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SHREYA SINGHAL V. UNION OF INDIA - FREEDOM OF SPEECH

Subha Venkatraman

CITATION

AIR 2015 SUPREME COURT 1523

BENCH

Justice R.F. Nariman & Justice Chelameshwar

DECISION BY

Justice R.F. Nariman

INTRODUCTION

The Supreme Court's ruling in Shreya Singhal v. Union of India [1]is significant and essential in this terrain as it puts the doctrine of free speech, the fundamental principle of Article 19 of the Constitution[2], in its proper perspective. The court, in its judgment, interpreted Article 19 of the Constitution and gained the attention of citizens through social media. In other words, the Supreme Court has now abolished the provision of Section 66A of the Information Technology Act, 2000[3], so that the people could partake, observe, or post what they want on the internet, especially on social media platforms, without breaking any other provision of the I.T. Act, 2000, or any other being law. The well-reasoned judgment was delivered by the Hon'ble Judges J R.F. Nariman and

[1] Shreya Singhal v. Union of India, AIR 2015 SUPREME COURT 1523

[2] Constitution of India, https://legislative.gov.in/constitution-of-india/

[3] The Information Technology Act, No. 21 of 2000, https://www.meity.gov.in/static/uploads/2024/03/IT-Act-Rules_2000_0.pdf

J. Chelameshwar. The case revolves person who was arrested for criticising political leaders on social media. The judgement not only swept down an unconstitutional law.

BACKGROUND

Shaheen Dhada and Rinu Srinivasan[4] were detained by the Mumbai Police in 2012 for dispraising a bandh that was executed after Shiv Sena leader Bal Thackeray died. They expressed their dislike of the shutdown in their Facebook commentary. Their arrest caused wide public outrage, though the two were subsequently freed, and charges against them were dropped. Serious questions were raised by the incident regarding the abuse of police authority, specifically the operation of Section 66A of the Information Technology Act of 2000. The exercise of this clause was viewed as a breach of Article 19(1)(a), which guarantees the right to freedom of speech and expression. Law enforcement officers had the authority to make apprehensions and launch inquiries without authorization because offences under Section 66A were supposed to be cognizable. Due to social media posts, numerous of which were simply statements of political dissent, this redounded in several high-profile apprehensions throughout India. Numerous of these posts expressed critical political views, regardless of whether the government classified them as "offensive content." In January 2013, the central government issued a recommendation in response to mounting criticism, stating that no apprehensions under Section 66A could be made without the Inspector General of Police or a higher-ranking officer's previous authorization. This gave rise to a petition challenging the constitutionality of Section 66A of the Information Technology Act of 2000, filed under Article 32 of the Constitution. According to it, Section 66A violates Article 19(1)(a), which guarantees the fundamental right to freedom of speech and expression. Following the apprehensions in Mumbai, the proceeding was started, and it was joined by a number of other writ petitions that questioned the validity of Section 66A as well as other provisions of the Information Technology Act of 2000. It's significant to note that the Information Technology Act of 2000 did not originally include Section 66A. An amendment was used to introduce it[5]. The Amendment's primary objective read "As computer and internet use has increased quickly, new types of illegal activity have surfaced, similar as the publication of sexually explicit materials in electronic form, video voyeurism, breach of confidentiality, and data leakage by an intermediary-commerce frauds like

[4] India Arrests Girls for Facebook Post Criticising Mumbai Shutdown, BBC News (Nov. 19, 2012), https://www.bbc.com/news/world-asia-india-20490823.

[5] IT Act 2000: Objectives, Features, Amendments, Sections, Offences and Penalties, ClearTax (Apr. 29, 2025), https://cleartax.in/s/it-act-2000

phishing, identity theft, and obnoxious messages through mass communication services." Thus, the Indian Penal Code of 1860, the Indian Evidence Act of 1872, the Information Technology Act of 2000, and the Code of Criminal Procedure of 1973 must all include correctional Penal provisions.

THE ISSUES RAISED WERE:

1. Whether Section 66A of the Information Technology Act, 2000 violates the freedom of speech and expression guaranteed under Article 19(1)(a) of the Indian Constitution?
2. Whether Section 66A of the IT Act is vague and overbroad and, therefore, liable to be struck down?
3. Whether the terms 'grossly offensive' and 'menacing character' used in Section 66A of the IT Act are vague and uncertain?
4. Whether Section 66A of the IT Act is a reasonable restriction on the right to free speech and expression?

PETITIONER'S CONTENTIONS[6]

1. Through the internet, wild rumours are capable of triggering major social upheaval, which can be distributed widely to billions unregulated.
2. Petitioners' counsel argued that the language in Section 66A is too vague to say both to the accused what offence he's committed and to the authorities enforcing the Section where exactly a certain communication lies on a vaguely defined spectrum.
3. Under sub-rule (4), the intermediary must exercise its discretion to disable information that violates sub-rule (2), even though intermediaries are defined as entities that provide a neutral platform for people to engage with each other online. Certainly, no protections in sight like those instituted in the 2009 Rules under Section 69A. For all the reasons why Section 66A is bad, the petitioners attacked sub-rule (2) of Rule 3 as vague.

RESPONDENT'S POSITION [7]

[6] Shreya Singhal v. Union of India Judgment Summary, EduLaw, https://www.theedulaw.in/content/judgements/26/Shreya-Singhal-vs.-Union-of-India-AIR-2015-SC-1523.
[7] Shreya Singhal v. Union of India Judgment Summary, EduLaw, https://www.theedulaw.in/content/judgements/26/Shreya-Singhal-vs.-Union-of-India-AIR-2015-SC-1523.

1. It is the legislature that is best suited to serve the people's needs. Judicial interference arises only when a law violates Part III. There is a presumption in favour of the statute's constitutionality.
2. The court would construe a statute so as to make it effective and in so doing, either to enlarge or to restrict the statutory provisions. The raw possibility of abuse is not a good basis for annulling a provision.
3. A vague statement is used to safeguard the civil liberties of people from the pejorative abuse of such rhetoric.
4. Vagueness is not a ground for deeming a statute unconstitutional if it is qualified and not arbitrary.

JUDGMENT [8]

On March 24, 2015, the Supreme Court of India ruled case of Shreya Singhal v. Union of India, AIR 2015 SC 1523, that Section 66A of the Information Technology Act, 2000, was indeed unconstitutional. Sending or posting information that's considered to be extremely obnoxious, menacing, or likely to beget annoyance, peril, inhibition, reputation, injury, criminal intimidation, hostility, or ill will through a computer resource or communication device is illegal under Section 66A. It penalized those who deliberately circulated deceiving information that might hamper public integration or be likely to incite violence. Whether this clause violated the right to freedom of speech and expression under Article 19(1)(a) of the Constitution was the main issue before the Court. The Court determined that Section 66A did not satisfy the Constitutional conditions set forth in Article 19(2), which permits reasonable restrictions on free speech, because it was both unclear and excessively broad. It noted that the section's wording demanded clear definitions, giving law enforcement officers uncontrolled discretion and permitting discriminatory enforcement. Section 66A penalized speech that had no direct connection to any danger to public security, public order, or other naturally defended state interests, the Court emphasised that it went beyond the bounds of Article 19 (2). As a result, Section 66A was declared unconstitutional by the Supreme Court. The ruling is well known for reiterating how important free speech is in a republic. It also emphasises how important it is for laws to be precise and unequivocal when confining fundamental rights. Crucially, the decision demonstrates the judiciary's function in

[8] Shreya Singhal v. Union of India, A.I.R. 2015 S.C. 1523

defending constitutional liberties and avoiding the abuse of statutory provisions to restrict civil liberties.

IMPACT AND ANALYSIS OF JUDGMENT[9]

Despite being a landmark and progressive ruling that upholds citizens' rights to free speech and expression, the ruling was criticized due to the numerous cases brought against innocent people under Section 66A. police officers and lower court Judges were unaware of the Supreme Court's directive, and relief for those caught in ongoing cases under this section was delayed. Nonetheless, this ruling shows how determined the Indian judiciary is to protect its citizens' rights from arbitrary government actions. However, it is still unclear how this narrow interpretation will affect personal safety because illegal content may remain accessible until a court or administrative order is obtained, which could lead to harm or loss. Innocent people who are defamed online by any intermediary may have to endure a protracted procedure before they can seek redress from the authorities. The decision also clarified that Section 79 cannot be applied to activities that do not fit within the definition of Article 19(2) of the Indian Constitution, which states that government notifications or court orders must cover the subjects specified in that provision. The decision in the Shreya Singhal v. Union of India case reaffirmed the importance of free speech and expression in a democratic context. Recognising that the Internet is a crucial part of this right, the Court held that any attempts to restrict it would be against Article 19(1)(a) of the Indian Constitution. Restrictions on speech or expression are only considered acceptable when they are reasonable and thoughtfully designed to address a legitimate interest. The court criticized vague and unclear legal provisions that could restrict the freedom of speech. The Information Technology Act's Section 66A was declared unconstitutional by the Court due to its ambiguity, excessive breadth, and restriction of free speech. It concluded that Section 66A was not specifically focused on a legitimate state interest and was out of proportion to its intended purpose. This ruling reaffirms the core principle that a democracy requires freedom of speech and expression. This widely recognised landmark decision has strengthened the fundamental rights' constitutional significance. The decision draws attention to how crucial it is to ensure that laws safeguarding free speech are properly drafted in order to preserve the constitutionally guaranteed right to free expression. It bolsters the

[9] Aayush Akar, Shreya Singhal Case and Its Impact on Indian Society, LatestLaws.com (Dec. 2, 2019), https://www.latestlaws.com/articles/shreya-singhal-case-and-it-s-impact-on-indian-society-by-aayush-akar/

judiciary's role as a protector of individual rights against governmental overreach by highlighting people's right to contest unconstitutional laws and seek judicial protection. The case demonstrates the significance of social media and the Internet in influencing public opinion, acknowledging these platforms as essential means of exercising one's right to free speech.

CONCLUSION

The foundational principles of free speech were upheld in the landmark ruling of Shreya Singhal v. Union of India. In addition to overturning a defective law, the Supreme Court's decision to repeal Section 66A gave constitutional rights an update on life in the digital era. It proved that the judiciary has the power and responsibility to protect liberties when the legislature is unable to foresee the consequences of its actions. The case serves as a reminder that the principles of justice, legal clarity, and liberty remain constant despite the rapid advancement of technology. Apart from its influence in 2015, the decision is noteworthy for its continued relevance in 2025.

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