

RIGHTFUL CHALLENGE: THE HINDU EDITORIAL ON TWITTER, IT RULES AND FREE SPEECH

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

By [moving the Karnataka High Court challenging several blocking orders from the Union government on content posted on its website](#), Twitter, Inc. has finally decided to take the bull by the horns on the issue of freedom of expression on the online platform. A cynical view will regard this as action done under duress — between February 2, 2021 and February 28, 2022, Twitter was issued directions to block 1,474 accounts and 175 tweets in India, with the Ministry of Electronics and Information Technology suggesting in June that it was giving the company a final opportunity to comply with the directions. But a substantive look at the challenge in the court by the company — 39 URLs in specific in its petition — suggests that Twitter is right to take up the gauntlet. Much of the content in these URLs deemed to be fit for takedowns is either journalistic or of a political nature, or even dissent. For example, some of the tweets were by farmers and others during their agitations against the farm laws. Twitter is also accurate in suggesting that the Government has not complied with rules under the Information Technology (IT) Act which call for a hearing of the author of the content besides the intermediary before any takedown action. The provision of these rules was one of the key reasons why the Supreme Court had upheld the constitutionality of Section 69A of the IT Act (in *Shreya Singhal vs Union of India*, 2015), which empowers the Government to restrict access to online content in the interest of the sovereignty and integrity of the country, security of the state, friendly relations with foreign states or for public order. It is quite clear that the Union government has used the public order and national security argument in a blanket manner to get Internet platforms such as Twitter to take down content or to seek removal of profiles even if they merely constituted political dissent or were not remotely connected to the reasons proffered by it.

The Internet and telecommunications system has become an even greater behemoth than what it was when the IT Act was framed in 2000. To expand the scope of regulations to the new forms of intermediaries that have cropped up since then, the Government most recently came up with the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, which, besides bringing about obligations for accountability from social media companies and platforms, went on to add onerous requirements such as traceability of online conversations and new oversight functions that are weighted in the Government's favour. Twitter's case in the Karnataka High Court should lead to greater scrutiny of the Rules and to a clear legislative debate on how to remake them in a way that they do not impinge on the right to freedom of expression and privacy in the online space.

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