

GOVERNMENT OF INDIA
MINISTRY OF ELECTRONICS AND INFORMATION TECHNOLOGY
LOK SABHA
UNSTARRED QUESTION NO. 3860
TO BE ANSWERED ON 18.12.2024

IT RULES, 2021

3860. SMT. SAJDA AHMED:

Will the Minister of ELECTRONICS AND INFORMATION TECHNOLOGY be pleased to state:

- (a) whether the Government proposes to modify or revoke the amendments in Information Technology(Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 to the IT Rules following the Bombay High Court's decision;
- (b) the specific measures to be taken by the Government to ensure that any future mechanisms for addressing misinformation comply with constitutional safeguards for free speech;
- (c) whether the Government proposes to balance the need to combat fake news with the protection of citizens' rights to free expression in digital spaces; and
- (d) if so, whether the Government has introduced clearer guidelines for social media intermediaries to ensure fair and transparent handling of misinformation without imposing undue censorship and if so, the details thereof?

ANSWER

MINISTER OF STATE FOR ELECTRONICS AND INFORMATION
TECHNOLOGY
(SHRI JITIN PRASADA)

(a) to (d): Government of India values freedom of speech and expression, including that over the cyberspace, and this is enshrined in Article 19 of the Constitution, subject to certain reasonable restrictions specified thereunder. India, as a large open internet society, welcomes digital service providers, including social media companies, to operate and do business in the country, while emphasizing their accountability to India's Constitution and laws.

Over the years, there have been increasing instances of misuse of social media by miscreants and criminals that include circulation of fabricated contents, morphed images, obscene contents, false narratives, contents on blatant disrespect to religious sentiments, spread of disharmony&hatred, incitement of violence, public order, etc. These concerns have been raised from time to time in various forums including in the Parliament and its committees, judicial orders and in civil society deliberations in different parts of country. Government takes all possible actions to control the spread of fake and misleading information which has potential to adversely affect the society at large.

To protect citizens' rights to free speech granted to citizens under Article 19 of the Constitution of India and to ensure that information available over the internet is credible and not misleading, the Government enacts laws and regulations whenever necessary. In this direction, to protect the internet from unlawful activities, to ensure safety and trust among users and to ensure accountability towards law of the land, the Ministry of Electronics and Information Technology ("Ministry") has notified the Information

Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 (“IT Rules, 2021”) in exercise of the powers given under the Information Technology Act, 2000 (“IT Act”) which was subsequently amended. Among other due diligence obligations prescribed under the IT Rules, 2021, the intermediaries are also required to respect all the rights accorded to the citizens under the Constitution, including in Articles 14, 19 and 21. Further, to address the emerging harms in the cyberspace like misinformation, Ministry has conducted multiple consultations with industry stakeholders/ social media platforms and issued advisories time-to-time through which intermediaries were reminded about their due-diligence obligations outlined under the IT Rules, 2021 and advised on countering unlawful content including malicious ‘synthetic media’ and ‘deepfakes’.

The Bombay High Court in the matter of W.P.(L) No. 9792 of 2023 has ruled that Rule 3(1)(b)(v) of the IT Rules, 2021, as amended in 2023, regarding the identification of fake or false or misleading information in respect of any business of the Central Government, is liable to be struck down.

The IT Act and the Bharatiya Nyaya Sanhita, 2023 (“BNS”) contain several provisions to tackle the menace of misinformation and fake news that punish acts such as cheating by personation using computer resource, identity theft, statements conducing to public mischief among many other provisions. The BNS penalises for making, publishing or circulating any statement or report containing false information, rumour or alarming news, including through electronic means.
