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CASE COMMENTARY

SHREYA SINGHAL v. UNION OF INDIA

Sesha Pangam

INTRODUCTION

The historic verdict in *Shreya Singhal v. Union of India*¹, one of the most important decisions in the area of freedom of expression and digital rights in Independent India, was handed down by the Supreme Court of India on 24th March 2015. The bench declared Section 66A of the Information Technology Act, 2000², as an unconstitutional restriction on the Fundamental right to free speech and expression guaranteed under Article 19(1)(a)³ of the Constitution of India. It was presented by a two-judge bench headed by Chelameswar and R. F. Nariman JJ. The case was brought against the backdrop of a series of arrests for “offensive” posts on social media made by officers.

The constitutional support is the right to freedom of speech and expression, guaranteed in article 19(1)(a) of the constitution, which is not absolute, as there are also restrictions in article 19(2)⁴, and the state can restrict freedom of speech and expression on certain grounds, including public order, decency, morality, and incitement to an offence. This case commentary will analyse the facts of the case, the reasoning of the Court, and discuss the implications of the judgment on the Indian jurisprudence, cyber laws, and digital rights.

¹ *Shreya Singhal v. Union of India*, (2015) 5 S.C.C. 1 (India).

² *Information Technology Act, No. 21 of 2000, § 66A, India Code (2000)*.

³ *INDIA CONST. art. 19, cl. 1(a)*.

⁴ *INDIA CONST. art. 19, cl. 1(a)*.

LEGISLATIVE HISTORY OF SECTION 66A

Over the past few years, there have been incidents involving comments, the sharing of information, or thoughts expressed by an individual to a wider audience on the internet that attracted criminal penalties under Section 66A, and this led to discussions and debates on the ambit of the Section and applicability to such actions

The Information Technology Act, 2000, was enacted primarily to give legal recognition to electronic commerce and to address computer-related crimes such as hacking and data theft. The Information Technology (Amendment) Act, 2008, introduced section 66A into the IT Act. This provision was intended to protect women from cybercrimes and criminalize ‘offensive speech online.’

Section 66A granted wide powers to the government to make arrests to protect information shared online. It was heavily criticized for endangering civil and political liberties. The Supreme Court ordered States and their police forces to stop prosecuting free speech and social media under Section 66A of the Information Technology Act, 2000. A few arrests were made under Section 66A based on social media posts directed at notable personalities, including politicians.

In 2012, there were various reports of alleged misuse of the law. Thereafter, a Public Interest Litigation (PIL) was filed in the Supreme Court challenging this provision on the grounds of unconstitutionality. It was said to impinge upon the freedom of speech and expression guaranteed by Article 19(1)(a) of the Constitution. Section 66A of the IT Act, 2000, made it a punishable offence for any person to send offensive information using a computer or any other electronic device. The provision also made it punishable for a person to send information that they believed to be false.

In March 2015, the Supreme Court delivered its judgment in *Shreya Singhal v. Union of India*, declaring that Section 66A was unconstitutionally vague because it failed to provide limits on the government's power.

FACTS OF THE CASE

The Section was brought to the fore by a series of arrests of two ladies at Palghar in Maharashtra. The women were picked up by the police for a Facebook post that questioned the closure of

Mumbai when a political leader passed away. A nationwide discussion on free expression in the digital era was sparked by their detention under Section 66A of the Information Technology Act, 2000.

Following this, a Public Interest Litigation (PIL) was filed in the Supreme Court of India by law student Shreya Singhal in response to the incident. She argued that Section 66A being violative of Article 19(1)(a) and 21 of the Indian Constitution and therefore was unconstitutional. Challenges were also raised against Section 69A of the IT Act, 2000⁵, which empowered the Central Government to direct the blocking of online content.

In response to Shreya Singhal's plea, several other people filed PILs contesting Section 66A. NGOs and trade associations were among those who expressed apprehension about the possibility of this legislation impinging upon digital liberties and freedom of speech.

The Respondent Union of India justified Section 66A by stating that it was required to prevent cybercrimes and uphold public order.

A bench consisting of Justices heard the case. Over the course of lengthy proceedings comprising 122 pages of judgment. The Court looked at several issues related to constitutional law and internet governance. This thorough investigation prepared the groundwork for the historic ruling that would have a profound effect as a precedent on India's freedom of speech and digital rights.

ISSUES WITH 66A

Whether Section 66A violated Article 19(1)(a) and the restrictions⁶ imposed by Section 66A fell within the 'reasonable restrictions' allowed under Article 19(2) of the Constitution?

Section 66A did not have procedural safeguards like other sections of the law with similar aims, such as the need to obtain the concurrence of the center before the action can be taken.

Were the restrictions imposed by Section 66A proportionate to the aim of regulating online speech and preventing cybercrime?

⁵ *Information Technology Act, No. 21 of 2000, § 69A, India Code (2000) (India).*

⁶ *Manu/SC/0329/2015: Shreya Singhal v. Union of India.*

Whether Section 66A's existence had a chilling effect on free speech, if it discouraged citizens from expressing themselves freely online due to the fear of prosecution?

ARGUMENTS

Petitioner Side⁷

Shreya Singhal led the petitioners, putting a strong argument opposing Section 66A of the Information Technology Act, 2000. They argued that the clause may criminalize speeches that are harmless. Furthermore, the petitioners argued that terms such as “grossly offensive” and “menacing” were ambiguous and subjective standards incapable of precise legal definition.

The petitioners, further, contended that the provision was overbroad, disproportionate to any claimed benefits, and failed to have any legitimate state interest and therefore could not be limited under Article 19(2) of the Constitution. According to their argument, online speech was unfairly singled out by Section 66A, which placed stricter limitations on internet-based communication as compared to it did on conventional expression.

Respondent Side

The Union of India argued that Section 66A was a reasonable restriction under Article 19(2) for the sake of public order, decency, and morality. It was proposed that digital communication has increased and led to online harassment and targeted abuse. Moreover, the expressions used in the Section were general but not without meaning; the courts could interpret them, the respondent submitted. Representing the respondents, the senior police officer's authorization for arrests under Section 66A was referred to the 2013 recommendation. It underlined the necessity of striking a balance between the right to free speech and social concerns.

JUDGEMENT

The Supreme Court of India delivered a landmark judgment in the case of Shreya Singhal v. UOI on 24th March 2015. The judges unanimously declared Section 66A as unconstitutional⁸ in its entirety. This ruling was seen as a major win for proponents of free speech and expression and a

⁷ *Shreya Singhal vs. UOI, MANUPATRA,*

⁸ *Information Technology (Procedure and Safeguards for Blocking for Access of Information by Public) Rules, 2009, G.S.R. 781(E), Gazette of India, Extraordinary, pt. II, sec. 3(i), Oct. 27, 2009 (India).*

turning point in the development of digital rights in India. The court determined that Section 66A violated the basic rights to free speech and expression and was too broad.

The ruling also made clear that the limitations imposed by Section 66A did not fit the definition of reasonable limits as permitted by Article 19(2) of the Constitution. Moreover, the chilling effect on free speech was also discussed by the Supreme Court, which said that it might cause self-censorship and discourage people from expressing themselves online.

CONCLUSION

Shreya Singhal v. Union of India is a pivotal constitutional decision on the issue of free speech and e-rights in India. In striking down Section 66A, the Supreme Court set out various principles, such as the chilling effect doctrine and the limitation on legislative vagueness, and did so based on a fundamental rights interpretation of freedom of expression. The consequence of the ruling goes beyond Section 66A immediate context.

It sets a strong precedent reiterating the principle that the government cannot unreasonably restrict a citizen's freedom of speech. In summary, the judgment is to be considered as a stepping stone. Freedom of expression in the digital realm is not just to be achieved by judicial decisions but by continuous legislative, administrative, and enforcement measures.