



The Indian Journal for Research in Law and Management

Open Access Law Journal – Copyright © 2025

Editor-in-Chief – Dr. Muktai Deb Chavan; Publisher – Alden Vas; ISSN: 2583-9896

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CASE COMMENTARY: WAZAHAT KHAN VS UNION OF INDIA

~ *Gauri Rajeev*

I. INTRODUCTION

By virtue of constitution, every citizen of India rightfully enjoys several fundamental rights and one of the key rights being Article 19(1)(a)¹, which entails freedom of speech and expression. Such rights were conferred upon the citizen in order to make sure that they won't hold themselves back while putting their opinion in the forefront regarding the government whether to be supportive or critical of their action and thereby holding up India as a democracy. Even though such rights are granted to each citizen in the country they are not absolute in nature and it is subject to reasonable restriction as stated in Article 19(2)² which includes consideration of sovereignty, security of the state, public order decency, morality and prevention of incitement to an offence.

With the advent of Digital era, curbing such free speech has been more difficult since content creators commercialize through them on social media platforms like X (Twitter), Instagram, YouTube etc., where the content reaches to household in an instant influencing the vulnerable groups. Even though there are Acts like Information Technology act, 2000 (IT) and Digital Personal Data Protection Act, 2023 and many other Judicial Precedent, yet misuse of free speech by some content creator causing ruckus in the society and inciting hatred by spreading fake news, hate campaigns and commenting on sensitive topics³ like religion still persists and

¹ Article 19: Protection of certain rights regarding freedom of speech, etc..., Constitution of India (2023), <https://www.constitutionofindia.net/articles/article-19-protection-of-certain-rights-regarding-freedom-of-speech-etc/> (last visited Sep 29, 2025).

² Has the Supreme Court done enough to protect press freedom?, Supreme Court Observer (2025), <https://www.scobserver.in/journal/has-the-supreme-court-done-enough-to-protect-press-freedom/> (last visited Sep 29, 2025).

³ Drishti IAS, SC calls for regulating social media Drishti IAS (2025), <https://www.drishtiiias.com/daily-updates/daily-news-analysis/sc-calls-for-regulating-social-media> (last visited Sep 29, 2025).

one such example is the ongoing case of Wazahat Khan v. Union of India where the supreme court is to confront with the scope of Article 19(1) in the context of online media, multiple FIRs across the state and misuse of free speech which would be further dealt in detail below.

II. FACTS OF THE CASE

It all began earlier this year when Sharmista Panoli, who is a social media influencer on her Instagram handle uploaded a video clip where she talked about the silence of Bollywood celebrities on ‘Operation Sindhoor’ and further mocked and targeted Muslim identities which hurt religious sentiments of people and she was accused for spreading hate speech and her videos were deemed as communal in nature⁴.

Following which, Wazahat Khan filed a complaint against her in Kolkata under various provision of law, including the section concerning harmful acts meant to offend and outrage religious sentiments. Later on, following the lodging of the complaint police officers of Kolkata arrested the influencer. Due to large public revolt against her, she removed the previous video from her account and thereby posted a public apology⁵.

It then came to light that even Wazahat Khan had multiple FIRs against him lodged in various states like Haryana, Delhi, Assam apparently as a retaliating move done by people who he complained against. In the complaint he was alleged for making derogatory remarks against Hindu communities and further mocked Hindu traditions on his social media handle which clearly intended to cause hatred among communities. His FIRs were registered under sections of 299, 352, 353 of Bharatiya Nyaya Sanhita (BNS), Article 19(1)(a) and also sections of IT Act⁶. Following this event, he took down the posts which were also communal in nature but the FIRs against him still existed and that is when he decided to move to the Apex court under Article 32 to find an end to the matter. One of the main pleas in his writ petition was to reduce

⁴ “okay with my daughter abusing...”: Sharmishta Panoli’s father hits back after influencer gets bail, Hindustan Times (2025), <https://www.hindustantimes.com/trending/okay-with-my-daughter-abusing-sharmishta-panolis-father-hits-back-after-influencer-gets-bail-101749458596792.html> (last visited Sep 29, 2025).

⁵ Shrabana Chatterjee, Calcutta High Court grants interim bail to Social Media Influencer Sharmishta Panoli The Hindu (2025), <https://www.thehindu.com/news/national/west-bengal/calcutta-high-court-grants-interim-bail-to-social-media-influencer-sharmishta-panoli/article69660295.ece> (last visited Sep 29, 2025).

⁶ Man who filed case against Sharmishta Panoli missing, claims his father, India Today (2025), <https://www.indiatoday.in/india/story/sharmishta-panoli-case-man-who-filed-complaint-against-instagram-influencer-missing-claims-his-father-2734585-2025-06-02> (last visited Sep 29, 2025).

or consolidation of multiple FIRs or consolidation against him on the same subject matter causing him harassment and several summons⁷.

III. JUDGEMENT AND ANALYSIS

Since the case is an ongoing one, final decision or order regarding the matter is not yet out and the matter stands adjourned. Nevertheless, the Supreme Court Judges did address few vital issues through the present case where the petitioner i.e., Wazahat Khan, was in the judicial custody at the time of hearing. As for one of the prominent issues of the petitioner was that they had multiple FIRs filed against the petitioner across 6 states for the same fact that he had post derogatory and sensitive posts against a religion which the counsel for petition did argue that he had already taken all the disputed posts and deleted them and claimed that such FIRs were retaliatory tactics against him since he complained about Ms. Panoli. Hearing the issue the court gave him an ad- interim relief against all the investigation or any sort of coercive action against multiple jurisdictions until the next hearing⁸.

Later in the hearing that was held on 14th July, the judges addressed the matter and stated that, *“freedom of expression is an important right and abuse of the same leads to multiple litigations and clogs the entire court where other matters get stamped down”*⁹. Which was clearly an eyeopener for everyone since the court has been evidently over flowing with multiple FIRs, when it comes to cases of urgency and serious attention, they gets pushed back. On top of that multiple FIRs on the same matter is abuse of the legal process which both the citizen as well as the authority should be mindful about.

Regarding the main issue which was related to the freedom of expression and article 19(1)(a), the court reiterated that the fundamental right bestowed as per article 19(1)(a) is not an absolute right and must be utilized with keeping the reasonable restrictions and principles of preamble particularly Fraternity and Dignity in mind¹⁰. The Hon’ble Judge, during the hearing also

⁷ Monalisha Sethi, *Supreme Court Grants Interim Protection To Wajahat Khan In Hate Speech FIR Case*, (June 23, 2025), <https://lawchakra.in/supreme-court/grants-interim-protection-to-wajahat/>.(last visited Sep 29, 2025).

⁸ *WAZAHAT KHAN v. UNION OF INDIA*, Judgment

<https://www.casemine.com/judgement/in/6860fa13b93f2d3bd7ee1ffd>. (last visited Sep 29, 2025).

⁹ Aishwarya Iyer, *Supreme Court says if citizens don’t value of freedom of speech, State will step in: Supreme Court says if citizens don’t value of freedom of speech, state will step in* LawBeat (2025), <https://lawbeat.in/top-stories/supreme-court-says-if-citizens-dont-value-of-freedom-of-speech-state-will-step-in-1512996> (last visited Sep 29, 2025).

¹⁰ Zahid Maniyar, *Free Speech in the Digital Age: A doctrinal analysis of four recent Supreme Court cases on Article 19(1) (a)*, (July 21, 2025), <https://cjp.org.in/free-speech-in-the-digital-age-a-doctrinal-analysis-of-four-recent-supreme-court-cases-on-article-191-a/>.(last visited Sep 29, 2025).

introduced the concept of horizontality, as these fundamental rights are supposed to be vertical and to be used towards the government but here it has started to be horizontal where this is used amongst the people. The Idea of speech cannot only invoke state action but can also harm other citizens¹¹

Although final decision of this matter is yet to be decided by the court, the case is significant keeping the digital era in mind as the laws for the social media platform is enacted still there is a lacks of strict guidelines for content creators and using their platform responsibly as hate speech against free speech only gives rise to misinformation, derogatory comments, cyber bullying, communal instigation against other communities, etc. therefor this hopefully this case paves the way forward for a stronger legislation governing free speech in the age of social media platforms.

IV. CONCLUSION

Freedom of speech is for the benefit of every individual. As a citizen, it is our responsibility to use this freedom mindfully to raise the right questions and to use it only for the betterment of ourself and the people around us rather than using it as a medium to spread hate. Social media is a platform where number of people are engaging on a daily basis where each content reaches millions. When such a platform is used to influence the vulnerable section for selfish motives and to preach evil belief causing social disharmony, the right voice that is speaking for the suppressed section, pointing out wrongs in the government and voice which is to empower others often get suppressed. Therefore, as it is rightly said that, “with great power comes great responsibility” we must also use our freedom for the collective good and thereby uplifting each other irrespective of the community, caste or religion with the sole reason that we are humans and therefore we are equals.

¹¹ CJP Team, *Recalibrating Free Speech: The Supreme Court's constitutional turn in the digital age*, SabrangIndia (July 21, 2025), <https://sabrangindia.in/recalibrating-free-speech-the-supreme-courts-constitutional-turn-in-the-digital-age/>.(last visited Sep 29, 2025).