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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 2705/2020**

K N GOVINDACHARYA

..... Petitioner

Through: Mr. Virag Gupta, Mr. Vishal Arun Mishra, Ms. Harshita Nigam and Mr. Umang Mangal, Advocates.

versus

UNION OF INDIA & ORS

..... Respondents

Through: Mr. Anurag Ahluwalia, CGSC for R-1 to 3/ UOI.

Mr. Tejas Karia, (Through VC) with Mr. Varun Pathak, Ms. Ameer Rana and Mr. Thejesh Rajendran and Mr. Akhil Shandilya Advocates for R-4 Ms. Shloka Narayanan and Mr. Abhishek Kumar, Advocates for R-6.

Date of Decision: 13th February, 2024.

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CORAM:

HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

JUDGMENT

MANMOHAN, ACJ : (ORAL)

CM APPL. 8587/2024

1. This application has been filed seeking early hearing of the writ petition.
2. The application is allowed and with the consent of the parties the main petition is taken up for hearing.
3. Accordingly, the present application stands disposed of.

W.P.(C) 2705/2020

4. The present writ petition was filed as a Public Interest Litigation



(‘PIL’) on 05th March, 2020, seeking a direction to Respondent Nos. 1 to 3 to formally notify the details of the Designated Officer(s) of the Intermediaries i.e., Respondent Nos. 4 to 6, in terms of the following Rules framed under Section 69A of the Information Technology Act, 2000:

- (i) Information Technology (Procedure and Safeguards for Blocking for Access of Information by Public) Rules, 2009 (‘Rules of 2009’);
- (ii) Information Technology (Procedure and Safeguards for Interception, Monitoring and Decryption of Information) Rules, 2009; and
- (iii) Information Technology (Procedure and Safeguard for Monitoring and Collecting Traffic Data or Information) Rules, 2009.

5. Before proceeding with the matter, for ease of reference, the relevant provisions relied upon by the parties are reproduced as under:

The Information Technology (Procedure and Safeguards for Blocking for Access of Information by Public) Rules, 2009

“2. Definitions.—In these rules, unless the context otherwise requires,—

...

(c) “designated officer” means an officer designated as Designated Officer under Rule 3

...

(e) “intermediary” means an intermediary as defined in clause (w) of sub-section (1) of Section 2 of the Act;

(f) “nodal officer” means the nodal officer designated as such under Rule 4;

(g) “organisation” means—

(i) Ministries or Departments of the Government of India;

(ii) State Governments and Union Territories;

(iii) any agency of the Central Government, as may be notified in the Official Gazette, by the Central Government;

...



3. Designated Officer.—The Central Government shall designate by notification in Official Gazette, an officer of the Central Government not below the rank of a Joint Secretary, as the “**Designated Officer**”, for the purpose of issuing direction for blocking for access by the public any information generated, transmitted, received, stored or hosted in any computer resource under sub-section (2) of Section 69-A of the Act.

...
4. Nodal officer of organisation.—Every organisation for the purpose of these rules, shall designate one of its officer as the **Nodal Officer** and shall intimate the same to the Central Government in the Department of Information Technology under the Ministry of Communications and Information Technology, Government of India and also **publish the name of the said Nodal Officer on their website.**

...
13. Intermediary to designate one person to receive and handle directions.—(1) Every intermediary shall **designate at least one person to receive and handle the directions for blocking of access by the public any information generated, transmitted, received, stored or hosted in any computer resource under these rules.**

(2) The designated person of the intermediary shall acknowledge receipt of the directions to the Designated Officer within two hours on receipt of the direction through acknowledgement letter or fax or e-mail signed with electronic signature.”

The Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021

“2. Definitions. — (1) In these rules, unless the context otherwise requires—

...
(k) ‘Grievance Officer’ means an officer appointed by the intermediary or the [online gaming self-regulatory body or the] publisher, as the case may be, for the purposes of these rules;

[(ka) “Grievance Appellate Committee” means a grievance appellate committee constituted under Rule 3A;]

...
3. (1) Due diligence by an intermediary: An intermediary, including [a social media intermediary, a significant social media intermediary and an online gaming intermediary], shall observe the following due diligence while discharging its duties, namely—

...
[(b) the intermediary shall inform its rules and regulations, privacy policy and user agreement to the user in English or any language specified in the



Eighth Schedule to the Constitution in the language of his choice and shall make reasonable efforts [by itself, and to cause the users of its computer resource to not host] display, upload, modify, publish, transmit, store, update or share any information that,—

- (i) belongs to another person and to which the user does not have any right;*
- (ii) is obscene, pornographic, paedophilic, invasive of another's privacy including bodily privacy, insulting or harassing on the basis of gender, racially or ethnically objectionable, relating or encouraging money laundering or gambling, 14[or an online game that causes user harm,] or promoting enmity between different groups on the grounds of religion or caste with the intent to incite violence;*
- (iii) is harmful to child;*
- (iv) infringes any patent, trademark, copyright or other proprietary rights;*
- (v) deceives or misleads the addressee about the origin of the message or knowingly and intentionally communicates any misinformation or information which is patently false and untrue or misleading in nature [or, in respect of any business of the Central Government, is identified as fake or false or misleading by such fact check unit of the Central Government as the Ministry may, by notification published in the Official Gazette, specify];*
- (vi) impersonates another person;*
- (vii) threatens the unity, integrity, defence, security or sovereignty of India, friendly relations with foreign States, or public order, or causes incitement to the commission of any cognizable offence, or prevents investigation of any offence, or is insulting other nation;*
- (viii) contains software virus or any other computer code, file or program designed to interrupt, destroy or limit the functionality of any computer resource;*
- [(ix) is in the nature of an online game that is not verified as a permissible online game;]]*
- [(x) is in the nature of advertisement or surrogate advertisement or promotion of an online game that is not a permissible online game, or of any online gaming intermediary offering such an online game;]*
- [(xi) violates any law for the time being in force.*

Explanation.—In this clause, “user harm” and “harm” mean any effect which is detrimental to a user or child, as the case may be;]

...

(2) Grievance redressal mechanism of intermediary: (a) The intermediary shall prominently publish on its website, mobile based application or both,



as the case may be, the name of the **Grievance Officer** and his contact details as well as mechanism by which a user or a victim may make complaint against violation of the provisions of this rule or [sub-rules (11) to (13) of Rule 4, or in respect of] any other matters pertaining to the computer resources made available by it, and the **Grievance Officer** shall

—
[(i) acknowledge the complaint within twenty-four hours and resolve such complaint within a period of fifteen days from the date of its receipt:

Provided that the complaint in the nature of request for removal of information or communication link relating to clause (b) of sub-rule (1) of Rule 3, except sub-clauses (i), (iv) and [(xi)], shall be acted upon as expeditiously as possible and shall be resolved within seventy-two hours of such reporting;

Provided further that appropriate safeguards may be developed by the intermediary to avoid any misuse by users;]

(ii) receive and acknowledge any order, notice or direction issued by the Appropriate Government, any competent authority or a court of competent jurisdiction.

[Explanation.—In this rule, “prominently publish” shall mean publishing in a clearly visible manner on the home page of the website or the home screen of the mobile based application, or both, as the case may be, or on a web page or an app screen directly accessible from the home page or home screen.]

(b) The intermediary shall, within twenty-four hours from the receipt of a complaint made by an individual or any person on his behalf under this sub-rule, in relation to any content which is prima facie in the nature of any material which exposes the private area of such individual, shows such individual in full or partial nudity or shows or depicts such individual in any sexual act or conduct, or is in the nature of impersonation in an electronic form, including artificially morphed images of such individual, take all reasonable and practicable measures to remove or disable access to such content which is hosted, stored, published or transmitted by it:

(c) The intermediary shall implement a mechanism for the receipt of complaints under clause (b) of this sub-rule which may enable the individual or person to provide details, as may be necessary, in relation to such content or communication link.

[3A. **Appeal to Grievance Appellate Committee(s).**—(1) The Central Government shall, by notification, establish one or more **Grievance Appellate Committees** within three months from the date of commencement of the Information Technology (Intermediary Guidelines and Digital Media



Ethics Code) Amendment Rules, 2022.

...

(3) [Any person who is aggrieved by a decision of the Grievance Officer or whose grievance is not resolved within the period specified for resolution in sub-clause (i) of clause (a) of sub-rule (2) of Rule 3 or clause (b) of sub-rule (2) of Rule 3 or sub-rule (11) of Rule 4-A, as the case may be,] may prefer an appeal to the Grievance Appellate Committee within a period of thirty days from the date of receipt of communication from the Grievance Officer.

(4) The Grievance Appellate Committee shall deal with such appeal expeditiously and shall make an endeavour to resolve the appeal finally within thirty calendar days from the date of receipt of the appeal.

...

(7) Every order passed by the Grievance Appellate Committee shall be complied with by the intermediary concerned [or the online gaming self regulatory body concerned, as the case may be,] and a report to that effect shall be uploaded on its website.]”

6. Learned counsel for the Petitioner states that in this PIL, the Petitioner is concerned with the formal notification of the details of the Designated Officer by the Intermediary such as Respondent Nos. 4 to 6, under Rule 13 of the Rules of 2009. He states that under the scheme of the Rules of 2009, the officer designated by the Intermediary is required to co-ordinate with the Designated Officer of the Central Government notified under Rule 3 of the said Rules of 2009. He states that disclosure of the details of the officer(s) of the Intermediaries will significantly assist the Police and security agencies in resolving the rising number of cyber-crimes against minors as well as issues related to National Security. He fairly admits that the details of the Nodal Officers of the Departments of the Government as per Rule 4 of the Rules of 2009 are available in the public domain.

6.1. He states that he is conscious that subsequent to filing of the present PIL, the Government of India has notified the Information Technology



(Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 ('Rules of 2021') and a grievance redressal mechanism has been provided under Rule 3(2) and 3A of the said Rules. He states that the Rules of 2021 provides the mechanism for redressal of grievance of the public with the Intermediary as regards any social media post. He states that however, in the present petition he is seeking notification in public domain of the officer(s) designated by the Intermediaries under Rule 13 of the Rules of 2009.

7. In reply, learned counsel for Respondent No. 4 – Facebook Inc., states that as per Rule 13 of the Rules of 2009, the Intermediary such as Respondent No.4 has to appoint one officer to receive and handle directions from the Central Government. He states that this officer has been appointed but he is not a officer who deals with the public at large. He states that Respondent No. 4, on a regular basis, has been handling directions received from the Central Government and no complaint has been received from the Government in this regard. He states that the details of the Grievance Officer as per Rule 3(2) of the Rules of 2021, have been prominently published on its website in compliance with the said Rule.

8. This Court has considered the submissions of parties and perused the record.

9. The prayer of the Petitioner that the details of the officer(s) appointed by an Intermediary in compliance with Rule 13 of Rules of 2009 should be made available in public domain, is without any basis. The officer under said Rule 13 is to be appointed by Intermediary solely to interact and coordinate with the Designated Officer appointed by the Central Government under Rule 3 of Rules of 2009. There is no grievance raised



before this Court by Respondent Nos. 1 to 3, i.e., Union of India, that the Intermediaries have failed to comply with their obligation under Rule 13 of Rules of 2009. Therefore, in view of the fact that the officer appointed by an Intermediary under Rule 13 of Rules of 2009 is not required to interact with the general public, we find no merit in the directions sought by the Petitioner in this PIL for publishing their names in public domain.

10. Under the Rules of 2009, the details of the Nodal Officer [as defined under Rule 2(f)] are required to be published on the website of each organisation¹. The Nodal Officer under Rule 6 of said Rules is authorized to receive complaint from the members of the public with a request for blocking of access of any information generated, transmitted, received or hosted in any computer resource. Upon receipt of the information, if the organisation, after verification, is satisfied with the request received from public, it shall, through its Nodal Officer, send a request to a Designated Officer [appointed under Rule 3] to take action on the said request. The details of the Nodal Officers are admittedly available in public domain. Pertinently, while Rule 4 of Rules of 2009 requires the details of the Nodal Officer to be published on the website of the organisation, in contrast Rule 13 of said Rules does not require the Intermediary to publish the details of its officers appointed under the said Rule. Thus, there is a material distinction in Rule 4 and Rule 13 of the Rules of 2009 and there is no obligation under the Rules for a public notification of the details of the officer designated by the Intermediary under Rule 13. The Petitioner has

¹ Rule 2(g) of the Rules of 2009



failed to make out a case for seeking such a direction.

11. Further, we are of the considered opinion that with the notification and implementation of Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, the grievance raised by the Petitioner in this PIL stands resolved. With the appointment of the Grievance Officer by the Intermediary under Rule 3 (2) and setting up of the Grievance Appellate Committee under Rule 3A of the Rules of 2021, the members of the general public have access to a robust grievance redressal mechanism in case of circulation of any news or posts, which are liable to regulated under Rule 3 (1) (b) of the Rules of 2021. The Petitioner has not disputed the existence and effectiveness of the said mechanism.

12. As noted above, the list of the Grievance Officer of the Intermediary is required to be published in the public domain under Rule 3 (2) of the Rules of 2021 and there is no grievance by the Petitioner that the said obligation has not been discharged by the Intermediaries.

13. Accordingly, in view of the notification of the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, the relief sought in the present petition does not survive for consideration.

14. Accordingly, the present petition along with pending applications stand disposed of.

ACTING CHIEF JUSTICE

MANMEET PRITAM SINGH ARORA, J

FEBRUARY 13, 2024/hp/aa

Click here to check corrigendum, if any