



PRESS RELEASE

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New Delhi: July 9, 2021... News Broadcasters Association (NBA) filed a Writ Petition in the High Court of Kerala challenging the Information Technology (Intermediary Guidelines & Digital Media Ethics Code) Rules, 2021 [IT Rules, 2021] on the grounds that the IT Rules, 2021s give the Government Authorities excessive powers to unreasonably and impermissibly restrict the freedom of speech and expression of the Media under Article 19(1)(a) are *ultra vires* the Information Technology Act, 2000 apart from being violative of Article 14 and Article 19(1)(g) of the Constitution.

The main challenge is to Part III (Code of Ethics and Procedure and Safeguards in relation to Digital Media) of the IT Rules 2021 as the Rules create an Oversight Mechanism giving the Executive unfettered, unbridled and excessive powers to regulate content of digital news media. The Grievance Redressal Mechanism created, and the powers delegated have a "chilling effect" on the content of the media.

The IT Rules, 2021 are *ultra vires* the Information Technology Act, 2000 [IT Act, 2000] as it does not contain any provision for dealing with "content" of a programme.

The IT Rules, 2021 violate Article 14 as there is neither any parity nor any valid exercise of classification in the Rules as '*intermediaries*' have been equated with '*digital news media*'.

The Appendix of the Rules - "Code of Ethics" makes the Programme Code of the Cable TV Act, 1995 and Rules, 1994 applicable to the digital news media. The Programme Code contains vague, imprecise and ambiguous terms in relation to 'content' such as "good taste", "half-truths", "snobbish attitude", and therefore, is not in consonance with the judgment of the Hon'ble Supreme Court in *Shreya Singhal vs Union of India* (2015) 5 SCC 1, where the Hon'ble Supreme Court has stated that Section 66A creates an offence which is vague and overbroad, and therefore, unconstitutional under Article 19(1)(a) and is not saved by Article 19(2)

In the hearing held before the Hon'ble Court today, Mr Maninder Singh, Senior Advocate, who appeared for the Petitioners, submitted that the IT Rules, 2021 were *ultra vires* the IT Act 2000, in so far as the IT Act did not give the Government the powers to regulate content. He also submitted that under Part III of the IT Rules 2021, the Joint Secretary (Oversight Mechanism) has been given the power to adjudicate upon the Orders passed by a retired Supreme Court / High Court Judge, which allows the Executive to make inroads into the judicial process.



He pointed out that an Interim Order had been passed by the Hon'ble Court in similar matter WP 6272 of 2021 being Live Law Media Pvt Ltd & Others Vs UOI & Anr. in which the Hon'ble Court has stated that *"the respondents shall not take any coercive action against the petitioners for non-compliance of the provisions contained in Part III of the Rules"*.

In view of the above, the Hon'ble Judge passed a similar Order in favour of NBA and its members. Therefore, no coercive action can be taken against the Members of NBA for not implementing/ complying with *"Part III Code of Ethics And Procedure and Safeguards In Relation to Digital Media of the IT Rules 2021"*.

Annie Joseph
Secretary General