediately or remove non-compliant information or both, as the case may be;
- (d) an intermediary, on whose computer resource the information is stored, hosted or published, upon receiving actual knowledge in the form of an order by a court of competent jurisdiction or on being notified by the Appropriate Government or its agency under clause (b) of sub-section (3) of section 79 of the Act, shall not host, store or publish any unlawful information, which is prohibited under any law for the time being in force in relation to the interest of the sovereignty and integrity of India; security of the State; friendly relations with foreign States; public order; decency or morality; in relation to contempt of court; defamation; incitement to an offence relating to the above, or any information which is prohibited under any law for the time being in force:

*Provided that* any notification made by the Appropriate Government or its agency in relation to any information which is prohibited under any law for the time being in force shall be issued by an authorised agency, as may be notified by the Appropriate Government:

  
T. C.

*Provided further that* if any such information is hosted, stored or published, the intermediary shall remove or disable access to that information, as early as possible, but in no case later than thirty-six hours from the receipt of the court order or on being notified by the Appropriate Government or its agency, as the case may be:

*Provided also that* the removal or disabling of access to any information, data or communication link within the categories of information specified under this clause, under clause (b) on a voluntary basis, or on the basis of grievances received under sub-rule (2) by such intermediary, shall not amount to a violation of the conditions of clauses (a) or (b) of sub-section (2) of section 79 of the Act;

- (e) the temporary or transient or intermediate storage of information automatically by an intermediary in a computer resource within its control as an intrinsic feature of that computer resource, involving no exercise of any human, automated or algorithmic editorial control for onward transmission or communication to another computer resource shall not amount to hosting, storing or publishing any information referred to under clause (d);
- (f) the intermediary shall periodically, and at least once in a year, inform its users of its rules and regulations, privacy policy or user agreement or any change in the rules and regulations, privacy policy or user agreement, as the case may be;
- (g) where upon receiving actual knowledge under clause (d), on a voluntary basis on violation of clause (b), or on the basis of grievances received under sub-rule (2), any information has been removed or access to which has been disabled, the intermediary shall, without vitiating the evidence in any manner, preserve such information and associated records for one hundred and eighty days for investigation purposes, or for such longer period as may be required by the court or by Government agencies who are lawfully authorised;
- (h) where an intermediary collects information from a user for registration on the computer resource, it shall retain his information for a period of one hundred and eighty days after any cancellation or withdrawal of his registration, as the case may be;
- (i) the intermediary shall take all reasonable measures to secure its computer resource and information contained therein following the reasonable security practices and procedures as prescribed in the Information Technology (Reasonable Security Practices and Procedures and Sensitive Personal Information) Rules, 2011;
- (j) the intermediary shall, as soon as possible, but not later than seventy two hours of the receipt of an order, provide information under its control or possession, or assistance to the Government agency which is lawfully authorised for investigative or protective or cyber security activities, for the purposes of verification of identity, or for the prevention, detection, investigation, or prosecution, of offences under any law for the time being in force, or for cyber security incidents:

*Provided that* any such order shall be in writing stating clearly the purpose of seeking information or assistance, as the case may be;

- (k) the intermediary shall not knowingly deploy or install or modify technical configuration of computer resource or become party to any act that may change or has the potential to change the normal course of operation of the computer resource than what it is supposed to perform thereby circumventing any law for the time being in force:

*Provided that* the intermediary may develop, produce, distribute or employ technological means for the purpose of performing the acts of securing the computer resource and information contained therein;

- (l) the intermediary shall report cyber security incidents and share related information with the Indian Computer Emergency Response Team in accordance with the policies and procedures as mentioned in the Information Technology (The Indian Computer Emergency Response Team and Manner of Performing Functions and Duties) Rules, 2013.

  
T. e

- (2) **Grievance redressal mechanism of intermediary:** (a) The intermediary shall prominently publish on its website, mobile based application or both, as the case may be, the name of the Grievance Officer and his contact details as well as mechanism by which a user or a victim may make complaint against violation of the provisions of this rule or any other matters pertaining to the computer resources made available by it, and the Grievance Officer shall -
- (i) acknowledge the complaint within twenty four hours and dispose off such complaint within a period of fifteen days from the date of its receipt;
  - (ii) receive and acknowledge any order, notice or direction issued by the Appropriate Government, any competent authority or a court of competent jurisdiction.
- (b) The intermediary shall, within twenty-four hours from the receipt of a complaint made by an individual or any person on his behalf under this sub-rule, in relation to any content which is *prima facie* in the nature of any material which exposes the private area of such individual, shows such individual in full or partial nudity or shows or depicts such individual in any sexual act or conduct, or is in the nature of impersonation in an electronic form, including artificially morphed images of such individual, take all reasonable and practicable measures to remove or disable access to such content which is hosted, stored, published or transmitted by it:
- (c) The intermediary shall implement a mechanism for the receipt of complaints under clause (b) of this sub-rule which may enable the individual or person to provide details, as may be necessary, in relation to such content or communication link.

**4. — Additional due diligence to be observed by significant social media intermediary.**—(1) In addition to the due diligence observed under rule 3, a significant social media intermediary shall, within three months from the date of notification of the threshold under clause (v) of sub-rule (1) of rule 2, observe the following additional due diligence while discharging its duties, namely:—

- (a) appoint a Chief Compliance Officer who shall be responsible for ensuring compliance with the Act and rules made thereunder and shall be liable in any proceedings relating to any relevant third-party information, data or communication link made available or hosted by that intermediary where he fails to ensure that such intermediary observes due diligence while discharging its duties under the Act and rules made thereunder:

*Provided that* no liability under the Act or rules made thereunder may be imposed on such significant social media intermediary without being given an opportunity of being heard.

*Explanation.*—For the purposes of this clause “*Chief Compliance Officer*” means a key managerial personnel or such other senior employee of a significant social media intermediary who is resident in India;

- (b) appoint a nodal contact person for 24x7 coordination with law enforcement agencies and officers to ensure compliance to their orders or requisitions made in accordance with the provisions of law or rules made thereunder.

*Explanation.*—For the purposes of this clause “*nodal contact person*” means the employee of a significant social media intermediary, other than the Chief Compliance Officer, who is resident in India;

- (c) appoint a Resident Grievance Officer, who shall, subject to clause (b), be responsible for the functions referred to in sub-rule (2) of rule 3.

*Explanation.*—For the purposes of this clause, “*Resident Grievance Officer*” means the employee of a significant social media intermediary, who is resident in India;

- (d) publish periodic compliance report every month mentioning the details of complaints received and action taken thereon, and the number of specific communication links or parts of information that the intermediary has removed or disabled access to in pursuance of any

proactive monitoring conducted by using automated tools or any other relevant information as may be specified;

(2) A significant social media intermediary providing services primarily in the nature of messaging shall enable the identification of the first originator of the information on its computer resource as may be required by a judicial order passed by a court of competent jurisdiction or an order passed under section 69 by the Competent Authority as per the Information Technology (Procedure and Safeguards for interception, monitoring and decryption of information) Rules, 2009, which shall be supported with a copy of such information in electronic form:

*Provided that* an order shall only be passed for the purposes of prevention, detection, investigation, prosecution or punishment of an offence related to the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, or public order, or of incitement to an offence relating to the above or in relation with rape, sexually explicit material or child sexual abuse material, punishable with imprisonment for a term of not less than five years:

*Provided further* that no order shall be passed in cases where other less intrusive means are effective in identifying the originator of the information:

*Provided also that* in complying with an order for identification of the first originator, no significant social media intermediary shall be required to disclose the contents of any electronic message, any other information related to the first originator, or any information related to its other users:

*Provided also that* where the first originator of any information on the computer resource of an intermediary is located outside the territory of India, the first originator of that information within the territory of India shall be deemed to be the first originator of the information for the purpose of this clause.

(3) A significant social media intermediary that provides any service with respect to an information or transmits that information on behalf of another person on its computer resource—

- (a) for direct financial benefit in a manner that increases its visibility or prominence, or targets the receiver of that information; or
- (b) to which it owns a copyright, or has an exclusive license, or in relation with which it has entered into any contract that directly or indirectly restricts the publication or transmission of that information through any means other than those provided through the computer resource of such social media intermediary,

shall make that information clearly identifiable to its users as being advertised, marketed, sponsored, owned, or exclusively controlled, as the case may be, or shall make it identifiable as such in an appropriate manner.

(4) A significant social media intermediary shall endeavour to deploy technology-based measures, including automated tools or other mechanisms to proactively identify information that depicts any act or simulation in any form depicting rape, child sexual abuse or conduct, whether explicit or implicit, or any information which is exactly identical in content to information that has previously been removed or access to which has been disabled on the computer resource of such intermediary under clause (d) of sub-rule (1) of rule 3, and shall display a notice to any user attempting to access such information stating that such information has been identified by the intermediary under the categories referred to in this sub-rule:

*Provided that* the measures taken by the intermediary under this sub-rule shall be proportionate having regard to the interests of free speech and expression, privacy of users on the computer resource of such intermediary, including interests protected through the appropriate use of technical measures:

*Provided further that* such intermediary shall implement mechanisms for appropriate human oversight of measures deployed under this sub-rule, including a periodic review of any automated tools deployed by such intermediary:

*Provided also that* the review of automated tools under this sub-rule shall evaluate the automated tools having regard to the accuracy and fairness of such tools, the propensity of bias and discrimination in such tools and the impact on privacy and security of such tools.

(5) The significant social media intermediary shall have a physical contact address in India published on its website, mobile based application or both, as the case may be, for the purposes of receiving the communication addressed to it.

(6) The significant social media intermediary shall implement an appropriate mechanism for the receipt of complaints under sub-rule (2) of rule 3 and grievances in relation to the violation of provisions under this rule, which shall enable the complainant to track the status of such complaint or grievance by providing a unique ticket number for every complaint or grievance received by such intermediary:

*Provided that* such intermediary shall, to the extent reasonable, provide such complainant with reasons for any action taken or not taken by such intermediary in pursuance of the complaint or grievance received by it.

(7) The significant social media intermediary shall enable users who register for their services from India, or use their services in India, to voluntarily verify their accounts by using any appropriate mechanism, including the active Indian mobile number of such users, and where any user voluntarily verifies their account, such user shall be provided with a demonstrable and visible mark of verification, which shall be visible to all users of the service:

*Provided that* the information received for the purpose of verification under this sub-rule shall not be used for any other purpose, unless the user expressly consents to such use.

(8) Where a significant social media intermediary removes or disables access to any information, data or communication link, under clause (b) of sub-rule (1) of rule 3 on its own accord, such intermediary shall,—

- (a) ensure that prior to the time at which such intermediary removes or disables access, it has provided the user who has created, uploaded, shared, disseminated, or modified information, data or communication link using its services with a notification explaining the action being taken and the grounds or reasons for such action;
- (b) ensure that the user who has created, uploaded, shared, disseminated, or modified information using its services is provided with an adequate and reasonable opportunity to dispute the action being taken by such intermediary and request for the reinstatement of access to such information, data or communication link, which may be decided within a reasonable time;
- (c) ensure that the Resident Grievance Officer of such intermediary maintains appropriate oversight over the mechanism for resolution of any disputes raised by the user under clause (b).
- (9) The Ministry may call for such additional information from any significant social media intermediary as it may consider necessary for the purposes of this part.

**5. Additional due diligence to be observed by an intermediary in relation to news and current affairs content.**—In addition to adherence to rules 3 and 4, as may be applicable, an intermediary shall publish, on an appropriate place on its website, mobile based application or both, as the case may be, a clear and concise statement informing publishers of news and current affairs content that in addition to the common terms of service for all users, such publishers shall furnish the details of their user accounts on the services of such intermediary to the Ministry as may be required under rule 18:

*Provided that* an intermediary may provide such publishers who have provided information under rule 18 with a demonstrable and visible mark of verification as being publishers, which shall be visible to all users of the service.

*Explanation.*—This rule relates only to news and current affairs content and shall be administered by the Ministry of Information and Broadcasting.

**6. Notification of other intermediary.**—(1)The Ministry may by order, for reasons to be recorded in writing, require any intermediary, which is not a significant social media intermediary, to comply with all or any of the obligations mentioned under rule 4, if the services of that intermediary permits the publication or transmission of information in a manner that may create a material risk of harm to the sovereignty and integrity of India, security of the State, friendly relations with foreign States or public order.

D  
T.C

(2) The assessment of material risk of harm referred to in sub-rule (1) shall be made having regard to the nature of services of such intermediary, and if those services permit,—

- (a) interaction between users, notwithstanding, whether it is the primary purpose of that intermediary; and
- (b) the publication or transmission of information to a significant number of other users as would be likely to result in widespread dissemination of such information.

(3) An order under this rule may be issued in relation to a specific part of the computer resources of any website, mobile based application or both, as the case may be, if such specific part is in the nature of an intermediary:

*Provided that* where such order is issued, an entity may be required to comply with all or any of the obligations mentions under rule 4, in relation to the specific part of its computer resource which is in the nature of an intermediary.

7. **Non-observance of Rules.**—Where an intermediary fails to observe these rules, the provisions of sub-section (1) of section 79 of the Act shall not be applicable to such intermediary and the intermediary shall be liable for punishment under any law for the time being in force including the provisions of the Act and the Indian Penal Code.

### PART III

#### CODE OF ETHICS AND PROCEDURE AND SAFEGUARDS IN RELATION TO DIGITAL MEDIA

8. **Application of this Part.**—(1) The rules made under this Part shall apply to the following persons or entities, namely:—

- (a) publishers of news and current affairs content;
- (b) publishers of online curated content; and

shall be administered by the Ministry of Information and Broadcasting, Government of India, which shall be referred to in this Part as the “Ministry”:

*Provided that* the rules made under this Part shall apply to intermediaries for the purposes of rules 15 and 16;

- (2) the rules made under this Part shall apply to the publishers, where,—
  - (a) such publisher operates in the territory of India; or
  - (b) such publisher conducts systematic business activity of making its content available in India.

*Explanation.*—For the purposes of this rule,—

- (a) a publisher shall be deemed to operate in the territory of India where such publisher has a physical presence in the territory of India;
- (b) “*systematic activity*” shall mean any structured or organised activity that involves an element of planning, method, continuity or persistence.

(3) The rules made under this Part shall be in addition to and not in derogation of the provisions of any other law for the time being in force and any remedies available under such laws including the Information Technology (Procedure and Safeguards for Blocking of Access of Information by the Public) Rules, 2009.

9. **Observance and adherence to the Code.**—(1) A publisher referred to in rule 8 shall observe and adhere to the Code of Ethics laid down in the *Appendix* annexed to these rules.

(2) Notwithstanding anything contained in these rules, a publisher referred to in rule 8 who contravenes any law for the time being in force, shall also be liable for consequential action as provided in such law which has so been contravened.

D  
S  
T.C.

(3) For ensuring observance and adherence to the Code of Ethics by publishers operating in the territory of India, and for addressing the grievances made in relation to publishers under this Part, there shall be a three-tier structure as under—

- (a) Level I - Self-regulation by the publishers;
- (b) Level II – Self-regulation by the self-regulating bodies of the publishers;
- (c) Level III - Oversight mechanism by the Central Government.

## CHAPTER I

### GRIEVANCE REDRESSAL MECHANISM

**10. Furnishing and processing of grievance.**—(1) Any person having a grievance regarding content published by a publisher in relation to the Code of Ethics may furnish his grievance on the grievance mechanism established by the publisher under rule 11.

(2) The publisher shall generate and issue an acknowledgement of the grievance for the benefit of the complainant within twenty-four hours of it being furnished for information and record.

(3) The manner of grievance redressal shall have the following arrangement—

- (a) the publisher shall address the grievance and inform the complainant of its decision within fifteen days of the registration of the grievance;
- (b) if the decision of the publisher is not communicated to the complainant within the stipulated fifteen days, the grievance shall be escalated to the level of the self-regulating body of which such publisher is a member.
- (c) where the complainant is not satisfied with the decision of the publisher, it may prefer to appeal to the self-regulating body of which such publisher is a member within fifteen days of receiving such a decision.
- (d) the self-regulating body shall address the grievance referred to in clauses (b) and (c), and convey its decision in the form of a guidance or advisory to the publisher, and inform the complainant of such decision within a period of fifteen days..
- (e) where the complainant is not satisfied with the decision of the self-regulating body, it may, within fifteen days of such decision, prefer an appeal to the Oversight Mechanism referred to in rule 13 for resolution.

## CHAPTER II

### SELF REGULATING MECHANISM - LEVEL I

**11. Self-Regulating mechanism at Level I.**— (1) The publisher shall be the Level I of the self-regulating mechanism.

(2) A publisher shall—

- (a) establish a grievance redressal mechanism and shall appoint a Grievance Officer based in India, who shall be responsible for the redressal of grievances received by him;
- (b) display the contact details related to its grievance redressal mechanism and the name and contact details of its Grievance Officer at an appropriate place on its website or interface, as the case may be;
- (c) ensure that the Grievance Officer takes a decision on every grievance received by it within fifteen days, and communicate the same to the complainant within the specified time;
- (d) be a member of a self-regulating body as referred to in rule 12 and abide by its terms and conditions.

(3) The Grievance Officer shall,—

- (a) be the contact point for receiving any grievance relating to Code of Ethics;



(b) act as the nodal point for interaction with the complainant, the self-regulating body and the Ministry.

(4) Online curated content shall be classified by the publisher of such content into the categories referred to in the *Schedule*, having regard to the context, theme, tone, impact and target audience of such content, with the relevant rating for such categories based on an assessment of the relevant content descriptors in the manner specified in the said *Schedule*.

(5) Every publisher of online curated content shall display the rating of any online curated content and an explanation of the relevant content descriptors, prominently to its users at an appropriate place, as the case may be, in a manner that ensures that such users are aware of this information before accessing such content.

### CHAPTER III

#### SELF REGULATING MECHANISM – LEVEL II

12. **Self-regulating body.**— (1) There may be one or more self-regulatory bodies of publishers, being an independent body constituted by publishers or their associations.

(2) The self-regulatory body referred to in sub-rule (1) shall be headed by a retired judge of the Supreme Court, a High Court, or an independent eminent person from the field of media, broadcasting, entertainment, child rights, human rights or such other relevant field, and have other members, not exceeding six, being experts from the field of media, broadcasting, entertainment, child rights, human rights and such other relevant fields.

(3) The self-regulating body shall, after its constitution in accordance with sub-rule (2), register itself with the Ministry within a period of thirty days from the date of notification of these rules, and where a self-regulating body is constituted after such period, within thirty days from the date of its constitution:

Provided that before grant of registration to the self-regulating body, the Ministry shall satisfy itself that the self-regulating body has been constituted in accordance with sub-rule (2) and has agreed to perform the functions laid down in sub-rules (4) and (5).

(4) The self-regulating body shall perform the following functions, namely:—

- (a) oversee and ensure the alignment and adherence by the publisher to the Code of Ethics;
- (b) provide guidance to publishers on various aspects of the Code of Ethics;
- (c) address grievances which have not been resolved by publishers within the specified period of fifteen days;
- (d) hear appeals filed by the complainant against the decision of publishers;
- (e) issue such guidance or advisories to such publishers as specified in sub-rule (5) for ensuring compliance to the Code of Ethics.

(5) The self-regulating body while disposing a grievance or an appeal referred to it in sub-rule (4) may issue following guidance or advisories to the publishers as under, namely:—

- (a) warning, censuring, admonishing or reprimanding the publisher; or
- (b) requiring an apology by the publisher; or
- (c) requiring the publisher to include a warning card or a disclaimer; or
- (d) in case of online curated content, direct the publisher to,—
  - (i) reclassify ratings of relevant content;
  - (ii) make appropriate modification in the content descriptor, age classification and access control measures;
  - (iii) edit synopsis of relevant content; or
- (e) in case of any content where it is satisfied that there is a need for taking action to delete or modify the content for preventing incitement to the commission of a cognizable offence



relating to public order, or in relation to the reasons enumerated in sub-section (1) of section 69A of the Act, refer such content to the Ministry for consideration by the Oversight Mechanism referred to in rule 13 for appropriate action.

(6) Where the self-regulating body is of the opinion that there is no violation of the Code of Ethics, it shall convey such decision to the complainant and such entity.

(7) Where a publisher fails to comply with the guidance or advisories of the self-regulating body within the time specified in such guidance or advisory, the self-regulating body shall refer the matter to the Oversight Mechanism referred to in rule 13 within fifteen days of expiry of the specified date.

#### CHAPTER IV

#### OVERSIGHT MECHANISM - LEVEL III

**13. Oversight mechanism.**— (1) The Ministry shall co-ordinate and facilitate the adherence to the Code of Ethics by publishers and self regulating bodies, develop an Oversight Mechanism, and perform the following functions, namely:—

- (a) publish a charter for self regulating bodies, including Codes of Practices for such bodies;
- (b) establish an Inter-Departmental Committee for hearing grievances;
- (c) refer to the Inter-Departmental Committee grievances arising out of the decision of the self-regulating body under rule 12, or where no decision has been taken by the self-regulating body within the specified time period, or such other complaints or references relating to violation of Code of Ethics as it may consider necessary;
- (d) issue appropriate guidance and advisories to publishers;
- (e) issue orders and directions to the publishers for maintenance and adherence to the Code of Ethics.

(2) The Ministry shall appoint an officer of the Ministry not below the rank of a Joint Secretary to the Government of India, as the “*Authorised Officer*”, for the purposes of issuing directions under rules 15 or 16, as the case may be.

**14. Inter-Departmental Committee.**— (1) The Ministry shall constitute an Inter-Departmental Committee, called the Committee, consisting of representatives from the Ministry of Information and Broadcasting, Ministry of Women and Child Development, Ministry of Law and Justice, Ministry of Home Affairs, Ministry of Electronics and Information Technology, Ministry of External Affairs, Ministry of Defence, and such other Ministries and Organisations, including domain experts, that it may decide to include in the Committee:

*Provided that* the Authorised Officer designated under sub-rule (2) of rule 13 shall be the Chairperson of such Committee.

(2) The Committee shall meet periodically and hear the following complaints regarding violation or contravention of the Code of Ethics by the entities referred to in Rule 8—

- (a) arising out of the grievances in respect of the decisions taken at the Level I or II, including the cases where no such decision is taken within the time specified in the grievance redressal mechanism; or
- (b) referred to it by the Ministry.

(3) Any complaint referred to the Committee, whether arising out of the grievances or referred to it by the Ministry, shall be in writing and may be sent either by mail or fax or by e-mail signed with electronic signature of the authorised representative of the entity referring the grievance, and the Committee shall ensure that such reference is assigned a number which is recorded along with the date and time of its receipt.

(4) The Ministry shall make all reasonable efforts to identify the entity referred to in Rule 8 which has created, published or hosted the content or part thereof, and where it is able to identify such entity, it shall issue a duly signed notice to such entity to appear and submit their reply and clarifications, if any, before the Committee.

T.c

(5) In the hearing, the Committee shall examine complaints or grievances, and may either accept or allow such complaint or grievance, and make the following recommendations to the Ministry, namely:—

- (a) warning, censuring, admonishing or reprimanding such entity; or
- (b) requiring an apology by such entity; or
- (c) requiring such entity to include a warning card or a disclaimer; or
- (d) in case of online curated content, direct a publisher to—
  - (i) reclassify ratings of relevant content; or
  - (ii) edit synopsis of relevant content; or
  - (iii) make appropriate modification in the content descriptor, age classification and parental or access control;
- (e) delete or modify content for preventing incitement to the commission of a cognisable offence relating to public order;
- (f) in case of content where the Committee is satisfied that there is a need for taking action in relation to the reasons enumerated in sub-section (1) of section 69A of the Act, it may recommend such action.

(6) The Ministry may, after taking into consideration the recommendations of the Committee, issue appropriate orders and directions for compliance by the publisher:

*Provided that* no such order shall be issued without the approval of the Secretary, Ministry of Information and Broadcasting, Government of India (hereinafter referred to as the "Secretary, Ministry of Information and Broadcasting").

**15. Procedure for issuing of direction.**— (1) In respect of recommendations referred to in clauses (e) and (f) of sub-rule (5) of rule 14, the Authorised Officer shall place the matter for consideration before the Secretary, Ministry of Information and Broadcasting for taking appropriate decision.

(2) The Authorised Officer shall, on approval of the decision by the Secretary, Ministry of Information and Broadcasting, direct the publisher, any agency of the Government or any intermediary, as the case may be to delete or modify or block the relevant content and information generated, transmitted, received, stored or hosted in their computer resource for public access within the time limit specified in the direction:

*Provided that* in case the recommendation of the Authorised Officer is not approved by the Secretary, Ministry of Information and Broadcasting, the Authorised Officer shall convey the same to the Committee.

(3) A direction under this rule may be issued only in respect of a specific piece of content or an enumerated list of content, as the case may be, and shall not require any entity to cease its operations.

**16. Blocking of information in case of emergency.**— (1) Notwithstanding anything contained in rules 14 and 15, the Authorised Officer, in any case of emergency nature, for which no delay is acceptable, shall examine the relevant content and consider whether it is within the grounds referred to in sub-section (1) of section 69A of the Act and it is necessary or expedient and justifiable to block such information or part thereof and submit a specific recommendation in writing to the Secretary, Ministry of Information and Broadcasting.

(2) In case of emergency nature, the Secretary, Ministry of Information and Broadcasting may, if he is satisfied that it is necessary or expedient and justifiable for blocking for public access of any information or part thereof through any computer resource and after recording reasons in writing, as an interim measure issue such directions as he may consider necessary to such identified or identifiable persons, publishers or intermediary in control of such computer resource hosting such information or part thereof without giving him an opportunity of hearing.

(3) The Authorised Officer, at the earliest but not later than forty-eight hours of issue of direction under sub-rule (2), shall bring the request before the Committee for its consideration and recommendation.

(4) On receipt of recommendations of the Committee under sub-rule (3), the Secretary, Ministry of Information and Broadcasting, shall pass the final order as regard to approval of such request and in case the request for blocking is not approved by the Secretary, Ministry of Information and Broadcasting in his final order, the interim direction issued under sub-rule (2) shall be revoked and the person, publisher or intermediary in control of such information shall be accordingly, directed to unblock the information for public access.

**17. Review of directions issued.—**(1) The Authorised Officer shall maintain complete records of the proceedings of the Committee, including any complaints referred to the Committee, and shall also maintain records of recommendations made by the Committee and any directions issued by the Authorised Officer.

(2) The Review Committee shall meet at least once in every two months and record its findings whether the directions of blocking of content or information issued under these rules are in accordance with the provisions of sub-section (1) of section 69A of the Act and if it is of the opinion that the directions are not in accordance with the said provisions, it may set aside the directions and issue order for unblocking of such content or information generated, transmitted, received, stored or hosted in a computer resource.

*Explanation.—*For the purpose of this rule, “Review Committee” shall mean the Review Committee constituted under rule 419A of the Indian Telegraph Rules, 1951.

#### CHAPTER V

##### FURNISHING OF INFORMATION

**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.

(2) The information referred to in sub-rule (1) shall be furnished within a period of thirty days of the publication of these rules, and where such publisher begins operation in the territory of India or comes into existence after commencement of these rules, within thirty days from the date of start of its operations in the territory of India or its coming into existence, as the case may be.

(3) The publisher of news and current affairs content and the publisher of online curated content shall publish periodic compliance report every month mentioning the details of grievances received and action taken thereon.

(4) The Ministry may call for such additional information from the publisher as it may consider necessary for the implementation of this Rule.

#### CHAPTER VI

##### MISCELLANEOUS

**19. Disclosure of Information.—**(1) A publisher and a self-regulating body, shall make true and full disclosure of all grievances received by it, the manner in which the grievances are disposed of, the action taken on the grievance, the reply sent to the complainant, the orders or directions received by it under these rules and action taken on such orders or directions.

(2) The information referred to in sub-rule (1) shall be displayed publicly and updated monthly.

(3) Subject to any law for the time being in force, the publisher shall preserve records of content transmitted by it for a minimum period of sixty days and make it available to the self-regulating body or the Central Government, or any other Government agency, as may be requisitioned by them for implementation of these rules.



## APPENDIX

## CODE OF ETHICS

## I News and current affairs:

- (i) Norms of Journalistic Conduct of the Press Council of India under the Press Council Act, 1978;
- (ii) Programme Code under section 5 of the Cable Television Networks Regulation) Act, 1995;
- (iii) Content which is prohibited under any law for the time being in force shall not be published or transmitted.

## II Online curated content:

## (A) General Principles:

- (a) A publisher shall not transmit or publish or exhibit any content which is prohibited under any law for the time being in force or has been prohibited by any court of competent jurisdiction.
- (b) A publisher shall take into consideration the following factors, when deciding to feature or transmit or publish or exhibit any content, after duly considering the implications of any content as falling under the following categories, and shall exercise due caution and discretion in relation to the same, namely:—
  - (i) content which affects the sovereignty and integrity of India;
  - (ii) content which threatens, endangers or jeopardises the security of the State;
  - (iii) content which is detrimental to India's friendly relations with foreign countries;
  - (iv) content which is likely to incite violence or disturb the maintenance of public order.
- (c) A publisher shall take into consideration India's multi-racial and multi-religious context and exercise due caution and discretion when featuring the activities, beliefs, practices, or views of any racial or religious group.

## (B) Content Classification:

- (i) All content transmitted or published or exhibited by a publisher of online curated content shall be classified, based on the nature and type of content, into the following rating categories, namely:—
  - (a) Online curated content which is suitable for children as well as people of all ages shall be classified as "U" rating;
  - (b) Online curated content which is suitable for persons aged 7 years and above, and can be viewed by a person under the age of 7 years with parental guidance, shall be classified as "U/A 7+" rating;
  - (c) Online curated content which is suitable for persons aged 13 years and above, and can be viewed by a person under the age of 13 years with parental guidance, shall be classified as "U/A 13+" rating;
  - (d) Online curated content which is suitable for persons aged 16 years and above, and can be viewed by a person under the age of 16 years with parental guidance, shall be classified as "U/A 16+" rating; and
  - (e) Online curated content which is restricted to adults shall be classified as "A" rating.
- (ii) The Content may be classified on the basis of,—i) Themes and messages; ii) Violence; iii) Nudity; iv) Sex; v) Language; vi) Drug and substance abuse; and (vii) Horror as described in the *Schedule*, as may be modified from time to time by the Ministry of Information & Broadcasting.

## (C) Display of Classification:

- (a) The publisher of online curated content shall prominently display the classification rating specific to each content or programme together with a content descriptor informing the user about the nature of the content, and advising on viewer discretion (if applicable) at the beginning of every programme enabling the user to make an informed decision, prior to watching the programme.

- (b) The publisher of online curated content making available content that is classified as U/A 13+ or higher shall ensure that access control mechanisms, including parental locks, are made available for such content.
- (c) A publisher of online curated content which makes available content or programme that is classified as "A" shall implement a reliable age verification mechanism for viewership of such content.
- (d) A publisher of online curated content must strive to include classification rating and consumer advice for their programmes in any print, televised or online promotional or publicity material and prominently display the classification rating specific to each such content.

*(D) Restriction of access to certain curated content by a child:*

Every publisher of online curated content providing access to online curated content which has an "A" rating shall take all efforts to restrict access to such content by a child through the implementation of appropriate access control measures.

*(E) Measures to improve accessibility of online curated content by persons with disabilities:*

Every publisher of online curated content shall, to the extent feasible, take reasonable efforts to improve the accessibility of online curated content transmitted by it to persons with disabilities through the implementation of appropriate access services.

## SCHEDULE

Classification of any curated content shall be guided by the following sets of guidelines, namely:—

### PART I

#### GENERAL GUIDELINES FOR CLASSIFICATION OF FILMS AND OTHER ENTERTAINMENT PROGRAMMES, INCLUDING WEB BASED SERIALS

There are general factors that may influence a classification decision at any level and in connection with any issue and the following factors are elucidated which may be read along with Part II of the Guidelines -

**(a) Context:**

Curated content may be considered in the light of the period depicted in such content and the contemporary standards of the country and the people to which such content relates. Therefore, the context in which an issue is presented within a film or video may be given consideration. Factors such as the setting of a work (historical, fantasy, realistic, contemporary etc.), the manner of presentation of the content, the apparent intention of the content, the original production date of the content, and any special merits of the work may influence the classification decision.

**(b) Theme:**

Classification decisions may take into the theme of any content but will depend significantly on the treatment of that theme, especially the sensitivity of its presentation. The most challenging themes (for example, drug misuse, violence, pedophilia, sex, racial or communal hatred or violence etc.) are unlikely to be appropriate at the junior levels of classification.

**(c) Tone and impact:**

Curated content may be judged in its entirety from the point of view of its overall impact. The tone of content can be an important factor in deciding the influence it may have on various groups of people. Thus, films/serials that have a stronger depiction of violence may receive a higher classification.

**(d) Target audience:**

The classification of any content may also depend upon the target audience of the work and the impact of the work on such audience.

  
T. c.

**PART II**  
**ISSUE RELATED GUIDELINES**

This part of the guidelines comprises the issues and concerns that apply in varying degrees to all categories of classification and elaborates the general approach that may be taken in this regard to the same. These concerns are listed in alphabetical order, and are to be read with the four General Guidelines listed in Part I

**(a) Discrimination:**

The categorical classification of content shall take into account the impact of a film on matters such as caste, race, gender, religion, disability or sexuality that may arise in a wide range of works, and the classification decision will take account of the strength or impact of their inclusion.

**(b) Psychotropic substances, liquor, smoking and tobacco:**

Films or serials, etc. that as a whole portray misuse of psychotropic substances, liquor, smoking and tobacco would qualify for a higher category of classification.

**(c) Imitable behaviour:**

- (1) Classification decisions may take into account any portrayal of criminal and violent behaviour with weapons.
- (2) Portrayal of potentially dangerous behaviour that are likely to incite the commission of any offence (including suicide, and infliction of self-harm) and that children and young people may potentially copy, shall receive a higher classification.
- (3) Films or serials with song and dance scenes comprising lyrics and gestures that have sexual innuendos would receive a higher classification.

**(d) Language:**

- (1) Language is of particular importance, given the vast linguistic diversity of our country. The use of language, dialect, idioms and euphemisms vary from region to region and are culture-specific. This factor has to be taken into account during the process of classification of a work in a particular category.
- (2) Language that people may find offensive includes the use of expletives. The extent of offence may vary according to age, gender, race, background, beliefs and expectations of the target audience from the work as well as the context, region and language in which the word, expression or gesture is used.
- (3) It is not possible to set out a comprehensive list of words, expressions or gestures that are acceptable at each category in every Indian language. The advice at different classification levels, therefore, provides general guidance to consider while judging the level of classification for content, based on this guideline.

**(e) Nudity:**

- (1) No content that is prohibited by law at the time being in force can be published or transmitted.
- (2) Nudity with a sexual context will receive a higher classification of "A".

**(f) Sex:**

No content that is prohibited by law at the time being in force can be published or transmitted. The classification of content in various ratings from U/A 16+ to "A" shall depend upon the portrayal of non-explicit (implicit) to explicit depiction of sexual behaviour.

**(g) Violence:**

Classification decisions shall take account of the degree and nature of violence in a work.

[F. No. 16(4)/2020-CLES]

Dr. RAJENDRA KUMAR, Addl. Secy.

  
A. K.

**IN THE HIGH COURT OF DELHI, AT NEW DELHI  
(EXTRAORDINARY CIVIL WRIT JURISDICTION)**

**WRIT PETITION (CIVIL) NO. \_\_\_\_\_ OF 2021**

**IN THE MATTER OF:**

PRAVDA MEDIA FOUNDATION

...Petitioner

Versus

UNION OF INDIA & ANR.

...Respondents

**VOL-II**

<b>S.NO.</b>	<b>PARTICULARS</b>	<b>PAGE NO.</b>
11.	A true copy of the Norms of Journalistic Conduct, 2020  <b>[Annexure P-5]</b>	165-275
12.	A true copy of the Programme Code under Section 5 of the Cable Television Networks (Regulation) Act, 1995  <b>[Annexure P-6]</b>	276-277
13.	A true copy of the Information Technology (Procedure and Safeguards for Blocking for Access of Information by Public) Rules, 2009  <b>[Annexure P-7]</b>	278-282
14.	A true copy of the Order dated 09.03.2021 in W.P. (C) No. 3125/2021 and 19.03.2021 in WP (C) 3659/2021  <b>[Annexure P-8(Colly)]</b>	283-286
15.	A true copy of the Order dated 10.03.2021 in W.P. (C) No. 6272/2021  <b>[Annexure P-9]</b>	287-289
16.	A true copy of the e-mail dated 11.03.2021  <b>[Annexure P-10]</b>	290

17.	A true copy of the representation dated 24.03.2021 made by Petitioner No. 1 to Respondent No. 2 Ministry of I&B  <b>[Annexure P-11]</b>	291-292
18.	A true copy of the notice dated 26.05.2021 issued by the Respondents  <b>[Annexure P-12]</b>	293-297
19.	A true copy of the reminder dated 01.06.2021 issued by the Respondents  <b>[Annexure P-13]</b>	298
20.	A true copy of the Representation dated 03.06.2021 issued by the Petitioner  <b>[Annexure P-14]</b>	299-303
21.	A true copy of the letter dated 09.06.2021 sent by the Respondent and the reply addressed by the Petitioner <b>[Annexure P-15 (Colly)]</b>	304-307
22.	Application under Section 151 of the Code of Civil Procedure, 1908 seeking interim directions against any coercive action under the Information Technology (Intermediary Guidelines & Digital Media Ethics Code) Rules, 2021 against the Petitioner along with Affidavit in support.	308-313
23.	Application under Section 151 of the Code of Civil Procedure, 1908 for exemption from filing dim Annexures, photocopies and certified copies along with Affidavit in support.	314-317
24.	Vakalatnama	318-319
25.	Courtfee	320
26.	Affidavit of Service	321-322

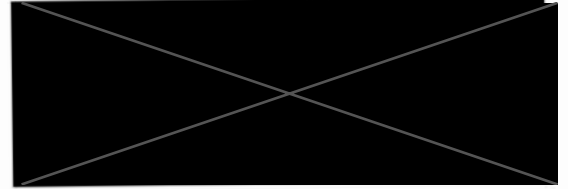


**PETITIONER**

**Represented Through**



**AADITYA VIJAYKUMAR/  
AKSHITA KATOCH/  
NAMRATA MOHAPATRA  
ADVOCATES**



**NEW DELHI  
DATED: 16.06.2021**

**INDIA**  
**Forbes**

**Press Council of India**  
**NORMS OF JOURNALISTIC CONDUCT**



2010 Edition

*P*  
P.C

**Press Council of India**

**NORMS OF JOURNALISTIC CONDUCT**

**Edition 2010**

**Contents**

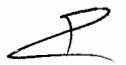
**Preface**

**Part A: Principles and Ethics**

1. Accuracy and fairness
2. Pre-publication verification
3. Caution against defamatory writings
4. Parameters of the right of the press to comment on the acts and conduct of public officials
5. Criticism of public figures/music reviews
6. Right to privacy
7. Privacy of public figures
8. Recording interviews and phone conversation
9. Conjecture, comment and fact
10. Newspapers to eschew suggestive guilt
11. Reporting-proceedings of legislature
12. Caution in criticising judicial acts
13. Corrections
14. Right of reply
15. Letters to editor
16. Editor's discretion
17. Obscenity and vulgarity to be eschewed
18. Glorification/encouragement of social evils to be eschewed
19. Violence not to be glorified
20. Covering communal disputes/clashes

  
P.C.

21. Headings not to be sensational/provocative and must justify the matter printed under them
22. Caste, religion or community references
23. Paramount national interest
24. Foreign relations
25. Newspapers may expose misuse of diplomatic immunity
26. Investigative journalism, its norms and parameters
27. Confidence to be respected
28. Newspapers to avoid crass commercialism
29. Fraudulent activities
30. Professional misconduct
31. Professional rivalry
32. Plagiarism
33. Unauthorised lifting of news
34. Illegal reproduction
35. Non-return of unsolicited material
36. Advertisements
37. Internal Disputes
38. Astrological Prediction
39. Reporting on Natural Calamities
40. HIV/AIDS and the Media – DO'S and DON'TS
41. Trial by Media
42. Norms for Photo Journalism

  
T3C

**Part B: Guidelines on specific issues**

- a) Norms for observance by the Press in the wake of communal disturbances
- b) Coverage of handouts of Militants/Terrorists-Guiding Principles 1991-1992
- c) HIV/AIDS and the Media
- d) Financial Journalism
- e) Election Reporting
- f) Allotment of Houses to Journalists
- g) Undue Favours to Journalists
- h) Right to Privacy-- Public Figures and the Press
- i) Model Guidelines For Publishing Overseas Advertisement In Accordance With Emigration Act 1983
- j) Study Report - Working Journalist Act vis-à-vis Appointment of Journalists on Contract

**Part C: Laws relating to the Press****Part D: Press Council's Powers, Practices and Procedures**

74 C

## Preface

'Journalism', the concrete form of this expression has grown in power over a period of time. The fundamental objective of journalism is to serve the people with news, views, comments and information on matters of public interest in a fair, accurate, unbiased and decent manner and language. The media today does not remain satisfied as the Fourth Estate, it has assumed the foremost importance in society and governance. Such is the influence of media that it can make or unmake any individual, institution or any thought. So all pervasive and all-powerful is today its impact on the society. With so much power and strength, the media cannot lose sight of its privileges, duties and obligations.

However to enjoy these privileges, to this end, media is mandated to follow certain ethics in collecting and disseminating the information viz., ensuring authenticity of the news, use of restrained and socially acceptable language for ensuring objectivity and fairness in reporting and keeping in mind its cascading effect on the society and on the individuals and institutions concerned.

The freedom of the press has to be preserved and protected not only from outside interference but equally from those within: An internal mechanism for adherence to guidelines is sought to be ensured through mechanisms such as 'letters to the editor', internal Ombudsman, Media Council of peers and Media Watch Groups which focus the wrongs committed by the media persons, journalists or the management.

The mandate of the Press Council of India, as well as similar bodies across the world is to specifically promote the standards of the media by building up for it a code of conduct.



The sanction behind code of ethics is moral; the source of their motive-force is within the conscience of the media person concerned. The pronouncement and directions of the Council activate that conscience, and the principles articulated by it, act as lights that lead and guide the journalist along the path of ethical rectitude. Compiled in a compendium titled "Norms of Journalistic Conduct", they act as a reference guide in varying circumstances for the journalists.

The Press Council of India has played a key role in maintaining public trust and confidence in the news media by promoting professional ethics, fairness, accuracy and balance.

The 2010 edition of "Norms of Journalistic Conduct" updates the norms evolved since 1996 on the basis of adjudications and other pronouncements and covers to a large extent almost every aspect of compulsions and compunctions in journalistic practice. An effort has been made in this edition not only to divide the norms covering similar situation under one heading for easy referencing, but also to provide a comprehensive access to subject specific guidelines.

I hope and trust that the readers will find this 2010 edition of Norms of Journalistic Conduct as useful and informative as the earlier ones.

Justice G.N. Ray  
Chairman  
Press Council of India

  
T.C

## NORMS OF JOURNALISTIC CONDUCT

### Principles and Ethics

The fundamental objective of journalism is to serve the people with news, views, comments and information on matters of public interest in a fair, accurate, unbiased, sober and decent manner. To this end, the Press is expected to conduct itself in keeping with certain norms of professionalism, universally recognised. The norms enunciated below and other specific guidelines appended thereafter, when applied with due discernment and adaptation to the varying circumstance of each case, will help the journalist to self-regulate his or her conduct.

#### 1. Accuracy and Fairness

- i) The Press shall eschew publication of inaccurate, baseless, graceless, misleading or distorted material. All sides of the core issue or subject should be reported. Unjustified rumours and surmises should not be set forth as facts.
- ii) It is incumbent for newspapers to play a positive role in response to rumours affecting the credibility of financial institutions having public interface.
- iii) While it is the duty of the press to expose the wrong doings that come to their notice, such reports need to be backed by irrefutable facts and evidences.

  
T7.~



## 2. Pre-Publication Verification

- i) On receipt of a report or article of public interest and benefit containing imputations or comments against a citizen, the editor should check with due care and attention its factual accuracy apart from other authentic sources- with the person or the organisation concerned to elicit his/her or its version, comments or reaction and publish the same alongside with due correction in the report where necessary. In the event of lack or absence of response, a footnote to that effect may be appended to the report.
- ii) Publication of news such as those pertaining to cancellation of examinations or withdrawal of candidates from election should be avoided without proper verification and cross checking.
- iii) A document, which forms a basis of a news report, should be preserved at least for six months.

## 3. Caution against defamatory writings

- i) Newspaper should not publish anything which is manifestly defamatory or libellous against any individual/organisation unless after due care and verification, there is sufficient reason/evidence to believe that it is true and its publication will be for public good.
- ii) Truth is no defence for publishing derogatory, scurrilous and defamatory material against a private citizen where no public interest is involved.
- iii) No personal remarks which may be considered or construed to be derogatory in nature against a dead person should be published except in rare cases of public interest, as the dead person cannot possibly contradict or deny those remarks.
- iv) The Press has a duty, discretion and right to serve the public interest by drawing reader's attention to citizens of doubtful antecedents and of questionable character but as responsible journalists they should observe due

restraint and caution in hazarding their own opinion or conclusion in branding these persons as 'cheats' or 'killers' etc. The cardinal principle being that the guilt of a person should be established by proof of facts alleged and not by proof of the bad character of the accused. In the zest to expose, the Press should not exceed the limits of ethical caution and fair comment.

v) The Press shall not rely on objectionable past behaviour of a citizen to provide the background for adverse comments with reference to fresh action of that person. If public good requires such reference, the Press should make pre-publication inquiries from the authorities concerned about the follow up action, if any, in regard to earlier adverse actions.

vi) Where the impugned publication is manifestly injurious to the reputation of the complainant, the onus shall be on the respondent to show that it was true or to establish that it constituted fair comment made in good faith and for public good.

(vii) Newspapers cannot claim privilege or licence to malign a person or body claiming special protection or immunity on the plea of having published the item as a satire under special columns such as 'gossip', 'parody', etc.

(viii) Publication of defamatory news by one paper does not give licence to others to publish news/information reproducing or repeating the same. The fact of publication of similar report by another publication does not bestow the status of accuracy on the charges.

(ix) It is necessary that the press realize its responsibility to the society due to the unique position enjoyed by it in being able to interact directly with the citizenry and utilize its advantageous position for the betterment of the society and the advancement of the country rather than indulging in giving credence to rumours and sensationalism. It is also necessary that the press, particularly the small local press, learn to appreciate the clear distinction between matters of 'public interest' and 'those in public interest'. While

gossips and social dealings may be found to be of interest by the public but they serve no public purpose or interest and the press should scrupulously avoid wasting its precious space on such matters.

(x) Insertion of out -of -context, uncalled for and irrelevant statements likely to malign a person or an organisation must be eschewed.

(xi) Even while a newspaper has the liberty or even duty to report political developments, that reporting may not be with angularity. Freedom of Press does not give licence to a newspaper to malign a political leader or mar his future political prospects by publishing fake and defamatory writings.

(xii) It must be remembered by the Press that the freedom of speech and expression enshrined in the democratic set up and enjoyed by the fourth estate also casts on it a responsibility. The newspapers are not expected to use it as a tool by itself creating evidence and later using the evidence to make false propaganda in its own journal.

(xiii) The Press deserves accolades for bringing to light the inducements offered to influence their reporting and such exposure will not amount to defamation.

(xiv) **Locus Standi**

In cases involving personal allegations /criticism, only the concerned person enjoying the *locus standi* can move the plaint or claim right to reply.

However a representative organisation of persons attached to an organisation or a sect / group has the *locus standi* to move complaints against a publication directly criticising the conduct of a leader.

(xv) **Public Interest and Public Bodies**

As a custodian of public interest, the Press has a right to highlight cases of corruption and irregularities in public bodies but such material should be based on irrefutable evidence and published after due inquiries and verification from the concerned source and after obtaining the version of the

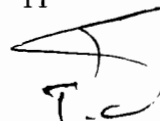
175

person/authority being commented upon. Newspapers should refrain from barbed, stinging and pungent language and ironical/satirical style of comment. The attempt of the press should be to so shake up the institutions as to improve their working, not to destroy them or the public confidence in their working or demoralize the workforce. A corresponding duty of course devolves on them to ensure that in doing so they present a fair and balanced report, uninfluenced by any extraneous consideration. The Press as a custodian of public interest and a protector of its rights is also expected to bring correct information to its notice so that it is able to correctly judge those to whom it has entrusted the responsibility of running the country.

(xvi) The media and the authorities are two very important pillars of our democracy and for the government to function successfully in public interest a press as responsible as watchful is an essential pre-requisite.

**4. Parameters of the right of the Press to comment on the acts and conduct of public officials**

- i) So far as the government, local authority and other organs/institutions exercising governmental power are concerned, they cannot bring charge of defamation for reports critical of their acts and conduct relevant to the discharge of their official duties unless the official establishes that the publication was made with reckless disregard for the truth. However, judiciary, which is protected by the power to punish for contempt of court, and the Parliament and Legislatures, protected as their privileges are by Articles 105 and 194 respectively of the Constitution of India, represent exception to this rule.
- ii) The central and local bodies are not entitled to bring a civil or criminal action for defamation in respect of article/report criticising their functioning.



T.C

iii) Publication of news or comments/information on public officials conducting investigations should not have a tendency to help the commission of offences or to impede the prevention or detection of offences or prosecution of the guilty. The investigative agency is also under a corresponding obligation not to leak out or disclose such information or indulge in misinformation.

iv) The Official Secrets Act, 1923 or any other similar enactment or provision having the force of law equally bind the press or media though there is no law empowering the state or its officials to prohibit, or to impose a prior restraint upon the Press/media.

v) Those who hold public office and by their own conduct give scope for criticising them, cannot be heard to complain against such criticism.

#### **5. Criticism of Public Figures/Music Reviews**

An actor or singer who appears on a public stage submits his performance to the judgement of public and as such the critics' comments having proximate nexus with the merits of artists performance can not be held to be defamatory. However, the critics should refrain from writing anything, which could, be construed as remotely casting cloud on the artist's personal credibility.

#### **6. Right to Privacy**

i) The Press shall not intrude or invade the privacy of an individual, unless outweighed by genuine overriding public interest, not being a prurient or morbid curiosity. So, however, that once a matter becomes a matter of public record, the right to privacy no longer subsists and it becomes a legitimate subject for comment by the Press and the media, among others. Special caution is essential in reports likely to stigmatise women.

Explanation: Things concerning a person's home, family, religion, health, sexuality, personal life and private affairs are covered by the concept of

PRIVACY excepting where any of these impinges upon the public or public interest.

ii) **Caution against Identification:** While reporting crime involving rape, abduction or kidnap of women/females or sexual assault on children, or raising doubts and questions touching the chastity, personal character and privacy of women, the names, photographs of the victims or other particulars leading to their identity shall not be published.

iii) Minor children and infants who are the offspring of sexual abuse or 'forcible marriage' or illicit sexual union shall not be identified or photographed.

iv) Intrusion through photography into moments of personal grief shall be avoided. However, photography of victims of accidents or natural calamity may be in larger public interest.

**7. Privacy of Public figures**

i) Right to Privacy is an inviolable human right. However, the degree of privacy differs from person to person and from situation to situation. The public person who functions under public gaze as an emissary/representative of the public cannot expect to be afforded the same degree of privacy as a private person. His acts and conduct as are of public interest ('public interest' being distinct and separate from 'of interest to public') even if conducted in private may be brought to public knowledge through the medium of the press. The press has however, a corresponding duty to ensure that the information about such acts and conduct of public interest of the public person is obtained through fair means, is properly verified and then reported accurately. For obtaining information in respect of acts done or conducted away from public gaze, the press is not expected to use surveillance devices. For obtaining information about private talks and discussion while the press is expected not to badger the public persons, the

public persons are also expected to bring more openness in their functioning and co-operate with the press in its duty of informing the public about the acts of their representatives.

ii) The interviews/articles or arguments pertaining to public persons which border on events that are in public knowledge, if reported correctly, cannot be termed as intrusion into private life. There is a very thin line between public and private life and public persons should not be too thick skinned to criticism

iii) Newspapers are allowed latitude in criticising persons who are in seats of power because their conduct discloses public interest provided their criticism is not motivated to gratify private spite of opponent/rival of public figure.

iv) The family of public figures are not valid journalistic subject, more so if its reporting covers the minors. If "public interest" overrides the minor's right to privacy it will be proper to seek prior consent of the parents.

v) When the individual concerned himself or herself reveals facts about private life before a large gathering then the shield of privacy should be deemed to be abandoned by the individual.

#### **8. Recording interviews and phone conversation**

i) The Press shall not tape-record anyone's conversation without that person's knowledge or consent, except where the recording is necessary to protect the journalist in a legal action, or for other compelling good reason.

ii) The Press shall, prior to publication, delete offensive epithets used during such conversation.

### **9. Conjecture, comment and fact**

- i) Newspaper should not pass on or elevate conjecture, speculation or comment as a statement of fact. All these categories should be distinctly identified.
- ii) Cartoons and caricatures depicting good humour are to be placed in a special category of news that enjoy more liberal attitude.

### **10. Newspapers to eschew suggestive guilt**

- i) Newspapers should eschew suggestive guilt by association. They should not name or identify the family or relatives or associates of a person convicted or accused of a crime, when they are totally innocent and a reference to them is not relevant to the matter being reported.
- ii) It is contrary to the norms of journalism for a paper to identify itself with and project or promote the case of any one party in the case of any controversy/dispute.

### **11. Reporting-Proceedings of Legislature**

The newspapers have a duty to report faithfully the proceedings of either House of Parliament, Legislative Assembly and in this regard the newspapers shall not be liable for any proceedings civil or criminal in any court unless it is proved that reportings have been made with malice. However, the newspapers should not publish any report based on proceedings of a sitting of either House of Parliament or Legislative Assembly or as the case may be either House of the Legislature of a State, which is not open to the media.

### **12. a) Caution in criticising judicial acts**

- i) Excepting where the court sits 'in-camera' or directs otherwise, it is open to a newspaper to report pending judicial proceedings, in a fair, accurate and reasonable manner. But it shall not publish anything :-



-which, in its direct and immediate effect, creates a substantial risk of obstructing, impeding or prejudicing seriously the due administration of justice; or

-is in the nature of a running commentary or debate, or records the paper's own findings conjectures, reflection or comments on issues, sub judice and which may amount to abrogation to the newspaper the functions of the court; or

-regarding the personal character of the accused standing trial on a charge of committing a crime.

ii) Newspaper shall not as a matter of caution, publish or comment on evidence collected as a result of investigative journalism, when, after the accused is arrested and charged, the court becomes seized of the case: Nor should they reveal, comment upon or evaluate a confession allegedly made by the accused.

iii) While newspapers may, in the public interest, make reasonable criticism of a judicial act or the judgement of a court for public good; they shall not cast scurrilous aspersions on, or impute improper motives, or personal bias to the judge. Nor shall they scandalise the court or the judiciary as a whole, or make personal allegations of lack of ability or integrity against a judge.

iv) Newspaper shall, as a matter of caution, avoid unfair and unwarranted criticism which, by innuendo, attributes to a judge extraneous consideration for performing an act in due course of his/her judicial functions, even if such criticism does not strictly amount to criminal Contempt of Court.

**b) Reporting News pertaining to Court Proceedings**

Before publishing a news item about court proceedings, it will be appropriate for the correspondent and editor to ascertain its genuineness and, correctness and authenticity from the records so that the concerned person

can be held guilty and accountable for furnishing incorrect facts or wrong information about the court proceedings.

### **13. Corrections**

When any factual error or mistake is detected or confirmed, the newspaper should suo-motu publish the correction promptly with due prominence and with apology or expression of regrets in a case of serious lapse.

### **14. Right of Reply**

i) The newspaper should promptly and with due prominence, publish either in full or with due editing, free of cost, at the instance of the person affected or feeling aggrieved/or concerned by the impugned publication, a contradiction/reply/ clarification or rejoinder sent to the editor in the form of a letter or note. If the editor doubts the truth or factual accuracy of the contradiction/reply/clarification or rejoinder, he shall be at liberty to add separately at the end, a brief editorial comment doubting its veracity, but only when this doubt is reasonably founded on unimpeachable documentary or other evidential material in his/her possession. This is a concession which has to be availed of sparingly with due discretion and caution in appropriate cases.

ii) However, where the reply/contradiction or rejoinder is being published in compliance with the directions of the Press Council, it is permissible to append a brief editorial note to that effect.

iii) Right of rejoinder cannot be claimed through the medium of Press Conference, as publication/coverage of a news of a conference is within the discretionary powers of an editor.

iv) Freedom of the Press involves the readers' right to know all sides of an issue of public interest. An editor, therefore, shall not refuse to publish the reply or rejoinder merely on the ground that in his opinion the story



published in the newspaper was true. That is an issue to be left to the judgement of the readers. It also does not behove an editor to show contempt towards a reader.

(v) The press has to remember that it is not a prosecutor in any investigation and should be guided by the paramount principle of a person's innocence unless the alleged offence is proved beyond doubt by independent reliable evidence and, therefore, even within the constraint of space, the material facts should find space in the rejoinder so that the public, as the ultimate judge of any matter, is guided by the complete and accurate facts in forming its opinion. The readers' right to know all sides of any issue of public importance is a natural corollary of the freedom enjoyed by the press in a democracy.

**15. Letters to editor**

i) An editor who decides to open his columns for letters on a controversial subject, is not obliged to publish all the letters received in regard to that subject. He is entitled to select and publish only some of them either in entirety or the gist thereof. However, in exercising this discretion, he must make an honest endeavour to ensure that what is published is not one-sided but represents a fair balance between the views for and against with respect to the principal issue in controversy.

ii) In the event of rejoinder upon rejoinder being sent by two parties on a controversial subject, the editor has the discretion to decide at which stage to close the continuing column.

**16. Editors' Discretion**

i) In the matter of writing an editorial, the editor enjoys a good deal of latitude and discretion. It is for him to choose the subject and it is also for him to use such language as he considers appropriate, provided that in writing the editorial he doesn't transgress the law and violate the norms of

journalism and editorial comments, views published in the newspaper are couched in sober, dignified and socially acceptable language.

ii) Selection of the material for publication as reports/articles/letters lies within the discretion of an editor. It is his duty to see that on a controversial issue of public interest, all views are given equal prominence so that the people can form their independent opinion in the matter.

iii) The editor should not publish the news report/article if his mind is in doubt about the truth of the news report/article. If the veracity of any part of the news report/article is in doubt, that portion should be omitted and rest be published provided the editor is satisfied that the remainder is substantially true and its publication will be for public benefit.

**17. Obscenity and vulgarity to be eschewed**

i) Newspapers/journalists shall not publish anything which is obscene, vulgar or offensive to public good taste.

ii) Newspapers shall not display advertisements which are vulgar or which, through depiction of a woman in nude or lewd posture, provoke lecherous attention of males as if she herself was a commercial commodity for sale.

iii) Whether a picture is obscene or not, is to be judged in relation to three tests; namely

a) Is it vulgar and indecent?

b) Is it a piece of mere pornography?

c) Is its publication meant merely to make money by titillating the sex feelings of adolescents and among whom it is intended to circulate? In other words, does it constitute an unwholesome exploitation for commercial gain.

Other relevant considerations are whether the picture is relevant to the subject matter of the magazine. That is to say, whether its publication serves any preponderating social or public purpose, in relation to art, painting, medicine, research or reform of sex.

iv) A photograph or a painting is a work of art and the artist enjoys artistic liberty in its portrayal. However, it is to be understood that a work of art is enjoyed, judged and appreciated by the connoisseurs. The pages of a newspaper may not be the most appropriate place for such painting.

v) The globalisation and liberalisation does not give licence to the media to misuse freedom of the press and to lower the values of the society. The media performs a distinct role and public purpose which require it to rise above commercial consideration guiding other industries and businesses. So far as that role is concerned, one of the duties of the media is to preserve and promote our cultural heritage and social values.

vi) Columns such as 'Very Personal' in a newspaper replying to personal queries of the readers must not become grossly offensive presentations, which either outrage public decency or corrupt public moral.

vii) The attempt of the press should be to ensure coverage that is in keeping with the norms of the society at large and not merely a few. It is also our duty to prevent the degeneration of culture and standards and press with its reach and impact carries an immense potential in moulding the psyche and thought process of a society.

viii) The Indian reader is much more mature and able to appreciate good journalism and in the long run, the attempts to copy the west by promoting the 'so-called popular permissiveness' may defeat the very aim of the paper to boost circulation.

(ix) The newspaper may expose the instances of immoral activities in public places through its writings but with proper caution of restrained presentation of news or photographic evidence.

**18. Glorification/encouragement of social evils to be eschewed**

Newspapers shall not allow their columns to be misused for writings which have a tendency to encourage or glorify social evils like Sati Pratha or ostentatious celebrations.

**19. Violence not to be glorified**

i) Photo Coverage on Terrorist Attack, Communal Clashes and Accidents

While reporting news with regard to terrorist attacks or communal riots, the media should refrain from publishing/telecasting pictures of mangled corpses or any other photographic coverage which may create terror, or revulsion or ignite communal passion among people.

ii) Newspapers/journalists shall avoid presenting acts of violence, armed robberies and terrorist activities in a manner that glorifies the perpetrators on their acts, declarations or death in the eyes of the public. Publication of interviews of anti-social elements by the newspapers glorifying the criminals and their activities with the resultant effects are to be avoided.

**20) Covering communal disputes/clashes**

i) News, views or comments relating to communal or religious disputes/clashes shall be published after proper verification of facts and presented with due caution and restraint in a manner which is conducive to the creation of an atmosphere congenial to communal harmony, amity and peace. Sensational, provocative and alarming headlines are to be avoided. Acts of communal violence or vandalism shall be reported in a manner as may not undermine the people's confidence in the law and order machinery of the State. Giving community-wise figures of the victims of communal riot, or writing about the incident in a style which is likely to inflame passions, aggravate the tension, or accentuate the strained relations between the communities/religious groups concerned, or which has a potential to exacerbate the trouble, shall be avoided.



ii) Journalists and columnists owe a very special responsibility to their country in promoting communal peace and amity. Their writings are not a mere reflection of their own feelings but help to large extent in moulding the feelings and sentiments of the society at large. It is, therefore, of utmost importance that they use their pen with circumspection and restraint.

iii) The role of media in such situations (Gujarat Carnage/Crisis) is to be peacemakers and not abettors, to be troubleshooters and not troublemakers. Let the media play their noble role of promoting peace and harmony among the people in the present crisis in Gujarat. Any trend to disrupt the same either directly or indirectly would be an anti-national act. There is a greater moral responsibility on the media to do their best to build up the national solidarity and to re-cement the communal harmony at all levels remembering the noble role they had played during the pre-independence days.

iv) The media, as a chronicle of tomorrow's history, owes an undeniable duty to the future to record events as simple untailored facts. The analysis of the events and opinion thereon are a different genre altogether. The treatment of the two also thus has necessarily to be different. In times of crisis, facts unadorned and simply put, with due care and restraint, cannot be reasonably objected to in a democracy. However, a heavy responsibility devolves on the author of opinion articles. The author has to ensure that not only are his or her analysis free from any personal preferences, prejudices or notions, but also they are based on verified, accurate and established facts and do not tend to foment disharmony or enmity between castes, communities and races.

v) While the role and responsibility of the media in breaking down communal fences and promoting harmony and national interest should not be undermined it is also essential to allow the citizens their freedom of speech. The press of India has necessarily to judge and balance the two.

**21. Headings not to be sensational/provocative and must justify the matter printed under them**

- i) In general and particularly in the context of communal disputes or clashes
  - a. Provocative and sensational headlines are to be avoided;
  - b. Headings must reflect and justify the matter printed under them;
  - c. Headings containing allegations made in statements should either identify the body or the source making it or at least carry quotation marks.

**22. Caste, religion or community references**

- i) In general, the caste identification of a person or a particular class should be avoided, particularly when in the context it conveys a sense or attributes a conduct or practice derogatory to that caste.
- ii) Newspapers are advised against the use of word 'Scheduled Caste' or 'Harijan' which has been objected to by some.
- iii) An accused or a victim shall not be described by his caste or community when the same does not have anything to do with the offence or the crime and plays no part either in the identification of any accused or proceeding, if there be any.
- iv) Newspaper should not publish any fictional literature distorting and portraying the religious or well known characters in an adverse light offending the susceptibilities of large sections of society who hold those characters in high esteem, invested with attributes of the virtuous and lofty.



(v) Commercial exploitation of the name of prophets, seers or deities is repugnant to journalistic ethics and good taste.

vi) It is the duty of the newspaper to ensure that the tone, spirit and language of a write up is not objectionable, provocative, against the unity and integrity of the country, spirit of the constitution seditious and inflammatory in nature or designed to promote communal disharmony. It should also not attempt to promote balkanisation of the country.

vii) One of the jobs of the journalists is also to bring forth to the public notice the plight of the weaker sections of society. They are the watchdogs on behalf of the society of its weaker sections.

**23. Paramount national interest**

i) Newspapers shall, as a matter of self-regulation, exercise due restraint and caution in presenting any news, comment or information which is likely to jeopardise, endanger or harm the paramount interests of the State and society, or the rights of individuals with respect to which reasonable restrictions may be imposed by law on the right to freedom of speech and expression under clause (2) of Article 19 of the Constitution of India.

ii) Publication of wrong/incorrect map is a very serious offence. It adversely affects the territorial integrity of the country and warrants prompt and prominent retraction with regrets.

**24. Foreign Relations**

Media plays a very important role in moulding public opinion and developing better understanding between countries. Objective reporting so as not to jeopardise friendly bilateral relations is therefore desirable.

**25. Newspapers may expose misuse of diplomatic immunity**

The media shall make every possible effort to build bridges of co-operation, friendly relations and better understanding between India and foreign States. At the same time, it is the duty of a newspaper to expose any misuse or undue advantage of the diplomatic immunities.

**26. Investigative journalism, its norms and parameters**

Investigative reporting has three basic elements.

- a. It has to be the work of the reporter, not of others he is reporting;
- b. The subject should be of public importance for the reader to know;
- c. An attempt is being made to hide the truth from the people.

The first norm follows as a necessary corollary from

- (a) That the investigative reporter should, as a rule, base his story on facts investigated, detected and verified by himself and not on hearsay or on derivative evidence collected by a third party, not checked up from direct, authentic sources by the reporter himself.
- (b) There being a conflict between the factors which require openness and those which necessitate secrecy, the investigative journalist should strike and maintain in his report a proper balance between openness on the one hand and secrecy on the other, placing the public good above everything.
- (c) The investigative journalist should resist the temptation of quickies or quick gains conjured up from half-baked incomplete, doubtful facts, not fully checked up and verified from authentic sources by the reporter himself.
- (d) Imaginary facts, or ferreting out or conjecturing the non-existent should be scrupulously avoided. Facts facts and yet more facts are vital and they should be checked and cross-checked whenever possible until the moment the paper goes to Press.
- (e) The newspaper must adopt strict standards of fairness and accuracy of facts. Findings should be presented in an objective manner, without exaggerating or distorting, that would stand up in a court of law, if necessary.

(f) The reporter must not approach the matter or the issue under investigation, in a manner as though he were the prosecutor or counsel for the prosecution. The reporter's approach should be fair, accurate and balanced. All facts properly checked up, both for and against the core issues, should be distinctly and separately stated, free from any one-sided inferences or unfair comments. The tone and tenor of the report and its language should be sober, decent and dignified, and not needlessly offensive, barbed, derisive or castigatory, particularly while commenting on the version of the person whose alleged activity or misconduct is being investigated. Nor should the investigative reporter conduct the proceedings and pronounce his verdict of guilt or innocence against the person whose alleged criminal acts and conduct were investigated, in a manner as if he were a court trying the accused.

(g) In all proceedings including the investigation, presentation and publication of the report, the investigative journalist newspaper should be guided by the paramount principle of criminal jurisprudence, that a person is innocent unless the offence alleged against him is proved beyond doubt by independent, reliable evidence.

(h) The private life, even of a public figure, is his own. Exposition or invasion of his personal privacy or private life is not permissible unless there is clear evidence that the wrong doings in question have a reasonable nexus with the misuse of his public position or power and has an adverse impact on public interest.

(i) Though the legal provisions of Criminal Procedure do not in terms, apply to investigating proceedings by a journalist, the fundamental principles underlying them can be adopted as a guide on grounds of equity, ethics and good conscience.

j) To say that the press should not publish any information, till it is officially released would militate against the spirit of investigative journalism and even

to an extent the purpose of journalism.

**27. Confidence to be respected**

If information is received from a confidential source, the confidence should be respected. The journalist cannot be compelled by the Press Council to disclose such source; but it shall not be regarded as a breach of journalistic ethics if the source is voluntarily disclosed in proceedings before the Council by the journalist who considers it necessary to repel effectively a charge against him/her. This rule requiring a newspaper not to publish matters disclosed to it in confidence, is not applicable where:

- (a) consent of the source is subsequently obtained; or
- (b) the editor clarifies by way of an appropriate footnote that since the publication of certain matters were in the public interest, the information in question was being published although it had been made 'off the record'.

**28. Newspapers to avoid crass commercialism**

- i) While newspapers are entitled to ensure, improve or strengthen their financial viability by all legitimate means, the Press shall not engage in crass commercialism or unseemly cut-throat commercial competition with their rivals in a manner repugnant to high professional standards and good taste.
- ii) Predatory price wars/trade competition among newspapers, laced with tones disparaging the products of each other, initiated and carried on in print, assume the colour of unfair 'trade' practice, repugnant to journalistic ethics. The question as when it assumes such an unethical character, is one of the fact depending on the circumstances of each case.
- iii) The practice of taking security deposit by an editor from the journalists at the time of their appointment is unethical.
- (iv) The media house must retain its impartiality in functioning as media house and reporting cannot be permitted to become subservient to other business interests which the owner of the media house may have when such

private interest conflict with public duty of such vast magnitude segregation of the two is not only justified but essential.

**29. Fraudulent activities**

Defrauding the public by closing down a publication subsequent to collection of subscription is unethical on the part of management of the paper/periodical/magazine. If the closure is inevitable, the subscription amount due should be returned to the subscribers.

**30. Professional misconduct**

(i) Blackmailing or extortion of money from people under threat of maligning them through the columns of newspaper amounts to gross violation of journalistic norms.

**31. Professional rivalry**

Newspaper columns should not be misused by rival newspapers to gratify their private spite against each other out of commercial rivalry.

**32. Plagiarism**

- i) Using or passing off the writings or ideas of another as one's own, without crediting the source, is an offence against ethics of journalism.
- ii) Violation of copyright also constitutes violation of journalistic norms.

**33. Unauthorised lifting of news**

- i) The practice of lifting news from other newspapers publishing them subsequently as their own, ill-comports the high standards of journalism. To remove its unethicity the 'lifting' newspaper must duly acknowledge the source of the report.
- ii) The position of features articles is different from 'news': Feature articles shall not be lifted without permission/ proper acknowledgement.

**34. Illegal reproduction**

The Press shall not reproduce in any form offending portions or excerpts from a proscribed book.

### **35. Non-return of unsolicited material**

- i) A paper is not bound to return unsolicited material sent for consideration of publication. However, when the same is accompanied by stamped envelope, the paper should make all efforts to return it.
- ii) Whenever articles from the contributors are published free of remuneration, there must be an agreement not to pay and the newspaper should follow this practice as a rule.

### **36. Advertisements**

- i) Commercial advertisements are information as much as social, economic or political information. What is more, advertisements shape attitude and ways of life at least as much, as other kinds of information and comment. Journalistic propriety demands that advertisements must be clearly distinguishable from news content carried in the newspaper.
- ii) No advertisement shall be published, which promotes directly or indirectly production, sale or consumption of cigarettes, tobacco products, wine, alcohol, liquor and other intoxicants.
- iii) Newspaper shall not publish advertisements, which have a tendency to malign or hurt the religious sentiments of any community or section of society.
- iv) Advertisements which offend the provisions of the Drugs and Magical Remedies (Objectionable Advertisement) Act as amended in 2002, or any other statute should be rejected.
- v) Newspapers should not publish an advertisement containing anything which is unlawful or illegal, or is contrary to public decency, good taste or to journalistic ethics or propriety.
- vi) Journalistic propriety demands that advertisements must be clearly distinguishable from editorial matter carried in the newspaper. Newspapers

while publishing advertisements should specify the amount received by them. The rationale behind this is that advertisements should be charged at rates usually chargeable by a newspaper since payment of more than the normal rates would amount to a subsidy to the paper.

vii) Publication of dummy or lifted advertisements that have neither been paid for, nor authorised by the advertisers, constitute breach of journalistic ethics specially when the paper raises a bill in respect of such advertisements.

viii) Deliberate failure to publish an advertisement in all the copies of a newspaper offends against the standards of journalistic ethics and constitutes gross professional misconduct.

ix) There should be total co-ordination and communication between the advertisement department and the editorial department of a newspaper in the matter of considering the legality propriety or otherwise of an advertisement received for publication.

x) The editors should insist on their right to have the final say in the acceptance or rejection of advertisements, specially those which border on or cross the line between decency and obscenity.

xi) Newspapers to carry caution notice with matrimonial advertisements carrying following text \*

“Readers are advised to make appropriate thorough inquiries before acting upon any advertisement. This newspaper does not vouch or subscribe to claim and representation made by the advertiser regarding the particulars of status, age, income of the bride/bridegroom”.

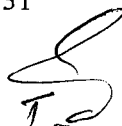
xii) An editor shall be responsible for all matters, including advertisements published in the newspaper. If responsibility is disclaimed, this shall be explicitly stated beforehand.

**\* Foot note: -**

The Hon'ble High Court of Delhi in connection with FAO No 65/1998 of Smt Harjeet Kaur Vs Shri Surinder Pal Singh directed the Press Council of India to instruct the newspaper to

publish classified/matrimonial advertisement by advising them to alongside publish the said Caution Notice in their newspapers.

- xiii) Tele-friendship advertisements carried by newspapers across the country inviting general public to dial the given number for 'entertaining' talk and offering suggestive tele-talk tend to pollute adolescent minds and promote immoral cultural ethos. The Press should refuse to accept such advertisements.
- xiv) Classified advertisements of health and physical fitness services using undignified languages, indicative of covert soliciting, are violative of law as well as ethics. The newspaper should adopt a mechanism for vetting such an advertisement to ensure that the soliciting advertisements are not carried.
- xv) Advertisements of contraceptive and supply of brand item attaching to the advertisement is not very ethical, given the social milieu and the traditional values held dear in our country. A newspaper has a sacred duty to educate people about precautionary measures to avoid AIDS and exhibit greater far sight in accepting advertisement even though issued by social welfare organisation.
- (xvi) Employment News which is trusted as a purveyor of authentic news on government jobs should be more careful in accepting advertisements of only *bonafide* private bodies.
- (xvii) While accepting advertisements of educational institutes newspapers may ensure that such advertisements carry the mandatory statement that the concerned institutes are recognized under the relevant enactments of law.
- xviii) Advertisements play extremely vital role in shaping the values and concerns of the present day society and as more and more lenient view is taken of what is not the norm, the speedier may be acceptability of such matters in 'public perception' but at what cost is the essential point for consideration. It





should be borne in mind that in the race to be globally relevant we do not leave behind the values that have earned India the unique place it enjoys globally on moral and ethical plane.

### **37. Internal Disputes**

#### **(A) Management-Editor Relationship**

i) There is a well-recognised distinction between the editor and the journalists on the one hand and the Manager, the Executive or the Administrator on the other, whatever the nomenclature that they may carry in a particular newspaper establishment. The duties and responsibilities of the editor and the management differ and whatever the co-ordination may be required to efficiently manage the establishment to bring out the journal, the functions of the two are separate and have to be kept as such.

Once the owner lays down the policy of the newspaper for general guidance, neither he nor anybody on his behalf can interfere with the day to day functioning of the editor and the journalistic staff working under him.

It is well established that the freedom of the press is essentially the freedom of the people to be informed accurately and adequately on all issues, problems, events and developments. In discharge of the editorial functions the editor is supreme and superior even to the owner.

The independence of the newspaper, is essentially the independence of the editor from all internal and external restrictions. Unless the editor enjoys this freedom he will be unable to discharge his primary duty which is to the people and without such freedom, he can be held responsible in law for all that appears in the newspaper.

In the running of the newspaper, the managerial, administrative or business side of the newspaper has to be kept independent of its editorial side and should not be allowed to encroach upon or interfere with the editorial section. This precaution is to be taken even when the owner and the editor is

the same. The proprietor must not allow his business interests and considerations to either dominate or interfere with the newspapers obligation to the people.

That is why there is also an obligation on the management to select a person as the editor who is competent and bears integrity of character and independence of mind.

The successful working of any arrangement in the ultimate analysis would depend on mutual understanding, cooperation and goodwill between the management, the editor, editorial journalist staff and all those who are faithfully working in the production of a paper.

If the co-ordination between the different departments including the editorial is effected by the Brand Management without in any way interfering with the freedom of the editor to include or exclude news or views, the length or details as well as their language and the place where they are to be published, and the prominence with which they should appear, there may not be much grievance that such co-ordination is in violation of the freedom of the editor. However, if the choice of the editor with regard to selection of material in any manner is sought to be interfered with, it is undoubtedly an unwarranted encroachment on the said freedom.

(ii) The editor under no circumstances can be asked by the proprietor to serve his private interests. To require an editor to cater to the personal interests of the proprietor is not only to demean the office of the editor but also to encroach upon his status as a trustee of the society in respect of the contents of the newspaper. In any country which swears by the freedom and the independence of the press, an attempt by any proprietor of a newspaper to use his editor as his personal agent to promote his private interests and to compel him to act and to write, to serve them is both offensive and reprehensive. Any editor or for that matter any journalist who accepts or condescends to do

such jobs not only degrades himself but also the profession of journalism and does not deserve the calling. He betrays the trust the society keeps in him for furnishing fair, objective and comprehensive news and views.

**(B.) Management vis-à-vis Journalist : Functional Relationship**

Direction of the newspaper management to the reporter to perform administrative / commercial side of the duty other than his journalistic duty is an unethical practice and impinges on the independence of journalists destroying the functional relationship.

**38. Astrological prediction**

The promotion of astrological prediction and superstitious practices is likely to produce an unsettling effect on the minds of the readers, and is thus undesirable. The editors of general interest dailies and periodicals who believe in promoting a scientific temper and in combating superstition and fatalism, should avoid publication of astrological predictions. Readers who are interested in the subject of astrology can turn to specialized publications on the subject.

**39. Reporting on Natural Calamities**

- (i) Facts and data relating to spread of epidemics or natural calamities shall be checked up thoroughly from authentic sources and then published with due restraint in a manner bereft of sensationalism, exaggeration, surmises or unverified facts.
- (ii) Natural or man made hazards become disasters through acts of commission and omission of the society. Therefore, the disastrous impact can be minimized by preventive action taken by all the stakeholders including the media.
- (iii) Media should give wide publicity to the do's and don'ts and the potential benefits of disaster mitigation so that the society follows them before, during and after the occurrence of the disasters. People should be

detailed on standard guidelines . The issues of children and women which are the most vulnerable groups during and after disaster should be handled carefully by the media.

(iv) It is necessary to have complete cooperation between the media and all governmental and non governmental agencies. The extent of the coordination and cooperation between them determines the nature, the degree and the scale of the preparedness to prevent or meet the disasters.

#### 40. HIV/AIDS and the Media – DO'S and DON'TS

##### DO'S

- Media must inform and educate the people, not alarm or scare them
- Be objective, factual and sensitive
- Keep abreast with changing realities of fast-evolving infection
- Use appropriate language and terminology that is non-stigmatising
- Ensure headlines are accurate and balanced
- Be responsible; give all sides of the picture, using voices of people living with HIV and AIDS (PLHIVs)
- Dispel misconceptions about prevention and transmission
- Debunk myths about miracle cures and unscientific claims of protection from infection
- Highlight positive stories without underplaying seriousness of the issue
- Uphold confidentiality of infected people, their families and associates
- Ensure photographs do not breach their confidentiality
- Ensure photo captions are accurate
- Ensure gender sensitive reporting and avoid stereotyping
- Obtain data from authorised sources as inaccurate reports have adverse impact on morale and increase stigma

- Journalists are responsible for ensuring interviewees understand repercussions of revelations/identification
- Ensure informed consent, in written form wherever possible
- Balance coverage of a negative story like HIV-related suicide or incidence of discrimination by including contacts of helplines/counselling centres
- Broaden reportage to examine impact of infection on economic, business, political and development issues
- When in doubt contact the local network of positive people or state aids control society or existing terminology guidelines for clarification
- Ensure questions are not deeply personal or accusatory
- Show PLHIVs in a positive light by portraying them as individuals instead of 'victims'

#### **DON'TS**

- Don't sensationalise the story
- Don't make value judgements that seek to blame PLHIVs
- Don't use terms like 'scourge' to describe the infection or describe PLHIVs as AIDS carrier, prostitute, drug addict, AIDS patient/victim/sufferer
- Don't focus needlessly on how a PLHIV was infected
- Don't identify children infected and affected by HIV and AIDS by name or through a photograph even with consent
- Don't use hidden cameras
- Avoid alarmist reports and images of the sick and dying that convey a sense of gloom, helplessness and isolation
- Don't use skull, crossbones, snakes or such visuals as graphics
- Avoid references to caste, gender or sexual orientation
- Don't reinforce stereotypes about sexual minorities including those who are lesbian, gay, bisexual or transgender (LGBT)
- Don't portray infected persons as victims, culprits or objects of pity

- Don't promote misleading advertisements related to HIV, STIs, skin diseases, tuberculosis and other opportunistic infections
- Don't breach the confidentiality of those opting for voluntary testing

#### **41. (A) Trial By Media**

##### Introduction

The media and judiciary are two vital pillars of democracy and natural allies, one compliments the other towards the goal of a successful democracy. Measures which are necessary for due process of law need to take precedence over freedom of speech. In a conflict between fair trial and freedom of speech, fair trial has to necessarily prevail because any compromise of fair trial for an accused will cause immense harm and defeat justice delivery system. Thus, mediapersons should be duly trained and imparted basic knowledge about functioning of courts and processes of law.

- i) An accused is entitled to the privilege of presumption of being innocent till guilt is pronounced by the Court.
- ii) The media reports should not induce the general public to believe in the complicity of the person indicted as such kind of action brings undue pressure on the course of fair investigation by the police.
- iii) Publishing information based on gossip about the line of investigation by the official agencies on the crime committed gives such publicity to the incident that may facilitate the person who indeed committed the crime to move to safer place.
- iv) It is not always advisable to vigorously report crime related issues on a day to day basis nor to comment on supposed evidence of the crime without ascertaining the factual matrix.
- v) While media's reporting at the investigation stage in a criminal case may ensure a speedy and fair investigation, disclosure of confidential

information may also hamper or prejudice investigation. There cannot therefore be an unrestricted access to all the details of the investigation.

- vi) Victim, Witnesses, Suspects and accused should not be given excessive publicity as its amounts to invasion of their privacy rights.
- vii) Identification of witnesses by the newspapers/media endanger them to come under pressure from both, the accused or his associates as well as investigative agencies. Thus, media should not identify the witnesses as they may turn hostile succumbing to the pressure.
- viii) The suspect's picture should not be shown as it may create a problem during 'identification parades' conducted under the Code of Criminal Procedure for identifying the accused.
- ix) The media is not expected to conduct its own parallel trial or foretell the decision putting undue pressure on the judge, the jury or the witnesses or prejudice a party to the proceedings.
- x) The reporting on post trial/hearing often consists of reporting on the decision handed down. But when there is a time lag between the conclusion of the proceedings and the decision, the comments on the concluded proceedings, including discussion on evidence and/or arguments, aimed at influencing the forthcoming decision must be avoided.
- xi) Media having reported an initial trial is advised to follow up the story with publication of final outcome by the court, whenever applicable.

**(B) Guidelines on Sting Operations**

- i) A newspaper proposing to report a sting operation shall obtain a certificate from the person who recorded or produced the same certifying that the operation is genuine and *bonafide*.
- ii) There must be concurrent record in writing of the various stages of the sting operation.

- iii) Decision to report the sting operation should be taken by the editor after satisfying himself of the public interest of the matter and ensuring that report complies with all legal requirements.
- iv) Sting operation published in print media should be scheduled with an awareness of the likely reader in mind. Great care and sensitivity should be exercised to avoid shocking or offending the reader.

#### 42. Norms for Photo Journalism

Since a picture or visual presentation of news creates a stronger and more lasting impression on the readers and viewers than mere words, photojournalists and other visual news producers have to be a lot more responsible and careful in the discharge of their duties. They must, therefore, ensure that in keeping with the high standards of journalism, their presentations are always in public interest, fair, accurate, unbiased, sober and decent.

Adherence to the following do's and don'ts will surely help them self-regulate their conduct and maintain their professional integrity and high standards:

##### **DO'S**

1. Images should be accurate and comprehensive and the subjects be presented in proper context.
2. All subjects should be treated with respect and dignity. Special consideration be given to vulnerable subjects and victims of crime or tragedy be treated compassionately. Private grief be intruded only when the public has an overriding and justifiable interest in sharing or viewing it.
3. While editing a visual, the maintenance of the integrity of the content and context of the photographic images should be ensured. Images



should not be manipulated neither should there be addition or alteration in sound in any way that can mislead viewers or misrepresent subjects.

4. Strive to be unobtrusive and humble in dealing with subjects.
5. The integrity of the photographic moment should be respected.
6. Pictures should not reflect anything that is obscene, vulgar or offensive to good public taste.
7. Strive to ensure that the public's business is conducted in public. Defend the rights of access for all journalists.
8. Strive for total and unrestricted access to subjects and recommend alternatives to shallow or rushed opportunities.
9. Seek a diversity of viewpoints and work to show unpopular or unnoticed points of view.
10. Strive by example and influence to maintain the spirit and high standards expressed in this code. When confronted with situations in which proper action is not clear, seek the counsel of those who exhibit the highest standards of the profession.

#### **DON'TS**

1. While photographing subjects do not intentionally contribute to, alter, or seek to alter or influence events.
2. The privacy of an individual should not be intruded or invaded unless it is outweighed by genuine overriding public interest, not by a prurient or morbid curiosity.
3. While covering terrorist attacks, communal riots or other acts of violence, do not show mangled corpses or such other images as cause revulsion or terror or rouse communal or sectarian passions.
4. Do not get manipulated by staged photo opportunities.
5. Do not accept gifts, favours or compensation from those who might seek to influence the coverage.

6. Avoid political, civic or business involvements or employment that could compromise or appear to compromise their professional independence.
7. No payment or material reward should be made to the sources or subject for information or participation.
8. The work should not reflect any kind of biases.
9. Do not intentionally sabotage the efforts of other journalists.

INDIA  
Forbes

• **Part B: Guidelines on Specific Issues**

a) Norms for observance by the Press in the wake of communal disturbances 1969

Recognising that the Press which enjoys the utmost freedom of expression has a great and vital role to play in educating and moulding public opinion on correct lines in regard to the need for friendly and harmonious relations between the various communities and religious groups forming the fabric of Indian political life and in mirroring the conscience of the best minds of the country to achieve national solidarity, the Press Council of India considers that this object would be defeated, communal peace and harmony disturbed and national unity disrupted if the Press does not strictly adhere to proper norms and standards in reporting on or commenting on matters which bear on communal relations. Without attempting to be exhaustive, the Council considers the following as offending against journalistic proprieties and ethics:

1. Distortion or exaggeration of facts or incidents in relation to communal matters or giving currency to unverified rumours, suspicions or inferences as if they were facts and base their comments on them.
2. Employment of intemperate or unrestrained language in the presentation of news or views, even as a piece of literary flourish or for the purpose of rhetoric or emphasis.
3. Encouraging or condoning violence even in the face of provocation as a means of obtaining redress of grievances whether the same be genuine or not.

42  
T.C

4. While it is the legitimate function of the Press to draw attention to the genuine and legitimate grievances of any community with a view to having the same redressed by all peaceful, legal and legitimate means, it is improper and a breach of journalistic ethics to invent grievances, or to exaggerate real grievances, as these tend to promote communal ill-feeling and accentuate discord.
5. Scurrilous and untrue attacks on communities, or individuals, particularly when this is accompanied by charges attributing misconduct to them as due to their being members of a particular community or caste.
6. Falsely giving a communal colour to incidents which might occur in which members of different communities happen to be involved.
7. Emphasising matters that are not to produce communal hatred or ill-will, or fostering feelings of distrust between communities.
8. Publishing alarming news which are in substance untrue or make provocative comments on such news or even otherwise calculated to embitter relations between different communities or regional or linguistic groups.
9. Exaggerating actual happenings to achieve sensationalism and publication of news which adversely affect communal harmony with banner headlines or in distinctive types.
10. Making disrespectful, derogatory or insulting remarks on or reference to the different religions or faiths or their founders.

**Guidelines Issued by the Press Council for Observance by the State Governments and the Media in Relation to Communal Disturbances 1991**

- i. The State Government should take upon themselves the responsibility of keeping a close watch on the communal writings that might spark off tension, destruction and death, and bring them to the notice of the Council;
  
- ii. The Government may have occasion to take action against erring papers or editors. But it must do so within the bounds of law. If newsmen are arrested, or search and seizure operations become necessary, it would be healthy convention if such developments could be reported to the Press Council within 24 to 48 hours followed by a detailed note within a week;
  
- iii. Under no circumstances must the authorities resort to vindictive measures like cut in advertisements, cancellation of accreditation, cut in newsprint quota and other facilities;
  
- iv. Provocative and sensational headlines should be avoided by the Press;
  
- v. Headings must reflect and justify the matter primed under them;
  
- vi. Figures of casualties given in headlines should preferably be on the lower side in case of doubt about their exactness and where the numbers reported by various sources differ widely;

vii. Headings containing allegations made in statements should either identify the person/body making the allegation or, at least, should carry quotation marks;

viii. News reports should be devoid of comments and value judgement;

ix. Presentation of news should not be motivated or guided by partisan feelings, nor should it appear to be so;

x. Language employed in writing the news should be temperate and such as may foster feelings of amity among communities and groups;

xi. Corrections should be promptly published with due prominence and regrets expressed in serious cases; and

xii. It will help a great deal if in-service training is given to journalists for inculcation of all these principles.

**Guidelines Issued by the Press Council on January 21-22, 1993 in the  
Wake of the Ram Janambhoomi-Babri Masjid Dispute**

Guidelines for guarding against the commission of the following journalistic improprieties and unethicities.

1. Distortion or exaggeration of facts or incidents in relation to communal matters or giving currency to unverified rumours, suspicions or inferences as if they were facts and base their comment, on them.
2. Employment of intemperate or unrestrained language in the presentation of news or views, even as a piece of literary flourish or for the purpose of rhetoric or emphasis.
3. Encouraging or condoning violence even in the face of provocation as a means of obtaining redress of grievance whether the same be genuine or not.
4. While it is the legitimate function of the Press to draw attention to the genuine and legitimate grievances of any community with a view to having the same redressed by all peaceful legal and legitimate means, it is improper and a breach of journalistic ethics to invent grievances, or to exaggerate real grievances, as these tend to promote communal ill-feeling and accentuate discord.
5. Scurrilous and untrue attacks on communities, or individuals, particularly when this is accompanied by charges attributing misconduct to them as due to their being members of a particular community or caste.

6. Falsely giving a communal colour to incidents which might occur in which members of different communities happen to be involved.
7. Emphasising matters that are apt to produce communal hatred or ill-will, or fostering feelings of distrust between communities.
8. Publishing alarming news which are in substance untrue or make provocative comments on such news or even otherwise calculated to embitter relations between different communities or regional or linguistic groups.
9. Exaggerating actual happenings to achieve sensationalism and publication of news which adversely affect communal harmony with banner headlines or distinctive types.
10. Making disrespectful, derogatory or insulting remarks on or reference to the different religions or faiths or their founders.



**b) Coverage of Handouts of Militants/Terrorists-Guiding Principles 1991-1992**

Arising out of a complaint against publication of some ULFA handouts/threat notes by a newspaper of Assam, the Press Council has enunciated some general principles for the guidance of the press. These are in tune with the recommendations of the Press Council of India Report on Punjab and Jammu & Kashmir, adopted by the Press Council in January, 1991.

These guiding principles considered by the Council in September 1992, are as follows:

Dictates or "Press Notes" commanding newspapers to publish them, under duress or threats of dire consequence, emanating from elements wedded to violence, constitute "the gravest assault on the freedom of the Press which is one of the surest guarantors of a democratic and plural society". Generally, such dictates or Notes are not newsworthy *per se*. Their publication tends to demoralise the public and to affect adversely public, police and security. The publication not only compromises the freedom and independence of the newspaper concerned, but also constitutes an offence against the standards of journalistic ethics and professional responsibility.

This is not to say that if there is anything newsworthy in a "Press Note" emanating from any source, it should be blacked-out altogether, because 'self-censorship' may be "no less dangerous for being insidious". The essential point is that editors must exercise due caution and circumspection in considering the dissemination of such Press Notes. If the whole of the Note is not pernicious, then it may be edited, its objectionable portions removed and

language toned down so that whatever is true newsworthy gets disseminated in a balanced manner. However, where the "news" and the objectionable portions are inextricably mixed up, violating the entire warp and woof of the "Press Note", it will be prudent to withhold its publication altogether.

This is not an easy way out, as the media's experience of militancy in Punjab has amply demonstrated. More than 50 media personnel have lost their lives in terrorist attacks and ignoring a militant press note can lead and has often led, to death of innocent and defenceless media persons. Any show of editorial defence and courage is likely to be seen by defenceless employees of newspapers as exposing them to avoidable dangers. Editors and proprietors under these circumstances have little room for manoeuvres.

A workable expedient that proved useful in Punjab, is for the government to be in close touch with newspapers so that objectionable and anti-national press notes from groups swearing by violence could be removed from newspapers before publication. Even though this may be seen as a form of pre-censorship, this arrangement saved lives and spared newspapers from difficult and delicate choices.

There is however a danger of a wilful administration using this process to muzzle the press and misuse its authority under the law to define "objectionable material" on its own terms. Strict procedures must therefore be laid down. Orders passed under any legislation in this regard from time to time in relation to publication of allegedly "objectionable matter" should be subjected to some kind of appellate review so as to curb any propensity to arbitrary action. The principal legislation and rules made thereunder should also be periodically reviewed in the light of changing circumstances. These safeguards should be built into all such press legislation.

### **C) HIV/AIDS and the Media**

The Press Council of India under the mandate of Section 13(2)(b) of the Press Council Act, 1978 has built up a set of guidelines to facilitate the functioning of the Media. Of these, the guidelines on coverage of HIV/AIDS related matter was drawn up in the year 1993.

A writ petition no. CMP 52/2008 was filed by National Network of Positive People before Hon'ble Court of Juvenile, Thiruvananthapuram objecting to an incident relating to visual screened by the media of two children Betsy and Benson and the subsequent false reporting of the demise of Betsy, a child with HIV/AIDS. The Hon'ble Court observed that the Press Council of India should give appropriate direction to the Media while reporting HIV/AIDS by them. In pursuance of this matter the Council approached the representatives of UNAIDS and activists in the field to update the guidelines on HIV/AIDS reporting as the matter has undergone sea change since 1993. The core group held two workshops on September 18, 2008 and October 10, 2008 to discuss and debate on the guidelines formulated and proposed that these guidelines should be translated into as many languages as possible for the benefit of the journalists at various levels. These guidelines are equally relevant to print as well as electronic media.

### **Be Objective, Factual and Sensitive**

Journalists must ensure their story is objective, factual and sensitive, more so when they are reporting on HIV and AIDS. They should seek truth and report it in a balanced manner. Journalists should hold all decision makers accountable, from government to the pharmaceutical industry and advocacy groups. They should be engaged with, but not captive to, any interest group.

50  
T.C

This means highlighting positive stories where appropriate, without underplaying the fact that HIV and AIDS is a serious issue. Omitting key information because it doesn't fit into the story is a breach of faith. The story must give both sides of the picture. Telling the whole story also means giving it a human face. The voices of people with HIV and AIDS must be heard more strongly and they must include the vulnerable and marginalised people.

The focus should be on facts. Distortion of facts in any manner to make the story salacious and therefore 'more saleable' is unacceptable. Censorship of relevant information too is unethical.

Accuracy is critical since important personal and policy decisions may be influenced by media reports. In the context of HIV and AIDS, this means that journalists need to be very careful about the scientific and medical details as well as statistics. With the combination of drugs and treatment regimens available known as antiretroviral therapy (ART), people infected with HIV can live for many years before showing any signs of illness. ART is a combination of drugs that reduces the amount of HIV in the body (viral load) by interfering with its replication. ART does not completely destroy the virus or cure the disease. With reduced virus in the body, the immune system can become stronger and fight infection more effectively, resulting in decreased morbidity for the patient. ART has been shown to benefit both adults and children living with HIV and AIDS.

Reporting on HIV and AIDS is complex and sorting through the epidemiological data can be challenging. Whether using data to support a story or reporting on the data itself, the specific data chosen and how they are used, will play a large role in determining what kind of story is told. In addition, the data is often so complex that there is a risk of misinterpretation.

For example, some reporters may use 'incidence' and 'prevalence' interchangeably even though they represent two different ways of measuring the epidemic. Experts/ epidemiologists should be consulted.

### **Ensure accurate language and terminology**

When reporting on HIV and AIDS, language is extremely important. Journalists should be particularly careful to get scientific and statistical information right. They must integrate this with correct terminology. For instance, it is essential to know and make clear the difference between HIV and AIDS. Being a syndrome or a collection of symptoms, AIDS cannot itself be transmitted, nor is there an AIDS virus, nor an AIDS carrier. Similarly, a person either does or does not have AIDS. Since there are no degrees of AIDS, the expression 'full-blown AIDS' is meaningless.

With effective treatments now available, HIV infection does not necessarily lead to AIDS. It is important to reflect this in reportage. Since HIV is not synonymous with AIDS, 'HIV/AIDS' as a term is no longer considered accurate.

With AIDS not being a singular disease but a syndrome defined by a variety of diseases and cancers, a person does not 'die of AIDS'. It would instead be accurate to report that he or she died of an HIV-related illness.

Terminology used must be appropriate and non-stigmatising. The media must cross check changes in terminology and language. Terms like 'scourge' to describe the infection have been discarded. Other terms like AIDS carrier,

prostitute, drug addict, AIDS patient/victim/sufferer also lead to stigma and should not be used.

### **Debunk myths related to prevention of HIV and miracle cures**

The press should take care not to promote myths related to prevention and transmission of HIV or to claims that advertise protection from the infection. Nor should it give any credence to traditional cures that have no scientific verification. False hopes are raised by reporting claims around cures. Researchers have been working hard for decades yet there is no known cure for HIV or AIDS although the infection is treatable with a positive impact on the quality of life. The media should include telephone numbers of HIV and AIDS helplines/counselling services.

Advertisements related to HIV, STIs, skin diseases, tuberculosis and other opportunistic infections can be potentially misleading and should be carefully checked.

### **Make Photographs, Illustrations and Cartoons Positive**

Visuals have an immediate impact on audiences and are important to highlight stories. But the use of photographs in HIV and AIDS stories raises a lot of ethical issues. Care should be taken to ensure that photographs do not breach the confidentiality or privacy of infected people and their families.

Avoid photos that promote stereotypes related to HIV and AIDS and those that victimize the infected. Care should be taken to ensure that captions to photographs are factually correct and do not increase stigma.

Illustrations and cartoons also should avoid any negative implications

**For visual media**

The visual media must deal sensitively and ethically with the identities of those who have HIV and AIDS as well as their families and associates. Care must be taken during interviews, off-the-record conversations, while taking photographs and recording their stories so that identity is kept confidential.

Some pointers:

- Keep the camera away from focussing directly on the face of person/case study. Instead, shoot hands, feet or back of the head
- Shoot in silhouette, keeping the camera behind the subject
- Since voice can also be an identifying factor, ask questions softly so that the replies are soft. In most cases, superimposition of subtitles should be used so that the audio does not need to be upped too much.
- Do not show pictures of the family. These too can lead to identification of the person
- Try to keep the location of the shoot ambiguous. For instance, avoid naming the village
- Establish the concerned person's journey through a third party's voice whenever possible
- An interview should be a one-to-one chat that allows the person to speak. Ensure questions are not deeply personal or accusatory. It should not put the person on the defensive
- Hidden cameras should never be used
- Try to show people living with HIV in a positive light by portraying them as individuals instead of 'victims'

- Wherever possible, obtain written consent

Even with permission, it may be best not to disclose the infected person's identity. The repercussions and pressures of being revealed on TV particularly can be terrible, especially for the family. The stigma gets heightened. In many cases permission to shoot openly is given without understanding the power of the visual media.

The person may feel safe appearing on TV in Delhi, away from their community, not realizing the possibility that their family is watching the story in a village/ town far away.

#### **For news desk including sub-editors and newsroom staff**

Special attention must be paid by the news desk and newsroom staff to ensure that the eye-catching headlines reflect the issue accurately and that the story is balanced and free of damaging stereotypes.

#### **Uphold Confidentiality and Obtain Informed Consent**

Journalists should not disclose the identity of the person infected with HIV unless they have specific permission to do so. Whenever possible, they should get written consent.

If written consent is not possible, informed consent must be obtained. This means ensuring that people living with HIV and AIDS (PLHIVs) are aware of the implications of their identification.



The moral and professional responsibility of the story should be that of the journalist. Therefore, the journalist must exercise caution and use his/her judgment on how PLHIVs are to be portrayed. To minimize damaging repercussions it would be best to avoid identification even when written consent is obtained. This can be done by changing names and locations in the story.

### **Avoid Discrimination**

Journalists should avoid references to caste, gender or sexual orientation when reporting HIV and AIDS. Such references entrench existing prejudices against sexual minorities certain communities or groups already targetted, be they men who have sex with men (MSM), injecting drug users (IDUs), sex workers or migrants.

Sexual minorities includes people who are lesbian, gay, bisexual and transgender (LGBT) and covers men, women and all those who do not identify either as men or women (that is, transgender). Among the transgender are hijras. Hijras are essentially biological born males who do not identify as men and prefer to identify as women.

It is important to understand that MSMs may never identify as homosexual. Therefore, the word MSM is used to denote behaviour only. So it is appropriate to say Oscar Wilde was a gay man and not Oscar was gay.

Sexual minorities are sometimes derisively referred to by terms which reinforce stereotypes about the community. Instead, it would be more

appropriate to use terms like sexual minorities, gay man or lesbian. It is not necessary to call them that either as long as one does not stigmatise them.

While information about modes of transmission are important, instead of making value judgements the reports should try to focus on how the infection affects people, their work, their families and the gaps in policy and implementation of HIV programmes. Focussing needlessly on how a person was infected reinforces an attitude that seeks to blame those with HIV or AIDS for being infected.

Care should be taken to ensure that a particular region's language, cultural norms and traditional practices are understood and accurately reported.

### **Ensure Gender Sensitive reporting**

The media must guard against gender stereotyping. It must not stigmatize HIV positive women. For instance, portraying sex workers and bar girls as being responsible for spreading the infection is common. Instead, stories should explore how the infection makes women particularly vulnerable to different forms of exploitation. Stories must focus on how it is possible to live a productive and reasonably normal life with HIV, about the inherent strength that enables women to shoulder challenges and about the ethical and legal rights of sex workers.

Stories should also focus on the new technology and medication available for prevention of infection from mother to child and the fact that infected women can have children who may be free of the infection.

57  
T. C.

An example of gender sensitive reportage is the use of PPTCT (Prevention of Parent to Child Transmission) instead of PMTCT (Prevention of Mother to Child Transmission). This way the report does not hold the mother solely responsible for passing the infection

### **Ensure Sensitivity on Child-Related Stories**

The identity of children infected and affected by HIV should not be revealed. Nor should their photographs be shown. This include orphans and children living in orphanages, juvenile homes etc.

International and national laws specifically prohibit publication of any information or photograph that may lead to the identification of these children and violate their rights.

In India, the Juvenile Justice (Care and Protection of Children) Act, 2000 lays down that no report in any newspaper, magazine or visual media regarding a juvenile in need of care and protection shall disclose the name, address, school or any other particulars that lead to their identification. It also prohibits the publication of any photograph related to the child.

Journalists must also be sensitive to the fact that a child may or may not be aware of her/his HIV status. This fact must be ascertained before the journalist gets into the process of enquiry. This is of prime importance as some questions can be perceived as intrusive or insensitive and can leave a lasting impression on the child.

Keeping that in mind, it is nevertheless important for children to participate in matters that concern them. However, their identities must be protected while sharing their views/stories.

The fact that paediatric doses of ART medication are now available must be widely disseminated.

### **Ensure balanced and responsible coverage**

News organisations should take the initiative to lessen the impact of a 'negative' story such as suicide due to HIV-related illness by carrying statements from positive people who have faced the challenge successfully or by giving helpline numbers.

Care should be taken that stories on infected individuals are not sensationalized. The stories should avoid falling into the trap of projecting infected persons as either 'victims' or 'culprits'.

When reporting on specific professional groups such as uniformed services, health professionals etc, care should be taken to obtain data from authorised sources. Inaccurate reports will have an adverse impact on their morale and will also increase stigma. Such reports will also create an impression of lack of confidentiality that will hinder voluntary testing.

### **Ensure regular training on HIV and AIDS for media**

Journalists must keep abreast of the changing realities of this fast-evolving infection. News organizations across the country must actively encourage

training workshops and modules on the issue. Journalists should also keep themselves updated on court judgements related to the issue.

HIV is no longer just a health issue. Instead of concentrating on health reporters alone, people at all levels of the news organization should be trained and sensitised on the various dimensions, especially terminology of HIV and AIDS. The infection impacts on the country's development, economics, business and politics. Surveys have shown that with training and sensitization, media reportage on HIV and AIDS, particularly in high-prevalence states, has been relatively more balanced and accurate.

**Adopt existing stylebook or guidelines on HIV and AIDS reportage**

News organisations should adopt and widely disseminate existing standardised guidelines and terminology on reporting on HIV and AIDS. This will encourage responsible coverage of the issue.

APPENDIX 1

**UNAIDS TERMINOLOGY GUIDELINES**

[www.unaids.org](http://www.unaids.org)

APPENDIX 2

**CODE FOR SELF-REGULATION IN ADVERTISING BY THE  
ADVERTISEMENT STANDARDS COUNCIL OF INDIA (ASCI)**

[www.asci.co.in](http://www.asci.co.in)

APPENDIX 3

**HIV/AIDS AND THE LAW – A JUDICIAL COLLOQUIUM BY HUMAN RIGHTS  
LAW NETWORK (HRLN)**

[www.hrln.org](http://www.hrln.org)

**Consent Form**

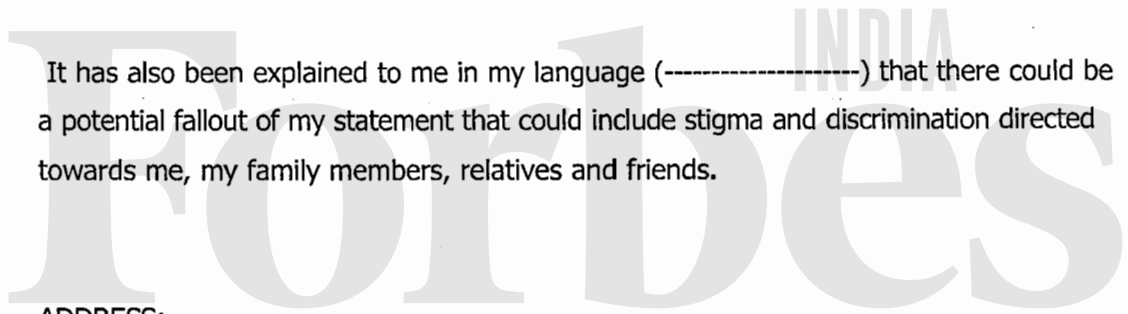
60  
R  
T.C.

I, \_\_\_\_\_ Son/ Daughter of  
 \_\_\_\_\_, am a responsible adult / Parent/legal guardian -of -----  
 Aged ----- years,  
 agree that you..... (name of interviewer/photographer) and  
 your photographer/cameraman have my permission to record my statement/interview  
 and take my photograph for print/audio visual media, on HIV and AIDS related issues.

I understand that my statement/interview will not be distorted or misused in any way  
 wherever it is used. The photographer will also ensure that photographs do not breach my  
 confidentiality or that of my family.

You will also ensure that statement/interview taken of ----- (name of  
 interviewee), who is a minor, does not reveal his/her identity in any way.

It has also been explained to me in my language (-----) that there could be  
 a potential fallout of my statement that could include stigma and discrimination directed  
 towards me, my family members, relatives and friends.



ADDRESS: \_\_\_\_\_  
 \_\_\_\_\_

Phone: \_\_\_\_\_  
 DATE: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_

**d) Financial Journalism – 1996**

The Press Council of India has counselled reporters/financial journalists/newspaper establishments to refrain from receiving any gifts/grants/concessions/facilities, etc., either in cash or kind which are likely to compromise free and unbiased reporting on financial matters.

2. The Council in its Report has observed that the financial journalists today enjoy considerable influence over readers' minds and, therefore, they owe it to them to present a balanced and objective view of the financial dealings, status and prospects of a company. It observed that some companies are given excessive news coverage in the newspapers/magazines because they have issued advertisements to that print media. Sometimes, adverse reports are published of those companies which do not give advertisements to the newspapers or magazines. Again, when a media is not happy with any company/ management for whatever reason, the negative aspects of the company are highlighted, while in the reverse situation, no negative aspects are brought to light. Some companies are also known to give gifts, loans, discounts, preferential shares, etc., to certain financial journalists to receive favourable and positive reports of the companies. At the same time, there is no mechanism for investors' education or for raising public opinion against such unhealthy practices.

3. The Council feeling concerned over the malpractice in the Corporate Sector and after holding detailed deliberations and discussions with the representatives of financial institutions and journalists, has recommended the guidelines enumerated below for observance by the financial journalists:

62  
T.C

- 1) The financial journalists should not accept gifts, loans, trips, discounts, preferential shares or other considerations which compromise or are likely to compromise his position.
- 2) It should be mentioned prominently in the report about any company that the report is based on information given by the company or the financial sponsors of the company.
- 3) When the trips are sponsored for visiting establishments of a company, the author of the report who has availed of the trip must state invariably that the visit was sponsored by the company concerned and that it had also extended the hospitality as the case may be.
- 4) No matter related to the company should be published without verifying the facts from the company and the source of such report should also be disclosed.
- 5) A reporter who exposes a scam or brings out a report for promotion of a good project should be encouraged and awarded.
- 6) A journalist who has financial interests such as share holdings, stock holdings, etc., in a company, should not report on that company.
- 7) The journalist should not use for his own benefit or for the benefit of his relations and friends, information received by him in advance for publication.



8) No newspaper owner, editor or anybody connected with a newspaper should use his relations with the newspaper to promote his other business interests.

9) Whenever there is an indictment of a particular advertising agency or advertiser by the Advertising Council of India, the newspaper in which the advertisement was published must publish the news of indictment prominently.

Forbes INDIA

e) Election Reporting-1996

i) General Election is a very important feature of our democracy and it is imperative that the media transmits to the electorate fair and objective reports of the election campaign by the contesting parties. Freedom of the Press depends to a large measure on the Press itself behaving with a sense of responsibility. It is, therefore, necessary to ensure that the media adheres to this principle of fair and objective reporting of the election campaign.

The Press Council has, therefore, formulated the following guidelines to the media for observance during elections:

1. It will be the duty of the Press to give objective reports about elections and the candidates. The newspapers are not expected to indulge in unhealthy election campaigns, exaggerated reports about any candidate/party or incident during the elections. In practice, two or three closely contesting candidates attract all the media attention. While reporting on the actual campaign, a newspaper may not leave out any important point raised by a candidate and make an attack on his or her opponent.

2. Election campaign along communal or caste lines is banned under the election rules. Hence, the Press should eschew reports which tend to promote feelings of enmity or hatred between people on the ground of religion, race, caste, community or language.

3. The Press should refrain from publishing false or critical statements in regard to the personal character and conduct of any candidate or in relation to the candidature or withdrawal of any candidate or his candidature, to

prejudice the prospects of that candidate in the elections. The Press shall not publish unverified allegations against any candidate/party.

4. The Press shall not accept any kind of inducement, financial or otherwise, to project a candidate/party. It shall not accept hospitality or other facilities offered to them by or on behalf of any candidate/party.

5. The Press is not expected to indulge in canvassing of a particular candidate/party. If it does, it shall allow the right of reply to the other candidate/party.

6. The Press shall not accept/publish any advertisement at the cost of public exchequer regarding achievements of a party/ government in power.

7. The Press shall observe all the directions/orders/instructions of the Election Commission/Returning Officers or Chief Electoral Officer issued from time to time.

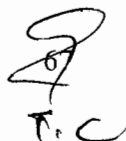
**ii) Guidelines on 'Pre-poll' and 'Exit-polls' Survey-1996**

The Press Council of India having considered the question of desirability or otherwise of publication of findings of pre-poll surveys and the purpose served by them, is of the view that the newspapers should not allow their forum to be used for distortions and manipulations of the elections and should not allow themselves to be exploited by the interested parties.

  
T. C. D.

The Press Council, therefore, advises that in view of the crucial position occupied by the electoral process in a representative democracy like ours, the newspapers should be on guard against their precious forum being used for distortions and manipulations of the elections. This has become necessary to emphasize today since the print media is sought to be increasingly exploited by the interested individuals and groups to misguide and mislead the unwary voters by subtle and not so subtle propaganda on casteist, religious and ethnic basis as well as by the use of sophisticated means like the alleged pre-poll surveys. While the communal and seditious propaganda is not difficult to detect in many cases, the interested use of the pre-poll survey, sometimes deliberately planted, is not so easy to uncover. The Press Council, therefore, suggests that whenever the newspapers publish pre-poll surveys, they should take care to preface them conspicuously by indicating the institutions which have carried such surveys, the individuals and organisations which have commissioned the surveys, the size and nature of sample selected, the method of selection of the sample for the findings and the possible margin of error in the findings.

2. Further in the event of staggered poll dates, the media is seen to carry exit-poll surveys of the polls already held. This is likely to influence the voters where the polling is yet to commence. With a view to ensure that the electoral process is kept pure and the voters' minds are not influenced by any external factors, it is necessary that the media does not publish the exit-poll surveys till the last poll is held.



T. C.

3. The Press Council, therefore, requests the Press to abide by the following guideline in respect of the exit polls:

Guideline:

No newspaper shall publish exit-poll surveys, however, genuine they may be, till the last of the polls is over.

INDIA  
Forbes

98  
T.C

**f) ALLOTMENT OF HOUSES TO JOURNALISTS -1996**

i) Pursuant to the request made to the Press Council of India by the Hon'ble Supreme Court of India *vide* its order dated 19/7/96, the office of the Press Council convened separate meetings on various days with the officials of the Ministry of Urban Affairs and Employment (MUAE) and the Press Information Bureau (PIB) in the Ministry of Information; (ii) the representative of the Joint Action Group of Journalists and News Cameramen which had agitated against the retention of the press pool accommodation by some of the present journalist-allottees; and (iii) the journalist occupants. The Council also received representations and suggestions from individual journalists, including journalist occupants. Some of the occupant and non-occupant journalists also met the Chairman of the Council individually and made representation on behalf of the journalists and gave suggestions.

It was noted that the accommodation was given to the journalists since 1957 according to certain guidelines. Those guidelines were revised from time to time and the latest guidelines are of December 1991. The Council also had the benefit of the draft of a further revision of the guidelines suggested by the P.I.B. to the M.U.A.E.

It was noted that originally, the system of temporarily allotting a fixed number of apartments for journalists started when Shri Sardar Patel was the Minister of Information and Broadcasting. In those days, the income of Indian journalists was such that most of them could hardly afford to stay in New Delhi. While many of the new journalists have to pay for high rent private flats, there is a need for the older journalists to vacate these accommodations in favour of the younger ones with lesser income.

It was further noted that the whole object of giving temporary accommodation to the journalists was to accommodate for some time those journalists who came from outside Delhi. With that purpose, the government accommodation was being made available to the journalists for a limited purpose of three years and during this period they were expected to find accommodation for themselves and to vacate the government accommodation. For this purpose again, they were during this period of occupation, charged a nominal rent as charged to government servants.

It was also noted that it was not the intention of the government to create any relationship whatsoever between itself and the occupant journalist. The accommodation was to be given as a facility by way of transit accommodation till the journalist found a suitable accommodation for himself/herself within this stipulated period.

This is also borne out by the fact that the Second Press Commission in Chapter V. para 22 of its Report, had recommended that the "Press should be able to resist not only external pressure but also inducements which would undermine independence from within. Journalist should be on guard against temptation to enjoy favours, whether from government authorities, employers, advertisers or others. Further Chapter VIII, para 49, it recommended that "no further housing facility should be provided to the journalists and existing allotment of the government accommodation in the National Capital and the States should be charged for at non subsidised rates and phased out as the present occupants leave". The Action Taken Report of the Central Government on the Report of the Second Press Commission submitted to the Parliament record be provided to journalists and in respect of

the existing allotments, the rent should be charged at non subsidised rates. This was nearly a decade ago. However, the allotment continued.

Taking into consideration all the above facts:

Considering the developments such as that many journalists have continued to occupy the accommodation as if it was given to them permanently since there was no clear stipulation with regard to the duration of occupation, in their allotment orders:

Considering the fact that at present there are only 120 units available for allotment to the journalists under the above facility and that there are a large number of needy journalists in the waiting list:

Considering the fact that the prices and rents of the premises are at present at a higher level:

Considering the present level of income of journalists:

And considering also the fact that there is no reason why the media establishments which are making profits should not provide housing facility for their journalists/news cameramen or pay sufficient house rent in lieu thereof:

The following guidelines for the allotment of accommodation to the accredited correspondents and news-cameramen are suggested:

#### **ELIGIBILITY CRITERIA**



1. The accommodation will be given by the government from the press pool only to the accredited journalists and news cameramen. Accredited journalists/news cameramen will mean journalists/news cameramen accredited by the Central Press Accreditation Committee. They will not include: (I) those accredited journalists/news cameramen whose total emoluments exclusive of the conveyance allowance exceed Rs. 15000/- p.m.(II) accredited editors or editor-cum-correspondents: (III) Freelance journalists: (IV) Journalists engaged on control basis : and (V) accredited correspondents who are not Indian National and /or who do not represent the Indian Media.

2. He/She does not own a house or flat, either as an owner or as a holder of power of attorney, in his/her own name or in the name of the family member or dependent in the National Capital Territory of Delhi, at the time of the allotment of accommodation from the pool.

Notes:

- i) The term 'family' in this context shall have the same meaning as defined in Government of India Supplementary Rule 2.
- ii) 'The National Capital Territory of Delhi' in this context shall besides Delhi, include municipal limits of Ghaziabad, Gurgaon, Noida, Greater Noida, Faridabad, Bahadurgarh and Sahibabad.
- iii) The transfer of ownership of spouse/sons/daughter and/or its sale to third party within a period of five years prior to the date of application/allotment, shall render the applicant ineligible for pool accommodation.

1. The accommodation will be allotted by a Screening Committee (Composition of which is given in para 17) according to seniority and pay limit as mentioned below:

The accredited journalists will be divided in two categories namely: (1) those who are drawing income upto Rs. 7000/- p.m. and (ii) those drawing income between Rs. 7,001/- to Rs. 15,000/- p.m. The above mentioned limit of emoluments would vary depending upon the recommendations of the Wage Boards of the pay-scale for the category 1A of the working journalists as defined in the Bachawat Award.

The monthly income would mean emoluments excluding conveyance allowance.

Two separate lists namely, 'List I' and 'List II', of the above categories (i) and (ii) of the journalists respectively would be prepared on the basis of the aforesaid income criteria and according to the seniority on the basis of the date of application for the accommodation.

2. Depending upon the availability, the accommodation will first be given to those in List I according to the seniority. If after satisfying the needs of all the journalists in List I, more units of accommodation are available, they would be given according to seniority to the journalists in List II.

3. The journalists in List I may occupy the accommodation so given for a maximum period of five years but no longer.

Those in List II may occupy the accommodation so given for a maximum period of three years but no longer.

The allottee shall not be eligible for allotment of accommodation from the pool more than once.

---

\*Revised

75  
T.

4. The allottee shall pay the Government every month the amount of HRA that the allottee receives from his/her employer in addition to the license fee fixed under the Government of India. \* **Director of Estates, New Delhi, Office Memorandum No. 18011/3/95-Pol-III dated 2.7.96.** It shall be his/her responsibility to pay all sums due as aforesaid to the government by the 10<sup>th</sup> of every month.. Failure to pay the dues as aforesaid shall make him/her liable to be evicted forthwith.
5. Every allottee shall, be 31<sup>st</sup> March every year, intimate to the Directorate of Estate, Ministry of U.A. & E the details of his emoluments including basis pay, all allowances, including the HRA and particulars of his/her family member/dependent or self having acquired as a holder of power of attorney or otherwise, any accommodation in the National Capital Territory as defined above.
6. The allottee shall vacate the accommodation within 30 days of the expiry of the period of allotment.

74  
T.C

Disqualifications to remain in occupation

7. The allottee who acquires accommodation whether as a holder of power of attorney or otherwise in his/her own name or in the name of his/her spouse/family members/dependants, shall immediately but not later than 30 days inform the Directorate of Estate about such acquisition and shall also vacate the government accommodation within a period of two months of the acquisition of the accommodation.
8. The allottee, who voluntarily changes or voluntarily or compulsorily ceased to be in the employment of a media organisation for whatever reason and whose accreditation has not been changed to the new media unit, shall no longer be entitled to retain the government and shall vacate the same within a period of six months from the date of change of the employment.

---

\*Revised

9. The allottee who has, for any other reasons, will become ineligible for pool accommodation as per these guidelines, shall become liable to be evicted under the Public Premises Act after the expiry of the stipulated grace period laid down herein.
10. If the allottee fails to vacate the Government accommodation allotted to him/her as mentioned in clause 8-11 above, he/she shall be liable to be evicted from the same under the Public Premises Act and shall also be liable to pay **\*damages as prescribed in the Government of India, Directorate of Estate, New Delhi Office Memorandum No.**



**18011/3/92-Pol. III dated 30.5.1995** for the period of unauthorised occupation of the premises.

Procedure for allotment of accommodation

11. The government shall create a pool for media for the Delhi based accredited correspondents and news cameramen, out of the Central pool of residential accommodation in Delhi. The number of units to be allotted shall be such as may be fixed by the Government in the Ministry of Urban Affairs & Employment from time to time. At present there are 120 units in the media pool.
12. The number of units under the media pool shall remain earmarked for the representatives of the media.
13. The accommodation in the media pool would be of the types IV Special at the maximum.
14. Such Delhi-based accredited journalists/news cameramen, as are desirous of government accommodation from the media pool, shall make an application for the same to the Principal Information Officer or the Press Information Bureau in the Ministry of Information and Broadcasting. The application shall be accompanied by an affidavit stating the following particulars:

---

\*Revised

(a) His/her monthly income as defined in Clause 3 above;



(b) The amount of HRA received by him/her from his/her employer.

(c) Whether he/she has accommodation either as a holder of Power of Attorney or otherwise in his/her own name or in the name of his/her spouse/family members/dependants within the National Capital Territory (NCT) as defined in Note (ii) to clause 2 and;

d) Whether he/she has transferred any such residential accommodation whether on Power of Attorney or otherwise to his/her spouse or family member or dependent or to any third party within the National Capital Territory of Delhi, and if so, when.

15. The application for allotment of accommodation out of the media pool shall be processed by a Screening Committee headed by the Secretary to the Government of India, Ministry of Information and Broadcasting and shall consist of the Principal Information Officer of the Press Information Bureau and the Joint Secretary/Additional Secretary (Estate) and Director of Estate, Ministry of Urban Affairs and Employment as its ex-officio members and six accredited journalists to be nominated by the Ministry of Information and Broadcasting.

16. The Screening Committee shall meet at least twice a year. The applications for allotment of accommodation shall be disposed of by the Committee within a period of not more than two months from their receipt.

17. There shall be no discretionary quota for allotment out of the media pool.

Saving Provision:

18. Such allottees as are present in occupation of houses for a period of more than three/five years, as the case may be, and/or have become ineligible on account of any other reason(s) as per these guidelines, shall become liable to vacate the accommodation as follows:

i) Those who are in regular employment \*or those who are freelance journalists and not employed on contract-basis and have become ineligible only on account of the expiry of the stipulated period of occupation on the

date of coming into operation of these guidelines .....shall become liable to be evicted within a period of three years from the date of coming into operation of these guidelines.

ii) those employed on contract basis and **\*\*the freelance journalists** who become ineligible to occupy government accommodation by virtue of these guidelines shall become liable to be evicted within a period of two years from the date of coming into these guidelines.

iii) All others who become ineligible to occupy government accommodation on account of any other reason(s) whether in addition to the expiry of the stipulated period of occupation or otherwise, as per these guidelines, shall become liable to be evicted within a period of one year from the date of coming into operation of these guidelines.

During the period of occupation of Government accommodation as in sub-clause (i) to (iii) above, the occupants other than freelance journalists, shall pay license fee plus HRA as per clause (6) **or the damages as per clause (12) above.** The freelance journalist shall pay only license fee for the period of occupation of the accommodation in terms of **\*Government of India, Directorate of Estate, New Delhi; Office Memorandum No. 18011/3/95-Pol III dated 2.7.1996.**

After the discussions in the Council meeting held on 25.9.96, the Chairman, Press Council of India suggested the following modification in the guidelines:

1. The maximum total emoluments for entitlement of government accommodation is prescribed at present as Rs. 15,000/- per annum in para 3 of the 'Eligibility Criteria'. It may be added there that the above mentioned limit of emoluments would vary depending upon the recommendations of the Wage Boards of the pay-scale for category 1A of the Wage Boards of the

pay-scale for category 1A of the working journalists as defined in the Bachawat Award.

---

\*Revised

\*\*Omitted

Some members of the Council suggested the following modifications:

1. A uniform period of five years may be given for vacating the government premises to all journalists whether they are in regular employment contract employment or whether they are freelance journalists and to that extent clauses (i) and (ii) of para 20 of the guidelines may stand modified. However, the period for vacating the government accommodation by those who have other accommodation in Delhi will remain unchanged.
2. A uniform tenure of five years for occupation of government accommodation once it is allotted, may be given to all the allottees whether the employees fall in list I or list II as mentioned in para 3 under the 'Eligibility Criteria'.

These were forwarded to the Hon'ble Supreme Court of India on 10.7.1996 and were incorporated in the Order of the Hon'ble Supreme Court dated. 19.7.1996.



**g) GUIDELINES ON UNDUE FAVOURS TO JOURNALISTS-1998**

The power of the press has prompted the publicmen through the ages to try to cultivate and curry its favours through overt, and more often than not, covert means.

It is only if the press accepts its responsibility of serving the public interest as an independent observer, informer and educator of people as a watchdog of the interest of the society that it can discharge its true role as a mass communicator. Ultimately the strength of the moral fabric of the press itself shall decide whether or not to be swayed by the inducements and enticements thrown in its way by those in power. The media persons must realise that the burden of whether favours and facilities they receive, whether they are showered on them by the public or the private organisations or the individuals in authority, is ultimately borne by the people. The private organisations recover their costs by adding to the cost of the products and services they sell. The ultimate allegiance of the press has therefore to be of the people and not to immediate benefactors.

To distinguish between the facilities made available to the members of the fourth estate for due discharge of their professional duties and favours granted with a view to influence them, is not always easy. However, the simple and intelligible demarcation may be a uniform profferment of help to journalists in discharge of their professional duties made within the parameters of well laid down policies, without discrimination from person to person constitutes facility but when it is restricted to any or some individuals or establishments, it becomes a favour.

Based on the report given out by the Council in January 1998 in favour extended to journalists by various authorities over the period 1985 to 1995, the Council has framed the following guidelines for future guidance:

1. Accommodation-houses/flats/land:

The Government is not obliged to provide accommodation to the journalists as it is the responsibility of the newspaper establishment to provide accommodation to their employees. Whenever such a facility is provided to the journalists by the authorities it should be gradually phased out.

Land allotments at concessional rates to the newspaper establishment /individuals for the purpose of installing printing presses should not be a source of undue/illegal enrichment of the allottees. Therefore, the proposal of allotment of land to newspaper establishment/individuals should be scrutinized by the authorities very carefully. No land should be allotted to newspaper establishments/individuals at concessional rates if the land is proposed to be put to commercial use as well along with its use for press purpose by the allottees.

2. Allotment of Shares in Companies:

The shares allotted at a special price or given under any quota is a favour.

3. Bus Travel/Rail Travel/Transport:

This is a favour so far as big and medium newspapers are concerned. Further the journalists attached to the newspapers which are in profit have no justification for availing free bus/rail/transport facility. Such costs must be borne by the concerned newspaper. However, in the case of small newspaper this may constitute a facility.

4. Foreign travel:

Extending the facility of air travel by companies, corporations and airlines is an inducement to write favourably about their products and services. As regards official foreign tours undertaken by the President, the Vice President, the Prime Minister and the External Affairs Minister or any other Minister, only eligible journalist should be

nominated for coverage once the newspaper has been selected on the basis of the criteria laid down. The management personnel of the newspapers should not be selected/ nominated for coverage of such tours.

5. Free Air Tickets by Domestic Travel Airlines and Others:

It induces journalists to write favourable reports to commercially promote the airlines and the commercial enterprise offering such tickets and should not be accepted by the journalists.

6. Cash Disbursement from Chief Minister's Discretionary Fund:

Disbursement of money from the Discretionary Fund of the Chief Minister other than by way of relief to the indignant and helpless journalists encourage unfaithfulness to the mission of journalism and promotes corrupt practices. This could be discouraged by the Chief Ministers.

7. Cash Disbursement Financial Assistance:

The financial assistance, even if given for medical treatment, constitute a favour, unless, medical aid is given under a clear cut policy uniformly applicable to the destitutes or sick persons who cannot afford the medical treatment, and the journalists happens to be one of such beneficiaries. Extending CGHS facility to journalists is illogical since this facility to its employees is the responsibility of the newspaper establishments and should be provided by the authorities.

8-9. Funds for media centres and grants to journalists associations is favour and should be discontinued, unless it is given for promoting the journalistic skills.

10. Gift cheques including those given by the advertisement agencies for publication of material relating to their clients or otherwise is a favour and deserve outright condemnation. The journalists should not accept them.

11. Gifts in any form, irrespective of their value, are to be condemned.

82/  
T.C

12. Free parking is a favour, if journalist use this facility for the purpose other than his professional work.

13. Guest Hospitality

The working journalists, as a rule should not be treated as State Guests. However, when Press teams are invited to a place to discharge their professional duties, making due arrangements for them would be an exception. The stay in government guest houses by accredited journalists, is permissible if it is for discharging professional duties.

14. Import of duty free cameras and computers:

It is the duty of the newspaper establishment to provide cameras/computers to its personnel. Allowing duty free cameras and computers to a particular class of persons by the Government is a favour. However, this facility may be extended to the accredited freelance journalists, small newspapers, provided it is not misused.

15. Insurance Premium:

It is not for the governments to pay premium of the insurance of the journalists. The newspaper establishments or the individual concerned should make the payment of the same.

16. Giving jobs to journalist's relatives, for considerations, and other than on merits is an outright attempt to induce and should be curbed.

17. The grant of loans within the ambit of a policy already laid down for all citizens is permissible. But when the loan is given only to journalists or at reduced rates of interests or when the interest due or the principal amount is waived/written off/condoned, such a practice amounts to undue favour and should be stopped.

18. Nomination on Committees:

In some states the journalists are nominated on some organisations and institutions like Public Service Commission and are also given the status of State Minister or Cabinet Minister, which is a wrong practice.

Except for nomination by professional organisations on Committees, which have a quota to represent the various professions, this practice constitutes a favour and should be stopped.

19. Allotting PCO/Fax/Phone booth or centre to a journalist is a favour. This practice should be stopped.

20. Pensionary benefits:

Since the media is not part of the government, the benefit given only to media persons constitutes a favour when extended by the government.

21. Press Clubs-Donation of Funds:

This practice is prevalent all over the country and funds are being donated lavishly by Chief Ministers/Ministers, political leaders, companies and corporations not only to genuine Press Clubs but also to the Press Clubs of dubious nature. In the latter case it constitutes an attempt to induce the journalists to give favourable reports about the donors. This should be stopped.

22. Prizes:

The practice of giving spurious awards has to be curbed. There are instances of sale of awards and prizes by the racketeers making money out of it. Not only the racketeers but the awardees often contribute towards the value of the prize.

23. Allotment of shops to persons for reasons of their position as journalist is a clear cut favour and should be stopped forthwith.

24. The grant of Accreditation Cards, Government and Public Authority Advertisements according to rules, facility during election meeting, expenses for journalistic conventions, seminars, etc. providing press rooms, inviting press parties, giving publication material, providing for training of journalists do not constitute favours. They are essential facilities offered to journalists for the discharge of their professional duties.

## **h) RIGHT TO PRIVACY – PUBLIC FIGURES AND THE PRESS-1998**

The issue has been under heated debate at both national and international level. It appears certain that right to privacy cannot be absolute, yet the media itself has to show self-restraint, and respect the privacy of the public figures. Where there is clash between the public person's privacy and public's right to know about his personal conduct, activities, habits and traits of character, impinging upon or having a bearing on public interest, the former must yield to the latter.

It will, however, be necessary to bear that what is of 'interest to the public' is not synonymous with 'public interest' and that must be the ultimate test that the journalists must themselves apply in the circumstances of each individual case.

Drawing out of the above, the Council draws up the following guidelines:

"Right to privacy is an inviolable human right. However, the degree of privacy differs from person to person and from situation to situation. The public persons who function under public gaze as an emissary/representative of the public cannot expect to be afforded the same degree of privacy as a private person. His acts and conduct as are of public interest ('public interest' being distinct and separate from 'of interest to the public') even if conducted in private may be brought to public knowledge through the medium of the press. The press has, however, a corresponding duty to ensure that the informations about such acts and conduct of public interest of the public person is obtained through fair means, is properly verified and then reported accurately. For obtaining the information in respect of acts done or conducted away from public gaze, the press is not expected to use surveillance devices. For obtaining information about private talks and discussions, while the press is expected not to badger the public persons, the public persons are also expected to bring more openness in their functioning and co-operate with the press in its duty of informing the public about the acts of their representatives."

The above broad guidelines emulated in true spirit are certain to strike a balance between the right of the press to have access to information and the public persons' right to privacy.

**(i) Model Guidelines for Publishing Overseas Advertisements in Accordance With Emigration Act 1983**

The Information and Broadcasting Ministry requested the Council to issue guideline for the publishers in wake of advertisements of overseas jobs being published in various newspapers in contravention of Emigration Act, 1983. The Council in consultation with the Protector General of Emigration adopted the following model guidelines.

1. As per the provisions of Section 16 of the Emigration Act, 1983, no employer can recruit any citizen of India for employment in any country or place outside India except (a) through a recruiting agent competent under the Act to make such recruitment, or (b) in accordance with a valid permit issued in this behalf.
2. Section 10 of the Emigration Act, 1983, provides that no recruiting agent shall commence or carry on the business of recruitment of Indian citizens for overseas employment except under and in accordance with the certificate issued by the registering authority, i.e., Protector General of Emigrants in the Ministry of Overseas Indian Affairs.
3. Similarly, a foreign employer or a project exporter can recruit Indian citizens for employment abroad only after obtaining permit from the Indian Mission in the country of employment or the Ministry of Overseas Indian Affairs, New Delhi.
4. It is mandatory for the Registered Recruiting Agents to display their registration certificate number while inserting advertisement for recruitment. Similarly, Foreign Employers and Project Exporters will also have to indicate permit number while inserting advertisements.
5. A copy of the registration certificate in case of recruiting agents and permit letter in case of foreign employers and project exporters may be asked to be attached with the advertisement form as proof of their being genuine persons.

6. All advertisers may be asked to mention the following in their advertisement:
  - a. Registration Certificate Number/Permit Number;
  - b. Full address with Telephone Number, Post Box Number, e-mail address (These could be given in addition to the full address but not as the mode of communication);
  - c. No fee towards processing application or for any other purpose shall be charged from the applicant;
  - d. Name of the Posts/jobs;
  - e. Number of Position/vacancies in each category; and
  - f. The salary offered to each category of job.
7. In case of any doubt, the publisher may also ask for Copies of Demand Letter and Power of Attorney supposed to have been given by the foreign employer or sponsor to an agent, on the basis of which the said advertisement is being released.
8. Also clarifications may be sought from the Protector General of Emigrants, Ministry of Overseas Indian Affairs, New Delhi or from the eight Offices of the Protector of Emigrants located at Delhi, Mumbai, Chennai, Kolkata, Thiruvananthapuram, Cochin, Chandigarh and Hyderabad.
9. Further, the list of registered recruiting agents can also be seen in the website of the Ministry of Overseas Indian affairs, i.e. <http://moia.gov.in>



(j) **Study Report - Working Journalist Act vis-à-vis  
Appointment of Journalists on Contract  
July 27, 2007**

The Press Council of India having considered the matter of appointment of journalists on contract basis in newspapers establishment on the basis of the report of its Sub-Committee unanimously opines that "All the employees of a newspapers establishment covered within the definition of Working Journalists Act, should be given the protection of the provision of the Act".

A Sub-Committee to study the Working Journalist Act 1955 *vis-à-vis* appointment of journalists on contract was set up by the Press Council of India in its meeting held on 9.2.06 at Pune. The Sub-Committee called for views and comments from the notified associations. Out of 15 notices sent, only two i.e. Indian Journalist Union and Indian Newspaper Society responded and some responses were received from Press Councils and similar bodies outside India though most of the bodies informed that they deal only with specific complaints against published material.

At nearly half a dozen meetings held by the Sub-Committee in Delhi, the overwhelming view emerged that contractual employment should be covered under the Working Journalist Act and the terms of appointment should not be disadvantageous to the journalists *vis-à-vis* the minimum wages prescribed in the Act. The Sub-Committee was also of the view that the Working Journalist Act should be implemented in letter and spirit.

The Sub-Committee had the benefit of discussing in a free and frank manner the view expressed by the members and scrutinizing them in detail from a variety of perspectives be it that of newspaper editors/owner or of

journalists. The Sub-Committee was unanimous in its opinion that broadly half a dozen suggestions can be made.

1. A reference be inserted in the terms of reference of Wage Board constituted recently for the Working Journalists.
2. Security of tenure of journalists appointed under contract to be ensured under the Working Journalist and Other Newspaper Employees (Conditions of Service) & Misc. Provisions Act, 1955.
3. Contract employment should not be an "attraction or allurements"
4. Tendency of "hire and fire" as also change of employment in quick succession should be discouraged and the contract employment should not remain at the whims and fancies of either party.
5. The wages being offered on contract should not be less than the gross wages under the Working Journalist Act.

In its discussions also, the Sub-Committee dwelt at length on fast changing scene in the media world where contractual employment was replacing regular appointment of journalists under the Working Journalist Act. The harsh reality remains that there is absolutely no (no) protection available to those journalists under the Act who have been appointed under the contractual system, a concern voiced time and again by several quarters.

The contractual employment was gradually creating a separate category of journalists, a category which did not enjoy benefits under the Act. Though the journalist under contractual employment often accept hefty pay packets and also get substantial wage increases, their freedom increasingly comes under a cloud of uncertainty as soon as the date for the contract renewal approaches. It is often seen that no sooner than the

89  
T.C

contractual term nears completion the journalist comes under pressure to show “results” and the remaining period till the renewal of contract is often laced with uncertainty and fear of an “abrupt transfer” without giving any option or choice of freedom. Several instances were cited before the Sub-Committee which portrayed exploitation of journalists under the contractual system of employment as they were either given a paltry sum every month or shunted out or transferred without citing any reasons of exigencies of the organization.

Though the terms of contract essentially remain an agreement between the employer and the journalist, it is often observed that there is hardly any option or freedom of choice available to those engaged in the profession of gathering, reporting, disseminating or analyzing news. Such a scenario has also raised crucial question relating to the freedom of press and working conditions of journalists. Are journalists to be treated as any other employee in any segment of the industry? Is newspaper publishing a business like any other business or industry?

The Sub-Committee recalled the September 22, 2003 meeting of the Press Council of India at Pune which was chaired by Mr. Justice K. Jayachandra Reddy and had considered the matter of contractual system of appointment of journalists by some newspapers in the country.

At that meeting too, the Council had felt that even though the changing media scene needs to be accepted as a harsh reality, the appointment of journalists on contract basis in place of regular appointment under the Working Journalist Act could affect their right to express themselves freely without paying heed to the pressures that could be forthcoming from various quarters. Hence, it was necessary that covert as well as overt threats to the freedom of the press be constantly kept in sight. The Council was of unanimous view that while as far as the law

existed, the manner of employment was a matter of agreement between the employer and the employee, there was no doubt that the freedom of the press could be in jeopardy in contract system where continuance of service would be at whims of the employer.

It quoted External Affairs Minister, Mr. Pranab Mukherjee's observations at the recently held SAARC Editors Conference in Delhi viz., "In many ways, the media is the torch-bearer of better people-to-people contacts. One sentence from any of you has the potential to reach millions. It can correct a wrong 'it can create an image' it can plant a seed of understanding". Mr. Mukherjee told the conference "if the written word's power has been acknowledged time and again by one and all, is it not in the fitness of things that the hands which wield the pen should do so with freedom, responsibility and without any fear. Such working conditions in the media can only forge a better and healthy relationship between the employer and employee."

The Sub-Committee left it to the collective wisdom of the full Press Council to assess if the situation is any different at present or how it has evolved over the past three or four years.

Its final recommendation supplementing the report read "All the employees of a newspaper establishment covered within the definition of Working Journalists Act, should be given the protection of the provision of the Act."

Debating over the issue at length in the meeting held on 27.7.07, the Council adopted the final recommendation as its own.

## Part C – Laws Relating to the Press

### 1. Constitution of India

- i) Article 19(1)(a) read with Article 19(2) (Freedom of speech and expression)
- ii) Article 361-A (Protection of publication of proceedings of Parliament and State Legislature)
- iii) Article 105 and 104 (Parliament and Legislatures Privileges).
- iv) Article 21 (Individual's Right to Privacy emanating from Fundamental Right to life and liberty guaranteed to citizens of India.

### 2. Press Laws/Acts

- i) Indecent Representation of Women (Prohibition) Act, 1986
- ii) Punjab Special Powers (Press) Act, 1956.
- iii) The Press and Registration of Books Act, 1867
- iv) The Dramatic Performances Act, 1876
- v) The Indian Telegraph Act, 1898
- vi) The (Indian) Post Office Act, 1898
- vii) The Police (Incitement of Disaffection) Act, 1922
- viii) Official Secrets Act, 1923 (Act No. 1923)
- ix) The Emblems and Names (Prevention of Improper Use) Act, 1950
- x) Representation of the People Act, 1951
- xi) The Delivery of Books and Newspapers (Public Libraries) Act, 1954

- xii) The Drugs and Magic Remedies (Objectionable Advertisements) Act, 1954 (No. 21 of 1954)
- xiii) The Working Journalists and Other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955
- xiv) The Prize Competitions Act, 1955 (Act No. 42 of 1955)
- xv) Hindu Marriage Act, 1955
- xvi) The Young Persons (Harmful Publications) Act, 1956
- xvii) The Copyright Act, 1957.
- xviii) Children Act, 1960
- xix) Criminal Law Amendment Act, 1961 as amended in 1990.
- xx) Atomic Energy Act, 1962
- xxi) Customs Act, 1962
- xxii) The Unlawful Activities (Prevention) Act, 1967
- xxiii) The Civil Defence Act, 1968
- xxiv) The Contempt of Courts Act, 1971
- xxv) The Press Council Act, 1978
- xxvi) The Prize Chits and Money Circulation Schemes (Banning) Act, 1978
- xxvii) National Security Act, 1980
- (xxviii) Indian Evidence Act, 1872
- (xxix) The Defamation Act, 1952
- (xxx) Section 33 (B) of Public Order Act of 1972

(xxxii) Right to Information Act, 2005

**3. Relevant Provisions of Indian Penal Code, 1860**

a) Section 124-Assaulting President, Governor etc. with intent to compel or restrain the exercise of any lawful power.

b) Section 153A-Promoting enmity between different groups on grounds of religion, race, place of birth, residence, language etc. and doing acts prejudicial to maintenance of harmony.

c) Section 153B-Imputations, assertions prejudicial to national integration.

d) Section 171G-False statement in connection with an election.

e) Section 228-Intentional insult or interruption to public servant sitting in judicial proceeding.

228(a) Disclosure of identity of the victim of offences, u/s 376, 376-A, 376-B, 376-C or 376-D.

f) Section 292- Sale etc. of obscene books etc.

g) Section 293- Sale etc. of obscene objects to young person.

h) Section 294-A- Keeping lottery office.

i) Section 295A- Deliberate and malicious acts intended to outrage religious feelings of any class by insulting its religion or religious beliefs.

j) Section 299- Culpable homicide.

k) Section 499- Defamation.

l) Section 500- Punishment for Defamation.

m) Section 501- Printing or engraving matter known to be defamatory matter.

n) Section 502- Sale of printed or engraved substance containing defamatory substance.

o) Section 505:-

(i) Statements conducing to public mischief.

(ii) Statements creating or promoting enmity, hatred or ill-will between classes.

(iii) Offence under sub-section (2) committed in place of worship.

p) Section 52 of IPC regarding act and facts relating to good faith

**4. Relevant Provisions of Cr. P.C., 1973 (Act No. II of 1974)**

a) Section 91 -Power to take bond for appearance.

b) Section 93 -Summons and warrants of arrest.

c) Section 95 -Procedure as to letters and telegraphs.

d) Section 96 -When search warrants may be issued.

e) Section 108- Security for good behaviour from persons disseminating seditious matters.

f) Section 144- Power to issue orders absolute at once in urgent cases of nuisance or apprehended danger

g) Section 177 to 187- Place of inquiry or trial.

h) Section 195- Prosecution for contempt of lawful authority of servants.

i) Section 199- prosecution for adultery or enticing a married women.

j) Section 327- Power to summon another set of jurors.

k) Section 34- Right of person against whom proceedings are instituted to be defended and his competency to be a witness.

l) Section 345- Compounding offences.

25  
T.C



- m) Section 349- Procedure when Magistrate cannot pass sentence sufficiently severe.
- n) Section 350- Conviction or commitment on evidence partly recorded by one Magistrate and partly by another.
- o) Section 351- Detention of offenders attending court.

**Part D- Press Council 's**  
**Powers, Practice and Procedures**

The Press Council of India was first set up in the year 1966 by the Parliament on the recommendations of the First Press Commission with the object of preserving the freedom of the press and of maintaining and improving the standards of press in India. The present Council functions under the Press Council Act, 1978. It is a statutory, quasi judicial authority functioning as a watchdog of the press, for the press and by the press. It adjudicates the complaints against and by the press for violation of ethics and for violation of the freedom of the press respectively.

The Press Council is headed by a Chairman, who has by convention, been a retired judge of the Supreme Court of India. The Council consists of 28 other members of whom 20 represent the press and are nominated by the press organisations/news agencies recognised and notified by the Council as all India bodies of categories such as editors, working journalists and owners and managers of newspaper and news agencies, five members are nominated from the two Houses of Parliament and three represent cultural, literary and legal fields as nominees of the Sahitya Academy, University Grants Commission and the Bar Council of India. The members serve on the Council for a term of three years. A retiring member shall be eligible for renomination for not more than one term.

The Council is funded by the revenue collected by it as fee levied on the registered newspapers in the country on the basis of their circulation. No fee is levied on newspapers with circulation less than 5000 copies. The deficit is made good by way of grant by the Central Government.

**Complaint Procedure**

**1. Complaint Procedure for filing the complaint against the Press**

96  
  
T.C

It is open to any person to lodge a complaint with the Press Council against a newspaper for a breach of the recognized ethical canons of journalistic propriety and taste. The complainant need not necessarily be the

Forbes INDIA

97  
T.C

person aggrieved or directly involved. The alleged breach may be in the publication or non-publication of a news-item or statement, or other material, like cartoons, pictures, photographs, strips or advertisements which are published in a newspaper. Cases can also be initiated by any member of the public against any professional misconduct by an editor, working journalist, staff of a newspaper or engaged in freelance work. There can also be a complaint against any matter transmitted by a news agency by any means whatsoever.

By virtue of the Press Council (Procedure for Inquiry) Regulations, 1979, complaint shall be lodged with the Council within the following periods:

- (i) Dailies, News agencies and weeklies -----within two months
  - (ii) In other cases----within four months.
- Provided that a relevant publication of an earlier date may be referred to in the complaint.

#### Write to the editor first

It is a requirement of the Inquiry Regulations that the complainant should initially write to the editor of the newspaper drawing his attention to what the complainant considers to be a breach of journalistic ethics or an offence against public taste. Such prior reference to the editor affords him an opportunity to deal with the matter in the first instance and thus allows the respondent to take such remedial action as he might consider appropriate before the complaint is lodged with the Council. This rule is necessary because it acquaints the editor with the identity of his accuser and the details of the complaint. It is conceivable that in some instances the complainant has been wrongly informed or has misinterpreted the facts. In others, it may be a case of inadvertent error which the editor is only too ready to admit and correct. If the would-be-complainant is satisfied, that would be the end of the matter.

Where, after reference to the newspaper, the person desires to proceed with the complaint, he should enclose with his complaint copies of correspondence with the editor, if no reply has been received from the editor, the fact should be mentioned in the complaint.

The complainant has, in his complaint, to give the name and address of the newspaper, editor or journalist against whom the complaint is directed. A clipping of the matter or news-items complained of, in original or self attested copy (English translation, if the news item(s) is in Indian language)

98  
T.C.

should accompany the complaint. The complainant has to state in what manner the passage or news-items or the material complained of is objectionable. He should also supply other relevant particulars, if any.

In the case of a complaint against non-publication of material the complainant will, of course, say how that constitutes a breach of journalistic ethics.

The Council cannot deal with any matter which is *sub-judice* in the law court. The complainant has to declare that "to the best of his knowledge and belief he has placed all the relevant facts before the Council and that no proceedings are pending in any court of law in respect of any matter alleged in the complaint." A declaration that " he shall notify the Council forthwith if during the pendency of the inquiry before the Council any matter alleged in the complaint becomes the subject matter of any proceedings in a court of law" is also necessary.

**2. Complaints regarding oppression to Press freedom**

A newspaper, a journalist or any institution or individual can complain against Central or State Government or any organization or person for interference with free functioning of the press or encroachment on the freedom of the press. Such complaints should contain full particulars of the alleged infringement whereupon the Council shall follow the procedure of inquiry set out herein above so far as may be.

The opinion expressed by the Council sub serves two useful purposes, namely (i) that any abuse of press freedom does not pass without anybody noticing it or raising a finger of protest, and (ii) that the press should not in its own interest indulge in scurrilous or other objectionable writings-writings such as have been considered below the level of recognized standards of journalistic ethics by a fair minded jury like the Council constituted of the press itself, for it would lead to the very loss of the much prized freedom of the press.

**Address your complaints or inquiries to :**

**The Secretary,  
Press Council of India,  
Soचना Bhavan, 8-C.G.O. Complex,  
Lodhi Road, New Delhi-110003**

**Phone: 91 (011) 24366403/24366745 (Extn. 319 & 320)**

**Telefax: 91 (011) 24366405/24366745 (Extn. 224)**

**Email : [pcibppcomplaint@gmail.com](mailto:pcibppcomplaint@gmail.com)**

**Website: <http://presscouncil.nic.in>**

(Relevant extracts of Sections 13, 14 and 15 of Press Council Act, 1978 and Regulation 3,5,6,9,10,13 and 14 of Press Council (Procedure for Inquiry) Regulations, 1979 as amended vide Gazette Notification dated December 14, 2006 follow:

**FORDES**

  
T.C

## Press Council Act, 1978

### Objects and Functions of the Council

13.(1) The objects of the Council shall be to preserve the freedom of the Press and to maintain and improve the standards of newspapers and news agencies in India.

The Council may, in furtherance of its objects, perform the following functions, namely:

- (a) to help newspapers and news agencies to maintain their independence;
- (b) to build up a code of conduct for newspapers, news agencies and journalists in accordance with high professional standards;
- (c) to ensure on the part of newspapers, news agencies and journalists, the maintenance of high standards of public taste and foster a due sense of both the rights and responsibilities of citizenship;
- (d) to encourage the growth of a sense of responsibility and public service among all those engaged in the profession of journalism;
- (e) to keep under review any development likely to restrict the supply and dissemination of news of public interest and importance;
- (f) to keep under review cases of assistance received by any newspaper or news agency in India from any foreign source including such cases as are referred to it by the Central Government or are brought to its notice by an individual, association or persons or any other organisation. Provided that

nothing in this clause shall preclude the Central Government from dealing with any case of assistance received by a newspaper or news agency in India from any foreign source in any other manner it thinks fit;

(g) to undertake studies of foreign newspapers, including those brought out by any embassy or other representative in India of a foreign State, their circulation and impact.

**5 of 1908**

Explanation- For the purposes of this clause the expression "Foreign State" has the meaning assigned to it in Section 87-A of the Code of Civil Procedure, 1908;

(h) To promote a proper functional relationship among all classes of persons engaged in the production or publication of newspapers or in news agencies.

**14 of 1947**

Provided that nothing in this clause shall be deemed to confer on the Council any functions in regard to disputes to which the Industrial Disputes Act, 1947, applies;

(i) to concern itself with developments such as concentration of or other aspects of ownership of newspapers and news agencies which may affect the independence of the Press;

(j) to undertake such studies as may be entrusted to the Council and to

express its opinion in regard to any matter referred to it by the Central Government;

(k) to do such other acts as may be incidental or conducive to the discharge of the above functions.

### Power to Censure

14(1) Where, on receipt of a complaint made to it or otherwise, the Council has reason to believe that a newspaper or news agency has offended against the standards of journalistic ethics or public taste or that an editor or working journalist has committed any professional misconduct, the Council may, after giving the newspaper, or news agency, the editor or journalist concerned an opportunity of being heard, hold an inquiry in such manner as may be provided by regulations made under this Act and, if it is satisfied that it is necessary so to do, it may, for reasons to be recorded in writing, warn, admonish or censure the newspaper, the news agency, the editor or the journalist or disapprove the conduct of the editor or the journalist, as the case may be:

Provided that the Council may not take cognizance of a complaint if in the opinion of the Chairman, there is no sufficient ground for holding an inquiry.

(2) If the Council is of the opinion that it is necessary or expedient in public interest so to do, it may require any newspaper to publish therein in such



manner as the Council thinks fit, any particulars relating to any inquiry under this section against a newspaper or news agency, an editor or a journalist working therein, including the name of such newspaper, news agency, editor or journalist.

- (3) Nothing in sub-section (1) shall be deemed to empower the Council to hold an inquiry into any matter in respect of which any proceeding is pending in a court of law.
- (4) The decision of the Council under sub-section (1) or sub-section (2), as the case be, shall be final and shall not be questioned in a court of law.

**General Powers of the Council (5 of 1908)**

15.(1) For the purpose of performing its functions or holding any inquiry under this Act, the Council shall have the same powers throughout India as are vested in a civil court while trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters, namely:

- (a) summoning and enforcing the attendance of persons and examining them on oath;
- (b) requiring the discovery and inspection of documents;
- (c) receiving evidence on affidavits;
- (d) requisitioning any public record or copies thereof from any court or office;
- (e) issuing commissions for the examination of witnesses or documents; and
- (f) any other matter, which may be prescribed

- (2) Nothing in sub-section (1) shall be deemed to compel any newspaper, news agency, editor or journalist to disclose the source of any news or information published by that newspaper or received or reported by that news agency, editor or journalist.

**(45 of 1860)**

- (3) Every inquiry held by the Council shall be deemed to be a judicial proceeding within the meaning of Sections 193 and 228 of the Indian Penal Code.
- (4) The Council may, if it considers it necessary for the purpose of carrying out its objects or for the performance of any of its functions under this Act, make such observations, as it may think fit, in any of its decisions or reports, respecting the conduct of any authority, including Government.

**Press Council (Procedure for Inquiry) Regulations, 1979\***

3. Contents of complaint in respect of a newspaper, news agency, editor or other working journalist under Section 14(1) of the Act:

(1) Where a person makes a complaint to the Council in respect of the publication or non-publication of any matter in any newspaper or news agency, under Section 14(1) of the Act he shall file the complaint in duplicate with sufficient copies for the respondents listed and shall -

- (a) furnish the name and address of the newspaper; news agency, editor or other working journalist against which or whom the complaint is preferred and in cases where the complaint relates to the publication of matter in a newspaper or to the transmission by a news agency, forward along with the complaint a cutting of the matter complained of in original or a self attested copy thereof

and such other particulars as are relevant to the subject-matter of the complaint; and where the complaint is in respect of non-publication of matter, the original or a self attested copy of the matter, non-publication of which is complained of; (English translation of the matter if it is in vernacular).

- (b) state in what manner the publication or non-publication of the matter complained of is objectionable within the meaning of Section 14(1) of the Act;
- (c) before filing the complaint before the Council, draw the attention of the newspaper, news agency, editor or other working journalist concerned, to the matter appearing in the newspaper etc. or to the non-publication thereof which, in the opinion of the complainant,

**\*As amended vide Gazette Notification dated 14.12.2006**

concerned, to the matter appearing in the newspaper etc. or to the non-publication thereof which, in the opinion of the complainant, is objectionable, and he shall also furnish to the newspaper, news agency, editor or the working journalist, as the case may be, the grounds for holding such opinion. The complainant shall, along with the complaint, enclose a copy of the letter written by him to the newspaper, news agency, editor or other working journalist together with a copy of the reply, if any received by him, provided that the Chairman may in his discretion waive this condition;

- (d) In case where the complaint is that an editor or a working journalist has committed any professional misconduct, other than the way of the publication or non-publication of any matter in a newspaper, the complainant shall set out clearly in detail the facts which according to him justify the complaint and the provisions of clause (c) above shall also apply to such complaints.

- (e) in every case place all other relevant facts before the Council; and
- (f) (i) In the case of a complaint relating to the publication or non-publication of any matter in respect of newspaper or news agency the same shall be lodged with the Council within the following periods of its publication or non publication:
- Dailies, News Agencies and Weeklies within two months.
  - In all other cases..... within four months

Provided that a relevant publication of an earlier date may be referred to in the complaint.

- (ii) In the case of a complaint against an editor or working journalist under clause (d) above the same shall be lodged within four months of the misconduct complained of:

Provided that the Chairman may, if satisfied that the complainant has acted promptly, but that the delay in filing the complaint within the period prescribed under sub-cause (i) or sub-clause (ii) of Regulation (3)1(f) has been caused by reason of the time taken to comply with the condition laid down in sub-clause (c) supra or on account of other sufficient cause condone the delay and entertain the complaint.

- (2) The complainant while presenting the complaint shall at the foot thereof make and subscribe to a declaration to the effect:
- (i) that to the best of his knowledge and belief he has placed all the relevant facts before the Council and that no proceedings are pending in any court of law in respect of any matter alleged in the complaint.
- (ii) that he shall inform the Council forthwith if during the pendency of the inquiry before the Council any matter alleged in the complaint becomes the subject matter of any proceeding in a court of law.

107  
T.C

5. **Issue of Notice:** (1) As soon as possible, and in any case not later than forty five days from the date of receipt of a complaint complete in all respects, under the direction of the Chairman, a copy thereof shall be sent to the newspaper, news agency, editor or other working journalist against which or whom the complaint has been made, under regulation 3 alongwith a notice requiring the newspaper, news agency, editor or other working journalist, as the case may be, to show cause why action should not be taken under Section 14 of the Act. Provided that in appropriate cases the Chairman shall have the discretion to extend time for the issuance of the notice.

Provided further that the Chairman may decide not to issue a notice to show cause to the newspaper, news agency, editor or working journalist where, in his opinion, there is no sufficient ground for holding an inquiry. The Council at its next meeting shall be apprised by the Chairman of the reasons for his decision not to issue a "Show Cause" notice and it may pass such orders as it deems fit.

(2) The notice issued under sub-regulation (i) above shall be sent to the newspaper, news agency, editor or other working journalist concerned by registered post, acknowledgement due, at the address furnished in the complaint.

6. *Filing of written statement:* (1) The newspaper, news agency, editor or other working journalist against which or whom the complaint is made may, within fourteen days from the date of service of the copy of the complaint and notice under regulation 5 or within such further time as may be granted by the Chairman in this behalf, submit a written statement in reply to the complaint.

(2) A copy of the written statement when received shall be forwarded to the complainant for his information.

100  
T. C.

(3) After receipt of the complaint or written statement, the Chairman may, if he considers necessary, call for any further information either from the complainant or the respondent newspaper, news agency, editor or working journalist, as the case may be, in order to clarify matters appearing in the complaint or written statement and in doing so, may call for such documents or further statements as he might consider necessary. All the documents and statements called for by him shall form part of the record and shall be placed before the Committee at the time of the inquiry.

9. *Inquiry by the Committee:* Notice of the time, date and place of hearing shall be served on the complainant as well as on the newspaper, news agency, editor and working journalist, as the case may be, and shall be sent by registered post, acknowledgement due. In the inquiry before the Committee the parties shall be entitled to adduce relevant evidence, oral or documentary, and make submissions in support of their contentions.

At the close of the inquiry the Committee shall make a report of its findings on the allegations contained in the complaint together with its reasons and submit the record of the case to the Council.

10. *Decision by the Council:*(1) The Council shall after perusing the record of the case, pass orders giving its decision or it may remit the case to the Committee for such further inquiry as the Council may deem necessary and after receipt of its report dispose of the case.

(2) Every case shall be determined by a majority of votes of the members of the Council present and voting, and in the event of the votes being equal, the Chairman shall have a casting vote and shall exercise the same.

(3) The order of the Council shall be communicated in writing to the parties to the case.

13. *Power to take suo motu action:* The Chairman may *suo motu* issue notice or, as the case may be, take action in respect of any matter which falls within

the mischief of Section 14(1) of the Act or in respect of or relating to any matter falling under Section 13(2) thereof and thereupon the procedure prescribed by these regulations from regulation 5 onwards shall be followed as if it were a complaint under regulation 3.

14. *Procedure in respect of complaints etc. under Section 13* : The procedure prescribed by these regulations in respect of complaints under section 14(1) of the Act shall apply, as far as may be, to complaints or representations received by the Council with regard to any subject falling within the provisions of Section 13.

Provided that a person making such a complaint shall make the complaint in duplicate with sufficient copies for the respondents listed and shall:-

- (a) Give complete particulars of the respondent(s) viz., name, designation and complete address.
- (b) State how the action/inaction of the respondent authorities amounts to curtailment of the freedom of the press. Mention the possible reason for the action/inaction of the respondent(s)/authorities duly supported by documentary evidence.

--In case the action of the respondent(s)/authorities is a reprisal measure for writings in the newspaper, critical of the respondent(s), the cuttings of such reports be furnished in original or as self attested copies. (English translation, if the news item(s) is in vernacular).

- (c) Draw the attention of the respondent(s)/authorities towards the grievance and furnish a copy of the letter written to the respondent(s)/authorities.

110  
T.C

Furnish a copy of the reply, if any, received from the respondent(s)/authorities. Provided that the Chairman may waive this requirement in his discretion.

- (d) Place before the Council all relevant facts alongwith the supporting documents.
- (e) (i) Time for filing complaint: four months from the date of cause of action.  
(ii) Provided that the Chairman may condone the delay if he is satisfied that there exist sufficient reasons for such condonation.
- (f) Make and subscribe to the declaration prescribed in Regulation 3(2) supra.

Further provided that on receipt of such complaint, complete in all respects, under the direction of the Chairman, a copy thereof shall be sent to the authority against whom the complaint has been made along with a notice for statement in reply as to why the matter does not warrant observation under Section 15(4) of the Act. That the procedure specified in Regulation 7-12 above shall thereafter be adopted.

111  
T.C



**Programme and Advertising Codes  
prescribed under the Cable Television Network Rules, 1994**

(Rule 6 and Rule 7)

**Rule- 6. Programme Code. – (1)** No programme should be carried in the cable service which:-

- (a) Offends against good taste or decency;
- (b) Contains criticism of friendly countries;
- (c) Contains attack on religions or communities or visuals or words contemptuous of religious groups or which promote communal attitudes;
- (d) Contains anything obscene, defamatory, deliberate, false and suggestive innuendos and half truths;
- (e) is likely to encourage or incite violence or contains anything against maintenance of law and order or which promote anti-national attitudes;
- (f) Contains anything amounting to contempt of court;
- (g) Contains aspersions against the integrity of the President and Judiciary;
- (h) Contains anything affecting the integrity of the Nation;
- (i) Criticises, maligns or slanders any individual in person or certain groups, segments of social, public and moral life of the country ;
- (j) Encourages superstition or blind belief;
- (k) Denigrates women through the depiction in any manner of the figure of a women, her form or body or any part thereof in such a way as to have the effect of being indecent, or derogatory to women, or is likely to deprave, corrupt or injure the public morality or morals;
- (l) Denigrates children;
- (m) Contains visuals or words which reflect a slandering, ironical and snobbish attitude in the portrayal of certain ethnic, linguistic and regional groups ;
- (n) Contravenes the provisions of the Cinematograph Act, 1952.
- (o) is not suitable for unrestricted public exhibition.

“Provided that no film or film song or film promo or film trailer or music video or music albums or their promos, whether produced in India or abroad, shall be carried through cable service unless it has been certified by the Central Board of Film Certification (CBFC) as suitable for unrestricted public exhibition in India”.

Explanation – For the purpose of this clause, the expression “unrestricted public exhibition” shall have the same meaning as assigned to it in the Cinematograph Act, 1952 (37 of 1952);

(2) The cable operator should strive to carry programmes in his cable service which project women in a positive, leadership role of sobriety, moral and character building qualities.

(3) No cable operator shall carry or include in his cable service any programme in respect of which copyright subsists under the Copyright Act, 1957 (14 of 1957) unless he has been granted a licence by owners of copyright under the Act in respect of such programme.

(4) Care should be taken to ensure that programmes meant for children do not contain any bad language or explicit scenes of violence.

(5) Programmes unsuitable for children must not be carried in the cable service at times when the largest numbers of children are viewing.

(6) No cable operator shall carry or include in his cable service any television broadcast or channel, which has not been registered by the Central Government for being viewed within the territory of India".

"Provided that a cable operator may continue to carry or include in his cable service any Television broadcast or channel, whose application for registration to the Central Government was made on or before 11<sup>th</sup> May, 2006 and is under consideration, for a period of three months from the date of this notification, or till such registration has been granted or refused, whichever is earlier."

"Provided further that channels uplinking from India, in accordance with permission for uplinking granted before 2<sup>nd</sup> December, 2005, shall be treated as "registered" television channels and can be carried or included in the cable service."

INDIA  
Forbes

T.C

**NOTIFICATION**  
New Delhi, the 27<sup>th</sup> October, 2009

**G.S.R. 781 (E).**— In exercise of the powers conferred by clause (2) of sub-section (2) of section 87, read with sub-section (2) of section 69A of the Information Technology Act 2000, (21 of 2000), the Central Government hereby makes the following rules, namely:

**1. Short title and commencement.**— (1) These rules may be called the Information Technology (Procedure and Safeguards for Blocking for Access of Information by Public) Rules, 2009.  
(2) They shall come into force on the date of their publication in the Official Gazette.

**2. Definitions.**— In these rules, unless the context otherwise requires—

- (a) "Act" means the Information Technology Act, 2000 (21 of 2000);
- (b) "computer resource" means computer resource as defined in clause (k) of sub-section (1) of section 2 of the Act;
- (c) "Designated Officer" means an officer designated as Designated Officer under rule 3;
- (d) "Form" means a form appended to these rules;
- (e) "intermediary" means an intermediary as defined in clause (w) of sub-section (1) of section 2 of the Act;
- (f) "nodal officer" means the nodal officer designated as such under rule 4;
- (g) "organisation" means—
  - (i) Ministries or Departments of the Government of India;
  - (ii) state Governments and Union territories;
  - (iii) any agency of the Central Government, as may be notified in the Official Gazette, by the Central Government;
- (h) "request" means the request for blocking of access by the public any information generated, transmitted, received, stored or hosted in any computer resource;
- (i) "Review Committee" means the Review Committee constituted under rule 419A of Indian Telegraph Rules, 1951.

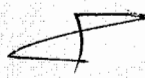
**3. Designated Officer.**— The Central Government shall designate by notification in Official Gazette, an officer of the Central Government not below the rank of a Joint Secretary, as the "Designated Officer", for the purpose of issuing direction for blocking for access by the public any information generated, transmitted, received, stored or hosted in any computer resource under sub-section (2) of section 69A of the Act.

**4. Nodal officer of organisation.**— Every organisation for the purpose of these rules, shall designate one of its officer as the Nodal Officer and shall intimate the same to the Central Government in the Department of Information Technology under the Ministry of Communications and Information Technology, Government of India and also publish the name of the said Nodal Officer on their website.

**5. Direction by Designated Officer.**— The Designated Officer may, on receipt of any request from the Nodal Officer of an organisation or a competent court, by order direct any Agency of the Government or intermediary to block for access by the public any information or part thereof generated, transmitted, received, stored or hosted in any computer resource for any of the reasons specified in sub-section (1) of section 69A of the Act.

**6. Forwarding of request by organisation.**— (1) Any person may send their complaint to the Nodal Officer of the concerned organisation for blocking of access by the public any information generated, transmitted, received, stored or hosted in any computer resource:

Provided that any request, other than the one from the Nodal Officer of the organisation, shall be sent with the approval of the Chief Secretary of the concerned State or Union territory to the Designated Officer.

  
T.c



Provided further that in case a Union territory has no Chief Secretary, then, such request may be approved by the Adviser to the Administrator of that Union territory.

(2) The organisation shall examine the complaint received under sub-rule (1) to satisfy themselves about the need for taking of action in relation to the reasons enumerated in sub-section (1) of section 69A of the Act and after being satisfied, it shall send the request through its Nodal Officer to the Designated Officer in the format specified in the Form appended to these rules.

(3) The Designated Officer shall not entertain any complaint or request for blocking of information directly from any person.

(4) The request shall be in writing on the letter head of the respective organisation, complete in all respects and may be sent either by mail or by fax or by e-mail signed with electronic signature of the Nodal Officer.

Provided that in case the request is sent by fax or by e-mail which is not signed with electronic signature, the Nodal Officer shall provide a signed copy of the request so as to reach the Designated Officer within a period of three days of receipt of the request by such fax or e-mail.

(5) On receipt, each request shall be assigned a number alongwith the date and time of its receipt by the Designated Officer and he shall acknowledge the receipt thereof to the Nodal Officer within a period of twenty four hours of its receipt.

**7. Committee for examination of request.**— The request alongwith the printed sample content of the alleged offending information or part thereof shall be examined by a committee consisting of the Designated Officer as its chairperson and representatives, not below the rank of Joint Secretary in Ministries of Law and Justice, Home Affairs, Information and Broadcasting and the Indian Computer Emergency Response Team appointed under sub-section (1) of section 70B of the Act.

**8. Examination of request.**— (1) On receipt of request under rule 6, the Designated Officer shall make all reasonable efforts to identify the person or intermediary who has hosted the information or part thereof as well as the computer resource on which such information or part thereof is being hosted and where he is able to identify such person or intermediary and the computer resource hosting the information or part thereof which have been requested to be blocked for public access, he shall issue a notice by way of letters or fax or e-mail signed with electronic signatures to such person or intermediary in control of such computer resource to appear and submit their reply and clarifications, if any, before the committee referred to in rule 7, at a specified date and time, which shall not be less than forty-eight hours from the time of receipt of such notice by such person or intermediary.

(2) In case of non-appearance of such person or intermediary, who has been served with the notice under sub-rule (1), before the committee on such specified date and time, the committee shall give specific recommendation in writing with respect to the request received from the Nodal Officer, based on the information available with the committee.

(3) In case, such a person or intermediary, who has been served with the notice under sub-rule (1), is a foreign entity or body corporate as identified by the Designated Officer, notice shall be sent by way of letters or fax or e-mail signed with electronic signatures to such foreign entity or body corporate and any such foreign entity or body corporate shall respond to such a notice within the time specified therein, failing which the committee shall give specific recommendation in writing with respect to the request received from the Nodal Officer, based on the information available with the committee.

(4) The committee referred to in rule 7 shall examine the request and printed sample information and consider whether the request is covered within the scope of sub-section (1) of section 69A of the Act and that it is justifiable to block such information or part thereof and shall give specific recommendation in writing with respect to the request received from the Nodal Officer.

(5) The designated Officer shall submit the recommendation of the committee, in respect of the request for blocking of information alongwith the details sent by the Nodal Officer, to the Secretary in the Department of Information Technology under the Ministry of Communications and Information

T. C

Technology, Government of India (hereinafter referred to as the "Secretary, Department of Information Technology").

(6) The Designated Officer, on approval of the request by the Secretary, Department of Information Technology, shall direct any agency of the Government or the intermediary to block the offending information generated, transmitted, received, stored or hosted in their computer resource for public access within the time limit specified in the direction.

Provided that in case the request of the Nodal Officer is not approved by the Secretary, Department of Information Technology, the Designated Officer shall convey the same to such Nodal Officer.

**9. Blocking of information in cases of emergency.—** (1) Notwithstanding anything contained in rules 7 and 8, the Designated Officer, in any case of emergency nature, for which no delay is acceptable, shall examine the request and printed sample information and consider whether the request is within the scope of sub-section(1) of section 69A of the Act and it is necessary or expedient and justifiable to block such information or part thereof and submit the request with specific recommendations in writing to Secretary, Department of Information Technology.

(2) In a case of emergency nature, the Secretary, Department of Information Technology may, if he is satisfied that it is necessary or expedient and justifiable for blocking for public access of any information or part thereof through any computer resource and after recording reasons in writing, as an interim measure issue such directions as he may consider necessary to such identified or identifiable persons or intermediary in control of such computer resource hosting such information or part thereof without giving him an opportunity of hearing.

(3) The Designated Officer, at the earliest but not later than forty-eight hours of issue of direction under sub-rule (2), shall bring the request before the committee referred to in rule 7 for its consideration and recommendation.


(4) On receipt of recommendations of committee, Secretary, Department of Information Technology, shall pass the final order as regard to approval of such request and in case the request for blocking is not approved by the Secretary, Department of Information Technology in his final order, the interim direction issued under sub-rule (2) shall be revoked and the person or intermediary in control of such information shall be accordingly directed to unblock the information for public access.

**10. Process of order of court for blocking of information —** In case of an order from a competent court in India for blocking of any information or part thereof generated, transmitted, received, stored or hosted in a computer resource, the Designated Officer shall, immediately on receipt of certified copy of the court order, submit it to the Secretary, Department of Information Technology and initiate action as directed by the court.

**11. Expeditious disposal of request.—** The request received from the Nodal Officer shall be decided expeditiously which in no case shall be more than seven working days from the date of receipt of the request.

**12. Action for non-compliance of direction by intermediary.—** In case the intermediary fails to comply with the direction issued to him under rule 9, the Designated Officer shall, with the prior approval of the Secretary, Department of Information Technology, initiate appropriate action as may be required to comply with the provisions of sub-section (3) of section 69A of the Act.

**13. Intermediary to designate one person to receive and handle directions.—** (1) Every intermediary shall designate at least one person to receive and handle the directions for blocking of access by the public any information generated, transmitted, received, stored or hosted in any computer resource under these rules.

  
T. C



(2) The designated person of the Intermediary shall acknowledge receipt of the directions to the Designated Officer within two hours on receipt of the direction through acknowledgement letter or fax or e-mail signed with electronic signature.

14. Meeting of Review Committee.— The Review Committee shall meet at least once in two months and record its findings whether the directions issued under these rules are in accordance with the provisions of sub-section (1) of section 69A of the Act and if is of the opinion that the directions are not in accordance with the provisions referred to above, it may set aside the directions and issue order for unblocking of said information generated, transmitted, received, stored or hosted in a computer resource for public access.

15. Maintenance of records by Designated Officer.— The Designated Officer shall maintain complete record of the request received and action taken thereof, in electronic database and also in register of the cases of blocking for public access of the information generated, transmitted, received, stored or hosted in a computer resource.

16. Requests and complaints to be confidential.— Strict confidentiality shall be maintained regarding all the requests and complaints received and actions taken thereof.

FORM  
[See rule 6(2)]

A. Complaint

1. Name of the complainant : -- \_\_\_\_\_  
(Person who has sent the complaint to the Ministry/Department/State Govt./Nodal Officer)

2. Address : \_\_\_\_\_

City : \_\_\_\_\_ Pin Code: \_\_\_\_\_

3. Telephone : \_\_\_\_\_ (prefix STD code) 4. Fax (if any) : \_\_\_\_\_

5. Mobile (if any): \_\_\_\_\_

6. Email (if any): \_\_\_\_\_

B : Details of website/ computer resource/intermediary/ offending information hosted on the website  
(Please give details wherever known)

7. URL / web address : \_\_\_\_\_

8. IP Address : \_\_\_\_\_

9. Hyperlink : \_\_\_\_\_

10. Server/Proxy Server address : \_\_\_\_\_

11. Name of the Intermediary : \_\_\_\_\_

12. URL of the Intermediary : \_\_\_\_\_

(Please attach screenshot/printout of the offending information)

13. Address or location of intermediary in case the intermediary is telecom service provider, network service provider, internet service provider, web-hosting service provider and cyber café or other form of intermediary for which information under points (7), (8), (9), (10), (11) and (12) are not available.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

C. Details of Request for blocking

14. Recommendation/Comments of the Ministry/State Govt : \_\_\_\_\_

15. The level at which the comments/ recommendation have been approved (Please specify designation) : \_\_\_\_\_

16. Have the complaint been examined in Ministry/State Government : Y/N

17. If yes, under which of the following reasons it falls (please tick):

- (i) Interest of sovereignty or integrity of India
- (ii) Defence of India
- (iii) Security of the State
- (iv) Friendly relations with foreign States
- (v) Public order
- (vi) For preventing incitement to the commission of any cognisable offence relating to above

D. Details of the Nodal Officer forwarding the complaint alongwith recommendation of the Ministry/State Govt. and related enclosures

18. Name of the Nodal Officer: \_\_\_\_\_

19. Designation: \_\_\_\_\_

20. Organisation: \_\_\_\_\_

21. Address: \_\_\_\_\_

City: \_\_\_\_\_ Pin Code: \_\_\_\_\_

22. Telephone: \_\_\_\_\_ (prefix STD code) 23. Fax (if any): \_\_\_\_\_

24. Mobile (if any): \_\_\_\_\_

25. Email (if any): \_\_\_\_\_

E. Any other information :

- F. Enclosures :
- 1.
  - 2.
  - 3.

Date :

Place:

Signature

[No. 9(16)/2004-EC]  
N. RAMI SHANKER, Jr. Secy.

385565/09-5

T.C

Annexure P-8  
(Copy)

§~26

\* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(C) 3125/2021 & CM APPL.9491/2021

FOUNDATION FOR INDEPENDENT JOURNALISM & ORS.

..... Petitioners

Through: Ms. Nitya Ramakrishnan Sr. Adv.  
with Mr. Prasanna S., Mr. Ashwath  
Sitaraman & Ms. Vinoothna Vinjam,  
Advs.

versus

UNION OF INDIA & ANR.

..... Respondents

Through: Mr. Chetan Sharma, ASG with  
Mr. Kirtiman Singh, CGSC, Mr. Amit Gupta,  
Mr. Akshay Gadeock, Mr. Vinay Yadav,  
Mr. Sahaj Garg & Mr. R.V. Prabhat, Advs. for  
UOI.

**CORAM:**

**HON'BLE THE CHIEF JUSTICE**

**HON'BLE MR. JUSTICE JASMEET SINGH**

**ORDER**

%

**09.03.2021**

Proceedings in the matter have been conducted through video conferencing.

Issue notice upon respondents.

Mr. Kirtiman Singh, learned Standing Counsel accepts notice on behalf of both the respondents.

Learned Standing Counsel seeks time to seek instructions and to file counter affidavit.

T. C



Time as prayed for is granted.

Let counter affidavit be filed by the respondents before the next date of hearing.

List on 16.04.2021.

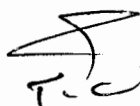
**CHIEF JUSTICE**

**JASMEET SINGH, J**

**MARCH 9, 2021**

**kks**

INDIA  
**Forbes**



\$~49

\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 3659/2021 & CM APPL. 11097/2021

QUINT DIGITAL MEDIA LIMITED & ANR. .... Petitioners  
Through Ms.Nitya Ramakrishnan, Mr.Prasanna  
S, Ms. Vinoothna Vinjam, Advocates

versus

UNION OF INDIA & ANR. .... Respondents  
Through Mr. Chetan Sharma, ASG with Mr.  
Kirtiman Singh, CGSC, Mr. Amit  
Gupta, Mr. Vinay Yadav, Mr. Akshay  
Gadeock, Mr. Sahaj Garg,  
Mr.R.Venkat Prabhat and Mr. Rohan  
Anand, Advocates for Respondent  
No.1/UOI

**CORAM:**  
**HON'BLE THE CHIEF JUSTICE**  
**HON'BLE MR. JUSTICE JASMEET SINGH**

**ORDER**  
**19.03.2021**

%

Issue notice upon respondents. Mr. Kirtiman Singh, learned CGSC accepts notice on behalf of respondent no.1.

Learned counsel for respondent no.1 seeks time to take instructions and to file reply.

Time as prayed for is granted.

Let the reply be filed before the next date of hearing.

Issue notice upon remaining respondents by ordinary process, returnable on 16.04.2021.



286

List this matter along with WP(C) No.3125/2021 on 16.04.2021.

**CHIEF JUSTICE**

**JASMEET SINGH, J**

**MARCH 19, 2021/mw**

INDIA  
**Forbes**

Signature Not Verified

Digitally Signed  
By: PANKAJ KUMAR  
Signing Date: 22.03.2021  
17:39:30

T.C

## IN THE HIGH COURT OF KERALA AT ERNAKULAM

Present:

THE HONOURABLE SMT. JUSTICE P.V.ASHA

Wednesday, the 10<sup>th</sup> day of March 2021/19<sup>th</sup> Phalguna, 1942WP(C) No.6272/2021(H)PETITIONERS

1.LIVE LAW MEDIA PRIVATE LIMITED,3RD FLOOR, 41/3197, D-2 BHAGHEERATHA RESIDENCY, BANERJEE ROAD, COCHIN, ERNAKULAM, KERALA-682 018, REPRESENTED BY ITS DIRECTOR, M.A. RASHID.

2.M.A. RASHID,,AGED 45 YEARS,S/O. LATE M. ABOOBAKER, 4C, JMJ KALPAKA KATTICAREN RESIDENCY, K.K. PADMANABHAN ROAD, POWER HOUSE JUNCTION, ERNAKULAM NORTH, ERNAKULAM DISTRICT, KERALA-682 018.

3.MANU SEBASTIAN,,AGED 32 YEARS,S/O. SEBASTIAN JOSEPH, CHANDRAKUNNEL HOUSE, KOLANI P.O, THODUPUZHA, IDUKKI DISTRICT, KERALA-685 608.

RESPONDENTS

1.UNION OF INDIA,REPRESENTED BY SECRETARY TO GOVERNMENT, MINISTRY OF ELECTRONICS AND INFORMATION TECHNOLOGY, ELECTRONICS NIKETAN, 6 CGO.COMPLEX, PRAGATI VIHAR, LODHI ROAD, NEW DELHI-110 003.

2.MINISTRY OF INFORMATION AND BROADCASTING REPRESENTED BY THE SECRETARY, A-WING, SHASTRI BHAVAN, NEW DELHI-110 001

Writ Petition (civil) praying inter alia that in the circumstances stated in the affidavit filed along with the WP(C) the High Court be pleased to

1) Injunct respondent Nos. 1 and 2 and their authorised officers from enforcing Part II and Part III of the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021;

  
T.C

## OR IN THE ALTERNATIVE

2) Restrain Respondent Nos. 1 and 2 from taking any coercive steps against the petitioner No.1 or its employees, directors, shareholders, or any persons who contribute articles to Petitioner No.1 for publication for failure to comply with the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021;

## OR IN THE ALTERNATIVE

3) Restrain Respondent Nos. 1 and 2 from enforcing any provisions of the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 till the constitution and designation of the authorities required to implement the provisions of the said Rules and till an effective and adequate and effective grievance redressal mechanism and appellate remedy is provided to entities such as petitioner No.1 to challenge orders passed under the said impugned Rules.

This petition coming on for admission upon perusing the petition and the affidavit filed in support of WP(C) and upon hearing the arguments of M/S SANTHOSH MATHEW, DIVYA SARA GEORGE, JAISY ELZA JOE, KARTHIKA MARIA, ANIL SEBASTIAN PULICKEL, ARUN THOMAS, JENNIS STEPHEN, VIJAY V. PAUL, Advocates for the petitioners and of ASSISTANT SOLICITOR GENERAL OF INDIA for respondents (B/o), the court passed the following

ORDER

Admit.

Learned ASGI takes notice for the respondents.

The respondents shall not take any coercive action against the petitioners for non-compliance of the provisions contained in Part III of Exhibit P1 Rules, as the petitioners are the publishers of law reports and legal literature.

10-03-2021

Sd/-  
P.V.ASHA,JUDGE

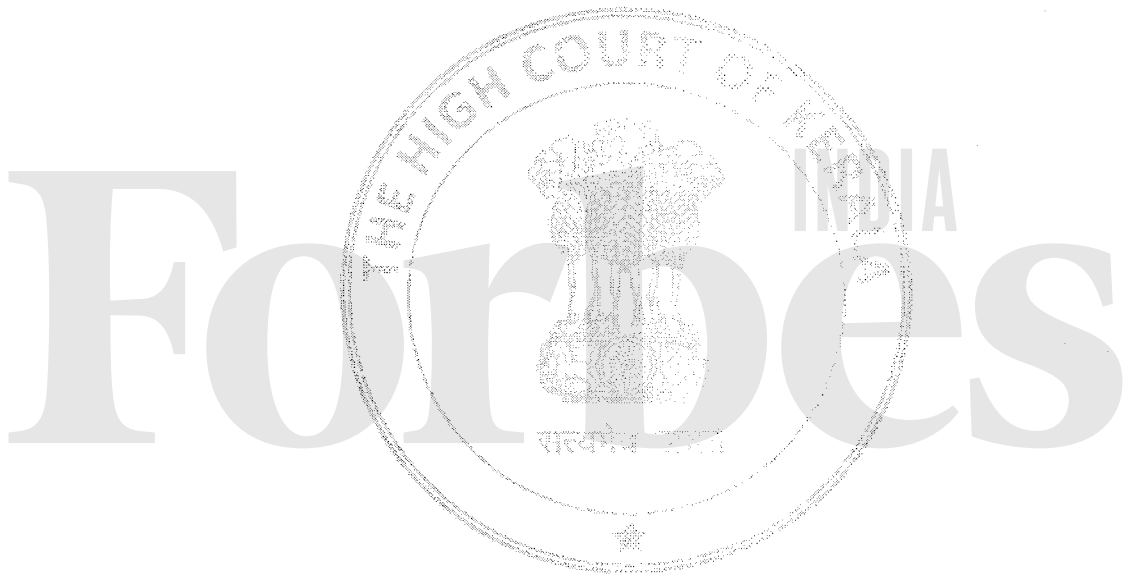
/true copy/

Sd/-



ASSISTANT REGISTRAR

EXHIBIT P1: TRUE COPY OF THE INFORMATION TECHNOLOGY  
(INTERMEDIARY GUIDELINES AND DIGITAL MEDIA ETHICS CODE) RULES,  
2021.



TC

F.No. DM/19/2021-DM  
Government of India  
Ministry of Information & Broadcasting  
(Digital Media Division)  
\*\*\*\*

Shastri Bhawan, New Delhi  
Dated 11<sup>th</sup> March, 2021

To

The Publishers of News on Digital Media

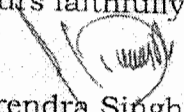
**Sub: Compliance of the Code of Ethics as per the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) 2021 by publishers of news on digital media – reg.**

Sir/Madam,

I am directed to say that the Central Government has notified the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) 2021 on 25.02.2021. A copy of which is available on the website of the Ministry i.e. [www.mib.gov.in](http://www.mib.gov.in). Part III of these Rules, administered by Ministry of Information and Broadcasting, require adherence to Code of Ethics, putting in place of a Grievance Redressal Mechanism, and furnishing of information to the Government by the publishers of news and current affairs on digital media and the publishers of online curated content (OTT platforms).

2. The above may be noted for information and appropriate compliance .

Yours faithfully,



(Amarendra Singh)  
Deputy Secretary to the Government of India  
Tel: 011-23381592  
e-mail: [amarendra.singh@nic.in](mailto:amarendra.singh@nic.in)



T.C

**Pravda Media Foundation**  
2, Swagat Palace, Iscon Ambli Road  
Opposite Shell Petrol Pump  
Ahmedabad 380 058, India  
Ph: +91 79 2979 5274, +91 99789 19110  
pravdamediafoundation@gmail.com



Date: 24-3-2021

To,  
Amarendra Singh  
Deputy Secretary to the Government of India  
Government of India  
Ministry of Information & Broadcasting  
(Digital Media Division)  
Shastri Bhawan, New Delhi

Subject: Code of Ethics as per the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) 2021 not applicable to Pravda Media Foundation (Alt News)

Dear Amarendra,

We humbly state and submit that the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 published by Government of India by notification dated February 25, 2021 does not apply to our organisation Pravda Media Foundation (Alt News), since our organisation is not covered by the said guidelines and also the Information Technology Act, 2000.

Without prejudice to the content that the guidelines dated February 25, 2021 does not apply to our organisation, we further submit that before the Hon'ble High Court of Delhi, Writ Petition (Civil) no. 3125/2021 is filed by petition namely Foundation for Independent Journalism and others. We wish to draw your attention to the prayer clause of the writ petition in paragraph 23 as under:

"In the premises, this Hon'ble Court may be pleased to issue appropriate declarations, writs, orders and directions as set out below:

- a. Pass a Writ of Declaration or any other appropriate writ, order or direction, declaring the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 as void and inoperative insofar as they define and apply to publishers of news and current affairs content, and part III, in so far as it regulates publishers of news and current affairs content, for being ultra vires the Information Technology Act, 2000;
- b. Pass any other order or direction that this Hon'ble court may deem just and proper in the facts and circumstances of this case."

It is further submitted that Hon'ble High Court of Delhi by order dated Mar 9, 2021 has issued notices upon respondents including Union of India.

T.C



**Pravda Media Foundation**  
2, Swagat Palace, Iscon Ambli Road  
Opposite Shell Petrol Pump  
Ahmedabad 380 058, India  
Ph: +91 79 2979 5274, +91 99789 19110  
pravdamediafoundation@gmail.com



In the aforesaid circumstances, it is further submitted that whatever decisions will be rendered by Hon'ble High Court of Delhi will be binding to Government of India as well as all persons and organisations sought to be covered by guidelines dated February 25, 2021. Therefore, at present, we would humbly submit that any further proceedings in the matter cannot be undertaken at present, at least, till the final disposal of the aforesaid petition by the Hon'ble High Court of Delhi. It is further submitted that according to our information, other writ petitions challenging the same guidelines are also instituted in other High Courts of India, and many such petitions are entertained by other Hon'ble High Courts in India, and we are in the process of collecting all the information including the copies of the order etc, and we will be submitting the copies of the order as soon as we are able to receive the same.

In the aforesaid circumstances, above submission may please be treated as our ad hoc interim reply, and in the eventuality of Hon'ble High Court of Delhi and other High Courts rendering decision in favour of Government of India, we will submit a detailed reply in response to your aforesaid communication, mainly drawing your attention to the aspect that the guidelines as prescribed do not apply to our organisation.

Warm Regards,

**PRAVDA MEDIA FOUNDATION**

**Director / Authorised Signatory**

Nirjhari Sinha  
Managing Director  
Pravda Media Foundation

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**

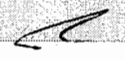
**Subject: Furnishing of information by digital media publishers under Rule 18 of the Information Technology (Intermediary Guidelines and Digital Media Ethics Codes) Rules, 2021**

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.

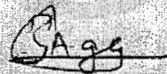
4. Since newspapers are registered under Press and Registration of Books Act, 1867, and private satellite TV channels are permission holders under the Uplinking and Downlinking Guidelines (2011) of the Ministry, a separate format for furnishing information, as in **Appendix I**, has been devised for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

  
T.C.



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.



26/05/2024

(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)**

*T.C*



**Appendix II**

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

**(other than those referred to in Appendix I)**

**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 (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}**

Annexure P-13

Reminder - I

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

Shastri Bhawan, New Delhi  
Dated: 01 June, 2021

To,

1. Digital news publishers
2. Publishers of online curated content (OTT platforms)

**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,

Vide Public Notice No. A-50013/31/2021-DM, dated 26.05.2021 (copy enclosed), publishers on digital media are required to furnish certain basic information to the Ministry in accordance with Rule 18 of the Information Technology (Intermediary Guidelines and Digital Media Ethics Codes) Rules, 2021.

2. The information, in the applicable format, is required to be furnished within 15 days of the issue of the notice i.e. by 10.06.2021.
3. It is requested that necessary action may be taken for due compliance. The publishers which have already furnished the above information need not submit it again.

Encl: as above

Yours faithfully,



01/06/2021

(Kshitij Aggarwal)

Assistant Director (DM)

Copy to: Associations of digital media publishers with a request to circulate the above to all the eligible entities for compliance



**Pravda Media Foundation**  
2, Swagat Palace, Iscon Ambli Road  
Opposite Shell Petrol Pump  
Ahmedabad 380 058, India  
Ph: +91 79 2979 5274, +91 99789 19110  
pravdamediafoundation@gmail.com  
CIN : U93030GJ2017NPL099435



3<sup>rd</sup> June 2021

To,  
Kshitij Aggarwal,  
Assistant Director,  
Ministry of Information & Broadcasting  
Shastri Bhawan, New Delhi

Reference: (a) Letter dated 11<sup>th</sup> March 2021 bearing no. F.No. DM/19/2021- DM  
(b) Public Notice dated 26<sup>th</sup> May 2021 bearing no. F. No. A-50013/31/2021- DM  
(c) Reminder – I dated 1<sup>st</sup> June 2021 bearing no. A-50013/31/2021-DM

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

Dear Mr. Aggarwal,

The present letter is addressed by the Authorized Representative (Managing Director) of Pravda Media Foundation which is an initiative to increase information literacy in the society through media outreach, education and technology, and runs the digital fact-checking platform 'Alt News' as part of its media outreach initiative. We respond to the documents referred hereinabove in the following manner:

1. By e-mail communication dated 11<sup>th</sup> March 2021, the Deputy Secretary, Ministry of Information & Broadcasting, informed us about the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 ("Rules") having been notified, and that Part III of the Rules requires 'publishers of news and current affairs' on digital media and the "publishers of online curated content (OTT Platforms)" to (1) adhere to a Code of Ethics; (2) set up a Grievance Redressal Mechanism; and (3) furnish information to the Government.
2. Additionally, vide letter dated 24<sup>th</sup> March 2021, the undersigned duly replied to the letter dated 11<sup>th</sup> March 2021, whereby it was stated that the Rules do not apply to our organization (for reasons adverted to in the subsequent paragraphs as well), and that even otherwise, the Rules are under challenge in W.P. (C) No. 3125/2021 titled as "Foundation for Independent Journalism &

T.C.



**Pravda Media Foundation**  
2, Swagat Palace, Iscon Ambli Road  
Opposite Shell Petrol Pump  
Ahmedabad 380 058, India  
Ph: +91 79 2979 5274, +91 99789 19110  
pravdamediafoundation@gmail.com  
CIN : U93030GJ2017NPL099435



*Ors. v. Union of India & Anr.*” before the High Court of Delhi, and further proceedings cannot be undertaken under such Rules until the final disposal of the said petition.

3. Unfortunately, no response was received by us from your end to our reply dated 24<sup>th</sup> March 2021. Instead, a Public Notice dated 26<sup>th</sup> May 2021 was issued directing us to furnish certain information under Rule 18 of the Rules as per the format provided in Appendix II; as well as details of our Grievance Redressal Officer, and the Self-regulating body that we have to be a member of. Within a period of 5 days a letter dated 1<sup>st</sup> June 2021 was sent to us, further informing us that the information in the applicable format is to be published within a period of 15 days of the issues of the Public Notice i.e. by 10<sup>th</sup> June 2021.

4. In view of the aforementioned, we once again reiterate that we do not fall within the scope of the Rules. A bare perusal of the relevant provisions of the Rules set out hereunder amply reflects this fact:

“Part III

*Code of Ethics and Procedure and Safeguards in Relation to Digital Media*

**8. Application of this Part.**—(1) *The rules made under this Part shall apply to the following persons or entities, namely:— (a) publishers of news and current affairs content; (b) publishers of online curated content; and ...*

**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.*”

5. Since Section 18 of the Rules bears a reference to ‘publisher of news and current affairs’ it may therefore be necessary to refer to the definition of the term ‘publisher of news and current affairs’, which is reproduced hereunder for the ease of reference:

(2)(m) *‘news and current affairs content’ includes newly received or noteworthy content including analysis, especially about recent events primarily of socio-political, economic or cultural nature, made available over the internet or computer networks, and any digital media shall be news and current affairs content where the context, substance, purpose, import and meaning of such information is in the nature of news and current affairs content.*

**Pravda Media Foundation**  
2, Swagat Palace, Iscon Ambli Road  
Opposite Shell Petrol Pump  
Ahmedabad 380 058, India  
Ph: +91 79 2979 5274, +91 99789 19110  
pravdamediafoundation@gmail.com  
CIN : U93030GJ2017NPL099435



2(q) 'online curated content' means any curated catalogue of audio-visual content, other than news and current affairs content, which is owned by, licensed to or contracted to be transmitted by a publisher of online curated content, and made available on demand, including but not limited through subscription, over the internet or computer networks, and includes films, audio visual programmes, documentaries, television programmes, serials, podcasts and other such content.

2(s) 'publisher' means a publisher of news and current affairs content or a publisher of online curated content;

2(t) 'publisher of news and current affairs content' means an online paper, news portal, news aggregator, news agency and such other entity called by whatever name, which is functionally similar to publishers of news and current affairs content but shall not include newspapers, replica e-papers of the newspaper and any individual or user who is not transmitting content in the course of systematic business, professional or commercial activity;

2(u) 'publisher of online curated content' means a publisher who, performing a significant role in determining the online curated content being made available, makes available to users a computer resource that enables such users to access online curated content over the internet or computer networks, and such other entity called by whatever name, which is functionally similar to publishers of online curated content but does not include any individual or user who is not transmitting online curated content in the course of systematic business, professional or commercial activity;"

6. In order to fall within the ambit of a 'publisher of news and current affairs', Alt News has to necessarily:

- (a) publish news on various aspects especially about recent events; or
- (b) publish analysis of the news.

7. 'Alt News' does not do either of the two. Succinctly put, the mission goal of Pravda Media Foundation is to increase information and media literacy in the society. As part of its strategy to alleviate the issue of lack of information literacy in the Indian society, Pravda Media Foundation is actively pursuing three verticals – Media outreach, education and technological solutions. 'Alt News' is part of Pravda Media Foundation's media outreach programme, and is a fact-checking portal which debunks misinformation circulated on social media platforms as well as that published by mainstream media. This is done using various digital forensic tools like reverse image search to verify videos and images, or source data from local authorities or the police. The fact-check articles are produced in English and Hindi so that people who may have received

**Pravda Media Foundation**  
2, Swagat Palace, Iscon Ambli Road  
Opposite Shell Petrol Pump  
Ahmedabad 380 058, India  
Ph: +91 79 2979 5274, +91 99789 19110  
pravdamediafoundation@gmail.com  
CIN : U03030GJ2017NPL099435



misinformation through platforms such as WhatsApp, Facebook, Twitter, etc. can verify the information before forming an opinion or circulating it further. There is no analysis of the news undertaken by us, and we merely present facts already available in the public domain or accessed by speaking with relevant authorities to our readers. A similar initiative is also run by the Government of India through Press Information Bureau and is called 'PIB Fact-check'. Just as PIB Fact-check division doesn't fall under the 'news and current affairs' genre, neither does the work of Alt News. Alt News does not carry any news or reports about current affairs, it merely verifies and establishes the authenticity of reports published by journalists and content circulated widely on social media platforms such as Facebook, Twitter, Whatsapp, etc.

8. It may be mentioned that the name adopted by us should not be taken as a yardstick to determine whether we are 'publisher(s) of news and current affairs'. The actual service provided by 'Alt News' should be considered to discern whether 'Alt News' falls within the realm of the definition 'publisher of news and current affairs'.
9. Further, 'Alt News' cannot be termed to be a 'publisher of online curated content' either. Effectively, OTT platforms such as Netflix, Amazon Prime etc. fall within this definition and this does not apply to the undersigned.
10. Clearly, therefore, from whichever prism one may look at it, 'Alt News' does not fall within the purview of being a 'publisher of news and current affairs'. As a consequence of the above, 'Alt News' does not fall within the ambit of Part III of the Rules.
11. Further, 'Alt News' is operated by Pravda Media Foundation, a not-for-profit company registered under Section 8 of the Companies Act, 2013 and is run by a small group of 10 people (+ 3 Directors), purely on the basis of grants and donations from the public. As part of Pravda Media Foundation's media literacy activities, we also have helplines on WhatsApp, through Alt News mobile apps, and on social media. This is a public service provided by Pravda Media foundation as part of which the employees of the organisation already process hundreds of requests every single day, and respond to these requests individually in order to dispel rumours that are in circulation. Therefore, given the size of our organization, it is not feasible, both financially and logistically, to set up a dedicated Grievance Redressal Officer to take up each and every

T.C

**Pravda Media Foundation**  
 2, Swagat Palace, Iscon Ambli Road  
 Opposite Shell Petrol Pump  
 Ahmedabad 380 058, India  
 Ph: +91 79 2979 5274, +91 99789 19110  
 pravdamediafoundation@gmail.com  
 CIN : U93030GJ2017NPL099435



complaint/grievance against fact-checks published by us, and to further escalate and coordinate with the Level 2 'Self-regulating body' on all those complaints.

12. That apart, we believe that the IT Rules have been drafted without consulting the stakeholders who are affected by the IT Rules.
13. As stated in our previous response, the challenge to validity of the Rules is pending before several High Courts. On 9<sup>th</sup> March 2021, the High Court of Delhi issued notice in a petition filed by Foundation for Independent Journalism in W.P.(C) No. 3125/2021 challenging the validity of Part III of the IT Rules; on 10<sup>th</sup> March 2021, the Kerala High Court also issued notice in W.P. (C) No. 6272/2021 by Live Law Media Pvt. Ltd. and ordered no coercive steps to be taken against them; further, on 19<sup>th</sup> March 2021, the High Court of Delhi issued notice in W.P. (C) No. 3659/2021 by Quint Digital Media Ltd. challenging the constitutional validity of the Rules.
14. Considering the Rules in totality have been challenged which is pending active consideration by the Courts, we request you to kindly not take any further action until such adjudication.

Therefore, we request you to engage with us, take our concerns into account, and refrain from enforcing a blanket application of the Rules.

**PRAVDA MEDIA FOUNDATION**

*Nirjhari Sinha*  
 Director/Authorised Signatory

Regards,  
 Nirjhari Sinha  
 Managing Director  
 Pravda Media Foundation

*T.S.*

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

Shastri Bhawan, New Delhi  
Dated: 9 June, 2021

To,

Pravda Media Foundation  
[Kind attn: Ms. Nirjari Sinha]  
2, Swagat Palace, Iscon Ambil Road,  
Ahmedabad-380058, Gujarat.  
Email: [pravdamediafoundation@gmail.com](mailto:pravdamediafoundation@gmail.com)

**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,

The undersigned is directed to refer to your emailed communication dated 07.06.2021, and state that the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 establish an institutional framework for the publishers of news and current affairs content, and publishers of online curated content.

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. On the question of coverage of your organization as a publisher of news and current affairs under the ambit of the rules, it may be mentioned that as per rule 2(m), "news and current affairs content" includes newly received or **noteworthy content, including analysis, especially about recent events primarily of socio-political, economic or cultural nature**, made available over the internet or computer networks, and any digital media shall be news and current affairs content where the context, substance, purpose, import and meaning of such information is in the nature of news and current affairs content." (emphasis supplied)

4. A perusal of the content published on the website and verified social media accounts of your organization shows that the published content involves analysis of

Tc

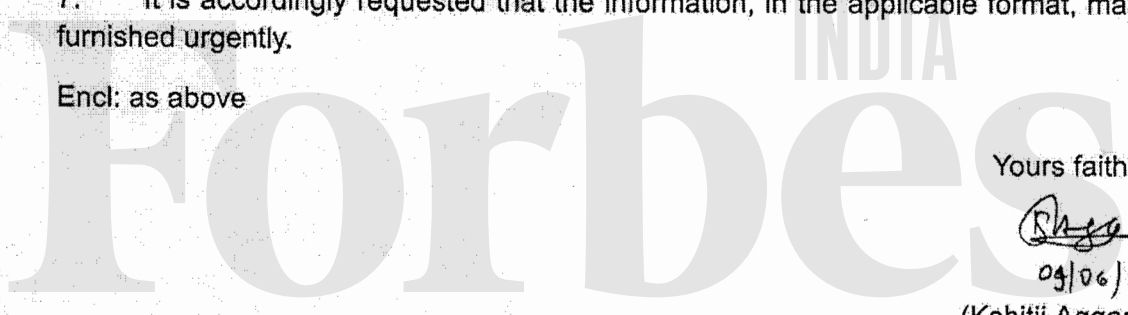
claims related to recent events, including those of socio-political, economic or cultural nature going viral on digital and/or social media. The same is also stated explicitly on your website at the webpage titled 'Methodology for fact checking', which involves selection, research, and publishing of content related to recent claims, speeches, tweets, hashtags, etc. which may also be of political nature.

5. Based on the above, it is clear that your organization is a publisher of news and current affairs content and hence covered under the scope of the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021.

6. As mentioned in your communication, the rules are under challenge before various Hon'ble High Courts in Writ Petitions. 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 various cases pending in High Courts. 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 Courts while issuing Notice have not granted any Stay in the matter regarding the implementation of the rules.

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

Encl: as above



Yours faithfully,

09/06/2021

(Kshitij Aggarwal)

Assistant Director (DM)

E-mail: [kshitij.aggarwal@gov.in](mailto:kshitij.aggarwal@gov.in)

T.C



**Pravda Media Foundation**

2, Swagat Palace, Iscon Ambli Road

Opposite Shell Petrol Pump

Ahmedabad 380 058, India

Ph: +91 79 2979 5274, +91 99789 19110

pravdamediafoundation@gmail.com

CIN : U93030GJ2017NPL099435

11<sup>th</sup> June 2021

To,  
Kshitij Aggarwal,  
Assistant Director,  
Ministry of Information & Broadcasting  
Shastri Bhawan, New Delhi

Reference: (a) Letter dated 11<sup>th</sup> March 2021 bearing no. F.No. DM/19/2021- DM  
(b) Public Notice dated 26<sup>th</sup> May 2021 bearing no. F. No. A-50013/31/2021- DM  
(c) Reminder – I dated 1<sup>st</sup> June 2021 bearing no. A-50013/31/2021-DM;  
(d) Our response dated 3<sup>rd</sup> June 2021  
(e) Your response dated 9<sup>th</sup> June 2021 bearing no. nil

Dear Mr. Aggarwal,

1. We are in receipt of your letter dated 9<sup>th</sup> June 2021 whereby you have stated that the undersigned is a publisher in terms of Rule 2 of the IT Rules. As a consequence, you have requested that the undersigned provides the information requested by you.
2. We reiterate the contents of our response dated 3<sup>rd</sup> June 2021. We note that you state that even fact checking entails analysis. With that logic, every person or entity any comment on the internet on socio political themes would fall within the meaning of the 'publisher of news and current affairs' as set out in the IT Rules. This is because any comment on the internet would be a result of some element of analysis. Surely, that could not be the logic behind IT Rules as such an interpretation would lead to an absurd situation and in our estimation a more pragmatic view ought to be taken. We, thus, request you to favourably consider our representation and exempt the undersigned from compliance since we do not fall within the purview of the IT Rules.
3. That apart, we are a small organization, which has commenced operations recently (in 2017) in comparison with other mainstream media organisations, and have a total strength of about 10 employees (+ 3 Directors). The undersigned does not have the wherewithal or the capability to make compliances at the moment especially compliances with respect to engaging a fixed grievance redressal officer. Thus, we request you to exempt us from compliance of the IT Rules on this issue as well.
4. Assuming you do not favourably consider our representation, we state that the information you seek from us, including details regarding our grievance redressal officer, is already in the public domain on our website (ww.altnews.in), and is available to all our readers, and therefore, there is nothing that is being withheld by us or attempted to be withheld either. In view of the information being readily available to every reader, we request you to note that there is no urgency to press us at this juncture.
5. While it is true that there has been no interim stay on the implementation of the IT Rules, the Delhi High Court issued notice to the Central Government, but it is reliably

**Pravda Media Foundation**

2, Swagat Palace, Iscon Ambli Road

Opposite Shell Petrol Pump

Ahmedabad 380 058, India

Ph: +91 79 2979 5274, +91 99789 19110

pravdamediafoundation@gmail.com

CIN : U93030GJ2017NPL099435



learnt that no response has been filed as yet, despite the Court granting two weeks time for the same. Four High Courts are seized of the issue relating to the constitutional validity of the IT Rules, 2021 and all of them have thought fit to issue notice. Even the Central Government, as indicated by you, has escalated the same to the Supreme Court by filing a Transfer Petition in T.P. (C) No. 000997-001000/2021. Since this manner of reporting to the Government/Ministry is what is at the heart of the matter and is pending challenge before the High Court, it would be prudent on your part to not insist on the form of it at the moment.

6. We would 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 we believe that government interference or control is strictly impermissible as per the law laid down by the highest court.

**PRAVDA MEDIA FOUNDATION**

**Director/Authorised Signatory**

Regards,

Nirjhari Sinha

Managing Director

Pravda Media Foundation



IN THE HIGH COURT OF DELHI, AT NEW DELHI  
(EXTRAORDINARY CIVIL WRIT JURISDICTION)  
C.M. \_\_\_\_\_ OF 2021

IN

WRIT PETITION (CIVIL) NO. \_\_\_\_\_ OF 2021

**IN THE MATTER OF:**

PRAVDA MEDIA FOUNDATION ...Petitioners

Versus

UNION OF INDIA & ANR. ...Respondents

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

**Most Respectfully Showeth:**

1. This present Writ Petition under Article 226 of the Constitution of India challenges the constitutionality and substantive *vires* of the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 (“**IT Rules, 2021**” or “**Impugned Rules**”) in so far as the IT Rules, 2021 purport to apply to ‘publishers of news and current affairs’ over the internet or computer networks and, consequently, regulate them by Part III (“**Impugned Part**”) of the Rules. The Petitioner thus seeks not only a writ of certiorari and/or any other writ declaring the Impugned Rules as unconstitutional for being violative of Articles 14, 19(1)(a), and 19(1)(g) of the Constitution of India and for being *ultra vires* the

Information Technology Act, 2000 (“IT Act”); but also seeks a writ for declaring that the Petitioner does not fall within the definition of the term ‘publishers of news and current affairs content’ under Rule 2(1)(t) of the IT Rules, 2021, and therefore, the Impugned Rules/ IT Rules, 2021 do not apply to the Petitioner.

2. The contents of the petition may be read as part and parcel of the application herein.
3. Briefly, as part of the media outreach programme, the Petitioner undertakes fact-checking and debunks misinformation circulated on social media platforms as well as that published by mainstream media. A similar initiative is also run by the Government of India through Press Information Bureau and is called ‘PIB Fact-check’. Just as PIB Fact-check division does not fall under the ‘news and current affairs’ genre, neither does the work of the Petitioner. The Petitioner does not carry any news or reports about current affair, it merely verifies and establishes the authenticity of reports published by journalists and content circulated widely on social media platforms such as Facebook, Twitter, Whatsapp, etc.

4. Further, the Petitioner cannot be termed to be a 'publisher of online curated content' either. Effectively, OTT platforms such as Netflix, Amazon Prime etc. fall within this definition and this does not apply to the undersigned.
5. Despite this, the Respondents are actively enforcing the IT Rules, 2021 and have attempted to enforce these IT Rules, 2021 qua the Petitioner.
6. The balance of convenience lies in favour of the Petitioner. The Petitioner would suffer irreparable loss if interim relief is not granted. The Petitioner has a strong prima facie case.
7. The application is wholly bonafide.

#### **PRAYER**

In view of the facts and circumstances mentioned above, the Petitioner most respectfully prays that this Hon'ble Court may be pleased to:-

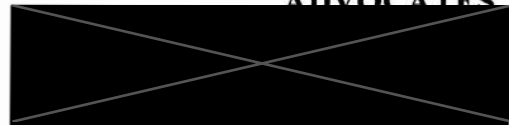
- a. Pass orders to the effect that the Respondents should not take any coercive action against the Petitioner until disposal of the present writ petition;
- b. Pass orders staying the operation of the IT Rules, 2021; and/ or

c. Pass such order(s) as this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case.

**PRAVDA MEDIA FOUNDATION**  
*D. Singh*  
**PETITIONERS**  
**Director / Authorised Signatory**

**Represented Through**

**AADITYA VIJAYKUMAR/  
AKSHITA KATOCH/  
NAMRATA MOHAPATRA  
ADVOCATES**



**NEW DELHI**

**DATED: 16/06/2024**

INDIA  
**Forbes**

IN THE HIGH COURT OF DELHI AT NEW DELHI  
( EXTRAORDINARY CIVIL WRIT JURISDICTION)

C.M. \_\_\_\_\_ OF 2021

IN

WRIT PETITION(CIVIL) NO. \_\_\_\_\_ /2021

In the matter of:

Pravda media foundation

... Petitioners

Versus

Union of India & Anr.

... Respondents

AFFIDAVIT

I, Nirjhari Sinha W/o Dr. Mukul Sinha age 69 years R/o 2, Swagat Palae,  
Opposite Shell Petrol Pump, Iscon- Ambli Road, Ahmedabad-380058,  
presently at New Delhi, authorised representative of the petitioner, do  
hereby solemnly affirm and declare as under:-

1. That I am the authorized representative of the petitioner and am well conversant with the facts of the case based on records and duly competent to swear the present affidavit.
2. That I have read and understood the contents of the accompanying application and the same are true and correct to the best of my knowledge and belief and based on records.



3. The contents of the application may be read as part and parcel of the present affidavit.

**PRAVDA MEDIA FOUNDATION**

*[Signature]*

**Director / Authorised Signatory**

**DEPONENT**

**VERIFICATION:**

Verified at Delhi on this 16<sup>th</sup> day of June 2021 that the contents of the above affidavit are true and correct to my knowledge and no part of it is false and nothing material has been concealed therefrom.

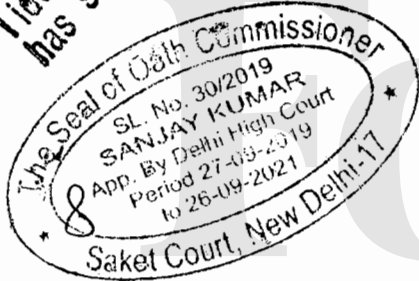
*I identified the deponent who has signed in my presence*

**DEPONENT**

**PRAVDA MEDIA FOUNDATION**

*[Signature]*

**Director / Authorised Signatory**



16 JUN 2021

CERTIFIED THAT THE DEPONENT  
Shri/Smt./Kis. No. ....  
S/o W/o D/o .....  
R/o.....  
Identified by Shri/Smt. *Aditya Vishay Kumar*  
has solemnly affirmed before me at  
New Delhi on.....at Sl. No. ....  
that the Contents of the affidavit which have  
been read and explained to him are true and  
correct to his knowledge.

16 JUN 2021

*[Signature]*  
Oath Commissioner  
New Delhi

**IN THE HIGH COURT OF DELHI, AT NEW DELHI  
(EXTRAORDINARY CIVIL WRIT JURISDICTION)**

C.M. \_\_\_\_\_ OF 2021

IN

**WRIT PETITION (CIVIL) NO. \_\_\_\_\_ OF 2021**

**IN THE MATTER OF:**

PRAVDA MEDIA FOUNDATION ...Petitioners

Versus

UNION OF INDIA & ANR. ...Respondents

**APPLICATION UNDER SECTION 151 OF THE CODE OF CIVIL  
PROCEDURE, 1908 SEEKING EXEMPTION FROM FILING  
CLEAR COPIES OF DOCUMENTS, MAINTAINING MARGINS  
ETC.**

**Most Respectfully Showeth:**

1. That the present writ petition is preferred challenging the IT Rules, 2021 besides seeking other consequential reliefs.
2. It is submitted that the Petitioner is filing true copies of documents as due to paucity of time.
3. Further, some documents, which are annexed with the writ petition, are dim. Due to paucity of time, documents could not be typed. The Petitioner thus seek the indulgence of this Hon'ble Court to file the same with the writ petition and to file clear more legible copies at a later stage.


**PRAYER**

In view of the facts and circumstances mentioned above, the Petitioner most respectfully prays that this Hon'ble Court may be pleased to:-

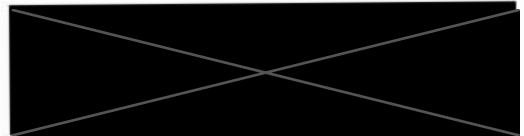
- a. exempt the Petitioner from filing typed copies of the documents, maintaining margins, and grant liberty to file the same at a later stage;
- b. Permit the Petitioner to file the dim documents as it is; and/ or
- c. Pass such order(s) as this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case.

Represented Through

**PRAVDA MEDIA FOUNDATION**  
*Office*  
**PETITIONERS**  
**Director / Authorised Signatory**

  
**AADITYA VIJAYKUMAR/  
AKSHITA KATOCH/  
NAMRATA MOHAPATRA**

**NEW DELHI**  
**DATED: 16/06/2024**





IN THE HIGH COURT OF DELHI AT NEW DELHI  
( EXTRAORDINARY CIVIL WRIT JURISDICTION)

C.M. \_\_\_\_\_ OF 2021

IN

WRIT PETITION(CIVIL) NO. \_\_\_\_\_ /2021

In the matter of:

Pravda media foundation ... Petitioners

Versus

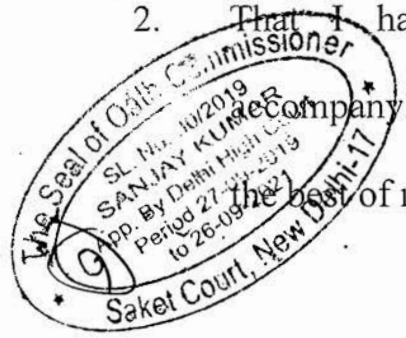
Union of India & Anr. ... Respondents

AFFIDAVIT

I, Nirjhari Sinha [Redacted]  
[Redacted]

presently at New Delhi, authorised representative of the petitioner, do hereby solemnly affirm and declare as under:-

1. That I am the authorized representative of the petitioner and am well conversant with the facts of the case based on records and duly competent to swear the present affidavit.
2. That I have read and understood the contents of the accompanying application and the same are true and correct to the best of my knowledge and belief and based on records.



3. The contents of the application may be read as part and parcel of the present affidavit.

**PRAVDA MEDIA FOUNDATION**  
*Signature*  
**Director / Authorised Signatory**  
**DEPONENT**

**VERIFICATION:**

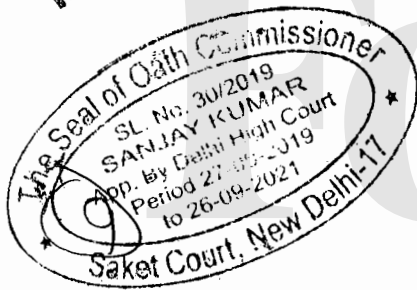
**16 JUN 2021**

Verified at Delhi on this 16 day of June 2021 that the contents of the above affidavit are true and correct to my knowledge and no part of it is false and nothing material has been concealed therefrom.

*I identify the deponent who has signed in my presence*

**DEPONENT**

**PRAVDA MEDIA FOUNDATION**  
*Signature*  
**Director / Authorised Signatory**



**16 JUN 2021**

CERTIFIED THAT THE DEPONENT  
Shri/Smt./Ms. *Dr. Anil Kumar Saha*  
S/o W/o D/o *Sushma*  
R/o *Aditya V. Singh Kumar*  
Identified by Shri/Smt. *[Signature]*  
has solemnly affirmed before me at  
New Delhi on *16 JUN 2021* at *St. Mary's Church*  
that the Contents of the affidavit which have  
been read and explained to him are true and  
correct to his knowledge.

*Signature*  
Oath Commissioner  
New Delhi

**IN THE HIGH COURT OF DELHI, AT NEW DELHI**  
**(EXTRAORDINARY CIVIL WRIT JURISDICTION)**  
**WRIT PETITION (CIVIL) NO. \_\_\_\_\_ OF 2021**

**IN THE MATTER OF:**

PRAVDA MEDIA FOUNDATION

...Petitioners

Versus

UNION OF INDIA & ANR.

...Respondents

**VAKALATNAMA**

**KNOW ALL** to whom these presents shall come that I, Mrs. Nirjhari Sinha the above named authorized representative of the Petitioner in the above mentioned matter do hereby appoint:

**Aaditya Vijay Kumar, Parikshit Kumar, Liza Baruah, Akshita Katoch, Aneesh Sadhwani, Ayushi Kumar, Namrata Mohapatra and Keshav Seth (hereinafter called Advocate); B-7, LGF, Kailash Colony, Delhi – 110048;** XXXXXXXXXX

to be my/our Advocate in the above noted case and authorize them:

1. To act, appear and plead in the above-noted case in this Court or in any Court in which the same be tried or heard and also in the appellate Courts subject to payment of fees separately for each Court by me/us.
2. To sign, verify and present pleadings, replications, appeals, Cross-objections, or petitions for execution, review, revision, restorations or affidavits or other documents as may be deemed necessary or proper for the prosecution of said case in all its stages.
3. To file and take back documents.
4. To mediate, withdraw, or compromise the said case or submit to arbitration any differences or disputes that may arise touching or in any manner relating to the said case.
5. To take out execution proceedings.
6. To deposit, draw and receive moneys, cheques and grant receipts thereof or/and to do all other acts and things which may be necessary to be done for the progress and in the course of prosecution of the said case.
7. To appoint, instruct any other legal practitioner authorizing him to exercise the power and authorities hereby conferred upon the Advocate whenever he may think fit to do so and sign the power of attorney on my/our behalf.
8. And I/We the undersigned do hereby agree to ratify and confirm act as if done by the Advocate or his substitute in the matter as my/our own acts, as if done by me/us to contents and purposes.
9. And I/We undertake that I/we or my/our duly authorized agent would appear in court on all hearings and will confirm the Advocate for appearance when case is called.

- 10. And I/we the undersigned do hereby agree not to hold the Advocate or his substitute responsible for the result of the said case, consequence for his absence from court when the said case is called up for hearing or any negligence of the said advocate or his substitute.
- 11. And I/we the undersigned do hereby agree that in the event of the whole or any part of the fee agreed by me/us to the advocate remaining unpaid, they will be entitled/allowed for an adjournment. Advocate would be entitled to the same.

IN WITNESS WHEREOF I/we do hereunto set my/our hand to these presents the contents of which have been understood by me this the 9 day of June, 2021.

Accepted subject to terms of fees.  
 [Signature] ADVOCATE  
 [Signature] ADVOCATE

Nakshita Karoch  
 D/1493/2017  
Lamrata  
 D/3519/2019

Aneesh  
 D/5816/13

**PRAVDA MEDIA FOUNDATION**

[Signature]  
 Director / Authorised Signatory  
 CLIENT

I identify the  
 Signature of  
 my Client

[Signature]  
 02472/08

