

INTERNET ACCESS AS A FUNDAMENTAL RIGHT

Relevant for: Indian Polity | Topic: Indian Constitution - Features & Significant Provisions related to Fundamental Rights, Directive Principles and Fundamental Duties

Restrictions on internet, according to the court, would be judged by the principles of proportionality under the law

Even a single source of light can offer enough illumination to pierce through darkness. Consider the Supreme Court's ruling on Friday saying that the right to internet access is a fundamental right under Article 19 of the Indian Constitution. In response to questions raised over clamps imposed in Jammu and Kashmir (J&K), the three-bench judge ascertained that the right to freedom of speech and expression includes the right to a web connection. But wait, there's more. This right can still be abridged if there's a reasonable case for it, just as the right to self-expression can be curtailed if it could clearly have adverse consequences. As the classic example goes, free speech doesn't mean you can falsely shout "fire" in a closed hall, cause a stampede, and get away with it.

Restrictions on internet, according to the court, would be judged by the principles of proportionality under the law. Accordingly, the court directed the J&K administration to publish all restrictive orders within a week, be it on letting people gather or on internet availability, so that they could be put under judicial review if challenged by anyone. The court also asked for the restoration of internet services in institutions providing essential services like hospitals and educational set-ups.

That any net ban will now be subject to the scrutiny of law is significant, not doubt. If there is any reason for disappointment, it is that the orders appear to overlook the fact that an internet shutdown as prolonged as in J&K—it began in early August—has already outlasted any justification based on a need to maintain law and order. It is already the longest communication blackout in any democracy, and has had a paralytic effect on commerce and well as social interaction. Such a draconian curb needs to be lifted.

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