

An Analysis of the Issues relating to the Freedom of Press in India

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Abstract

Freedom of the press is crucial for a healthy democracy, but it's often challenged by government censorship, corporate interests, and technological limitations. Democracy can thrive not only under the vigilant eye of its Legislature, but also under the care and guidance of public opinion and the press is par excellence, the vehicle through which opinion can become articulate. Press freedom ensures accountability, transparency, and the dissemination of diverse viewpoints. However, it can be compromised by misinformation, propaganda, and legal constraints in some regions. Balancing it with responsibility and ethical journalism is essential for its preservation.

Keywords: Freedom of Press, Newspaper Industry, Commercial Advertisement, Pre-Censorship

Introduction

Freedom of Press means absence of interference by the State except in so far as it is authorized by the Constitution and by law. Freedom of press has always been a cherished right in all democratic countries, The newspapers not only purvey news but also ideas, opinions and ideologies, besides much elseⁱ. They are supposed to guard public interest by bringing to fore the misdeeds, failings and lapses of the government and other bodies exercising governing powerⁱⁱ. Hence, it has been described as the Fourth Estate. The press as such has no special privileges in India. From the fact that the measure of the freedom of the press is the same as that of an ordinary citizen under Art 19(1)(a)ⁱⁱⁱ. The press is not immune from:

- A) The ordinary forms of taxation
- B) The application of the general laws relating to industrial relations
- C) The regulation of the conditions of service of the employees.

But in view of the guarantee of freedom of expression, it would not be legitimate for the state:

- a) To subject the press to laws which take away or abridge the freedom of expression or which would curtail circulation;
- b) To single out the press for laying upon it excessive and prohibitive burdens which would restrict the circulation, impose a penalty on its right to choose the instruments for its exercise or to seek an alternative media;
- c) To impose a specific tax upon the press deliberately calculated to limit the circulation of information^{iv}.

Fixation of Maximum Pages

In *Bennet Coleman Co. Union of India*^v, the validity of the Newsprint Control Order 1962 which fixed the maximum number of pages at 10 which a newspaper could publish was challenged as violative of fundamental rights guaranteed in Art 19(1)(a) and Art 14 of the Constitution. The Court has held that the government can make a fair and equitable allotment of the available newsprint to the newspapers but once the allotments are made newspapers must be left free to determine how they will adjust their newsprint. They must be left free to determine their pages their circulation and their new editions within the quota allotted to them.

Freedom is both in circulation and content. Hence, it has been made clear that the fixation of maximum number of pages of newspapers by the Government is against the freedom of press guaranteed by Art 19(1)(a)^{vi}.

Fixation of minimum price according to number of pages

In *Sakal Paper Limited v. Union of India*^{vii}, the Daily Newspapers (Price and Page) Order 1960, which fixed a minimum price and number of pages which a newspaper was entitled to publish was challenged as unconstitutional on the ground that it infringed the liberty of press guaranteed under Art 19(1)(a). The Court has made it clear that the freedom of speech and expression cannot be curtailed in the interest of the general public. The only restrictions which may be imposed on this right are those which clause (2) of Art 19 permits. Accordingly the court has held that Sec 3(1) of the Newspaper (Price and Page) Act, 1956 and the Daily Newspaper (Price and Page) Order, 1960 made thereunder were unconstitutional as being in violation of Art 19(1)(a).

Levy of duty or tax on Newspaper industry

In *Indian Express Newspaper v. Union of India*^{viii}, the petitioner challenged the imposition of import duty and the levy of auxiliary duty on the newsprint on the ground of infringement of the freedom of press as it imposed a burden beyond the capacity of the industry and also affects the circulation of the newspapers and periodicals. The Supreme Court has held that the newspaper has no immunity from general laws like taxation or labour laws.

Regulation of conditions of service of workmen in Newspaper Industry

In *Express Newspaper Ltd v. Union of India*^{ix}, the validity of the regulation of conditions of service of workmen in Newspaper Industry through Working Journalists(Constitution of Service and Miscellaneous Provisions) Act, 1955 was challenged. The Court has held that the object of the Act was the amelioration of the conditions of the workmen in the newspaper

industry. The Court has made it clear that the press has no immunity from general laws like taxation or industrial laws consequently, the court has held that Act is valid^x.

Commercial Advertisement

Advertisement is undoubtedly a form of speech. But every form of advertisement is not a form of speech or expression of ideas. Advertisement when it takes the form of commercial advertisement no longer falls within the concept of freedom of speech for the object of such advertisement is not the propagation of Ideas – social, political or economic or furtherance of literature or human thought. Hence, an advertisement of commercial nature is not protected under Art 19(1)(a).

In *Tata Press Ltd v. Manager Telephone Nigam Ltd*^{xi}, it has been held that ‘commercial speech’ is a part of the freedom of speech and expression guaranteed by Art 19(1)(a) merely it is issued by the businessman as the public has a right to receive the commercial speech^{xii}.

Pre-Censorship

Censorship of the press is not specifically prohibited by a provision of the constitution. Like other restrictions, its constitutionality has to be judged by the test of reasonableness within the meaning of Art 19(2). Imposition of Pre-Censorship on a journal or newspaper previous to its publications is a restriction on the freedom of press and will amount to an infringement of the freedom of speech and expression guaranteed by Art 19(1)(a). However, the pre-censorship may be valid if it can be justified on any ground of reasonable restriction permitted by Art 19(2). But, the imposition of pre-censorship in the emergency circumstances eg; for the prevention of breach of peace or communal disturbance will be valid^{xiii}.

In *Brij Bhushan v. State of Delhi*^{xiv}, the Chief Commissioner of Delhi, in pursuance of Sec 7 of the East Punjab Safety Act, 1949 ordered the printer, publisher, editor of the English weekly called ‘organiser’ to submit all communal matters and news and views other than those derived from official sources for scrutiny before publication till further orders. The court struck down the order, observing “...the imposing of pre-censorship of a journal is a restriction on the

liberty of the press which is an essential part of the freedom of the speech and expression declared by Art 19(1)(a).

Conclusion

Article 19 of the Universal Declaration of Human Rights, 1948, provides that “Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers. Freedom of the press in India is protected by the Constitution, but its sometimes challenged by legal restrictions and political pressures. While there’s a vibrant media landscape, journalists face threats, censorship, and occasionally violence, especially when reporting on sensitive issues like corruption or communal tensions. Balancing free speech with other societal interests remains an ongoing challenge^{xv}.

Endnotes

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- ⁱⁱⁱ Patel, Forum R.; Pokhariyal, Purvi, 2020. Freedom of Speech and Expression with Special Reference to Freedom of Press. GNLU JL Dev. & Pol., 10, p.102.
- ^{iv} Anushka, 2022. An Analysis of the Restrictions on the Freedom of Press in India. Issue 1 Int'l JL Mgmt. & Human., 5, p.1766.
- ^v AIR 1973 SC 106
- ^{vi} Gaur, K.D., 1994. Constitutional rights and freedom of media in India. Journal of the Indian Law Institute, 36(4), pp.429-454.
- ^{vii} AIR 1962 SC 305
- ^{viii} 1985 1 SCC 641
- ^{ix} AIR 1958 SC 578
- ^x Tewari, Y., 2021. Freedom of Speech and Expression of Journalists in India. Jus Corpus LJ, 2, p.23.
- ^{xi} AIR 1995 SC 2438
- ^{xii} Maurya, B.R., 2021. Freedom of press and media trials. Asian Journal of Research in Social Sciences and Humanities, 11(10), pp.360-365.
- ^{xiii} Agarwal, R.V., 2020. Judicial Approach to the Interface between Freedom of Press and Privacy. Issue 3 Int'l JL Mgmt. & Human., 3, p.661.
- ^{xiv} AIR 1950 SC 129
- ^{xv} Hassan, R., 2014. Freedom of Media in India–(A Legal Perspective). International Journal of Humanities and Social Sciences 3.2 (2014), 191, p.202.